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EIB Internal Classification Level – Corporate Use

## BRNO WASTEWATER TREATMENT PROJECT

### Finance Contract

*between the*

European Investment Bank

*and*

Brněnské vodárny a kanalizace, a.s.

Luxembourg, 25 April 2024

Brno, 22 April 2024

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**THIS CONTRACT IS MADE BETWEEN:**

the European Investment Bank, having its  
seat at 100 blvd Konrad Adenauer,  
Luxembourg, L-2950 Luxembourg,  
represented by [REDACTED]  
[REDACTED] and [REDACTED]  
[REDACTED],

(the "**Bank**")

of the first part, and

Brněnské vodárny a kanalizace, a.s., a joint  
stock company incorporated in the Czech  
Republic, having its registered office at  
Pisárecká 555/1a, Pisárky, 603 00 Brno,  
Czech Republic, Identification Number:  
463 47 275, registered with the Company  
Register administrated by the Regional Court  
in Brno under File No. B783, represented by  
Ing. Daniel Struž, Chairman of the Board of  
Directors,

(the "**Borrower**")

of the second part.

The Bank and the Borrower together are referred to as the "**Parties**" and any of them is  
a "**Party**".

**WHEREAS:**

- (a) The Borrower has stated that it is undertaking a project of a full upgrade of the sludge treatment facility of the Borrower's wastewater treatment plant at Modřice, nearby the Statutory City of Brno, as more particularly described in the technical description (the "**Technical Description**") set out in Schedule A.1 (the "**Project**").
- (b) The total cost of the Project based on the budget delivered to the Bank on 18 January 2024, as estimated by the Bank, is CZK 3,578,000,000.00 (three billion five hundred and seventy-eight million Czech crowns) and the Borrower has stated that it intends to finance the Project as follows:

<b>Source</b>	<b>Amount (CZK m)</b>
Credit from the Bank	1,340.00
Own funds	107.00
EU Funds (as defined below)	88.00
Loan from Council of Europe Development Bank (CEB) and Komerční banka, a.s.	2,043.00
<b>TOTAL</b>	<b>3,578.00</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 1,340,000,000.00 (one billion three hundred and forty 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 1,340,000,000.00 (one billion three hundred and forty million Czech crowns) under this finance contract (the "**Contract**"); provided that the amount of the Bank's loan shall not, in any case, exceed (i) 50% (fifty per cent) of the total cost of the Project set out in Recital (b), and/or (ii) when aggregated with the amount of any EU Funds made available for the Project, 90% (ninety per cent) of the total cost of the Project set out in Recital (b).
- (e) The Board of Directors of the Borrower has authorised the borrowing of the sum equivalent to CZK 1,340,000,000.00 (one billion three hundred and forty million Czech crowns) represented by this credit on the terms and conditions set out in this Contract.
- (f) 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.
- (g) The financing of the Project includes certain EU Funds and state subsidies, and the provision of such funds has been duly authorised and will be provided in compliance with all relevant EU Law.
- (h) 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.
- (i) 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.

- (j) The Bank supports the implementation of international and European Union 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 Bank's 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 the Bank's contracting counterparties.

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

## **INTERPRETATION AND DEFINITIONS**

### **Interpretation**

In this Contract:

- (a) references to Articles, Recitals and Schedules are, save if explicitly stipulated otherwise, references respectively to articles of, and recitals and schedules 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,
  - (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, supplemented 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) a reference to a person includes any person, natural or juridical entity, firm, company, corporation, statutory body, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing and references to a "person" include its successors in title, permitted transferees and permitted assigns;
- (g) a day is a calendar day, unless otherwise specified;
- (h) including and include shall be deemed to be followed by "without limitation" where not so followed;
- (i) words and expressions in plural shall include singular and vice versa;
- (j) 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 (i) or Article 6.16 of this Contract;
- (k) references to "month" mean a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that and subject to the definition of Payment Date, Article 5.1 and Schedule B and unless provided otherwise in this Contract:
  - (i) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and
  - (ii) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and



- (l) a reference in this Contract to a page or screen of an information service displaying a rate shall include:
  - (i) any replacement page of that information service which displays that rate; and
  - (ii) the appropriate page of such other information service which displays that rate from time to time in place of that information service,and, if such page or service ceases to be available, shall include any other page or service displaying that rate specified by the Bank.

## 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.

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

**"AML Criminal Law Directive"** means Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, as amended, supplemented or restated.

**"AML Directives"** means the 4<sup>th</sup> and 5<sup>th</sup> AML Directives and the AML Criminal Law Directive.

**"4<sup>th</sup> and 5<sup>th</sup> AML Directives"** means Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018, and as further amended, supplemented or restated.

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

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

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

**"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 (codified version), as amended.

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

**"Cancelled Tranche"** has the meaning given to it in Article 1.6.C(2).

**"Centre of Main Interests"** shall have the meaning as used in Article 3(1) of the Regulation.

**"Change in the Beneficial Ownership"** means a change in the ultimate ownership or control of an entity according to the definition of "beneficial owner" set out in article 3(6) of Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as modified and /or supplemented from time to time.

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

**"Change-of-Law Event"** has the meaning given to it in Article 4.3.A(4).

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

**"Concession"** means the concession of the Borrower from the Statutory City of Brno under the concession agreement on the operation of sewage for public use for the Statutory City of Brno entered into between the Borrower and the Statutory City of Brno on 24 March 2015, as amended, or replaced by any new concession agreement between the Borrower and the Statutory City of Brno.

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

**"Contract Number"** means 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.

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

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

**"Deferment Fee"** means a fee calculated on the amount of an Accepted Tranche deferred or suspended at the rate of 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 Tranche 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 such rate is less than zero, in which case it shall be set at zero.

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

**"Disbursement Acceptance"** means a copy of the Disbursement Offer duly countersigned by the Borrower in accordance with the List of Authorised Signatories and Accounts.

**"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 to which disbursements may be made under this Contract, as set out in the most recent List of Authorised Signatories and Accounts.

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

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

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

**"Disruption Event"** means either or both of:

- (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 the other Party,

and which disruption (in either such case as per paragraph (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 within the meaning of the EIA Directive.

**"EIA Directive"** means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, as amended.

**"Environment"** means the following:

- (a) fauna and flora, living organisms including the ecological systems;
- (b) land, soil, water (including marine and coastal waters), air, climate and the landscape (natural or man-made structures, whether above or below ground);
- (c) cultural heritage (natural, tangible and intangible);
- (d) the built environment; and
- (e) human health and wellbeing.

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

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

**"Environmental and Social Law"** means:

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

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

**"Establishment"** shall have the meaning as used in Article 2(10) of the Regulation.

**"EU Funds"** means any financial assistance made to the Borrower from the resources of the European Union.

**"EU Funds Event"** has the meaning given to it in Article 4.3.A(7).

**"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, principles, decisions 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.

**"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.

**"Exclusion Policy"** means the European Investment Bank Exclusion Policy as published on the Bank's website.

**"Final Availability Date"** means the date falling 42 (forty-two) months from the Date of Effectiveness of this Contract.

**"Financial Year"** means the annual accounting period of the Borrower ending on 31 December in each year.

**"Fixed Rate"** means an annual interest rate including the Margin and the Additional Margin (if applicable) 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 the Czech Republic, provided that GAAP will include IFRS for the purposes of this Contract only if the Borrower's financial statements will be prepared in accordance with IFRS.

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

**"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.

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

**"Illegal Activity"** means any of the following illegal activities or activities carried out for illegal purposes according to applicable laws in any of the following areas: (i) fraud, corruption, coercion, collusion or obstruction, (ii) money laundering, financing of terrorism or tax crimes each as defined in the AML Directives, and (iii) other illegal activity against the financial interests of the European Union as defined in the PIF Directive.

**"Illegality Event"** has the meaning given to it in Article 4.3.A(5).

**"Indemnifiable Prepayment Event"** means a Prepayment Event other than the Non-EIB Financing Prepayment Event or Illegality Event.

**"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.

**"Joint Venture"** means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

**"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;
- (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, together with evidence that such account(s) have been opened in the name of the beneficiary; and
- (d) the bank account(s) from which payments under this Contract will be made by the Borrower (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, together with evidence that such account(s) have been opened in the name of the 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.

**"Loss-of-Concession/Licence Event"** has the meaning given to it in Article 4.3.A(6).

**"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 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 Floating Rate Tranche:
  - (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.

**"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 business, 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 in relation with this Contract, or the rights or remedies of the Bank under this Contract or any agreement creating Security in favour of the Bank in relation with 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).

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

**"Operational Permit"** means an enforceable operational permit (in Czech: *kolaudační souhlas* or *kolaudační rozhodnutí*) or an enforceable consent with the use of a construction (in Czech: *pravomocný souhlas s užíváním stavby*), for the avoidance of doubt the enforceable consent with the use of construction includes: (a) consent to premature use of a construction prior to its full completion (in Czech: *povolání k předčasnému užívání stavby před jejím úplným dokončením*), or (b) consent to trial operation (in Czech: *rozhodnutí o zkušebním provozu*) (as applicable), issued by the competent Czech building authority without conditions or restrictions that would materially hinder the normal operation of the building to which it relates.

**"Payment Account"** means the bank account from which payments under this Contract will be made by the Borrower, as set out in the most recent List of Authorised Signatories and Accounts.

**"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 (but only to the amount of interest due under Article 3.1 that accrued over the last interest period), in case repayment of principal is made in a single instalment in accordance with Schedule D point C; and

- (b) for a Floating Rate Tranche, the following Relevant Business Day in that month, or, failing that, the nearest preceding Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.1.

**"PIF Directive"** means Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law as amended, supplemented or restated.

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

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

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

- (a) the interest net of the Margin that would accrue thereafter on the Prepayment Amount over the period from the Prepayment Date to the Interest Revision/Conversion Date, if any, or the Maturity Date, if it were not prepaid; over
- (b) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen basis points).

