



EIB Internal Classification Level: Corporate Use

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## **CENTRAL BOHEMIA REGIONAL INFRASTRUCTURE - A**

### **Finance Contract**

*between the*

**Středočeský kraj**

*and*

**European Investment Bank**

Prague, 30 September 2020

Luxembourg, 15 September 2020



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**THIS CONTRACT IS MADE BETWEEN:**

Středočeský kraj, (Central Bohemia Region),  
having its address at Zborovská 11, 150 21  
Praha 5, Czech Republic, for which acts  
externally Ms. Jaroslava Pokorná  
Jermanová, Governor of the Central Bohemia  
Region (in Czech: *hejtmanka Středočeského  
kraje*)

(the "**Borrower**")

of the first part, and

The European Investment Bank having its  
seat at 100 blvd Konrad Adenauer,  
Luxembourg L-2950, Luxembourg,  
represented by Manuel Dueñas Head of  
Division, and Dirk Ellerkmann, Head of  
Division,

(the "**Bank**")

of the second part.

# WHEREAS:

(a) The Borrower has stated that it is undertaking a project implemented under the investment programme of the Region of Central Bohemia that will improve the regional infrastructure, in particular in the sectors of healthcare, transport, social care, education and energy efficiency of public buildings (each hereafter called a **"Sub-Project"** and together, the **"Project"**), as more particularly described in the technical description set out in Schedule A.1 hereto (hereafter called the **"Technical Description"**). The Sub-Projects will be implemented by the Borrower and its contributory organisations (in Czech: *příspěvková organizace*), and may be implemented by other entities such as local authorities, public institutions, non-profit organisations and private companies (each hereafter called a **"Final Beneficiary"** and together **"Final Beneficiaries"**).

(b) The total cost of the Project, as estimated by the Bank, is CZK 3,968,210,000.00 (three billion nine hundred sixty eight million two hundred ten thousand Czech crowns) and the Borrower has stated that it intends to finance the Project as follows:

| Source                | Amount (CZK m) |
|-----------------------|----------------|
| Credit from the Bank  | 3050.00        |
| Other funding sources | 918.21         |
| <b>TOTAL</b>          | <b>3968.21</b> |

(c) In order to fulfil the financing plan set out in Recital (b), the Borrower has requested from the Bank a credit equivalent to CZK 3,050,000,000.00 (three billion fifty million Czech crowns).

(d) The Bank considering that the financing of the Project 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 equivalent to CZK 1,300,000,000.00 (one billion three hundred million Czech crowns) under this Finance Contract (the **"Contract"**); provided that the amount of the Bank loan shall not, in any case, exceed 90% (ninety per cent) of the total cost of the Project set out in Recital (b) and total amount Bank loan together with EU Grants shall not, in any case, exceed 100% (one hundred per cent) of the total cost of the Project set out in Recital (b).

(e) The Assembly (in Czech: *zastupitelstvo*) of the Borrower has authorised the borrowing of the sum equivalent to CZK 1,300,000,000.00 (one billion three hundred million Czech crowns) represented by this credit on the terms and conditions set out in this Contract in the form set out in Annex I.

(f) On 25 June 2020, the Minister of Finance of the Czech Republic issued a letter acknowledging the financing of the Project.

(g) 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.

(h) Part of the investment costs of the Project will be co-financed with the ESI Funds (as defined below), and/or certain state subsidies or grants and the provision of such funds has been duly authorised and will be provided in compliance with all relevant legislation of the European Union.

(i) 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 and the citizens of the European Union in general.

(j) The processing of personal data shall be carried out by the Bank in accordance with applicable EU Law 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.

- (k) 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.

**NOW THEREFORE** it is hereby agreed as follows:

## **INTERPRETATION AND DEFINITIONS**

### **Interpretation**

In this Contract:

- (a) 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;
- (b) references to "law" or "laws" mean:
  - (i) 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
  - (ii) EU Law;
- (c) references to "applicable law", "applicable laws" or "applicable jurisdiction" mean:
  - (i) a law or jurisdiction applicable to the Borrower, its rights and/or obligations (in each case arising out of or in connection with this Contract), its capacity and/or assets and/or the Project; and/or, as applicable or
  - (ii) a law or jurisdiction (including in each case the Bank's Statute) applicable to the Bank, its rights, obligations, capacity and/or assets;
- (d) references to a provision of law or a treaty are references to that provision as amended or re-enacted;
- (e) references to any other agreement or instrument are references to that other agreement or instrument as amended, novated, supplemented, extended or restated;
- (f) words and expressions in plural shall include singular and vice versa; and
- (g) terms defined in the GDPR (as defined below), including the terms "controller", "data subject", "personal data", "processing", and "processor", have the same meanings when used in Recital (j), or Article 6 of, this Contract.

### **Definitions**

In this Contract:

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

**"Affected Guarantor"** has the meaning given to it in Article 7.4.C.

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

**"Allocation"** or **"Allocations"** has the meaning given to it in Article 1.9.B.

**"Allocation Letter"** has the meaning given to it in Article 1.9.B.

**"Allocation Request"** has the meaning given to it in Article 1.9.A.

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

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

**"Birds Directive"** means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (this is the codified version of Directive 79/409/EEC as amended), as amended or replaced from time to time.

**"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.

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

**"Compliance Certificate"** means a certificate substantially in the form set out in Schedule E.2.

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

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

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

**"Criminal Offence"** means any of the following criminal offences as applicable: tax crimes (as referred to in the directive (EU) 2015/849 of 20 May 2015), fraud, corruption, coercion, collusion, obstruction, money laundering, financing of terrorism.

**"CZK"** means Czech crown(s), the lawful currency of the Czech Republic.

**"Czech MoF"** has the meaning given to it in Article 6.11.

**"Date of Effectiveness"** has the meaning given to it in Article 11.9.

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

- (a) 0.125% (12.5 basis points), per annum, and
- (b) the percentage rate by which:
  - (i) the interest rate net of the Margin that would have been applicable to such amount had it been disbursed to the Borrower on the Scheduled Disbursement Date, exceeds
  - (ii) the Relevant Interbank Rate (one month rate) less 0.125% (12.5 basis points), unless this value is less than zero, in which case it will be set at zero.

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

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

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

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

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

**"Disbursement Offer"** means a letter substantially in the form set out in Schedule C.1.

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

**"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.

**"EIA"** means the Environmental Impact Assessment in the meaning of the EIA Directive.

**"EIA Directive"** means the Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

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

- (a) fauna and flora;
- (b) soil, water, air, climate and the landscape; and
- (c) cultural heritage and the built environment,

and includes, without limitation, occupational and community health and safety.

**"Environmental Approval"** means any Authorisation required by Environmental Law.

**"Environmental Claim"** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

**"Environmental Law"** means:

- (a) EU Law, including principles and standards;
- (b) national laws and regulations; and
- (c) applicable international treaties,

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

**"ESI Funds"** means any and all European Union's structural and investment funds (including any financial instruments or repayable assistance supported thereby) in the meaning of the Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013 or a Regulation governing one or more of the ESI Funds listed therein.

**"ESIF Event"** has the meaning given to it in Article 4.3.A(6)(c).

**"EU Grants"** means grants provided for the Project under or pursuant to the EU Law, including ESI Funds.

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

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

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

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

**"Final Availability Date"** means the day falling 48 months from the Date of Effectiveness of this Contract.

**"Final Beneficiary"** has the meaning given to it in Recital (a).

**"Fixed Rate"** means an annual interest rate including the Margin 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 Relevant Interbank Rate 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.

**"GAAP"** means generally accepted accounting principles in Czech Republic, including IFRS.

**"GDPR"** means General Data Protection Regulation (EU) 2016/679.

**"Guarantee"** has the meaning given to it in Article 7.4.A.

**"Guarantor"** has the meaning given to it in Article 7.4.A.

**"Habitats Directive"** means Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended or replaced from time to time.

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

**"Indemnifiable Prepayment Event"** means a Prepayment Event other than those specified in paragraphs 4.3.A(2) (*Pari Passu to non-EIB Financing*) or 4.3.A(4) (*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 1.2.B in the Disbursement Offer.

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

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

- (a) the Payment Dates chosen in accordance with the provisions of Article 3.1;
- (b) the amount of the Tranche for which the Interest Revision/Conversion shall apply; and
- (c) any further Interest Revision/Conversion Date chosen in accordance with Article 3.1.

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

- (a) 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;
- (b) the specimen signatures of such persons; and
- (c) 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.

**"Margin"** means the component of the rate of interest quantified in Article 3.1.

**"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; or
- (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 Relevant Interbank Rate; or
  - (ii) the Bank determines that adequate and fair means do not exist for ascertaining the applicable Relevant Interbank Rate for the relevant currency of such Tranche or it is not possible to determine the Relevant Interbank Rate in accordance with the definition contained in Schedule B.

