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| Contract Number (FI N°) 89086 |
| Operation Number (Serapis N°) 2017-1000 |

SOUTH-MORAVIA REGIONAL INFRA III

Finance Contract

between the

European Investment Bank

and

Jihomoravský kraj

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| --- | --- |
| Brno, | 5 November 2018 |
| Luxembourg, | 5 November 2018 |

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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 Mr Manuel Dueñas, Head of Division, and Mr Dirk Ellerkmann, Head of Division, | (the “Bank”) |
| of the first part, and |  |
| Jihomoravský kraj (South-Moravia Region), having its address at Žerotínovo nám. 3, 601 82 Brno, for which acts externally JUDr. Bohumil Šimek, hejtman Jihomoravského kraje and Mgr. Ing. Taťána Malá, náměstkyně hejtmana Jihomoravského kraje | (the “Borrower”) |
| of the second part. |  |

WHEREAS:

1. The Borrower has stated that it is undertaking an operation to support, facilitate and accelerate the implementation of investment schemes prepared by the Borrower and its contributory organizations, which will be co-financed with EU Structural funds (Integrated Regional Operational Programme) and from the Region’s own budget, which will improve the regional infrastructure in the sectors of transport, health and social care (each hereafter called a “**Sub-Project**” and together, the “**Project**”) as more particularly described in the technical description (the “Technical Description”) set out in Schedule A. All Sub-Projects will be located in South-Moravia Region, Czech Republic. The Sub-Projects will be implemented by the Borrower and its contributory organizations. At least 10% (ten per cent) of the total cost of the Project shall be on best effort basis dedicated to climate action, i.e. shall concern energy efficiency and/or renewable energy and/or other eligible mitigation components.

The total cost of the Project, as estimated by the Bank, is CZK 1,511 million (one billion and five hundred eleven million Czech crowns) and the Borrower has stated that it intends to finance the Project as follows:

|  |  |
| --- | --- |
| Source | Amount (CZK m) |
| EU grants  Borrower’s own resources | 589  222 |
| Credit from the Bank | 700 |
| TOTAL | 1511 |

1. In order to fulfil the financing plan set out in Recital (a), the Borrower has requested from the Bank a credit of CZK 700 million (seven hundred million Czech crowns).
2. 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 CZK 700 million (seven hundred million Czech crowns) under this Finance Contract (the “Contract”); provided that the amount of the Bank loan shall not, in any case, exceed 50% (fifty per cent) of the total cost of the Project set out in Recital (a).
3. The Assembly of the Borrower has authorised the borrowing of the sum of CZK 700 million (seven hundred million Czech crowns) represented by this credit on the terms and conditions set out in this Contract; the authorisation referred to in this Recital is attached as Annex I.
4. 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.
5. 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.
6. The processing of personal data shall be carried out by the Bank in accordance with applicable European Union legislation on the protection of individuals with regard to the processing of personal data by the European Union institutions and bodies and on the free movement of such data.
7. On 12 April 2018, the Czech Republic confirmed in writing that the present operation is submitted to the Bank with its agreement.

NOW THEREFORE it is hereby agreed as follows:

INTERPRETATION AND DEFINITIONS

Interpretation

In this Contract:

1. references to Articles, Recitals, Schedules and Annexes are, save if explicitly stipulated otherwise, references respectively to articles of, and recitals, schedules and annexes to this Contract;
2. references to “law” or “laws” mean (a) 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 (b) EU Law;
3. references to applicable law, applicable laws or applicable jurisdiction means (a) a law or jurisdiction applicable to the Borrower, its rights and/or obligations (in each case arising out of or in connection with the Contract), its capacity and/or assets and/or the Project; and/or, as applicable, (b) a law or jurisdiction (including in each case the Bank’s Statute) applicable to the Bank, its rights, obligations, capacity and/or assets;
4. references to a provision of law are references to that provision as amended or re-enacted;
5. references to any other agreement or instrument are references to that other agreement or instrument as amended, novated, supplemented, extended or restated, and
6. words and expressions in plural shall include singular and vice versa.

Definitions

In this Contract:

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

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

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

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

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

“Compliance Certificate” means a certificate substantially in the form set out in Schedule E.2.

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

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

“Credit” has the meaning given to it in Article 1.1.

“Criminal Offence” means any of the following criminal offences as applicable: fraud, corruption, coercion, collusion, obstruction, money laundering, financing of terrorism.

“CZK” means Czech crown(s), the lawful currency of the Czech Republic.