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

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

**"Project Completion Date"** means the date on which the Operational Permit was issued in relation to the Project.

**"Project Cost Reduction Event"** has the meaning given to it in Article 4.3.A(1).

**"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.

**"Regulation"** means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

**"Relevant Business Day"** means:

- (a) for EUR, a day on which real time gross settlement system operated by the Eurosystem (T2), or any successor system, is open for settlement of payments in EUR; and
- (b) for CZK, a day (other than a Saturday or a Sunday) 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.

**"Relevant Person"** means any member of its management bodies; or any person acting for it, on its behalf or under its control, having the power to give directions and/or exercise control with respect to the Credit, the Loan or the Project.

**"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 Article 4.1.

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

**"Sanctioned Person"** means any individual or entity (for the avoidance of doubt, the term entity includes, but is not limited to, any government, group or terrorist organisation) who is a designated target of, or who is otherwise a subject of, Sanctions (including, without limitation, as a result of being owned or otherwise controlled, directly or indirectly, by any individual or entity, who is a designated target of, or who is otherwise a subject of, Sanctions).

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

- (a) the United Nations, including, *inter alia*, the United Nations Security Council;
- (b) the European Union, including, *inter alia*, the Council of the European Union and the European Commission, and any other competent bodies/institutions or agencies of the European Union;
- (c) the government of the United States of America, and any department, division, agency, or office thereof, including *inter alia* the Office of Foreign Asset Control (OFAC) of the United States Department of the Treasury, the United States Department of State and/or the United States Department of Commerce; and
- (d) the government of the United Kingdom, and any department, division, agency, office or authority including, *inter alia*, the Office of Financial Sanctions Implementation of His Majesty's Treasury and the Department for International Trade of the United Kingdom.

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

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

**"Sewage Sludge Directive"** means Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture, as amended.

**"Social Matters"** means all, or any of, the following:

- (a) labour and working conditions;
- (b) occupational health and safety;
- (c) rights and interests of vulnerable groups;
- (d) rights and interests of indigenous peoples;
- (e) gender equality;
- (f) public health, safety and security;
- (g) avoidance of forced evictions and alleviation of hardship arising from involuntary resettlement; and
- (h) stakeholder engagement.



**"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 in the Interest Revision/Conversion Proposal. The Spread shall include the Margin and the Additional Margin (if applicable).

**"Subsidiary of the Statutory City of Brno"** means a company incorporated in the Czech Republic of which the Statutory City of Brno has direct or indirect control or owns directly or indirectly more than 50% (fifty per cent) of the voting capital or similar right of ownership, and **"control"** for this purpose means the power to direct the management and the policies of the entity, whether through the ownership of voting capital, by contract or otherwise.

**"SUEZ Group"** means SUEZ International S.A.S., any persons controlling it and persons controlled by it, or any of their affiliates.

**"SUEZ International S.A.S."** means a company established under French law, having its registered office at 16 Place de l'Iris Tour CB 21, 92040 Paris la Défense CEDEX, France, registered with commercial court in Nanterre, under number 569 800 873.

**"Supplier"** means any entity (other than the Borrower) which provides any works, services, or supplies of equipment, goods or technologies in connection with the execution of the Project (for the avoidance of doubts, an entity only providing financing for the execution of the Project is not a Supplier).

**"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.

**"Urban Waste-Water Treatment Directive"** means Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, as amended.

**"Wholly-Owned Subsidiary of the Statutory City of Brno"** means a company incorporated in the Czech Republic of which the Statutory City of Brno has direct or indirect control or owns directly or indirectly 100% (one hundred per cent) of the voting capital or similar right of ownership, and **"control"** for this purpose means the power to direct the management and the policies of the entity, whether through the ownership of voting capital, by contract or otherwise.

**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 1,340,000,000.00 (one billion three hundred and forty 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 10 (ten) Tranches. The amount of each Tranche shall be in a minimum amount equivalent to CZK 100,000,000.00 (one hundred million Czech crowns) or (if less) the entire undrawn balance of the Credit.

**1.2.B Disbursement Offer**

Upon request by the Borrower and subject to Article 1.4.A, provided that no event mentioned in Article 1.6.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 to the Tranche 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.

The Bank may rely on the information set out in the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower. If a Disbursement Acceptance is signed by a person defined as Authorised Signatory under the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower, the Bank may assume that such person has the power to sign and deliver in the name and on behalf of the Borrower such Disbursement Acceptance.

#### **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 disbursement of each Tranche shall be made in CZK, subject to availability, or if so requested in EUR.

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) following 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:
  - (i) a copy of the full and up-to-date articles of association of the Borrower;
  - (ii) an original of an up-to-date extract from the Czech Commercial Register (in Czech: *obchodní rejstřík*); and
  - (iii) an original of the resolution of the Board of Directors of the Borrower;
- (b) at least 2 (two) originals of this Contract duly executed by all Parties; and
- (c) the List of Authorised Signatories and Accounts,

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

##### **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) a legal opinion of an external legal counsel under Czech law on due incorporation, legal capacity and corporate authority of the Borrower to enter into this Contract and 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 agreed by the Bank prior to the signing of this Contract; and
- (b) evidence of compliance by the Borrower with the financial covenants pursuant to Article 6.14, for the purposes of this Article 1.4.B the compliance of the Borrower with the financial covenants pursuant to Article 6.14 will be tested on the basis of the latest available audited accounts of the Borrower.

#### **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 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);
  - (ii) evidence that the Borrower has obtained all necessary Authorisations required in connection with the relevant phase in which the Project is at that time;
  - (iii) evidence that insurances in accordance with the requirements of Article 6.5(c) which are relevant for that stage of the Project are in place; and
  - (iv) 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 6.18 are correct in all respects; and
  - (ii) no event or circumstance which constitutes or would with the passage of time or the giving of notice or the making of any determination under this Contract (or any combination of the foregoing) constitute:
    - (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.

### **1.5 Deferment of disbursement**

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

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

- (a) 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:

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

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

#### 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

- (a) The Borrower may send a written notice to the Bank requesting a cancellation of the undisbursed Credit or a portion thereof.
- (b) In its written notice, the Borrower:
  - (i) must specify whether the Credit shall be cancelled in whole or in part and, if in part, the amount of the Credit to be cancelled; and
  - (ii) must not request any cancellation of an Accepted Tranche, which has a Scheduled Disbursement Date falling within 5 (five) Business Days of the date of such written notice.

- (c) Upon receipt of such written notice, the Bank shall cancel the requested portion of the Credit with immediate effect.

#### **1.6.B Bank's right to suspend and cancel**

- (a) 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 (except upon the occurrence of a Market Disruption Event) cancelled in whole or in part:
- (i) a Prepayment Event;
  - (ii) an Event of Default;
  - (iii) an event or circumstance which would, with the passage of time or the giving of notice or the making of any determination under this Contract (or any combination of the foregoing) constitute a Prepayment Event or an Event of Default; or
  - (iv) a Market Disruption Event provided the Bank has not received a Disbursement Acceptance.
- (b) On the date of such written notification from the Bank the relevant 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 or of an event or circumstance which would with the passage of time or the giving of notice or the making of any determination under this Contract (or any combination of the foregoing) constitute an Indemnifiable Prepayment Event or an Event of Default, the Borrower shall pay to the Bank the Deferment Fee calculated on the amount of such Accepted Tranche.

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

- (a) If an Accepted Tranche which is a Fixed Rate Tranche (the "**Cancelled Tranche**") is cancelled:
- (i) by the Borrower pursuant to Article 1.6.A; or
  - (ii) by the Bank upon an Indemnifiable Prepayment Event or an event or circumstance which would, with the passage of time or the giving of notice or the making of any determination under this Contract (or any combination of the foregoing) constitute an Indemnifiable Prepayment Event or pursuant to Article 1.5.B,

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

- (b) Such indemnity shall be:
- (i) calculated assuming that the Cancelled Tranche had been disbursed and repaid on the same Scheduled Disbursement Date or, to the extent the disbursement of the Tranche is currently deferred or suspended, on the date of the cancellation notice; and
  - (ii) in the amount communicated by the Bank to the Borrower as the present value (calculated as of the date of cancellation) of the excess, if any, of:
    - (1) the interest net of the Margin that would accrue thereafter on the Cancelled Tranche over the period from the date of cancellation pursuant to this Article 1.6.C(2), to the Interest Revision/Conversion Date, if any, or the Maturity Date, if it were not cancelled; over
    - (2) the interest that would so accrue over that period, if it were calculated at the Redeployment Rate, less 0.19% (nineteen basis points).

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

- (c) If the Bank cancels any Accepted Tranche upon the occurrence of an Event of Default, the Borrower shall indemnify the Bank in accordance with Article 10.3.

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

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

### **1.8 Non-utilisation fee**

- (a) The Borrower shall pay to the Bank a non-utilisation fee calculated on the daily undrawn and uncanceled balance of the Credit from the date falling 36 (thirty-six) months from the Date of Effectiveness of this Contract until the Final Availability Date at a rate of 0.1% (ten basis points) per annum.
- (b) The accrued non-utilisation fee shall be payable by the Borrower on:
  - (i) each 31 March, 30 June, 30 September and 31 December; and
  - (ii) the Final Availability Date; or, if the Credit is cancelled in full under Article 1.6 prior to the Final Availability Date, on the payment date mentioned under paragraph (i) above immediately following the date of cancellation.
- (c) The fee will be calculated using the day count convention of a year of 360 (three hundred and sixty) days, and the number of days elapsed.
- (d) If the date on which the non-utilisation fee is due to be paid is not a Relevant Business Day, payment shall be made on the next day, if any, of that month that is a Relevant Business Day or, failing that, the nearest preceding day that is a Relevant Business Day, in all cases with a corresponding adjustment to the amount of non-utilisation fee due.
- (e) Sums due under this Article 1.8 shall be payable in the currency of the Credit.

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

Sums due under Articles 1.5 and 1.6 shall be payable:

- (a) in the currency of the Tranche concerned; and
- (b) 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.

## **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 payments**

The Borrower shall pay interest, principal and other charges payable in respect of each Tranche in the currency in which such Tranche was disbursed.