**"Material Adverse Change"** means, any event or change of condition, which, in the 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 operations, property, condition (financial or otherwise) or prospects of the Borrower; or
- (c) the legality, validity or enforceability of, or the effectiveness or ranking of, or the value of any Security granted to the Bank, or the rights or remedies of the Bank under this Contract.

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

**"Non-EIB Financing"** has the meaning given to it in Article 4.3.A(2).

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

- (a) for a Fixed Rate Tranche either:
  - (i) the following Relevant Business Day, without adjustment to the interest due under Article 3.1; or
  - (ii) the preceding Relevant Business Day with adjustment to the interest due under Article 3.1 for those cases where a payment is made in full and in relation to the Interest Revision/Conversion in accordance with Schedule D, point C, and to the final interest payment only; and
- (b) for a Floating Rate Tranche, the next day, if any, of that calendar month that is a Relevant Business Day or, failing that, the nearest preceding day that is a Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.1.

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

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

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

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

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

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

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

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

**"PRIBOR"** has the meaning given to it in Schedule B.

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

**"Qualifying Guarantor"** has the meaning given to it in Article 7.4.B.

**"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. For the avoidance of doubt the Redeployment Rate shall not include the Margin.

**"Regions Act"** means the Act of the Czech Republic No. 129/2000 Coll., on Regions (regional establishment), as amended.

**"Relevant Business Day"** means:

- (a) for EUR, 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;
- (b) for CZK, a day on which banks are open for general business in Prague.

**"Relevant Interbank Rate"** means:

- (a) EURIBOR for a Tranche denominated in EUR; and
- (b) PRIBOR for a Tranche denominated in CZK.

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

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

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

**"SEA Directive"** means the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.

**"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.

**"Spread"** means the fixed spread (being of either positive or negative value) to the Relevant Interbank Rate as determined by the Bank and notified to the Borrower in the relevant Disbursement Offer or Interest Revision/Conversion Proposal. The Spread shall include the Margin.

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

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

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



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

**"Water Framework Directive"** means the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

## ARTICLE 1

### Credit and Disbursements

#### **1.1 Amount of Credit**

By this Contract the Bank establishes in favour of the Borrower, and the Borrower accepts, a credit in an amount equivalent to CZK 1,300,000,000.00 (one billion three hundred million Czech crowns) for the financing of the Project (the "**Credit**").

#### **1.2 Disbursement procedure**

##### **1.2.A Tranches**

The Bank shall disburse the Credit in up to 5 (five) Tranches. The amount of each Tranche shall be in a minimum amount equivalent to CZK 250,000,000.00 (two hundred fifty million Czech crowns).

##### **1.2.B Disbursement Offer**

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

- (a) the currency, amount and CZK equivalent of the Tranche;
- (b) the Scheduled Disbursement Date, which shall be a Relevant Business Day, falling at least 10 (ten) days after the date of the Disbursement Offer and on or before the Final Availability Date;
- (c) the interest rate basis of the Tranche, being: (i) a Fixed Rate Tranche; or (ii) a Floating Rate Tranche, in each case, pursuant to the relevant provisions of Article 3.1;
- (d) the Payment Dates and the first interest Payment Date for the Tranche;
- (e) the terms for repayment of principal for the Tranche, in accordance with the provisions of Article 4.1;
- (f) the Repayment Dates and the first and the last Repayment Date for the Tranche;
- (g) the Interest Revision/Conversion Date, if requested by the Borrower, for the Tranche;
- (h) for a Fixed Rate Tranche, the Fixed Rate and for a Floating Rate Tranche the Spread, applicable until the Interest Revision/Conversion Date, if any or until the Maturity Date; and
- (i) the Disbursement Acceptance Deadline.

##### **1.2.C Disbursement Acceptance**

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

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

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

#### **1.2.D Disbursement Account**

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

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

Only one Disbursement Account may be specified for each Tranche.

#### **1.3 Currency of disbursement**

The Bank shall disburse each Tranche in EUR or, subject to availability, in CZK.

For the calculation of the sums available to be disbursed in EUR, and to determine their equivalent in CZK, the Bank shall apply the rate published by the European Central Bank in Frankfurt am Main, available on or shortly before the date of the Disbursement Offer as the Bank shall decide.

#### **1.4 Conditions of disbursement**

##### **1.4.A Condition precedent to the first request for Disbursement Offer**

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

- (a) evidence that the execution of this Contract by the Borrower has been duly authorised and that the person or persons signing this Contract on behalf of the Borrower is/are duly authorised to do so together with the specimen signature of each such person or persons; and

- (b) the List of Authorised Signatories and Accounts;

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

##### **1.4.B First Tranche**

The disbursement of the first Tranche under Article 1.2 is conditional upon receipt by the Bank, in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche, of the following documents or evidence:

- (a) evidence that the Borrower has obtained all necessary Authorisations, required in connection with this Contract and the Project;
- (b) evidence that the amount of the first Tranche to be disbursed does not exceed 30% of the Credit, i.e. the equivalent of CZK 390,000,000 (three hundred ninety million Czech crowns);
- (c) evidence that proper management arrangements are in place and are fully operational to coordinate the implementation of the Project (particularly with regard to Allocation Requests and progress reporting);
- (d) a legal opinion on the due execution of this Contract and the relevant documentation by the Borrower and on the legal, valid, binding and enforceable character of the Borrower's obligations under this Contract and the relevant documentation substantially in the form set out in Annex II;
- (e) a Compliance Certificate as set out in Schedule E 2 signed by the signatory authorised to act for the Borrower confirming compliance by the Borrower with the financial covenants pursuant to Article 6.8 and with evidence of such compliance and related calculations.

##### **1.4.C All Tranches**

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

- (a) that the Bank has received, in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche, of the following documents or evidence:
    - (i) a certificate from the Borrower in the form of Schedule E.1 signed by an authorised representative of the Borrower and dated no earlier than the date falling 10 (ten) days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively);
    - (ii) the Bank being at all times satisfied that aggregated disbursements represent a reasonable proportion of Allocations (and satisfy the Allocation procedure under Article 1.9) it being understood that Allocations, at any time prior to the completion of the Project, may be reasonably lower than aggregated disbursements while at the time of the Project completion Allocations must coincide with aggregated disbursements;
    - (iii) a copy of any other authorisation or other document, opinion or assurance which the Bank has notified the Borrower is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, this Contract or the Security provided in respect of this Contract or the legality, validity, binding effect or enforceability of the same; and
  - (b) that on the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, on the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche:
    - (i) the representations and warranties which are repeated pursuant to Article 6.11 are correct in all respects; and
    - (ii) no event or circumstance which constitutes or would with the passage of time or giving of notice under this Contract constitute:
      - (1) an Event of Default; or
      - (2) a Prepayment Event;
- has occurred and is continuing unremedied or unwaived or would result from the disbursement of the proposed Tranche.

#### **1.4.D Second and Subsequent Tranches**

The disbursement of the second and any subsequent Tranche is also 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 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche of the following evidence that:

- (a) 80% of the previously disbursed Tranches have been committed by the Borrower and allocated to eligible Sub-Projects by the Bank; or
- (b) 50% of all previously disbursed Tranches have effectively been paid out towards eligible expenditures incurred with respect to allocated Sub-Projects.

#### **1.4.E Final Tranche**

The disbursement of the final Tranche part of which represents last 10% of the Credit 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 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche of evidence in writing satisfactory to the Bank showing that full amount of the Credit has been fully allocated to eligible Sub-Projects.

## 1.5 Deferment of disbursement

### 1.5.A **Grounds for deferment**

#### 1.5.A(1) BORROWER'S REQUEST

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

- (a) whether the Borrower would like to defer the disbursement in whole or in part and if in part, the amount to be deferred; and
- (b) 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:
  - (i) 6 (six) months from its Scheduled Disbursement Date;
  - (ii) 30 (thirty) days prior to the first Repayment Date; and
  - (iii) 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.

#### 1.5.A(2) FAILURE TO SATISFY CONDITIONS TO DISBURSEMENT

- (a) The disbursement of an Accepted Tranche shall be deferred if any condition for disbursement of such Accepted Tranche referred to in Article 1.4 is not fulfilled both.
  - (i) at the date specified for fulfilment of such condition in Article 1.4; and
  - (ii) at its Scheduled Disbursement Date (or, where the Scheduled Disbursement Date has been deferred previously, the date expected for disbursement).
- (b) The Bank and the Borrower shall agree the date until which the disbursement of such Accepted Tranche shall be deferred (the "**Agreed Deferred Disbursement Date**"), which must be a date falling:
  - (i) not earlier than 5 (five) Business Days following the fulfilment of all conditions of disbursement; and
  - (ii) not later than the Final Availability Date.
- (c) Without prejudice to the Bank's right to suspend and/or cancel the undisbursed portion of the Credit in whole or in part pursuant to Article 1.6.B, the Bank shall defer disbursement of such Accepted Tranche until the Agreed Deferred Disbursement Date.