“Deferment Indemnity” means a fee calculated on the amount of disbursement deferred or suspended being the higher of (a) 0.125% (12.5 basis points), per annum, and (b) the percentage rate by which:

1. the interest rate net of Margin that would have been applicable to such amount had it been disbursed to the Borrower on the Scheduled Disbursement Date, exceeds
2. the Relevant Interbank Rate (one month rate) less 0.125% (12.5 basis points), unless this value is less than zero, in which case it will be set at zero.

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

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

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

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

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

“Disbursement Offer” means a letter substantially in the form set out in Schedule C.1.

“Dispute” has the meaning given to it in Article 11.

“Disruption Event” means either or both of:

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

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

“EIA” means the Environmental Impact Assessment in the meaning of the EIA Directive.

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

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

1. fauna and flora;
2. soil, water, air, climate and the landscape; and
3. cultural heritage and the built environment,

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

“Environmental Approval” means any Authorisation required by Environmental Law.

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

“Environmental Law” means:

1. EU Law, including principles and standards ;
2. national laws and regulations of the Czech Republic; and
3. applicable international treaties ,

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

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

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

“EURIBOR” has the meaning given to it in Schedule B.

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

“Final Availability Date” means the day falling 36 months from the date of signature of this Contract.

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

“Fixed Rate Tranche” means a Tranche on which the Fixed Rate is applied.

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

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

“Floating Rate Tranche” means a Tranche on which the Floating Rate is applied.

“Habitats Directive” means the Directive 92/43/EEC of the Council on the conservation of natural habitats and of wild fauna and flora.

“Indemnifiable Prepayment Event” means a Prepayment Event other than those specified in paragraphs 4.3.A(2) (Pari Passu *to non-EIB Financing*) or 4.3.A(4) (*Illegality*).

“Interest Revision/Conversion” means the determination of new financial conditions relative to the interest rate, specifically the same interest rate basis (“revision”) or a different interest rate basis (“conversion”) which can be offered for the remaining term of a Tranche or until the next Interest Revision/Conversion Date, if any, for an amount which, at the proposed Interest Revision/Conversion Date, is not less than an equivalent of EUR 8,000,000 (eight million euros).

“Interest Revision/Conversion Date” means the date, which shall be a Payment Date, specified by the Bank pursuant to Article 1.2.C in the Disbursement Offer or pursuant to Article 3.1.B and Schedule D.

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

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

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

any further Interest Revision/Conversion Date chosen in accordance with Article 3.1.

“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.

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

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

“Margin” means the component of the rate of interest quantified in Article 3.1.

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

1. the ability of the Borrower to perform its obligations under this Contract;
2. the business, operations, property, condition (financial or otherwise) or prospects of the Borrower; or
3. the legality, validity or enforceability of, or the effectiveness or ranking of, or the value of any security granted to the Bank, or the rights or remedies of the Bank under this Contract.

“Maturity Date” means the last Repayment Date of a Tranche specified pursuant to Article 4.1.A .

“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:

1. for a Fixed Rate Tranche, the following Relevant Business Day, without adjustment to the interest due under Article 3.1; and
2. for a Floating Rate Tranche, the next day, if any, of that calendar month that is a Relevant Business Day or, failing that, the nearest preceding day that is a Relevant Business Day, in all cases with corresponding adjustment to the interest due under Article 3.1.

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

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

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

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

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

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

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

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

“PRIBOR” has the meaning given to it in Schedule B.

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

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

“Relevant Business Day” means:

1. for EUR, a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007 (TARGET2) is open for the settlement of payments in EUR; and
2. for any other currency, a day on which banks are open for general business in the principal domestic financial centre of the relevant currency.

“Relevant Interbank Rate” means:

1. EURIBOR for a Tranche denominated in EUR; and
2. PRIBOR for a Tranche denominated in CZK; and
3. the market rate and its definition chosen by the Bank and separately communicated to the Borrower, for a Tranche denominated in any other currency.

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

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

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

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

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

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

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

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

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

# 

Credit and Disbursements

## Amount of Credit

By this Contract the Bank establishes in favour of the Borrower, and the Borrower accepts, a credit in an amount CZK 700,000,000.00 (seven hundred million Czech crowns) for the financing of the Project (the “Credit”).

## Disbursement procedure

### Tranches

The Bank shall disburse the Credit in up to 5 (five) Tranches. The amount of each Tranche shall be in a minimum amount equivalent to CZK 125,000,000.00 (one hundred twenty-five million Czech crowns).

The amount of the first Tranche shall not exceed CZK 210,000,000.00 (two hundred and ten million Czech crowns without allocation.