Other payments, 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 any, showing the Disbursement Date, the currency, the amount disbursed, the repayment terms and the interest rate for each Tranche, not later than 10 (ten) calendar days after the Scheduled Disbursement Date for such Tranche.

## **ARTICLE 3**

### **Interest**

#### 3.1 **Rate of interest**

- (a) For the purposes of this Contract, "**Margin**" means:
  - (i) 11 basis points (0.11%) in cases where the Net Debt to EBITDA Ratio is equal to or less than 3.5x;
  - (ii) 19 basis points (0.19%) in cases where the Net Debt to EBITDA Ratio is higher than 3.5x and equal to or less than 6.5x; and
  - (iii) 30 basis points (0.30%) in cases where the Net Debt to EBITDA Ratio is higher than 6.5x.
- (b) For the purposes of this Contract, "**Additional Margin**" means 18 basis points (0.18%) in cases where the Net Debt to EBITDA Ratio is higher than 6.5x.
- (c) The Parties agree that the Margin and the Additional Margin (if applicable) on any disbursed Tranche referred to above shall be updated annually based on the Net Debt to EBITDA Ratio confirmed in each Compliance Certificate delivered to the Bank pursuant to Article 8.2(a)(i) and shall be payable as of the first Payment Date following the submission of the Compliance Certificate for the previous Financial Year.

#### 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 be determined in accordance with Schedule B for the Floating Rate Reference Period commencing on the Disbursement Date and not 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 (one month) plus 2% (200 basis points); and
- (c) for overdue sums other than under paragraph (a) or (b) above, the Relevant Interbank Rate (one month) 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 paragraphs (b) and (c) above, the relevant periods within the meaning of Schedule B shall be successive periods of 1 (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 1 (one) year. The Borrower hereby agrees in advance to have the unpaid interest due for a period of more than 1 (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.

Notwithstanding paragraph (c) above, if the overdue sum is in a currency for which no Relevant Interbank Rate is specified in this Contract, the relevant interbank rate, or as determined by the Bank, the relevant risk-free rate that is generally retained by the Bank for transactions in that currency, shall apply plus 2% (200 basis points), calculated in accordance with the market practice for such rate.

### **3.3 Market Disruption Event**

If at any time:

- (a) from the receipt by the Bank of a Disbursement Acceptance in respect of a Tranche; and
- (b) until the date falling either:
  - (i) 30 (thirty) calendar days prior to the Scheduled Disbursement Date for Tranches to be disbursed in EUR; or
  - (ii) 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 Article 3.3 has come into effect.

Irrespective of the currency of disbursement accepted by the Borrower originally for the Tranche, the Bank shall notify to the Borrower the EUR equivalent to be disbursed on the Scheduled Disbursement Date. 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 the Margin and the Additional Margin (if applicable) and 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. 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 all Parties. The Spread or 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 fall not earlier than 30 (thirty) days from the Scheduled Disbursement Date and not later than the Repayment Date immediately following the 3rd (third) anniversary of the Scheduled Disbursement Date of the Tranche; and
  - (iv) the last Repayment Date of each Tranche shall fall not earlier than 4 (four) years and not later than 20 (twenty) 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, which shall be a Payment 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.

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

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

**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 due on the Prepayment Amount, as specified in the Prepayment Notice, and the fee under Article 4.2.D, if any.

**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 and cancellation****4.3.A Prepayment Events****4.3.A(1) PROJECT COST REDUCTION EVENT**

- (a) The Borrower shall promptly inform the Bank if a Project Cost Reduction Event has occurred or is likely to occur. At any time after the occurrence of a Project Cost Reduction Event the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan Outstanding up to the amount by which the Credit exceeds the limit referred to in paragraph (c) below 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.
- (b) The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date falling not less than 30 (thirty) days from the date of the demand.
- (c) For the purpose of this Article 4.3.A(1), "**Project Cost Reduction Event**" means that the total cost of the Project falls below the figure stated in Recital (b) so that the amount of the Credit exceeds:
  - (i) 50% (fifty per cent); and/or

- (ii) when aggregated with the amount of any EU Funds made available for the Project, 90% (ninety per cent),  
of such total cost of the Project.

#### 4.3.A(2) NON-EIB FINANCING PREPAYMENT EVENT

- (a) The Borrower shall promptly inform the Bank if a Non-EIB Financing Prepayment Event has occurred or is likely to occur. At any time after the occurrence of a Non-EIB Financing Prepayment Event the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract in relation to the proportion of the Loan Outstanding to be prepaid.
- (b) The proportion of the Credit that the Bank may cancel and 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.
- (c) 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.
- (d) Paragraph (a) does not apply to any voluntary prepayment (or repurchase or cancellation, as the case may be) of a Non-EIB Financing:
  - (i) made with a prior written consent of the Bank;
  - (ii) made within a revolving credit facility (including an overdraft facility); or
  - (iii) made out of the proceeds of any financial indebtedness having a term at least equal to the unexpired term of such Non-EIB Financing prepaid.
- (e) For the purposes of this Article 4.3.A(2):
  - (i) **"Non-EIB Financing Prepayment Event"** means any case where the Borrower voluntarily prepays (for the avoidance of doubt, such prepayment shall include a voluntary repurchase or cancellation of any creditor's commitment, as the case may be) a part or the whole of any Non-EIB Financing; and
  - (ii) **"Non-EIB Financing"** means any financial indebtedness (save for the Loan and any other direct financial indebtedness from the Bank to the Borrower), or any other obligation for the payment or repayment of money originally made available to the Borrower for a term of more than 3 (three) years.

#### 4.3.A(3) CHANGE-OF-CONTROL EVENT

- (a) The Borrower shall promptly inform the Bank if a Change-of-Control Event has occurred or is likely to occur in respect of itself. At any time after the occurrence of a Change-of-Control Event, the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued or outstanding under this Contract.

In addition, if the Borrower has informed the Bank that a Change-of-Control Event is about to occur, or if the Bank has reasonable cause to believe that a Change-of-Control Event has occurred or is about to occur, the Bank may request that the Borrower consult with it. Such consultation shall take place within 60 (sixty) days from the date of the Bank's request.

After the earlier of:

- (i) the lapse of 60 (sixty) days from the date of such request for consultation; or
- (ii) the occurrence of the anticipated Change-of-Control Event,

the Bank may, by notice to the Borrower, cancel the undisbursed portion of the Credit and demand prepayment of the Loan Outstanding, together with accrued interest and all other amounts accrued and outstanding under this Contract.

The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 60 (sixty) days from the date of the demand.

- (b) For the purposes of this Article 4.3.A(3):
  - (i) a **"Change-of-Control Event"** occurs if:
    - (1) any person or group of persons acting in concert (other than the Statutory City of Brno) gains control of the Borrower or of the entity directly or ultimately controlling the Borrower; or
    - (2) the Statutory City of Brno ceases to control the Borrower and ceases to be the beneficial owner of at least 51% (fifty-one per cent) of the issued share capital of the Borrower;
  - (ii) **"acting in concert"** means acting together pursuant to an agreement or understanding (whether formal or informal); and
  - (iii) **"control"** means the power to direct the management and policies of an entity, whether through the ownership of voting capital, by contract or otherwise.

#### 4.3.A(4) CHANGE-OF-LAW EVENT

- (a) 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 reasonable opinion that:
  - (i) such Change-of-Law Event would materially impair the Borrower's ability to perform its obligations under this Contract or any Security provided in respect of this Contract; and
  - (ii) the effects of such 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.
- (b) 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 60 (sixty) days from the date of the demand.
- (c) For the purposes of this Article 4.3.A(4), **"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 could impair the Borrower's ability to perform its obligations under this Contract or any Security provided in respect of this Contract.

#### 4.3.A(5) ILLEGALITY EVENT

- (a) Upon becoming aware of an Illegality Event:
  - (i) the Bank shall promptly notify the Borrower; and
  - (ii) the Bank may immediately (A) suspend or cancel the undisbursed portion of the Credit, and/or (B) 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.
- (b) For the purposes of this Article 4.3.A(5), **"Illegality Event"** means that it becomes unlawful in any applicable jurisdiction, or if it becomes contrary to any Sanctions, for the Bank to:
  - (i) perform any of its obligations as contemplated in this Contract; or

- (ii) fund or maintain the Loan.

#### 4.3.A(6) LOSS-OF-CONCESSION/LICENCE EVENT

- (a) The Borrower shall promptly inform the Bank if a Loss-of-Concession/Licence Event has occurred or is likely to occur. In such case, or if the Bank has reasonable cause to believe that a Loss-of-Concession/Licence 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.
- (b) If, after the lapse of 30 (thirty) days from the date of such request for consultation, the Bank is of the reasonable opinion that the effects of the Loss-of-Concession/Licence 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 or outstanding under this Contract.
- (c) 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 60 (sixty) days from the date of the demand.
- (d) For the purposes of this Article 4.3.A(6), "**Loss-of-Concession/Licence Event**" means that the Borrower loses:
  - (i) a licence to perform its core business activity carried on the date of this Contract or is not legally entitled to perform such core business activity anymore; or
  - (ii) the Concession and does not submit to the Bank within 30 (thirty) days thereafter the financial model or remedy plan or business plan in form and substance satisfactory to the Bank proving to the satisfaction of the Bank that the financial covenants pursuant to Article 6.14 will be met despite the loss of the Concession; or
  - (iii) the right to use any infrastructure owned by the Statutory City of Brno (e.g. water and sewer networks, water production facilities) needed for performance of its core business activity carried on the date of this Contract and does not submit to the Bank within 30 (thirty) days thereafter the financial model or remedy plan or business plan, in form and substance satisfactory to the Bank, proving to the satisfaction of the Bank that the financial covenants pursuant to Article 6.14 will be met despite the loss of the right to use such infrastructure owned by the Statutory City of Brno.