#### 1.5.A(3) DEFERMENT INDEMNITY

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

### 1.5.B **Cancellation of a disbursement deferred by 6 (six) months**

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

## 1.6 Cancellation and suspension

### 1.6.A **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:



- (a) 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
- (b) must not relate to an Accepted Tranche which has a Scheduled Disbursement Date falling within 5 (five) Business Days of the date of the written notice.

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

#### **1.6.B 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:

- (a) a Prepayment Event;
- (b) an Event of Default;
- (c) 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; or
- (d) a Market Disruption Event provided the Bank has not received a Disbursement Acceptance.

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.

#### **1.6.C Indemnity for suspension and cancellation of a Tranche**

##### **1.6.C(1) SUSPENSION**

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

##### **1.6.C(2) CANCELLATION**

- (a) If an Accepted Tranche which is a Fixed Rate Tranche is cancelled:
  - (i) by the Borrower pursuant to Article 1.6.A; or
  - (ii) by the Bank upon an Indemnifiable Prepayment Event or pursuant to Article 1.5.B, the Borrower shall pay to the Bank the Prepayment Indemnity. The Prepayment Indemnity shall be calculated as if the cancelled amount had been disbursed and repaid on the Scheduled Disbursement Date or, to the extent that the disbursement of the Tranche is currently deferred or suspended, on the date of the cancellation notice.
- (b) If the Bank cancels an Accepted Tranche upon the occurrence of an Event of Default, the Borrower shall indemnify the Bank in accordance with Article 10.3.
- (c) Save in the cases (a) or (b) above, no indemnity is payable upon cancellation of a Tranche.

#### **1.7 Cancellation after expiry of the Credit**

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

#### **1.8 Sums due under Articles 1.5 and 1.6**

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



## 1.9 Allocation

### 1.9.A Allocation Request

The Borrower may and shall no later than by 30 December 2024 submit to the Bank for approval a request for allocation (hereinafter referred to as an **"Allocation Request"**).

The Loan may solely be allocated to Sub-Projects identified as eligible for financing in the Technical Description. In order for a Sub-Project to qualify for financing hereunder, the Borrower must comply with the Allocation procedure, continuing Project undertakings in Article 6.5, allocation procedures modulated according to the Sub-Project size in line with applicable framework loan procedures and as indicated in Schedule A and reporting requirements set out in Article 8.1.

### 1.9.B Allocation Letter

The Bank shall have full discretion whether or not to approve the Allocation Request following such examination of the Sub-Projects as it deems necessary and shall, in the event of approval, issue a letter of allocation (the **"Allocation Letter"**) informing the Borrower of (i) its approval of the Sub-Projects submitted and (ii) the portion of the Credit (or the Loan, as the case be), which the Bank has allocated to any so approved Sub-Projects (each such portion being hereafter called an **"Allocation"**, which term shall include any such portion as may be re-allocated). In the event the Bank does not approve a submitted Allocation Request, the Bank shall inform the Borrower thereof in writing.

The Borrower shall provide the Bank with any additional information regarding the Sub-Projects as the Bank, in its own discretion, may request.

The Bank's standard requirements concerning EIA or biodiversity assessments will be applied and will form an integral part of the Allocation procedure.

The Bank may review and amend the Allocation procedures in line with the Bank's policy on framework loans in view of any change required by, inter alia, the European Commission or the development of the Project (or any individual Sub-Project).

## 1.10 Reallocation Procedure

### 1.10.A Reallocation at the request of the Borrower

The Borrower may, by written request to the Bank which shall include reasons therefor, and not later than 30 September 2025, propose to reallocate in accordance with Article 1.9 any corresponding part of the original Allocation which has not been spent by the Borrower on a Sub-Project or made available in full, directly or indirectly, by the Borrower to the relevant Final Beneficiaries.

The Bank may, at its discretion, accept the Borrower's proposal for reallocation and reallocate any corresponding portion of the original Allocation in accordance with the provisions of Article 1.9.

If the reallocation is not possible or possible only in part, the Borrower shall prepay immediately to the Bank the part of the Loan which has been disbursed by the Bank subject to the original Allocation, together with accrued interest on the prepaid amount and compensation, if any, calculated in accordance with Article 4.2.

### 1.10.B Reallocation at the request of the Bank

The Borrower shall propose to reallocate any corresponding part of the original Allocation, which has been allocated in accordance with the Allocation procedures in relation to a Sub-Project, if such Sub-Project, in the reasonable opinion of the Bank, is ineligible for financing by the Bank under the Bank's Statute, policies or guidelines, or under Article 309 of the Treaty on the Functioning of the European Union. If within the timeframe provided for in the Bank's written request the Borrower fails to replace such Sub-Project, the Borrower shall repay all or part of the Loan in accordance with Article 10.1.A.



## ARTICLE 2

### The Loan

#### 2.1 Amount of Loan

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

#### 2.2 Currency of repayment, interest and other charges

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

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

#### 2.3 Confirmation by the Bank

The Bank shall deliver to the Borrower the amortisation table referred to in Article 4.1, if appropriate, showing the Disbursement Date, currency, the amount disbursed, the repayment terms and the interest rate of and for that Tranche.

## ARTICLE 3

### Interest

#### 3.1 Rate of interest

For the purposes of this Contract "Margin" means 4 (four) basis points (0.04%).

##### 3.1.A Fixed Rate Tranches

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

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

##### 3.1.B 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 arrear on the relevant Payment Dates, as specified in the Disbursement Offer commencing on the first such Payment Date following the Disbursement Date of the Tranche. If the period from the Disbursement Date to the first Payment Date is 15 (fifteen) days or less then the payment of interest accrued during such period shall be postponed to the following Payment Date.

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

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

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

### 3.1.C Revision or Conversion of Tranches

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

### 3.2 Interest on overdue sums

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

- (a) for overdue sums related to Floating Rate Tranches, the applicable Floating Rate plus 2% (200 basis points);
- (b) for overdue sums related to Fixed Rate Tranches, the higher of (i) the applicable Fixed Rate plus 2% (200 basis points); or (ii) the Relevant Interbank Rate plus 2% (200 basis points); and
- (c) for overdue sums other than under (a) or (b) above, the Relevant Interbank Rate plus 2% (200 basis points),

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

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

### 3.3 Market Disruption Event

- (a) If at any time
  - (i) from the receipt by the Bank of a Disbursement Acceptance in respect of a Tranche, and
  - (ii) until the date falling either:
    - (1) 30 (thirty) calendar days prior to the Scheduled Disbursement Date for Tranches to be disbursed in EUR; or
    - (2) 2 (two) Business Days prior to the Scheduled Disbursement Date for Tranches to be disbursed in CZK,

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:

- (b) In the case of an Accepted Tranche to be disbursed in EUR, the rate of interest applicable to such Accepted Tranche until the Maturity Date or the Interest Revision/Conversion Date if any, shall be the percentage rate per annum which is the sum of:
  - (i) the Margin; and
  - (ii) the rate (expressed as a percentage rate per annum) which is determined by the Bank to be the all-inclusive cost to the Bank for the funding of the relevant Tranche based upon the then applicable internally generated Bank reference rate or an alternative rate determination method reasonably determined by the Bank.

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

- (c) In the case of an Accepted Tranche to be disbursed in CZK, the Bank shall notify to the Borrower the EUR equivalent to be disbursed on the Scheduled Disbursement Date and the relevant percentage rate as described above under paragraph (b) applicable to the Tranche until the Maturity Date or the Interest Revision/Conversion Date if any. The Borrower shall have the right to refuse in writing such disbursement within the deadline specified in the notice and shall bear charges incurred as a result, if any, in which case the Bank shall not effect the disbursement and the corresponding portion of the Credit shall remain available for disbursement under Article 1.2.B. If the Borrower does not refuse the disbursement in time, the parties agree that the disbursement in EUR and the conditions thereof shall be fully binding for both parties.
- (d) In each case of (b) or (c), above, the Spread or the Fixed Rate previously accepted by the Borrower shall no longer be applicable.

## **ARTICLE 4**

### **Repayment**

#### **4.1 Normal repayment**

##### **4.1.A Repayment by Instalments**

- (a) The Borrower shall repay each Tranche by instalments on the Repayment Dates specified in the relevant Disbursement Offer in accordance with the terms of the amortisation table delivered pursuant to Article 2.3.
- (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 Tranche shall be a Payment Date falling not earlier than 30 (thirty) days from the Scheduled Disbursement Date and not later than the first Repayment Date immediately following the 4th (fourth) anniversary of the Scheduled Disbursement Date of the Tranche; and
  - (iv) the last Repayment Date of each Tranche shall be a Payment Date falling not earlier than 4 (four) years and not later than 23 (twenty-three) years from the Scheduled Disbursement Date.