### Disbursement Offer

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

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

### Disbursement Acceptance

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

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

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

### Disbursement Account

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

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

Only one Disbursement Account may be specified for each Tranche.

## Currency of disbursement

The disbursement of each Tranche shall be made in EUR or, subject to availability in CZK.

For the calculation of the sums available to be disbursed in CZK, and to determine their equivalent in EUR, 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.

## Conditions of disbursement

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

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

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

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

### First Tranche

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

1. evidence that the Borrower has obtained all necessary Authorisations, required in connection with this Contract and the Project;
2. a legal opinion on the due execution of this Contract and the relevant documentation by the Borrower and on the legal, valid, binding and enforceable character of the Borrower’s obligations under this Contract and the relevant documentation substantially in the form set out in Annex II;
3. evidence of compliance by the Borrower with the financial covenants pursuant to Article 6.8.

### Second and Subsequent Tranches

The disbursement of the second and any subsequent Tranche 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 for the proposed Tranche, of the following additional evidence:

(a) 80% of the previously disbursed Tranches have been committed by the Borrower and allocated to eligible Sub-Projects by the Bank; or

(b) 50% of the previously disbursed Tranches have been effectively paid out to Final Beneficiaries of the eligible Sub-Projects.

### All Tranches

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

1. that the Bank has received, in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date (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:
   1. 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 15 (fifteen) days before the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively); and
   2. a copy of any other authorisation or other document, opinion or assurance which the Bank has notified the Borrower is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, this Contract or the legality, validity, binding effect or enforceability of the same; and
2. that on the Scheduled Disbursement Date (and, in the case of deferment under Article 1.5, on the Requested Deferred Disbursement Date or the Agreed Deferred Disbursement Date, respectively) for the proposed Tranche:
   1. the representations and warranties which are repeated pursuant to Article 6.10 are correct in all material respects; and
   2. no event or circumstance which constitutes or would with the passage of time or giving of notice under this Contract constitute:
      1. an Event of Default; or
      2. a Prepayment Event

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

### Final Tranches

The disbursement of any Tranche which constitutes last 10% of the available Credit is conditional upon receipt by the Bank, in form and substance satisfactory to it, on or before the date falling 5 (five) Business Days before the Scheduled Disbursement Date for the proposed Tranche of (i) a written evidence demonstrating that all previously disbursed loan sums have been allocated to the Sub-projects and (ii) a list of Sub-Projects to be allocated under the last 10% of the available Credit.

## Deferment of disbursement

### Grounds for deferment

#### Borrower's request

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

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

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

#### Failure to satisfy conditions to disbursement

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

#### Deferment Indemnity

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

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

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

## Cancellation and suspension

### Borrower’s right to cancel

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

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

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

### Bank’s right to suspend and cancel

At any time upon the occurrence of the following events, the Bank may notify the Borrower in writing that the undisbursed portion of the Credit shall be suspended and/or (apart from on the occurrence of a Market Disruption Event) cancelled in whole or in part:

1. Prepayment Event;
2. an Event of Default;
3. an event or circumstance which would with the passage of time or giving of notice under this Contract constitute a Prepayment Event or an Event of Default;
4. a Material Adverse Change; or
5. a Market Disruption Event provided the Bank has not received a Disbursement Acceptance.

On the date of such written notification the relevant undisbursed portion of the Credit shall be suspended and/or cancelled with immediate effect. Any suspension shall continue until the Bank ends the suspension or cancels the suspended amount.

### Indemnity for suspension and cancellation of a Tranche

#### Suspension

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

#### Cancellation

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

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

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

## Cancellation after expiry of the Credit

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

## Sums due under Article 1.5 and 1.6

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

## Allocation procedure

Between the date hereof and the date falling 6 (six) months before the Final Availability Date (the “Allocation Period”), the Borrower may submit to the Bank a request for allocation (hereinafter referred to as an “**Allocation Request**”). An Allocation Request shall be submitted at least once every two years, until the end of Allocation period.

The Loan may solely be allocated to Sub-Projects identified as eligible for financing in the Technical Description, annexed hereto as Schedule A.1. In order for a Sub-Project to qualify for financing hereunder, the Borrower must comply with: a) the allocation procedure under this Article 1.9 and b) Schedule A.1.

The Bank shall have full discretion whether or not to approve the Allocation Request so submitted following such examination of the Sub-Projects as it deems necessary and shall, in the event of approval, issue a letter of allocation (hereinafter referred to as a “**Letter of Allocation**”), informing the Borrower of its approval of the Sub-Projects submitted and of the amount in CZK, EUR or other currency of the Loan allocated to them. In the event the Bank does not approve a submitted Allocation Request, the Bank shall inform the Borrower thereof in writing.