#### 4.3.A(7) EU FUNDS EVENT

- (a) The Borrower shall promptly inform the Bank if it is informed, or has reasonable grounds to believe, that an EU Funds Event has occurred or is likely to occur. In such case, or if the Bank has reasonable cause to believe that an EU Funds 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 reasonable opinion that:
  - (i) such EU Funds Event would materially impair the Borrower's ability to perform its obligations under this Contract; and
  - (ii) the effects of such EU Funds 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.
- (b) 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 purposes of this Article 4.3.A(7), "**EU Funds Event**" means that:
- (i) any financial assistance for the Project from any EU Funds has been, or is intended to be suspended, cancelled or cease to be available; or
  - (ii) the Borrower has repaid or has been required to repay fully or partially any applicable EU Funds for the Project.

#### **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 Prepayment Date indicated by the Bank in its notice of demand.

#### **4.3.C Prepayment indemnity**

##### **4.3.C(1) FIXED RATE TRANCHE**

If the Borrower prepays a Fixed Rate Tranche in case of an Indemnifiable Prepayment Event, the Borrower shall pay to the Bank on the Prepayment Date the Prepayment Indemnity in respect of the Fixed Rate Tranche that is being prepaid.

##### **4.3.C(2) FLOATING RATE TRANCHE**

The Borrower may prepay the Floating Rate Tranches without the Prepayment Indemnity.

#### **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, indemnity or the Deferment Fee from the Borrower under this Contract, and calculated in respect of a fraction of a year, shall be determined on the following respective conventions:

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

##### **5.2 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 the Disbursement Account (for disbursements by the Bank) and the Payment Account (for payments 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, in the order set out below, in or towards:

- (a) *pro rata* to each of any unpaid fees, costs, indemnities and expenses due under this Contract;
- (b) any accrued interest due but unpaid under this Contract;
- (c) any principal due but unpaid under this Contract; and
- (d) any other sum due but unpaid under this Contract.

#### **5.5.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 use all amounts borrowed by it under this Contract for the financing of construction, execution, implementation and putting into operation of the Project.

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

##### **6.2 Completion of Project**

The Borrower shall 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 shall ensure that the Project Completion Date occurs no later than 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**

- (a) The Borrower shall procure works, services or goods for the Project:
  - (i) in accordance with EU Law in general and in particular with the relevant European Union procurement directives, if the latter are applicable;
  - (ii) in accordance with procurement procedures which, to the satisfaction of the Bank, respect the criteria of economy and efficiency and the principles of transparency, equal treatment and non-discrimination on the basis of nationality, in case of public contracts not subject to the European Union procurement directives; or
  - (iii) in accordance with procurement procedures which, to the satisfaction of the Bank, respect the criteria of economy and efficiency in case of contracts other than public contracts not subject to the European Union procurement directives.
- (b) For cases of paragraphs (a)(i) and (a)(ii) above, the Borrower shall request in the tender documents or other reference documents for the procurement procedures referred to in paragraph (a) above (in each case, for documents dated on or after the date of this Contract) that the bidder declares whether or not it is subject to any exclusion decision or temporary suspension pursuant to the Exclusion Policy.

- (c) If a bidder declares to the Borrower prior to the contract award that it is subject to any exclusion decision or temporary suspension covered by the Exclusion Policy, the Borrower shall engage with the Bank in good faith and shall make best efforts in order to:
  - (i) achieve an exclusion of such a bidder under applicable law so that the bidder does not participate in the Project; or, should such an exclusion not be possible,
  - (ii) restructure the scope of the Project so that no proceeds of the Loan be applied towards any works or services under any contract awarded to that bidder, unless otherwise agreed with the Bank.

## 6.5 **Continuing Project undertakings**

The Borrower shall:

- (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 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:** procure that all works and property forming part of the Project are insured with first class insurance companies in accordance with the most comprehensive relevant industry practice;
- (d) **Rights and Permits:** maintain in force or ensure that maintenance of all rights of use and all Authorisations necessary for the execution and operation of the relevant stage of the Project;
- (e) **Environment and Social Matters:**
  - (i) implement and operate the Project materially in compliance with Environmental and Social Law;
  - (ii) obtain and maintain requisite Environmental and Social Approvals for the Project required at the given time;
  - (iii) comply with any such Environmental and Social Approvals;
  - (iv) act in accordance with provisions of the relevant EU Directives, including, but not limited to EIA Directive, Habitats Directive, Birds Directive, Urban Waste-Water Treatment Directive, and Sewage Sludge Directive; and
  - (v) provide to the Bank, if requested, any decisions issued by the competent authority that screen out the Project components and the main reasons for not requiring EIA with the reference to the relevant criteria listed in Annex III of the EIA Directive;
- (f) **Integrity:** take, within a reasonable timeframe, appropriate measures in respect of any member of its management bodies and/or any employee who has been convicted by a final and irrevocable court ruling of an Illegal Activity 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 activity in relation to the Credit, Loan or the Project; and
- (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 Illegal Activities 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 Illegal Activity, 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.

## **B. GENERAL UNDERTAKINGS**

### **6.6 Disposal of assets**

- (a) Except as provided below, the Borrower shall not, either in a single transaction or in a series of transactions, whether related or not, whether voluntarily or involuntarily, and whether to a subsidiary or other person, dispose of any part of its assets.
- (b) Paragraph (a) above does not apply to any disposal of assets for fair market value and at arm's length:
  - (i) where the higher of the market value or consideration (when aggregated with the higher of the market value or consideration for any other sale, lease, transfer or other disposal, other than any permitted disposal under paragraphs (ii) to (iv) below) does not exceed, during the life of the Loan, the lower of CZK 100,000,000.00 (one hundred million Czech crowns) or 5% (five per cent) of Borrower's total fixed net assets (according to the Borrower's financial statements for the previous Financial Year ) in aggregate;
  - (ii) made in the ordinary course of trading of the disposing entity;
  - (iii) made in exchange for other assets comparable or superior as to type, value and quality; or
  - (iv) made with the prior written consent of the Bank,

in each case other than assets forming part of the Project pursuant to Article 6.5(b) and all shares in subsidiaries holding assets forming part of the Project which may not be disposed of.
- (c) For the purposes of this Article 6.6, "**dispose**" and "**disposal**" includes any act effecting sale, transfer, lease or other disposal.

### **6.7 Compliance with laws**

- (a) The Borrower shall comply in all respects with all laws to which it or the Project is subject, if failure so to comply would materially impair the ability of the Borrower to perform its obligations under this Contract.
- (b) Notwithstanding paragraph (a) above, the Borrower shall comply in all respects with any laws to which it may be subject and the breach of which would constitute an Illegal Activity.

### **6.8 Change in business**

The Borrower shall procure that no substantial change is made to the core business of the Borrower from that carried on at the date of this Contract unless with the prior written consent of the Bank (acting reasonably).

### **6.9 Merger**

- (a) Except as provided below, the Borrower shall not enter into any amalgamation, demerger, merger or corporate reconstruction unless with the prior written consent of the Bank (acting reasonably).

- (b) Paragraph (a) above does not apply to any amalgamation, demerger, merger or corporate reconstruction entered into, on a solvent basis, between the Borrower and any Wholly-Owned Subsidiary of the Statutory City of Brno, only if the Borrower remains the surviving entity, no substantial change to the core business of the Borrower from that carried on at the date of this Contract is made as a result, and provided that the rights and obligations of the Borrower under this Contract remain unaffected.

#### 6.10 **Acquisitions**

- (a) Except as provided below, the Borrower shall not:
  - (i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
  - (ii) incorporate a company.
- (b) Paragraph (a) above does not apply to the acquisition of a company if all of the following conditions are fulfilled:
  - (i) no Event of Default or a Prepayment Event has occurred and is continuing unremedied or unwaived on the closing date for the acquisition or on the date of incorporation or would occur as a result of the acquisition or incorporation;
  - (ii) that company is incorporated in the Czech Republic with limited liability;
  - (iii) that company is engaged in a business substantially the same as carried by the Borrower;
  - (iv) the shares in the company will be owned by the Borrower; and
  - (v) the consideration (including associated costs and expenses) for the acquisition and any Financial Debt or other assumed actual or contingent liability, in each case remaining in the acquired company (or any such business) at the date of acquisition (when aggregated with the consideration (including associated costs and expenses) for any Financial Debt or other assumed actual or contingent liability, in each case remaining in any such acquired companies or businesses at the time of acquisition (the "**Total Purchase Price**") together with the amount of any investment in any Joint Venture) does not exceed in aggregate during the life of the Loan CZK 25,000,000.00 (twenty-five million Czech crowns) or its equivalent in other currencies.
- (c) Paragraph (a) above does not further apply to:
  - (i) any incorporation of a so-called special purpose vehicle company (SPV) by the Borrower, provided that such company is incorporated in the Czech Republic; and
  - (ii) any acquisition of a Subsidiary of the Statutory City of Brno or any shares or securities or a business or undertaking of a Subsidiary of the Statutory City of Brno.

#### 6.11 **Joint ventures**

- (a) Except as provided below, the Borrower shall not:
  - (i) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or
  - (ii) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).
- (b) Paragraph (a) above does not apply to any acquisition of (or agreement to acquire) any interest in a Joint Venture or transfer of assets (or agreement to transfer assets) to a Joint Venture or loan made to or guarantee given in respect of the obligations of a Joint Venture if all of the following conditions are satisfied:

- (i) the Joint Venture is incorporated in the Czech Republic or in the European Union;
  - (ii) the Joint Venture is engaged in a business substantially the same as carried by the Borrower; and
  - (iii) all amounts subscribed for shares in, lent to or invested in such Joint Venture, the contingent liabilities of the Borrower under any guarantee given in respect of the liabilities of such Joint Venture, and the book value of any assets transferred to such Joint Venture, when aggregated with the Total Purchase Price in respect of acquisitions permitted pursuant to Article 6.10(b) does not exceed during the life of the Loan CZK 25,000,000.00 (twenty-five million Czech crowns) (or its equivalent in other currencies).
- (c) Paragraph (a) above does not further apply to entering into a Joint Venture with the Statutory City of Brno or any other Subsidiary of the Statutory City of Brno.