#### **4.2 Voluntary prepayment**

##### **4.2.A Prepayment option**

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

- (a) the Prepayment Amount;
- (b) the Prepayment Date;
- (c) if applicable, the choice of application method of the Prepayment Amount in line with Article 5.5.C(a); and

(d) the Contract Number.

The Prepayment Request shall be irrevocable.

#### **4.2.B Prepayment indemnity**

##### **4.2.B(1) FIXED RATE TRANCHE**

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

##### **4.2.B(2) FLOATING RATE TRANCHE**

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

##### **4.2.B(3) REVISION/CONVERSION**

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

#### **4.2.C Prepayment mechanics**

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

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

The Borrower shall accompany the payment of the Prepayment Amount by the payment of accrued interest, the Prepayment Indemnity, if any, due on the Prepayment Amount, as specified in the Prepayment Notice and the fee under Article 4.2.D.

#### **4.2.D 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

### **4.3 Compulsory prepayment**

#### **4.3.A Prepayment Events**

##### **4.3.A(1) PROJECT COST REDUCTION**

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

- (a) the amount of the Credit plus other Bank loans for the financing of the Project exceeds 90% (ninety per cent) of such total cost of the Project; or
- (b) the total amount of the Credit plus other Bank loans for the financing of the Project together with EU Grants exceeds 100% (one hundred per cent) of the total cost of the Project,

the Bank may forthwith, by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan Outstanding up to the amount (a) by which the Credit plus other Bank loans for the financing of the Project exceeds 90% (ninety per cent) of the total cost of the Project or (b) by which the total amount of the Credit plus other Bank loans for the financing of the Project together with EU Grants exceeds 100% (one hundred per cent) of the total cost of the Project, in each case together with accrued interest and all other amounts accrued and outstanding

under this Contract in relation to the proportion of the Loan Outstanding to be prepaid. The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

#### 4.3.A(2) *PARI PASSU* TO NON-EIB FINANCING

If the Borrower voluntarily prepays (for the avoidance of doubt, prepayment shall include a repurchase or cancellation where applicable) a part or the whole of any Non-EIB Financing and such prepayment is not made out of the proceeds of a loan or other indebtedness having a term at least equal to the unexpired term of the Non-EIB Financing prepaid the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and/or 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.

#### 4.3.A(3) CHANGE OF LAW

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

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

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

#### 4.3.A(4) ILLEGALITY

If it becomes unlawful in any applicable jurisdiction for the Bank to:

- (a) perform any of its obligations as contemplated in this Contract; or
- (b) fund or maintain the Loan,

the Bank shall promptly notify the Borrower and may 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.

#### 4.3.A(5) NON-ALLOCATION

The Borrower shall prepay to the Bank on 30 September 2025 such part of the Loan Outstanding that has not been allocated or reallocated by the date in accordance with Article 1.9 and 1.10 (as applicable). The Borrower shall effect payment of the amount demanded together with accrued interest and all other amounts accrued or 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.

#### 4.3.A(6) EU EVENT

- (a) The Borrower shall promptly inform the Bank if:
  - (i) it has failed to comply with the Environmental Law or any laws of the European Union and the Czech Republic with respect to state aid or public procurement with respect to the Project;
  - (ii) an ESIF Event has occurred or is likely to occur in relation to the Project; or
  - (iii) the Borrower has applied the proceeds of the Loan to finance the Project that, when applicable, failed to be subject to a relevant EIA procedures or a biodiversity assessment in accordance with the Birds Directive and/or the Habitats Directive.
- (b) If the Borrower notifies the Bank of any event referred to in (a) above, or if the Bank becomes aware of any such event and notifies the Borrower to that effect, then the Borrower shall, within a period of 60 (sixty) days following its giving, or receiving of any such notice take steps to remedy, to the Bank's satisfaction, the event referred to in (a) above, failing which, the Bank may by further notice to the Borrower demand that the Borrower prepays 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.
- (c) For the purpose of this Contract, an "**ESIF Event**" means any of the following (whether directly or indirectly) in relation to the Project:
  - (i) the Borrower is required to reimburse or repay any contribution from ESI Funds in whole or in part as a result of a recovery, financial correction or similar procedures triggered by any irregularities in relation to such contribution from ESI Funds; or
  - (ii) otherwise than for the reasons indicated in (i), ESI Funds cease to be available or have been cancelled in full or in part and the financing of the Project from other resources has not been ensured by the Borrower to the satisfaction of the Bank.

#### 4.3.B Prepayment mechanics

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

#### 4.3.C Prepayment Indemnity

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

#### 4.4 General

##### 4.4.A No prejudice to Article 10

This Article 4 shall not prejudice Article 10.

##### 4.4.B No reborrowing

A repaid or prepaid amount may not be reborrowed.



## ARTICLE 5

### Payments

#### 5.1 Day count convention

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

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

#### 5.2 Time and place of payment

- (a) 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.
- (b) 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.
- (c) The Borrower shall indicate the Contract Number in the payment details for each payment made hereunder.
- (d) A sum due from the Borrower shall be deemed paid when the Bank receives it.
- (e) Any disbursements by and payments to the Bank under this Contract shall be made using account(s) acceptable to the Bank. Any account in the name of the Borrower held with a duly authorised financial institution in the jurisdiction where the Borrower is incorporated or where the Project is undertaken is deemed acceptable to the Bank.

#### 5.3 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.

#### 5.4 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 this 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 5.4.



## **5.5 Application of sums received**

### **5.5.A General**

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

### **5.5.B 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:

- (a) firstly, in or towards pro rata to each of any unpaid fees, costs, indemnities and expenses due under this Contract;
- (b) secondly, in or towards payment of any accrued interest due but unpaid under this Contract;
- (c) thirdly, in or towards payment of any principal due but unpaid under this Contract; and
- (d) fourthly, in or towards payment of any other sum due but unpaid under this Contract.

### **5.5.C Allocation of sums related to Tranches**

- (a) In case of:
  - (i) 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
  - (ii) 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.
- (b) Sums received by the Bank following a demand under Article 10.1 and applied to a Tranche, shall reduce the outstanding instalments in inverse order of maturity. The Bank may apply sums received between Tranches at its discretion.
- (c) 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 date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

#### **A. PROJECT UNDERTAKINGS**

### **6.1 Use of Loan and availability of other funds**

The Borrower shall, and shall procure that each Final Beneficiary will, use all amounts borrowed by it under this Contract for the execution of the Project.

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

### **6.2 Completion of Project**

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

### 6.3 Increased cost of Project

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

### 6.4 Procurement procedure

The Borrower shall, and shall procure that the Final Beneficiary will, purchase equipment, secure services and order works for the Project (a) in so far as they apply to it or to the Project, in accordance with EU Law in general and in particular with the relevant European Union Directives and (b) in so far as European Union Directives do not apply, by procurement procedures which, to the satisfaction of the Bank, respect the criteria of economy and efficiency and, in case of public contracts, the principles of transparency, equal treatment and non-discrimination on the basis of nationality.

### 6.5 Continuing Project undertakings

The Borrower shall and shall procure that the Final Beneficiaries will:

- (a) **Maintenance:** maintain, repair, overhaul and renew all property forming part of the Project as required to keep it in good working order;
- (b) **Project assets:** unless the Bank shall have given its prior consent in writing retain title to and possession of all or substantially all the assets comprising the Project or, as appropriate, replace and renew such assets and maintain the Project in substantially continuous operation in accordance with its original purpose; the Bank may withhold its consent only where the proposed action would prejudice the Bank's interests as lender to the Borrower or would render the Project ineligible for financing by the Bank under its Statute or under article 309 of the Treaty on the Functioning of the European Union;
- (c) **Insurance:** insure all works and property forming part of the Project with first class insurance companies in accordance with the most comprehensive relevant industry practice;
- (d) **Rights and Permits:** maintain in force all rights of way or use and all Authorisations necessary for the execution and operation of the Project;
- (e) **Environment:**
  - (i) implement and operate the Project in compliance with Environmental Law;
  - (ii) obtain and maintain requisite Environmental Approvals for the Project;
  - (iii) comply with any such Environmental Approvals;
  - (iv) not commit any Bank funds against the Sub-Projects that require an EIA or biodiversity assessment according to EU Law and/or national law without, prior to commitment, receiving the consent from the competent authority, and the Non-Technical Summary of the EIA having been made available to the public;
  - (v) ensure, on a best effort basis, that as at date of the Project completion, at least 21% (twenty one per cent) of the total cost of the Project, financed with the proceeds of the Loan, is dedicated to Climate Action, i.e. concerns energy efficiency and/or renewable energy and/or other eligible mitigation components;
- (f) **Integrity:** take, within a reasonable timeframe, appropriate measures in respect of any member of its or the Final Beneficiary's governing or administrative bodies who has been convicted by a final and irrevocable court ruling of a Criminal Offence perpetrated in the course of the exercise of his/her professional duties, in order to ensure that such member is excluded from any Borrower's or the Final Beneficiary's activity in relation to the Credit, Loan or the Project;
- (g) **Integrity Audit Rights:** ensure that all contracts under the Project to be procured after the date of signature of this Contract in accordance with EU Directives on procurement provide for:

- (i) the requirement that the relevant contractor promptly informs the Bank of a genuine allegation, complaint or information with regard to Criminal Offence related to the Project;
- (ii) the requirement that the relevant contractor keeps books and records of all financial transactions and expenditures in connection with the Project; and
- (iii) the Bank's right, in relation to an alleged Criminal Offence, to review the books and records of the relevant contractor in relation to the Project and to take copies of documents to the extent permitted by law;
- (h) **EU Law:** execute and operate and verify compliance of the Project and each individual Sub-Project in accordance with the relevant rules and standards of EU Law directly applicable to the Borrower or the Final Beneficiary (as the case may be) and the Project or each individual Sub-Project (as the case may be), in particular in the fields of Environment, road safety, state aid and public procurement, including SEA Directive, EIA Directive, Habitats Directive, Birds Directive and Water Framework Directive as these were transposed into national law;
- (i) **State Aid:** implement and operate the Project in conformity with any and all laws of the European Union and the Czech Republic regarding state aid;
- (j) **No Double Financing:** ensure that there is no double-financing of the Sub-Projects with other Bank loans with the same Borrower;
- (k) **Road Safety Audits:**
  - (i) shall ensure that Road Safety Audits are performed on all road Sub-Projects, co-financed by EU Grants; and
  - (ii) shall ensure on, best effort basis, that Road Safety Audits are performed on other relevant Sub-Projects,

in line with the principles of Directive 2008/96/EC on road infrastructure safety management, as amended by Directive (EU) 2019/1936; and

  - (iii) shall provide confirmation to the Bank that the audit recommendations have been included in the final design, or shall give justification for alternative measures where recommendations have not been adopted;
- (l) **ESI Funds:**
  - (i) when available, upon the Bank's request, provide the Bank with a certified copy of an official application of the Borrower or the Borrower's contributory organisations for the ESI Funds in respect of the Project and inform the Bank periodically on the progress of the grant application process; and
  - (ii) ensure that all terms and conditions regarding the ESI Funds (whether contractual or statutory) are complied with.

## **B. GENERAL UNDERTAKINGS**

### **6.6 Disposal of assets**

- (a) Borrower shall not either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily dispose of any part of its assets.
- (b) Paragraph (a) above does not apply to any disposal of assets, other than assets forming part of the Project, for fair market value and at arm's length:
  - (i) made in exchange for other assets comparable or superior as to type, value and quality;
  - (ii) made between the Borrower and its contributory organisations (in Czech: *příspěvková organizace*) for as long as such Borrower's contributory organisation (in Czech: *příspěvková organizace*) remains the owner of such assets and does not dispose of them and the Borrower fully owns such contributory organisation (in Czech: *příspěvková organizace*);
  - (iii) made with the prior written consent of the Bank,

provided that, during the life of the Loan, the aggregate book value of the assets (including those of the Borrower's contributory organizations (in Czech: *příspěvková organizace*)), other than any disposal permitted under items (i) – (iii) above, disposed of (or authorised to be disposed of) by the Borrower shall not exceed 10% of total fixed net assets of the Borrower and its contributory organisations (in Czech: *příspěvková organizace*) reported in the balance sheets of the Borrower and its contributory organisations (in Czech: *příspěvková organizace*) as at 31 December 2019.

- (c) For the purposes of this Article, "**dispose**" and "**disposal**" includes any act effecting sale, transfer, lease or other disposal.

## 6.7 Compliance with laws

The Borrower shall, and shall procure that each Final Beneficiary will, comply in all respects with all laws and regulations to which it or the Project is subject.

The Borrower shall duly publish any sub-financing agreement entered into with Final Beneficiaries in respect of any funds provided under this Contract, related to the Credit, the Loan or the Project, in the registry of contracts (in Czech: *registr smluv*), as required by the applicable Czech law.

## 6.8 Financial covenants

So long as there is any Loan Outstanding, the Borrower shall maintain a sound financial situation, and in particular, shall maintain each financial year:

- (i) a Leverage Ratio of no more than 60%;
- (ii) a Debt Service Ratio of no more than 1.2;
- (iii) an Interest Coverage Ratio of no less than 9; and
- (iv) a Liquidity Ratio of no less than 1.

The ratios under (i) to (iv) above shall be calculated based on the budget statements delivered by the Borrower to the Bank pursuant to Article 8.2(a) and (b).

The definitions included in this Article 6.8 shall have the following meaning:

"**Annual Operating Revenues**" means the aggregate of the Borrower's: (i) tax and fee revenues, (ii) non-tax revenues, (iii) operating subsidies, and (iv) received non-investment transfers.

"**Acceptable Bank**" means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Bank.

"**Cash**" means, at any time, cash, denominated in a currency that is widely traded on the principal foreign exchange markets, in hand or at bank and (in the latter case) credited to an account in the name of the Borrower with an Acceptable Bank and to which the Borrower is alone beneficially entitled and for so long as:

- (a) that cash is repayable on demand;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of the Borrower or of any other person whatsoever or on the satisfaction of any other condition;
- (c) there is no Security over that cash (for the avoidance of doubt, including but not limited to a netting or set-off arrangement entered into by the Borrower in the ordinary course of its banking arrangements); and
- (d) the cash is freely and immediately available to be applied in repayment or prepayment of the Loan.

"**Cash Equivalent Investments**" means at any time:

- (a) term deposits or certificates of deposit maturing within twelve months after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom or any member state of the European Union or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible to or exchangeable for any other security;
- (c) any investment in money market funds which (i) have a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investor Services Limited, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (b) above and (iii) can be turned into cash on not more than 30 days' notice; or
- (d) any other debt security approved by the Bank,

in each case, denominated in a currency that is widely traded on the principal foreign exchange markets to which the Borrower is alone beneficially entitled at that time and which is not issued or guaranteed by the Borrower or subject to any Security.

**"Debt Service Ratio"** means the ratio of Total Debt Service Obligations to the Annual Operating Revenues.

**"Financial Indebtedness"** means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

**"Gross Operating Surplus"** means the aggregate of the Borrower's Annual Operating Revenues minus the Borrower's operating expenditures net of interest payments and other similar charges on Financial Indebtedness.

**"Interest Coverage Ratio"** means the ratio of the Gross Operating Surplus to interest payments.

**"Leverage Ratio"** means the ratio expressed in percentage of the Total Debt to the Annual Operating Revenues.

**"Liquidity"** means the sum of Cash and Cash Equivalent Investments plus available amounts under committed revolving credit facilities maturing over 12 months from the end of the relevant financial year.

**"Liquidity Ratio"** means the ratio of the Liquidity to Short-term debt.

**"Short-term debt"** means Financial Indebtedness maturing within 12 months from the end of the relevant financial year.

**"Total Debt"** means, at any time and without double-counting, the aggregate amount at such time of Financial Indebtedness of the Borrower.

**"Total Debt Service Obligations"** means the aggregate amount of the Borrower's: (i) total principal repayments on the Borrower's Total Debt; and (ii) interest payments and other similar charges on the Borrower's Total Debt.

#### **6.9 Financial projections model**

The Borrower shall establish, in agreement with the Bank and for the purpose of monitoring future fulfilment of the financial covenants under Article 6.8, a financial projections model which shall be based on its historical annual budget statements, the budget for the current financial year and the annual budget projections for the following three financial years (as provided by the Borrower to the Bank under Article 8.2).

So long as there is any Loan Outstanding, the Borrower shall provide to the Bank annually, without undue delay after the approval of its budget for the following financial year but in any case by 30 June of such following year, the relevant financial projections derived from such model. The Borrower shall update the relevant financial projections every time when any of the ratios under Article 6.8 indent (i) to (iii) threaten to be materially deteriorated and provide such up-dated financial projections to the Bank without undue delay.

#### **6.10 Books and records**

The Borrower shall, and shall procure that each Final Beneficiary will, ensure that it and the Final Beneficiaries (as applicable) have 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 and the Final Beneficiaries, respectively, including expenditures in connection with the Project, in accordance with GAAP as in effect from time to time.