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

In agreement with the Borrower, the Bank may amend the allocation procedures as the Project develops, inter alia, to amend and/or simplify such allocation procedures in line with the Bank’s policy on framework loans.

## Reallocation

### Reallocation at the request of the Borrower

The Borrower may, by request to the Bank which shall include reasons therefore, and not later than the date falling 3 (three) months before the Final Availability Date, to reallocate in accordance with Article 1.9 and Schedule A.1 any part of the Loan which has been allocated but not spent by the Borrower on a Sub-Project or made available in full, directly or indirectly, by the Borrower to the relevant Final Beneficiaries.

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

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

### Reallocation at the request of the Bank

The Borrower shall propose to reallocate any part of the Loan which has been allocated, in accordance with the procedures described in Article 1.9 and Schedule A.1, in relation to a Sub-Project if such Sub-Project, in the reasonable opinion of the Bank, is ineligible for financing by the Bank under the Bank’s Statute, policies or guidelines or under Article 267 of the Treaty of Rome. If within the timeframe provided for in the Bank’s written request the Borrower fails to replace such Sub-Project, the Borrower shall repay all or part of the Loan in accordance with Article 10.1.A.

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The Loan

## Amount of Loan

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

## Currency of repayment, interest and other charges

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

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

## Confirmation by the Bank

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

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Interest

## Rate of interest

For the purposes of this Contract “**Margin**” means 4 basis points (0.04 %).

### 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.

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

### Floating Rate Tranches

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

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

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

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

### Revision or Conversion of Tranches

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

## Interest on overdue sums

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

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

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

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

## Market Disruption Event

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

a Market Disruption Event occurs, the Bank may notify to the Borrower that this clause has come into effect. In such case, the following rules shall apply:

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

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

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

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Repayment

## Normal repayment

### Repayment by instalments

1. The Borrower shall repay each Tranche by instalments on the Repayment Dates specified in the relevant Disbursement Offer in accordance with the terms of the amortisation table delivered pursuant to Article 2.3.
2. Each amortisation table shall be drawn up on the basis that:
   1. in the case of a Fixed Rate Tranche without an Interest Revision/Conversion Date, repayment shall be made quarterly, semi-annually or annually by equal instalments of principal or constant instalments of principal and interest;
   2. in the case of a Fixed Rate Tranche with an Interest Revision/Conversion Date or a Floating Rate Tranche, repayment shall be made by equal quarterly, semi-annual or annual instalments of principal;
   3. first Repayment Date of each Tranche shall be a Payment Date falling not earlier than 30 (thirty) days from the Scheduled Disbursement Date and not later than the first Repayment Date immediately following the 5th (fifth) anniversary of the Scheduled Disbursement Date of the Tranche; and
   4. the last Repayment Date of each Tranche shall be a Payment Date falling not earlier than 4 (four) years and not later than 22 (twenty two) years from the Scheduled Disbursement Date.

## Voluntary prepayment

### Prepayment option

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

1. the Prepayment Amount;
2. the Prepayment Date;
3. if applicable, the choice of application method of the Prepayment Amount in line with Article 5.5.C(a); and
4. the contract number (“FI nr” 89086) mentioned on the cover page of this Contract.

Subject to Article 4.2.C the Prepayment Request shall be irrevocable.

### Prepayment indemnity

#### Fixed rate tranche

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

#### Floating rate tranche

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

#### REVISION/CONVERSION

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

### Prepayment mechanics

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

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

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

### Administrative Fee

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

## Compulsory prepayment

### Prepayment Events

#### Project cost reduction

If the total cost of the Project falls below the figure stated in Recital (a)  so that the amount of the Credit exceeds 50% (fifty per cent) of such total cost of the Project, the Bank may forthwith, by notice to the Borrower, cancel the undisbursed portion of the Credit and/or demand prepayment of the Loan Outstanding up to the amount by which the Credit exceeds 50% (fifty per cent) of the total cost of the Project, together with accrued interest and all other amounts accrued and outstanding under this Contract in relation to the proportion of the Loan Outstanding to be prepaid. The Borrower shall effect payment of the amount demanded on the date specified by the Bank, such date being a date falling not less than 30 (thirty) days from the date of the demand.

#### Pari Passu to non-EIB Financing

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

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

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

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

For the purposes of this Article, “**Non-EIB Financing**” includes any loan (save for the Loan and any other direct loans from the Bank to the Borrower, credit bond or other form of financial indebtedness or any obligation for the payment or repayment of money originally granted to the Borrower for a term of more than 5 (five) years.