#### **6.12 No guarantees or indemnities**

- (a) Except as provided below, the Borrower shall not incur or allow to remain outstanding any guarantee or indemnity in respect of any obligation of any person.
- (b) Paragraph (a) above does not apply to:
  - (i) the endorsement of negotiable instrument in the ordinary course of business of the Borrower;
  - (ii) any performance or similar bond guaranteeing performance of the Borrower under any contract entered into in the ordinary course of trade;
  - (iii) any guarantee of a Joint Venture permitted under Article 6.11;
  - (iv) any guarantee or indemnity given in respect of any netting or set-off arrangement pursuant to any treasury (including hedging) transaction or foreign exchange transaction;
  - (v) any indemnity given in the ordinary course of the documentation under a facility agreement or a finance contract under which the Borrower will be provided with financial means for realisation of the Project which indemnity is in a customary form and subject to customary limitations,

provided that the aggregate outstanding and/or aggregate contingent amount of (i) through (v) above together is not exceeding at any time during life of the Loan CZK 100,000,000.00 (one hundred million Czech crowns) (or its equivalent in other currencies); and

  - (vi) any guarantee or indemnity given with prior written consent of the Bank.

#### **6.13 Dividends and share redemption**

- (a) Except as permitted under paragraph (b) or (c) below, the Borrower shall not:
  - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
  - (ii) repay or distribute any dividend or share premium reserve;
  - (iii) pay any management, advisory or other fee to or to the order of any of its shareholders, controlling entities or entities with which it is under common control; to avoid any doubts the management, advisory or other fee do not include the compensations and fees in the fair market value and at arm's length terms paid by the Borrower to the members of the statutory and supervisory bodies of the Borrower for the performance of their positions; or
  - (iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

- (b) Paragraph (a) above does not apply to the payment of a dividend by the Borrower to its shareholders made with a prior written consent of the Bank or provided that all of the following conditions are satisfied:
- (i) no Event of Default or Prepayment Event is continuing or would occur immediately after the making of the payment;
  - (ii) the Borrower did not suffer net loss during last Financial Year according to the last Borrower's financial statements provided to the Bank under Article 8.2(a)(i);
  - (iii) such payment does not exceed the sum of:
    - (1) 40% (forty per cent) of profit achieved during the last Financial Year before any corporate tax payable thereon, as of the Financial Year ending on 31 December 2023, as it results from the last Borrower's financial statements provided to the Bank under Article 8.2(a)(i); and
    - (2) the profit achieved during the Financial Year preceding to the last Financial Year, as of the Financial Year ending on 31 December 2024, as it results from the last Borrower's financial statements provided to the Bank under Article 8.2(a)(i) and not paid as dividend by the Borrower to its shareholders in accordance with this paragraph (b) during the Financial Year preceding to the last Financial Year; and
  - (iv) at least 2 (two) Financial Years lapsed since the last provision of additional funds to the Borrower pursuant to Article 6.14 (if there was any).
- (c) Paragraph (a) above does not further apply to the payment of a management, advisory or other fee in the fair market value and at arm's length by the Borrower to the order of any of its shareholders, controlling entities or entities with which it is under common control or under an agreement on technical assistance and technological license between the Borrower and SUEZ Group concluded on annual basis, purpose of which is to provide the Borrower with access to an integrated solution of management and technical knowledge specific to the water management industry, know-how, know-why, references, research and reputation, which is the core business competence to help the Borrower apply the best technology to its activities and to optimize its management practices.

#### **6.14 Financial covenants**

- (a) The Borrower shall at all times maintain a sound financial situation so as to be able to service its debt obligations. To this effect, the Borrower shall ensure that:
- (i) Net Debt to EBITDA Ratio is:
    - (1) until 31 December 2024, equal to or less than 5x;
    - (2) until 31 December 2025, equal to or less than 7x;
    - (3) until 31 December 2026, equal to or less than 11x;
    - (4) until 31 December 2028, equal to or less than 7x; and
    - (5) from 1 January 2029, equal to or less than 6x;
  - (ii) Debt Service Cover Ratio is equal to or higher than 1.1x; and
  - (iii) at the end of each calendar month, the aggregate amount of Cash and Cash Equivalent Investments held by the Borrower and Available Working Capital Facilities available to the Borrower is not less than CZK 150,000,000.00 (one hundred and fifty million Czech crowns).

The ratios will be tested annually as of the end of a Financial Year based on the last audited accounts, prepared in accordance with the GAAP and compliance by the Borrower therewith will be confirmed to the Bank by delivery of a Compliance Certificate pursuant to Article 8.2(a)(i).

- (b) In the event of a breach of any of the ratios as set out in paragraph (a) above, the Bank may request the Borrower to provide or arrange for the provision of a guarantee or other security, acceptable to the Bank, in order to secure the obligations of the Borrower to the Bank under this Contract.

If the Borrower does not comply with such a request to provide or arrange for the provision of a guarantee or other security, acceptable to the Bank (as described in the preceding paragraph) within a period of 30 (thirty) Business Days from the date of the Bank's request, the Bank may demand that the Borrower shall prepay the Loan Outstanding, together with accrued interest and all other amounts accrued or outstanding under this Contract.

If the Borrower fails to comply with any of the ratios as set out in paragraph (a) above and all of the following conditions are satisfied:

- (i) the failure to comply is capable of remedy by provision of additional funds to the Borrower by the Borrower's shareholder(s) in the form of an increase of the Borrower's registered capital or in the form of funds subordinated to the prior payment of the Borrower's obligations hereunder;
- (ii) such provision of additional funds is made within 30 (thirty) days of delivery of the relevant Compliance Certificate which confirms the existence of a breach of any of the ratios as set out in paragraph (a) above;
- (iii) such provision of additional funds to the Borrower is made not more than twice during life of the Loan; and
- (iv) such provision of additional funds to the Borrower cannot be made in the two consecutive relevant periods,

the Bank may not request the Borrower to provide or arrange for the provision of a guarantee or other security or to prepay any Loan Outstanding.

- (c) For the purposes of this Article 6.14 (and for the other Articles, where applicable):

**"Acceptable Bank"** means:

- (i) 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
- (ii) any other bank or financial institution approved by the Bank.

**"Available Working Capital Facilities"** means any revolving, overdraft or other working capital facilities available to the Borrower from an Acceptable Bank.

**"Borrowing Costs"** means the aggregate amount of interest payable as determined on the basis of the latest available audited accounts of the Borrower, including (to the extent not already included):

- (i) interest due in respect of the Financial Debt of the Borrower;
- (ii) the interest element of leasing and hire purchase payments;
- (iii) fees, commission and charges in respect of the Financial Debt of the Borrower;
- (iv) capitalised interest;
- (v) amounts in the nature of interest payable in respect of any shares other than Equity capital; and
- (vi) less (without double counting) interest receivables in the latest available audited accounts of the Borrower.

**"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:

- (i) that cash is repayable on demand;
- (ii) 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;
- (iii) 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
- (iv) the cash is freely and immediately available to be applied in repayment or prepayment of the Loan.

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

- (i) term deposits or certificates of deposit maturing within 12 (twelve) months after the relevant date of calculation and issued by an Acceptable Bank;
- (ii) 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 1 (one) year after the relevant date of calculation and not convertible to or exchangeable for any other security;
- (iii) commercial paper not convertible or exchangeable to any other security:
  - (1) for which a recognised trading market exists;
  - (2) issued by an issuer incorporated in the United States of America, the United Kingdom or any member state of the European Union;
  - (3) which matures within 1 (one) year after the relevant date of calculation; and
  - (4) which has 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, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (iv) any investment in money market funds which:
  - (1) 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;
  - (2) invest substantially all their assets in securities of the types described in paragraphs (i) to (iii) above; and
  - (3) can be turned into cash on not more than 30 (thirty) days' notice; or
- (v) 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"** means the Cash that is required to cover the repayment of interest and principal on the Financial Debt.

**"Debt Service Cover Ratio"** means the sum of net income plus depreciation, receivable write-offs and interest for the preceding 12 (twelve) months of the Borrower, adjusted for non-cash items, divided by the Debt Service of the Borrower due during the 12 (twelve)-month period.

**"EBITDA"** means, without counting any item twice, the profit or loss of the Borrower on ordinary activities before tax and after exceptional items but after adding back:



- (i) Borrowing Costs (after deducting capitalised interest and dividends on redeemable shares);
- (ii) interest payable by associates and joint ventures;
- (iii) the Borrower's share of operating losses arising in associates and joint ventures;
- (iv) foreign exchange losses;
- (v) exceptional losses charged below operating profit;
- (vi) the Borrower's share of exceptional losses arising in associates and joint ventures not already included in paragraph (iii) above;
- (vii) amortisation of goodwill and intangibles; and
- (viii) depreciation,

and after deducting:

- (1) interest receivable and other similar income;
- (2) income from fixed asset investments;
- (3) interest receivable by associates and joint ventures;
- (4) the Borrower's share of operating profits arising in associates and joint ventures;
- (5) foreign exchange profits;
- (6) exceptional gains credited below operating profit; and
- (7) the Borrower's share of exceptional gains arising in associates and joint ventures not already included in paragraph (iii) above,

and taking no account of: (1) any revaluation of an asset or any loss or gain over book value arising on the disposal of an asset, and (2) any non-cash operating income resulting from settlement of EU grants or assets received or used free of charge.

**"Equity"** means the aggregate sum of the total paid-up capital, capital funds (in Czech: *kapitálové fondy*), profit for the period, retained earnings from previous years and reserves of the Borrower not allocated to cover specific liabilities.

**"Financial Debt"** means any obligation (whether incurred as principal or surety) of any person for or in respect of moneys borrowed including, without limitation (and without double-counting):

- (i) amounts raised by acceptance under any acceptance credit facility opened on behalf of that person;
- (ii) amounts raised by that person pursuant to any note purchase facility or the issue of notes, bonds, debentures, loan stock or other securities (including redeemable preference shares);
- (iii) the capitalised value of obligations under any lease (except for rental fee paid to municipalities, society of municipalities or third parties relating to agreements on operation of water supply and sewerage infrastructure and related assets for public purpose);
- (iv) amounts raised under debt factoring or invoice discounting arrangements for which that person is liable;
- (v) any obligation (actual or contingent) of that person under any guarantee, security or indemnity or other commitment designed to assure any creditor against loss in respect of any such obligation of any third party; and
- (vi) amounts raised under any other transaction which would be treated in the accounts of the relevant person as borrowing.