#### **6.11 General Representations and Warranties**

The Borrower represents and warrants to the Bank that:

- (a) it is duly incorporated and validly existing as a region (in Czech: *kraj*) under the laws of Czech Republic and it has power to carry on its administration as it is now being conducted and to own its property and other assets;
- (b) 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;
- (c) the acceptance of the Credit and the execution of this Contract was approved by the Assembly (in Czech: *zastupitelstvo*) of the Central Bohemia Region on 3 August 2020 in its 26<sup>th</sup> meeting, by Resolution No. 009-26/2020/ZK, in accordance with Section 36 i) of the Regions Act;
- (d) this Contract constitutes its legally valid, binding and enforceable obligations;
- (e) the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Contract do not and will not contravene or conflict with:
  - (i) any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject;
  - (ii) 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;
  - (iii) any provision of its statute and any provision of any of its or Final Beneficiary's by-laws, constitutional documents or regulatory instruments (as the case may be);

- (f) the latest available annual budget statement and related documents of the Borrower reviewed by the Ministry of Finance of the Czech Republic (the "**Czech MoF**") or a territorial financial authority, if authorised by the Czech MoF, (or external auditors, if and when applicable) have been prepared on a basis consistent with previous years and have been found by the Czech MoF or a territorial financial authority, if authorised by the Czech MoF, (or external auditors) in its revision or other report as representing a true and fair view of the results of its operations for that year and accurately disclose or reserve against all the liabilities (actual or contingent) of the Borrower;
- (g) there has been no Material Adverse Change since 17 June 2020;
- (h) no event or circumstance which constitutes a Prepayment Event or an Event of Default has occurred and is continuing unremedied or unwaived;
- (i) 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;
- (j) it has obtained all necessary Authorisations in connection with this Contract and in order to lawfully comply with its obligations hereunder, and the Project and all such Authorisations are in full force and effect and admissible in evidence;
- (k) at the date of this Contract, no Security exists over its assets save as permitted under Article 7.1(b);
- (l) 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;
- (m) it is in compliance with Article 6.5(e) and to the best of its knowledge and belief (having made due and careful enquiry) no Environmental Claim has been commenced or is threatened against it or any Final Beneficiary;
- (n) it is in compliance with all undertakings under this Article 6;
- (o) no loss-of-rating clause have been concluded with any other creditor of the Borrower;
- (p) no financial covenants concluded with any other creditor of the Borrower are more restrictive than the ones contained in this Contract; and
- (q) to the best of its knowledge, no funds invested in the Project by the Borrower or by any Final Beneficiary or by their controlling entities are of illicit origin, including products of money laundering or linked to the financing of terrorism; the Borrower shall promptly inform the Bank and shall ensure that each Final Beneficiary will promptly inform the Borrower if at any time it becomes aware of the illicit origin of any such funds.

The representations and warranties set out above shall survive the execution of this Contract and are deemed repeated on each date of Disbursement Acceptance, date of Compliance Certificate, Disbursement Date and on each Payment Date.

## 6.12 Data Protection

- (a) Before disclosing any personal data (other than mere contact information relating to the Borrower's personnel involved in the management of this Contract ("**Contact Data**")) to the Bank in connection with this Contract, the Borrower shall ensure that each data subject of such personal data:
  - (i) has been informed of the disclosure to the Bank (including the categories of personal data to be disclosed); and
  - (ii) 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 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).

- (b) When disclosing information (other than Contact Data) to the Bank in connection with this Contract, the Borrower shall redact or otherwise amend that information (as necessary) so that it does not contain any personal data, except where this Contract specifically requires, or the Bank specifically requests in writing, to disclose such information in the form of personal data.

## ARTICLE 7

### Security

#### 7.1 Negative pledge

- (a) So long as there is any Loan Outstanding, the Borrower shall not create or permit to subsist any Security on, or with respect to, any of its present or future activity, undertaking, assets or revenues.
- (b) Paragraph (a) above does not apply to any Security, listed below:
  - (i) any Security arising by operation of law;
  - (ii) any Security securing financial indebtedness the aggregate principal amount of which does not exceed 0.50% of the Borrower's consolidated total assets, and
  - (iii) any Security created with the prior written consent of the Bank.
- (c) For the purposes of this Article 7.1, the term Security shall also include any arrangement or transaction on assets or receivables or money (such as the sale, transfer or other disposal of assets on terms whereby they are or may be leased to or re-acquired by the Borrower, the sale, transfer or other disposal of any receivables on recourse terms or any arrangement under which money or the benefit of a bank account or other account may be applied or set-off or any preferential arrangement having a similar effect) in circumstances where the arrangement or transaction is entered into primarily as a method of raising credit or of financing the acquisition of an asset.

#### 7.2 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 applying to companies generally.

#### 7.3 Clauses by inclusion

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

#### 7.4 Substitution with Guarantee or Cash Collateral

##### 7.4.A Alternative Security

If, at any time while there is any Loan Outstanding, the Borrower is in breach of Article 6.8 (*Financial Covenants*), then the Bank may request the Borrower to consult it within 15 (fifteen days) from the date of the Bank's request at the venue specified in the request.



By a notice delivered to the Borrower not earlier than 16 (sixteen) or later than 30 (thirty) days from the date of such request, the Bank may demand that, within a reasonable period specified in such notice, the Borrower:

- (a) shall provide the Bank with a duly issued guarantee (herein the "**Guarantee**") whereby the guarantor (the "**Guarantor**") or guarantors (the "**Guarantors**") unconditionally guarantee the due performance of the Borrower's financial obligations under this Contract. Any such Guarantor shall be a Qualifying Guarantor; or
- (b) shall make, with a bank approved by the Bank, a cash collateral deposit in CZK or EUR, as specified by the Bank in its notice, charged in favour of the Bank on such terms as the Bank may reasonably require, as security for the Borrower's financial obligations under this Contract; or
- (c) shall execute other security offering protection in manner, form and substance acceptable to the Bank.

If none of the foregoing actions is taken within the period specified by the Bank in its relevant notice and to its satisfaction, the Borrower shall, upon demand by the Bank, immediately prepay to the Bank the Loan Outstanding together with all unpaid interest accrued to the date of prepayment on the amount prepaid, a compensation, if any, calculated in accordance with Article 4.2.B and any other sums then payable under this Contract on the amount prepaid.

The provisions of this Article 7.4.A shall not in any way limit or restrict the right of the Bank to demand repayment of the Loan pursuant to Article 10.

The non-exercise by the Bank of the right to demand the issuance of the Guarantee, or to demand the making of a cash collateral deposit or the execution of other security shall not be deemed to be a waiver of the Bank's right hereunder.

#### **7.4.B Qualifying Guarantor**

For the purposes of this Article, "**Qualifying Guarantor**" means a bank or other financial institution that satisfies one of the following conditions:

- (a) at the time of issue of the Guarantee, or, as the case may be, at the time it accedes to the Guarantee:
  - (i) each credit rating that it holds is not lower than:
    - (1) BBB+, where the rating is assigned by Standard and Poor's Financial Services LLC or its successor;
    - (2) Baa1, where the rating is assigned by Moody's Investors Service, Inc. or its successor; and
    - (3) BBB+, where the rating is assigned by Fitch Ratings Inc. or its successor;
 and
  - (ii) such bank or other financial institution is in other respects acceptable to the Bank; or
- (b) is accepted by the Bank by notice in writing, with a copy to the Borrower, subject to (i) the conditions the Bank may in its discretion deem appropriate, (ii) the acceptance of the terms of notice by the Guarantor and (iii) acknowledgement by the Borrower.

#### **7.4.C Loss of qualifying status**

If, in respect of any Guarantor:

- (a) any credit rating is lower than the respective credit rating specified in Article 7.4.B(a)(i); or
- (b) all of the credit ratings of two or more rating agencies specified under Article 7.4.B(a)(i) cease to be published; or
- (c) in the reasonable opinion of the Bank such Guarantor has suffered a material adverse change since becoming a Guarantor or has failed to comply with any condition specified in the Bank's notice of acceptance delivered under Article 7.4.B(b); or
- (d) its obligations under the Guarantee cease to be valid, legal and enforceable,

(the Guarantor affected by any such event being defined herein as the "**Affected Guarantor**") the Bank may at any time thereafter demand that the Borrower shall, within a period of time specified in the Bank's notice, either:

- (aa) procure the replacement of the Affected Guarantor by a Qualifying Guarantor; or
- (bb) save in the case of paragraph (d) of this Article 7.4.C procure that the Affected Guarantor either: (i) provides cash collateral in favour of the Bank, which collateral shall be acceptable to the Bank and be executed on such terms as the Bank may reasonably require, as security for the Affected Guarantor's obligations under the Guarantee; or (ii) provides other security offering protection in manner, form and substance acceptable to the Bank; or
- (cc) provide other security offering protection in manner, form and substance acceptable to the Bank.

If none of the foregoing actions is taken within the aforementioned period and to the satisfaction of the Bank, the Borrower shall, upon demand by the Bank, immediately prepay to the Bank an amount equal to the aggregate of (a) the amount of the Loan Outstanding, (b) unpaid interest accrued to the date of prepayment on the amount prepaid, (c) the amount of an indemnity calculated in accordance with Article 4.2.B and (d) any other sum then payable under this Contract in respect of the amount prepaid.

The non-exercise by the Bank of the right to demand substitution of the Affected Guarantor, the delivery of collateral or the execution of other security shall not be deemed to be a waiver of any of the Bank's rights or remedies under this Contract

#### **7.4.D Guarantor Default Event**

If an event of the nature described in any of Article 10.1.A(c) to (m) inclusive occurs to any Guarantor, the Borrower shall replace such Guarantor with a Qualifying Guarantor. If the Borrower fails to demonstrate to the Bank, promptly upon the latter's request, that it has a reasonable prospect of replacing the Guarantor or if, in any case, the Borrower does not, following demand by the Bank, replace the Guarantor, within 30 (thirty) days of the date when the said event occurred, the Bank may require the Borrower to prepay immediately all or part of an amount equal to the sum of (a) the amount of the Loan Outstanding, (b) unpaid interest accrued to the date of prepayment on the amount prepaid, (c) the amount of an indemnity calculated in accordance with Article 4.2.B and (d) any other sum then payable under this Contract in respect of the amount prepaid.

### **ARTICLE 8**

#### **Information and Visits**

##### **8.1 Information concerning the Project**

The Borrower shall:

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

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

- (b) submit for the approval of the Bank without delay any material change to the Project, also taking into account the disclosures made to the Bank in connection with the Project prior to the signing of this Contract, in respect of, inter alia, the price, design, plans, timetable or to the expenditure programme or financing plan for the Project;

- (c) promptly inform the Bank of:
  - (i) any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Borrower or any Final Beneficiary or any Environmental Claim that is to its knowledge commenced, pending or threatened against it or any Final Beneficiary with regard to environmental or other matters affecting the Project;
  - (ii) any fact or event known to the Borrower, which may substantially prejudice or affect the conditions of execution or operation of the Project;
  - (iii) a genuine allegation, complaint or information with regard to Criminal Offence related to the Project;
  - (iv) any non-compliance by it or any Final Beneficiary with any applicable Environmental Law; and
  - (v) any suspension, revocation or modification of any Environmental Approval,
 and set out the action to be taken with respect to such matters;
- (d) deliver to the Bank, in form and substance satisfactory to the Bank:
  - (i) annual Project progress reports during Project implementation in the form specified in Schedule A.2;
  - (ii) annually and with each Allocation Request, a list of Sub-Projects allocated with updated information on each Sub-Project in the form attached to this Contract as Schedule A.1.1.7; and
  - (iii) a Project completion report in the form specified in Schedule A.2;
- (e) provide to the Bank, if so requested:
  - (i) a certificate of its insurers showing fulfilment of the requirements of Article 6.5(c); and
  - (ii) annually, a list of policies in force covering the insured property forming part of the Project, together with confirmation of payment of the current premiums; and
  - (iii) the documents specified in Article 6.5(g)(iii) and all information requested regarding these documents within 10 (ten) Business Days from receipt of the request from the Bank;
- (f) shall promptly inform the Bank:
  - (i) when the implementation of any allocated Sub-Project is suspended or the Sub-Project is cancelled;
  - (ii) of any suspension of payments or infringement procedures initiated by the European Commission related to the implementation of a Sub-Project and of the initiation of any legal proceedings by the European Commission before the European Court of Justice for non-compliance with EU Law of any Sub-Project;
  - (iii) about any material modifications to the Borrower's planning and development strategies,
 and send to the Bank a copy of the new strategies and relevant documents.

## 8.2 Information concerning the Borrower and Final Beneficiaries

The Borrower shall:

- (a) deliver to the Bank:
  - (i) each year as soon as they become available and in any event within 7 (seven) months after the end of each financial year, a copy of a summary of the executed annual budget statement and related documents at the end of and for that financial year of the Borrower, together with the related report from the Czech MoF or a territorial financial authority, if authorised by the Czech MoF, (or external auditors) and a summary balance sheet and profit and loss account, at the end of and for that financial year, for the Borrower's contributory organisations (in Czech: *příspěvková organizace*) together with a confirmation, in form and substance satisfactory to the

Bank, from the Czech MoF or territorial financial authority, if authorised by the Czech MoF to review the Borrower's annual budget statement, (or external auditors) confirming compliance by the Borrower with the financial covenants pursuant to Article 6.8 including evidence of such compliance and related calculations;

- (ii) at the Bank's request, a copy of the full version of said annual budget statement;
  - (iii) as soon as available and in any event prior to 31 March of the relevant financial year, a copy of the annual budget for such financial year, as approved by the Borrower's Assembly (in Czech: *zastupitelstvo*) or, if not approved, deliver to the Bank, prior to 31 March of the relevant financial year, a copy of a pro-forma annual budget for that financial year and a copy of the approved annual budget prior to 30 June of the relevant financial year;
  - (iv) no later than on 30 November each year, its annual budget projections including capital expenditures and investment plan for each of the following three years;
- (b) ensure that its accounting records fully reflect the operations relating to the financing, execution and operation of the Project; and
- (c) deliver to the Bank such further information, evidence or document concerning:
- (i) its general financial situation or such certificates of compliance with the undertakings of Article 6; and
  - (ii) the compliance with the due diligence requirements of the Bank, 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

- (d) inform the Bank immediately of:
- (i) any change in the laws or regulatory environment in the Czech Republic or any change in the Borrower's activities, which may affect its ability to complete the Project or service the Loan;
  - (ii) any fact which obliges it to prepay any financial indebtedness or any European Union funding;
  - (iii) any event or decision that constitutes or may result in a Prepayment Event;
  - (iv) any intention on its or any Final Beneficiary's part to grant any Security over any of its assets in favour of a third party;
  - (v) any event or decision that constitutes or may result in the events described in Article 7.3 (*Clauses by inclusion*);
  - (vi) any intention on its part to relinquish ownership of any material component of the Project;
  - (vii) any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower under this Contract;
  - (viii) any Event of Default having occurred or being threatened or anticipated;
  - (ix) any investigations concerning the integrity of the members of the Borrower's or any Final Beneficiary's management or administrative body;
  - (x) 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 (or to the best knowledge and belief of such Final Beneficiary that informs the Borrower to that effect), is current, imminent or pending against the Borrower or any Final Beneficiary or their controlling entities or members of the Borrower's or any Final Beneficiary's governing or administrative bodies in connection with Criminal Offence related to the Credit, the Loan or the Project;

- (xi) any measure taken by the Borrower or any Final Beneficiary pursuant to Article 6.5(f) of this Contract;
- (xii) 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;
- (xiii) any event or decision that constitutes or may result in the events described in Article 10.1.A(f) through (h).

### **8.3 Provision and contents of Compliance Certificate**

- (a) The Borrower shall supply a Compliance Certificate to the Bank with its each annual budget statement.
- (b) The Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with financial covenants set out in Article 6.8 and with evidence of such compliance and related calculations.
- (c) Each Compliance Certificate shall be signed by the signatory authorised to act for the Borrower.

### **8.4 Visits by the Bank**

The Borrower shall allow and shall procure that the Final Beneficiaries will allow persons designated by the Bank, as well as persons designated by other institutions or bodies of the European Union when so required by the relevant mandatory provisions of EU Law:

- (a) to visit the sites, installations and works comprising the Project;
- (b) to interview representatives of the Borrower and/or any Final Beneficiary, and not obstruct contacts with any other person involved in or affected by the Project; and
- (c) to review the Borrower's and/or any 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.

The Borrower shall provide the Bank, or ensure that the Bank is provided, with all necessary assistance for the purposes described in this Article.

The Borrower acknowledges that the Bank may be obliged to communicate information relating to the Borrower, any Final Beneficiary and the Project to any competent institution or body of the European Union in accordance with the relevant mandatory provisions of EU Law.

## **ARTICLE 9**

### **Charges and expenses**

#### **9.1 Taxes, duties and fees**

- (a) 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.
- (b) 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.

## 9.2 Other charges

The Borrower shall bear all charges and expenses, including professional, banking or exchange charges incurred in connection with the preparation, execution, implementation, enforcement and termination of this Contract and/or the Guarantee (if any) or any related document, any amendment, supplement or waiver in respect of this Contract and/or the Guarantee (if any) or any related document, and in the amendment, creation, management, enforcement and realisation of the Guarantee (if any) and/or any security for the Loan.