**"Net Debt"** means the aggregate amount of all Financial Debt due, owing or incurred by the Borrower less all credit balances and/or amounts held on deposit in CZK or in any other currency which is freely transferable and freely convertible into CZK.

**"Net Debt to EBITDA Ratio"** means the ratio of Net Debt to EBITDA.

All expressions used in this Article 6.14 and not otherwise defined above, shall be construed in accordance with the GAAP accounting principles.

#### **6.15 Books and records**

The Borrower shall ensure that it has kept and will continue to keep proper books and records of account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Borrower, including expenditures in connection with the Project, in accordance with GAAP as in effect from time to time.

#### **6.16 Data Protection**

- (a) When disclosing information (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 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.
- (b) Before disclosing any personal data (other than 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 as set out from time to time at <https://www.eib.org/en/privacy/lending> (or such other address as the Bank may notify to the Borrower in writing from time to time).

#### **6.17 Sanctions**

The Borrower shall not, directly or indirectly:

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

It is acknowledged and agreed that the undertakings set out in this Article 6.17 are only sought by and given to the Bank to the extent that to do so would be permissible pursuant to any applicable anti-boycott rule of the EU such as Regulation (EC) 2271/96.

#### **6.18 General Representations and Warranties**

The Borrower represents and warrants to the Bank that:

- (a) it is duly incorporated and validly existing as a joint stock company under the laws of the Czech Republic and it has power to carry on its business 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 and other action has been taken to authorise the execution, delivery and performance of the same by it;
- (c) subject to publication of this Contract in the registry of contracts (in Czech: *registr smluv*) in accordance with Article 11.9, this Contract constitutes its legally valid, binding and enforceable obligations;
- (d) 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 constitutional documents; and
  - (iv) the applicable tendering rules;
- (e) the latest available consolidated audited accounts (if prepared) and unconsolidated audited accounts of the Borrower have been prepared on a basis consistent with previous years and have been approved by its auditors 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;
- (f) there has been no Material Adverse Change since 26 September 2023;
- (g) no event or circumstance which constitutes an Event of Default has occurred and is continuing unremedied or unwaived;
- (h) 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;
- (i) it has obtained all necessary Authorisations in connection with this Contract and in order to lawfully comply with its obligations hereunder, and the relevant stage of the Project and all such Authorisations are in full force and effect and admissible in evidence;
- (j) at the date of this Contract, no Security exists over its assets;
- (k) 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;
- (l) 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 material Environmental or Social Claim has been commenced or is threatened against it;
- (m) it is in compliance with all undertakings under this Article 6;
- (n) no loss-of-rating clause have been concluded with any other creditor of the Borrower;
- (o) none of the Borrower and/or any Relevant Person:
  - (i) is a Sanctioned Person; or
  - (ii) is in breach of any Sanctions.

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

- (p) to the best of its knowledge and belief (having made due and careful enquiry), it is not in breach of any terms and conditions imposed by any licence to perform its core business activity;
- (q) the entry into this Contract is for the corporate benefit of the Borrower;
- (r) (i) to the best of its knowledge and belief (having made due and careful enquiry), no petition has been presented or filed for its bankruptcy, insolvency, a moratorium or restructuring by any of its creditors, (ii) it has neither presented nor filed a petition for its bankruptcy, insolvency, a moratorium, preventive restructuring or restructuring, nor it does not intend to file or initiate filing of any such petition, (iii) it has not been declared insolvent or bankrupt, no preventive restructuring or restructuring has been approved and no moratorium declared in respect of the Borrower and no insolvency trustee has been appointed to prepare a restructuring report, (iv) it has not commenced negotiations on rehabilitation project, restructuring plan or any other similar project or plan nor it prepares such project or plan nor has any such project or plan been prepared or negotiated by third person on its behalf, (v) it is neither insolvent (in Czech: *v úpadku*) nor in a situation of imminent insolvency (in Czech: *hrozícího úpadku*), within the meaning of the applicable insolvency laws, (vi) it is not in the situation of severe financial difficulties (in Czech: *závažné finanční potíže*) within the meaning of the applicable laws, (vii) no insolvency or bankruptcy petition in respect of the Borrower has been rejected on the grounds of insufficient funds, (viii) the obligations of the Borrower are not of higher value than the respective assets of the Borrower, (ix) no decision has been made to wind-up the Borrower with or without liquidation, (x) no analogous procedure, step or event analogous under the laws of any jurisdiction to any of the procedures, steps or events described in (i) through (ix) above has been taken or has occurred in any jurisdiction, and (xi) there is no threat of any of the above procedures, steps or events being taken or occurring;
- (s) it does not enter into this Contract with the intention to conceal its assets or defraud its creditors;
- (t) it does not enter into this Contract with the intention to provide more preferential treatment to the Bank than it is provided to the other creditors of the Borrower;
- (u) the Bank and the Borrower are not related parties pursuant to any applicable law;
- (v) the Bank and the Borrower do not operate under the influence of the same natural and legal person, and the Bank is not a beneficiary of any agreement with the Borrower under which the Borrower has undertaken any obligation without sufficient consideration; and
- (w) its Centre of Main Interests is situated in the Czech Republic and it has no Establishment in jurisdiction other than the Czech Republic.

The representations and warranties set out above are made on the date of this Contract and are, with the exception of the representation set out in paragraph (f) above, deemed repeated with reference to the facts and circumstances then existing on the date of each Disbursement Acceptance, the date of each Compliance Certificate, each Disbursement Date and each Payment Date.

## **ARTICLE 7**

### **Security**

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

#### **7.1 Negative pledge**

- (a) The Borrower shall not create or permit to subsist any Security over any of its assets.

- (b) 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.
- (c) Paragraph (a) above does not apply to any Security, listed below:
  - (i) any netting or set-off arrangement entered into in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
  - (ii) any payment or close out netting or set-off arrangement pursuant to any hedging transaction entered into for the purpose of:
    - (1) hedging any risk to which it is exposed in its ordinary course of trading; or
    - (2) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only, excluding, in each case, any Security under a credit support arrangement in relation to a hedging transaction;
  - (iii) any Security or preference arising by operation of law;
  - (iv) any Security or preference arising in the ordinary course of trading;
  - (v) any Security over or affecting any asset acquired after the date of this Contract if:
    - (1) the Security was not created in contemplation of the acquisition of that asset;
    - (2) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset; and
    - (3) the Security is removed or discharged within 2 (two) months of the date of acquisition of such asset;
  - (vi) any Security established in connection with any financing provided to the Borrower for the purpose of realisation of the Project by a reputable bank or group of reputable banks, provided that equivalent Security is given to the Bank to secure the performance of obligations under this Contract; or
  - (vii) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission.

## 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 or has concluded with or has been offered by 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 or any positive or negative undertakings or covenants or events of default, that are not provided for in this Contract or are 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.

## **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; and
  - (ii) any such information or further document concerning the financing, procurement, implementation, operation and environmental or social 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, which is material to it, or any material Environmental or Social Claim that is to its knowledge commenced, pending or threatened against it 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) any incident or accident relating to the Project which has or is likely to have a significant adverse effect on the Environment or on Social Matters;
  - (iv) a genuine allegation, complaint or information with regard to Illegal Activities or any Sanctions related to the Project;
  - (v) any self-declared exclusion by a bidder that occurs prior to the contract award and is covered by the Exclusion Policy;
  - (vi) any material non-compliance by it with any applicable Environmental and Social Law; and
  - (vii) any suspension, revocation or material modification of any Environmental and Social Approval,

and set out the action to be taken with respect to such matters; and
- (d) provide to the Bank, if so requested:
  - (i) a certificate of its or, prior to completion of the Project, Supplier's 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.

## 8.2 **Information concerning the Borrower**

The Borrower shall:

- (a) deliver to the Bank:
  - (i) as soon as they become available but in any event within 180 (one hundred and eighty) days after the end of each of its Financial Years its audited consolidated (if prepared) and unconsolidated annual report, balance sheet, cash flow statement, profit and loss account and auditors report for that Financial Year together with a Compliance Certificate as set out in Schedule E.2 duly signed by an authorised signatory with individual representation right or by 2 (two) or more authorised signatories with joint representation right of the Borrower confirming compliance by the Borrower with the financial covenants pursuant to Article 6.14 and with evidence of such compliance and related calculations; and
  - (ii) as soon as they become available but in any event within 120 (one hundred and twenty) days after the end of each of the relevant accounting periods its interim consolidated (if prepared) and unconsolidated quarterly report, balance sheet, profit and loss account and cash flow statement for each of the first three quarters of each of its Financial Years together with a Compliance Certificate as set out in Schedule E.2 duly signed by an authorised signatory with individual representation right or by 2 (two) or more authorised signatories of the Borrower;
  - (iii) such further information, evidence or document concerning:
    - (1) its general financial situation or such certificates of compliance with the undertakings of Article 6; and
    - (2) the compliance with the due diligence requirements of the Bank for the Borrower, including, but not limited to "know your customer" (KYC) or similar identification and verification procedures,
 when requested and within a reasonable time; and
- (b) inform the Bank immediately of:
  - (i) any material alteration to its constitutional documents or shareholding structure and of any change of ownership of 5% (five per cent) or more of its shares after the date of this Contract;
  - (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 decision on its part to grant any Security over any of its assets in favour of a third party (in each case prior to granting any such Security) save as permitted pursuant to Article 7.1;
  - (v) any decision on its part to relinquish ownership of any material component of the Project (in each case prior to granting any such relinquishment);
  - (vi) any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower under this Contract;
  - (vii) any Event of Default having occurred or being threatened or anticipated;
  - (viii) unless prohibited by law, any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority, which, to the best of its knowledge and belief, is current, imminent or pending against the Borrower or the Statutory City of Brno or members of the Borrower's management bodies in connection with Illegal Activities related to the Credit, the Loan or the Project;
  - (ix) any measure taken by the Borrower pursuant to Article 6.5(f);

- (x) any litigation, arbitration, administrative proceedings or investigation which is current, threatened or pending and which might if adversely determined result in a Material Adverse Change;
- (xi) any action undertaken pursuant to Article 6.10(c) or Article 6.11(c);
- (xii) any Change in the Beneficial Ownership of the Borrower; and
- (xiii) any claim, action, proceeding, formal notice or investigation relating to any Sanctions concerning the Borrower, or any Relevant Person.