## 9.3 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 of this Contract, in accordance with or as a result of 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

#### 10.1 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.

##### 10.1.A Immediate demand

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

- (a) 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;
- (b) if any information or document given to the Bank by or on behalf of the Borrower or any representation, warranty or statement made or deemed to be made by the Borrower in, 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;

- (c) if, as a result of an event of default (however described) in relation to any loan, or any obligation arising out of any financial transaction, other than the Loan:
  - (i) 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
  - (ii) any financial commitment for such other loan or obligation is cancelled or suspended;
- (d) if the Borrower is unable to pay its debts as they fall due, or suspends its debts, or makes or seeks to make a composition with its creditors;
- (e) if any action, legal proceedings or other procedure or step is taken in relation to the suspension of payments, a moratorium of any indebtedness, dissolution, administration or reorganisation (by way of voluntary arrangement or otherwise), including in particular without limitation to bankruptcy (*faillite*), controlled management (*gestion contrôlée*), suspension of payments (*sursis de paiement*) arrangement with creditors (*concordat préventif de la faillite*) and judicial liquidation (*liquidation judiciaire*) proceedings or any analogous procedure or step is taken under any applicable law in any jurisdiction or an order is made or an effective resolution is passed for the winding up of the Borrower, or if the Borrower takes steps towards a substantial reduction in its assets, is declared insolvent or ceases or resolves to cease to carry on the whole or any substantial part of its business or activities, or any situation similar to any of the above occurs under any applicable law;
- (f) if the Borrower has multiple creditors and has due and payable monetary obligations overdue for more than 30 (thirty) days, and: (i) it has suspended payments under a substantial portion of its payments obligations, or (ii) is in default in the payment of its payment obligation for more than 3 (three) months past its due date, or (iii) it is impossible to satisfy certain due and payable obligations of the debtor by an enforcement of a decision or by execution;
- (g) if the Borrower has multiple creditors and the sum of its payables exceeds the value of its assets, while when determining the value of the Borrower's assets, a further management of such assets, or the Borrower's further operations, is taken into account;
- (h) if it is justified to assume with a view to all circumstance of the case that the Borrower would be unable to satisfy a substantial portion of its payment obligations in a due and timely manner;
- (i) if an encumbrancer takes possession of, or a receiver, liquidator, administrator, administrative receiver or similar officer is appointed, whether by a court of competent jurisdiction or by any competent administrative authority or by any person, of or over, any part of the business or assets of the Borrower or any property forming part of the Project;
- (j) 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;
- (k) if the Borrower defaults in the performance of any obligation in respect of any other loan made to it from the resources of the Bank or the European Union, or in respect of any state subsidies or any EU Grants;
- (l) if any distress, execution, sequestration or other process is levied or enforced upon the property of the Borrower or any property forming part of the Project and is not discharged or stayed within 14 (fourteen) days;
- (m) if a Material Adverse Change occurs, as compared with the Borrower's condition at the date of this Contract; or
- (n) 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;

#### 10.1.B Demand after notice to remedy

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

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

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

## **10.2 Other rights at law**

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

## **10.3 Indemnity**

### **10.3.A Fixed Rate Tranches**

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

- (a) the interest net of the Margin 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
- (b) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.15% (fifteen basis points).

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

### **10.3.B Floating Rate Tranches**

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

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

### **10.3.C General**

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

## **10.4 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, miscellaneous

#### 11.1 Governing Law

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

#### 11.2 Jurisdiction

- (a) The courts of Luxembourg-City have 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) or any non-contractual obligation arising out of or in connection with this Contract.
- (b) The parties agree that the courts of Luxembourg-City are the most appropriate and convenient courts to settle any Disputes between them and, accordingly, that they will not argue to the contrary.
- (c) This Article 11.2 is for the benefit of the Bank only. As a result and notwithstanding Article 11.2(a), it does not prevent the Bank from taking proceedings relating to a Dispute (including a Dispute relating to the existence, validity or termination hereof or any non-contractual obligation arising out of or in connection with this Contract) in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

#### 11.3 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.

#### 11.4 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.

#### 11.5 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.

#### 11.6 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:

- (a) 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.

#### 11.7 Amendments

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

## 11.8 Counterparts

This Contract may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

## 11.9 Effectiveness of this Contract

This Contract is conditional upon and shall become effective only after receipt by the Bank, in a form and substance acceptable to the Bank, of:

- (a) Duly counter-signed originals of this Contract and
- (b) the evidence that the Borrower has duly published this Contract in the registry of contracts (in Czech: *registr smluv*), as required by the applicable Czech law, within 30 (thirty) calendar days after the Borrower received this Contract signed by all parties hereto.

This Contract shall not become effective until the Bank sends to the Borrower a letter confirming fulfilment of each of the above mentioned conditions of effectiveness and providing the date that this Contract becomes effective (the "**Date of Effectiveness**"), and such letter shall be conclusive evidence that this Contract has become effective.

For the avoidance of doubt, until the Date of Effectiveness neither the Borrower nor the Bank shall have any claims against each other or have any liability whatsoever under or in connection with this Contract.

If the Date of Effectiveness does not occur within 3 (three months) from the date of this Contract, this Contract shall not come into force and no further action shall be necessary or required.

## 11.10 Compliance with the Regions Act

Pursuant to Section 23 of the Regions Act, the Borrower confirms that it has fulfilled all conditions, including without limitation, any publications, if required, and obtained all approvals and/or consents required for the execution and validity of this Contract according to the Regions Act and other mandatory provisions of law in order for this Contract to become valid and effective.

# ARTICLE 12

## Final clauses

## 12.1 Notices


### 12.1.A 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:
  - (i) on the date of delivery in relation to a hand-delivered or registered letter;
  - (ii) on receipt of transmission in relation to a facsimile;
  - (iii) 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
  - (iv) 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 to the Bank by electronic mail shall:
  - (i) mention the Contract Number in the subject line; and

- (ii) 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 attached to the electronic mail.
- (d) 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.
- (e) Without affecting the validity of electronic mail or facsimile notices or communication made in accordance with this Article 12.1, the following notices, communications and documents shall also be sent by registered letter to the relevant party at the latest on the immediately following Business Day:
  - (i) Disbursement Acceptance
  - (ii) 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
  - (iii) any other notice, communication or document required by the Bank.
- (f) 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 (*sous seing privé*).

#### 12.1.B 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/CSEE-3 PUB SEC<br>(CZ,HU,SK)<br>100 boulevard Konrad Adenauer<br>L-2950 Luxembourg<br>E-mail address: <br>Fax: N/A |
|--------------|--|

|                  |   |
|------------------|---|
| For the Borrower | Attention: Budget Department (Oddělení rozpočtu)<br>Středočeský kraj<br>Zborovská 11, 150 21 Praha 5, Czech Republic<br>E-mail address: <br>Fax: N/A |
|------------------|---|

#### 12.1.C 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.

#### 12.2 English language

- (a) Any notice or communication given under or in connection with this Contract must be in English.
- (b) All other documents provided under or in connection with this Contract must be:
  - (i) in English; or



- (ii) 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.

**12.3 Changes to parties**

- (a) The Borrower shall not assign or transfer any of its rights or obligations under this Contract without the prior written consent of the Bank.
- (b) The Bank may assign all or part of its rights and benefits or transfer (by way of novation, sub-participation or otherwise) all or part of its rights, benefits and obligations under this Contract.

**12.4 Recitals, Schedules and Annexes**

The Recitals and following Schedules form part of this Contract:

|            |   |
|------------|---|
| Schedule A | Project Specification and Reporting         |
| Schedule B | Definitions of Relevant Interbank Rates     |
| Schedule C | Forms for Borrower                          |
| Schedule D | Interest Rate Revision and Conversion       |
| Schedule E | Certificates to be provided by the Borrower |

The following Annexes are attached hereto:

|          |   |
|----------|---|
| Annex I  | Resolution of Assembly of the Borrower and Authorisation of Signatory |
| Annex II | Form of Legal Opinion   |

The parties hereto have caused this Contract to be executed in 4 (four) originals in the English language.

At Prague, this 30 September 2020; and  
at Luxembourg, this 15 September 2020

The acceptance of the Credit and the execution of this Contract was approved by the Assembly (in Czech: *zastupitelstvo*) of the Central Bohemia Region on 3 August 2020 in its 26<sup>th</sup> meeting, by Resolution No. 009-26/2020/ZK, in accordance with Section 36 i) of the Regions Act. The Contract is supplied with affidavit (in Czech: *doložka*) confirming the Borrower's fulfilment of all legal requirements under Czech law with regard to the validity of this Contract.

Signed for and on behalf of

**Středočeský kraj**

Signed for and on behalf of

**EUROPEAN INVESTMENT BANK**



Jarošava Pokorná Jermlanová  
Governor of the Central Bohemia Region



Manuel Dueñas  
Head of Division



Dirk Ellerkmann  
Head of Division