### **8.3 Visits by the Bank**

The Borrower shall 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 not obstruct contacts with any other person involved in or affected by the Project; and
- (c) to review the Borrower'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 8.3.

The Borrower acknowledges that the Bank may be obliged to communicate information relating to the Borrower 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**

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

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

#### **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 or any related document, any amendment, supplement or waiver in respect of this Contract or any related document, and in the amendment, creation, management, enforcement and realisation of any security for the Loan.



### **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, following any default of the Borrower 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; and
- (iii) such other loans or obligations or commitments falling under paragraphs (i) and/or (ii) above are in an aggregate principal amount in excess of EUR 100,000.00 (one hundred thousand euro) or its equivalent in any other currency or currencies;
- (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 corporate 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, voluntary or judicial liquidation, administrative dissolution without liquidation, moratorium or reprieve from payment, general settlement with creditors, judicial reorganisation, reorganisation by amicable agreement or similar laws affecting the rights of creditors generally 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 capital, is declared insolvent or ceases or resolves to cease to carry on the whole or any substantial part of its business or activities, or the Borrower is in the situation of insolvency (in Czech: *v úpadku*) or imminent insolvency (in Czech: *hrozícího úpadku*) within the meaning of the applicable insolvency laws, in the situation of severe financial difficulties (in Czech: *závažné finanční potíže*) within the meaning of the applicable laws or any situation similar to any of the above occurs under any applicable law;
- (f) 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;
- (g) 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, or of any other loan or financial instrument made to it from the resources of the Bank or the European Union;
- (h) if any expropriation, attachment, arrestment, distress, execution, sequestration or other process is levied or enforced upon the property of the Borrower or any property forming part of the Project and is not discharged or stayed within 14 (fourteen) days;
- (i) if a Material Adverse Change occurs, as compared with the Borrower's condition at the date of this Contract; or
- (j) if it is or becomes unlawful for the Borrower to perform any of its obligations under this Contract or other transactional documents or this Contract or other transactional documents is not effective in accordance with its terms or is alleged by the Borrower to be invalid, ineffective or unenforceable 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

- (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 10 (ten) Business Days from 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 0.19% (nineteen basis points).

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

### **10.3.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 0.19% (nineteen basis points) per annum calculated and accruing on the amount of principal due to be prepaid in the same manner as interest would have been calculated and would have accrued, if that amount had remained outstanding according to the applicable amortisation schedule of the Tranche, until the Interest Revision/Conversion Date, if any, or the Maturity Date.

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

### **10.3.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 law.

**11.2 Jurisdiction**

- (a) The courts of Luxembourg-City have exclusive jurisdiction to settle any dispute arising out of or in connection with this Contract (including a dispute regarding the existence, validity or termination of this Contract or the consequences of its nullity) or any non-contractual obligation arising out of or in connection with this Contract (a "**Dispute**").
- (b) The Parties agree that the courts of Luxembourg-City are the most appropriate and convenient courts to settle any Dispute between them and, accordingly, that they will not argue to the contrary.

**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.

**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 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, the latter of:

- (a) duly 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 15 (fifteen) 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 nor 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 Access to information**

It is acknowledged that the Borrower is obliged entity under Czech Act No. 106/1999 Sb., on public access to information, and therefore the Borrower may be obliged to disclose certain information included in this Contract.

**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 or electronic mail.
- (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 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) in the case of any electronic mail only when such electronic mail is actually received in readable form and only if it is addressed in such a manner as the other Party shall specify for this purpose.
- (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, as appropriate, 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 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 and electronic mail address (and the department 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 Contract Number (FI N°) 96.123 100 boulevard Konrad Adenauer L-2950 Luxembourg E-mail address: contactline-96123@eib.org
For the Borrower	Attention: Economic department (in Czech: <i>ekonomická sekce</i> ) Brněnské vodárny a kanalizace, a.s. Pisárecká 555/1a Pisárky 603 00 Brno Czech Republic E-mail address: eib@bvk.cz

### 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     Recitals and Schedules**

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	Form of Disbursement Offer/Acceptance (Articles 1.2.B and 1.2.C)
Schedule D	Interest Rate Revision and Conversion
Schedule E	Certificates to be provided by the Borrower

The Parties have caused this Contract to be executed in 4 (four) originals in the English language. Each Party shall retain 2 (two) originals of this Contract.

At Luxembourg, this 25 day of April 2024

Signed for and on behalf of

**EUROPEAN INVESTMENT BANK** as Bank

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At Brno, this 22 day of April 2024

Signed for and on behalf of

**BRNĚNSKÉ VODÁRNY A KANALIZACE, A.S.** as Borrower

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Ing. Daniel Struž  
Chairman of the Board of Directors



**Project Specification and Reporting****A.1 Technical Description****A.1.1 Purpose, Location**

The Project concerns a full rehabilitation and upgrade of the sludge treatment facility of BVK's Brno-Modřice WWTP nearby Brno.

**A.1.2 Description**

The Project concerns a full rehabilitation and upgrade of the sludge treatment facility of BVK's Brno-Modřice WWTP. The Project has the following main components:

- (a) Surplus sludge mechanical thickening units (2 duty+1 stand-by centrifuges);
- (b) Mixed sludge pumping station;
- (c) Digesters (4 no. each with 5,500 m<sup>3</sup> operating hydraulic volume)
- (d) Residual gas burner (1,204 m<sup>3</sup>/h);
- (e) Desulphurisation unit;
- (f) Gas holder tank (5,000 m<sup>3</sup>);
- (g) Digested sludge storage tanks (2x200 m<sup>3</sup>);
- (h) Digested sludge mechanical dewatering unit (4 centrifuges);
- (i) Sludge drying units (2 lines);
- (j) Sludge drying boiler unit;
- (k) Silo of dried sludge (4x50 m<sup>3</sup>); container station for 28 containers of 20 m<sup>3</sup>;
- (l) Boiler room and heat plant;
- (m) Biofilters for treatment of exhaust air (max. 2x520 m<sup>2</sup> + 2x115 m<sup>2</sup>);
- (n) Connecting pipelines, installation collectors, landscaping, site lighting, access roads and paved areas.

**A.1.3 Calendar**

The project is to be implemented between 2023 and 2027. The Project Completion Date shall occur no later than 31 December 2027.

A.2 Project information to be sent to the Bank and method of transmission**A.2.1 Dispatch of information: designation of the person responsible**

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

	<b>Financial Contact</b>	<b>Technical Contact</b>
Company	Brnenské Vodárny a Kanalizace	Brnenské Vodárny a Kanalizace
Contact person	██████████	██████████
Title	██████████	██████████
Function / Department financial and technical	Finance Department	Sludge Management WWTP Brno - Modrice
Address	Pisárecká 555/1a 603 00 Brno, Czech Republic	Pisárecká 555/1a 603 00 Brno, Czech Republic
Phone	██████████	+██████████
Fax	██████████	██████████
Email	██████████	██████████

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

The Borrower shall inform the EIB immediately in case of any change.

**A.2.2 Information on the Project's implementation**

The Borrower shall deliver to the Bank the following information on Project progress during implementation at the latest by the deadline indicated below.

<b>Document / information</b>	<b>Deadline</b>	<b>Frequency of reporting</b>
Project Progress Report <ul style="list-style-type: none"> <li>- <i>A brief update on the Technical Description, explaining the reasons for significant changes vs. initial scope;</i></li> <li>- <i>Update on the date of completion of each of the main Project's components, explaining reasons for any possible delay;</i></li> <li>- <i>Update on the cost of the Project, explaining reasons for any possible cost variations vs. initial budgeted cost;</i></li> <li>- <i>A description of any major issue with impact on the environment and/or social impact;</i></li> <li>- <i>Description of any third-party complaint concerning the Project and its resolution;</i></li> <li>- <i>A copy of the construction/building permit(s) issued by the competent authority;</i></li> <li>- <i>Update on the Project's demand or usage;</i></li> <li>- <i>Any significant issue that has occurred and any significant risk that may affect the Project's operation;</i></li> <li>- <i>Any legal action concerning the project that may be on-going;</i></li> <li>- <i>Non-confidential Project-related pictures, if available.</i></li> </ul>	30 April	Annual

**A.2.3 Information on the end of works and first year of operation**

The Borrower shall deliver to the Bank the following information on Project completion and initial operation at the latest by the deadline indicated below.

<b>Document / information</b>	<b>Date of delivery to the Bank</b>
<p>Project Completion Report, including:</p> <ul style="list-style-type: none"> <li>- <i>A final Technical Description of the Project as completed, explaining the reasons for any significant change compared to the Technical Description in Schedule A.1;</i></li> <li>- <i>The date of completion of each of the main Project's components, explaining reasons for any possible delay;</i></li> <li>- <i>The final cost of the Project, explaining reasons for any possible cost variations vs. initial budgeted cost;</i></li> <li>- <i>Employment effects of the Project: person-days required during implementation as well as permanent new jobs created;</i></li> <li>- <i>A description of any major issue with impact on the environment or social impacts;</i></li> <li>- <i>Description of any third-party complaint concerning the Project and its resolution;</i></li> <li>- <i>A copy of the construction/building permit(s) issued by the competent authority;</i></li> <li>- <i>Update on the Project's demand or usage and comments;</i></li> <li>- <i>Any significant issue that has occurred and any significant risk that may affect the Project's operation;</i></li> <li>- <i>Any legal action concerning the Project that may be on-going;</i></li> <li>- <i>Non-confidential Project-related pictures, if available;</i></li> <li>- <i>An update on the following Monitoring Indicators:</i> <ul style="list-style-type: none"> <li>o <i>Sludge drying unit energy consumption [kWh/ton];</i></li> <li>o <i>Dried sludge production (90% Dry solids) [ton/yr].</i></li> </ul> </li> </ul>	31 March 2028
<b>Language of reports</b>	English

**Definitions of Relevant Interbank Rates****A. EURIBOR**

"EURIBOR" means:

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

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

For the purposes of paragraphs (a) to (c) above:

- (i) "**available**" means the rates, for given maturities, that are calculated and published by Global Rate Set Systems Ltd (GRSS), or such other service provider selected by the European Money Markets Institute (EMMI), or any successor to that function of EMMI, as determined by the Bank; and
- (ii) "**Screen Rate**" means the rate of interest for deposits in EUR for the relevant period as published at 11:00 a.m., Brussels time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") which falls 2 (two) Relevant Business Days prior to the first day of the relevant period, on Reuters page EURIBOR 01 or its successor page or, failing which, by any other means of publication chosen for this purpose by the Bank.

If such Screen Rate is not so published, the Bank shall request the principal offices of 4 (four) major banks in the euro-zone, selected by the Bank, to quote the rate at which EUR deposits in a comparable amount are offered by each of them, as at approximately 11:00 a.m., Brussels time, on the Reset Date to prime banks in the euro-zone interbank market for a period equal to the Representative Period. If at least 2 (two) quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations. If no sufficient quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in the euro-zone, selected by the Bank, at approximately 11:00 a.m., Brussels time, on the day which falls 2 (two) Relevant Business Days after the Reset Date, for loans in EUR in a comparable amount to leading European banks for a period equal to the Representative Period. The Bank shall inform the Borrower without delay of the quotations received by the Bank.

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

If any of the foregoing provisions becomes inconsistent with provisions adopted under the aegis of EMMI (or any successor to that function of EMMI as determined by the Bank) in respect of EURIBOR, the Bank may by notice to the Borrower amend the provision to bring it into line with such other provisions.

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

as the administrator of the EURIBOR, or (iv) the national competent authorities designated under Regulation (EU) 2016/1011, or (v) the European Central Bank.

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

## B. PRIBOR

"PRIBOR" means, in respect of CZK:

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

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

For the purposes of paragraphs (b) and (c) above, "**available**" means the rates of interest that are commonly quoted for the relevant maturity.

"**Screen Rate**" means the rate of interest for deposits in CZK for the relevant period as published at 11:00 a.m., Prague time, or at a later time acceptable to the Bank on the day (the "**Reset Date**") which falls 2 (two) Prague Business Days prior to the first day of the relevant period, on Reuters page PRIBOR= or its successor page or, failing which, by any other means of publication chosen for this purpose by the Bank.

If such Screen Rate is not so published, the Bank shall request the principal Prague offices of 4 (four) major banks in the Czech Crown interbank market, selected by the Bank, to quote the rate at which CZK deposits in a comparable amount are offered by each of them as at approximately 11:00 a.m., Prague time, on the Reset Date to prime banks in the Czech Crown interbank market for a period equal to the Representative Period. If at least 2 (two) quotations are provided, the rate for that Reset Date will be the arithmetic mean of the quotations.

If fewer than 2 (two) quotations are provided as requested, the rate for that Reset Date will be the arithmetic mean of the rates quoted by major banks in the Czech Crown interbank market, selected by the Bank, at approximately 11:00 a.m., Prague time, on the day which falls 2 (two) Prague Business Days after the Reset Date, for loans in CZK in a comparable amount to leading European Banks for a period equal to the Representative Period.

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

For the purposes of the foregoing definitions:

- (i) "**Prague Business Day**" means a day on which banks are open for normal business in Prague.
- (ii) All percentages resulting from any calculations referred to in this Section B of Schedule B will be rounded, if necessary, to the nearest one hundredth of a percentage point, with halves being rounded up.

- (iii) The Bank shall inform the Borrower without delay of the quotations received by the Bank.
- (iv) If any of the foregoing provisions becomes inconsistent with provisions adopted under the aegis of Czech Financial Benchmark Facility (CFBF) (or any successor to that function as determined by the Bank), the Bank may by notice to the Borrower amend the provision to bring it into line with such other provisions.

## Schedule C

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

To: Brněnské vodárny a kanalizace, a.s.

From: European Investment Bank

Date: [●]

Subject: Disbursement Offer/Acceptance for the Finance Contract between European Investment Bank and Brněnské vodárny a kanalizace, a.s. dated [●] (the "**Finance Contract**")

Project name: BRNO WASTEWATER TREATMENT PROJECT

Contract Number: 96.123                      Operation Number: 2022-0885

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Dear Sirs,

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

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

- (a) Currency and amount to be disbursed and its EUR equivalent:
- (b) Scheduled Disbursement Date:
- (c) Interest rate basis:
- (d) Interest payment periodicity:
- (e) Payment Dates:
- (f) Terms for repayment of principal:
- (g) The Repayment Dates and the first and the last Repayment Date for the Tranche:
- (h) The Interest Revision/Conversion Date:
- (i) The Fixed Rate or Spread, applicable until the Interest Revision/Conversion Date if any, or until the Maturity Date.

To make the Tranche available subject to the terms and conditions of the Finance Contract, the Bank must receive a Disbursement Acceptance in the form of a copy of this Disbursement Offer duly signed on your behalf, to the following e-mail [ ] no later than the Disbursement Acceptance Deadline of [time] Luxembourg time on [date].

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

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

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

Yours faithfully,

EUROPEAN INVESTMENT BANK

We hereby accept the above Disbursement Offer for and on behalf of the Borrower:

Date:

**IMPORTANT NOTICE TO THE BORROWER:**

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

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

Disbursement Account (as defined in the Finance Contract) to be credited<sup>1</sup>:

Disbursement Account N°: .....

Disbursement Account Holder/Beneficiary: .....

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

Bank name and address: .....

Bank identification code (BIC): .....

Payment details to be provided: .....

Please transmit information relevant to:

Name(s) of the Borrower's Authorised Signatory(ies) (as defined in the Finance Contract):

.....

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

\_\_\_\_\_

<sup>1</sup> The details concerning banking intermediary are also to be provided if such intermediary has to be used to make the transfer to the Beneficiary's Account.



**Schedule D****Interest Rate Revision and Conversion**

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

**A. Mechanics of Interest Revision/Conversion**

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

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

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

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

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

**B. Effects of Interest Revision/Conversion**

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

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

**C. Partial or no Interest Revision/Conversion**

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

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

## Schedule E

**Certificates to be provided by the Borrower****E.1 Form of Certificate from Borrower (Article 1.4.C)**

To: European Investment Bank  
 From: Brněnské vodárny a kanalizace, a.s.  
 Date: [●]  
 Subject: Certificate for the Finance Contract between European Investment Bank and Brněnské vodárny a kanalizace, a.s. dated [●] (the "**Finance Contract**")  
 Project name: BRNO WASTEWATER TREATMENT PROJECT  
 Contract Number: 96.123                      Operation Number: 2022-0885

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Dear Sirs,

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

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

- (a) we are in compliance with the financial covenants pursuant to Article 6.14 and attached is evidence of such compliance and related calculations;
- (b) no Security of the type prohibited under Article 7.1 has been created or is in existence;
- (c) there has been no material change to any aspect of the Project or in respect of which we are obliged to report under Article 8.1, save as previously communicated by us;
- (d) we have or will have by [●] at the latest sufficient funds available to ensure the timely completion and implementation of the Project in accordance with Schedule A.1;
- (e) no event or circumstance which constitutes or would, with the passage of time or the giving of notice or the making of any determination under the Finance Contract (or any combination of the foregoing) constitute a Prepayment Event or an Event of Default has occurred and is continuing unremedied or unwaived;
- (f) no litigation, arbitration administrative proceedings or investigation is current or to our knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against us or any of our subsidiaries any unsatisfied judgement or award;
- (g) the representations and warranties to be made or repeated by us under Article 6.18 are true in all respects;
- (h) no Material Adverse Change has occurred, as compared with the situation at the date of the Finance Contract; and
- (i) the most recent List of Authorised Signatories and Accounts provided to the Bank by the Borrower is up-to-date and the Bank may rely on the information set out therein.

We undertake to immediately notify the Bank if any the above fails to be true or correct as of the Disbursement Date for the proposed Tranche.

Yours faithfully,

For and on behalf of Brněnské vodárny a kanalizace, a.s.

## E.2 Form of Compliance Certificate

To: European Investment Bank

From: Brněnské vodárny a kanalizace, a.s.

Date: [●]

Subject: Compliance Certificate for the Finance Contract between European Investment Bank and Brněnské vodárny a kanalizace, a.s. dated [●] (the "**Finance Contract**")

Project name: BRNO WASTEWATER TREATMENT PROJECT

Contract Number: 96.123                      Operation Number: 2022-0885

Dear Sirs,

We refer to the Finance Contract. This is a Compliance Certificate. Terms defined in the Finance Contract have the same meaning when used in this Compliance Certificate.

We hereby confirm:

- (a) on a [insert the date of calculation of the financial covenants], [insert financial covenant name and repeat for every financial covenant] amounts to [insert number] compared to [minimum / maximum] level of [insert number]; *(to be confirmed annually pursuant to Article 8.2(a)(i))*
- (b) [no asset disposal prohibited under Article 6.6 has taken place] / [insert information regarding asset disposal;]
- (c) [no Security of the type prohibited under Article 7.1 has been created or is in existence;]  
and
- (d) [no event or circumstance which constitutes or would, with the passage of time or the giving of notice or the making of any determination under the Finance Contract (or any combination of the foregoing) constitute a Prepayment Event or an Event of Default has occurred and is continuing unremedied or unwaived. [If this statement cannot be made, this certificate should identify any potential prepayment event or event of default that is continuing and the steps, if any, being taken to remedy it]].

Yours faithfully,

For and on behalf of Brněnské vodárny a kanalizace, a.s.

[authorised signatory/ies]