#### Change of law

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

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

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

#### Illegality

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

1. perform any of its obligations as contemplated in this Contract, or
2. fund or maintain the Loan,

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

### 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 and Article 4.4, shall be paid on the date indicated by the Bank in its notice of demand.

### Prepayment indemnity

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

## General

### No prejudice to Article 10

This Article 4 shall not prejudice Article 10.

### No reborrowing

A repaid or prepaid amount may not be reborrowed.

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Payments

## Day count convention

Any amount due by way of interest, indemnity or 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:

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

## Time and place of payment

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

## No set-off by the Borrower

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

## Disruption to Payment Systems

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

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

## Application of sums received

### General

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

### Partial payments

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

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

### Allocation of sums related to Tranches

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

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Borrower undertakings and representations

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

A. PROJECT UNDERTAKINGS

## Use of Loan and availability of other funds

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

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

## 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 complete it by the final date specified therein.

## Increased cost of Project

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

## Procurement procedure

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

## Continuing Project undertakings

The Borrower shall:

1. Maintenance: maintain, repair, overhaul and renew all property forming part of the Project as required to keep it in good working order;
2. Project assets: unless the Bank shall have given its prior consent in writing retain title to and possession of all or substantially all the assets comprising the Project or, as appropriate, replace and renew such assets and maintain the Project in substantially continuous operation in accordance with its original purpose; the Bank may withhold its consent only where the proposed action would prejudice the Bank's interests as lender to the Borrower or would render the Project ineligible for financing by the Bank under its Statute or under article 309 of the Treaty on the Functioning of the European Union;
3. Insurance: insure all works and property forming part of the Project with first class insurance companies in accordance with the most comprehensive relevant industry practice;
4. Rights and Permits: maintain in force all rights of way or use and all Authorisations necessary for the execution and operation of the Project;
5. Environment:
   1. implement and operate the Project in compliance with Environmental Law;
   2. obtain and maintain requisite Environmental Approvals for the Project; and
   3. comply with any such Environmental Approvals;
6. Integrity: take, within a reasonable timeframe, appropriate measures in respect of any member of its management bodies who has been convicted by a final and irrevocable court ruling of a Criminal Offence perpetrated in the course of the exercise of his/her professional duties, in order to ensure that such member is excluded from any Borrower’s activity in relation to the Credit, Loan or the Project, and
7. 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:
   1. the requirement that the relevant contractor promptly informs the Bank of a genuine allegation, complaint or information with regard to Criminal Offence related to the Project;
   2. the requirement that the relevant contractor keeps books and records of all financial transactions and expenditures in connection with the Project; and
   3. the Bank’s right, in relation to an alleged Criminal Offence, to review the books and records of the relevant contractor in relation to the Project and to take copies of documents to the extent permitted by law.
8. **State Aid**: implement and operate the Project in conformity with any and all laws of the European Union and the Czech Republic regarding state aid;
9. **No Double Financing**: ensure that the Sub-Projects are not financed under loans provided to the Borrower by the Bank other than the Loan; and
10. **ESI Funds**:
    1. when available, upon the Bank’s request, provide the Bank with a certified copy of an official application of the Borrower or the Borrower’s contributory for the ESI Funds in respect of any Sub-Project and inform the Bank periodically on the progress of the grant application process; and
    2. ensure that all terms and conditions regarding the ESI Funds (whether contractual or statutory) are complied with.
11. Other: comply with the general provisions and other undertakings as specified in Articles A.1.1.4 and A.1.2 of Schedule A respectively.

B. GENERAL UNDERTAKINGS

## Disposal of assets

1. The Borrower shall not either in a single transaction or in a series of transactions whether related or not and whether voluntarily or involuntarily dispose of any part of its assets.
2. Paragraph (a) above does not apply to any disposal of assets for fair market value and at arm's length:
   1. 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 (i) to (iv) below) does not exceed during the life of the Loan, 10% of Borrower’s total fixed net assets in aggregate less the book value of all permitted Security established by the Borrower in accordance with Article 7.1;
   2. made in the ordinary course of trading of the disposing entity; or
   3. made in exchange for other assets comparable or superior as to type, value and quality; or
   4. 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.

For the purposes of this Article, “dispose” and “disposal” includes any act effecting sale, transfer, lease or other disposal.

## Compliance with laws

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

## Financial covenants

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

1. a ratio of no more than 50% of Total Debt to Annual Operating Revenues;
2. a ratio of no more than 15% of Total Debt Service Obligations to Annual Operating Revenues; and
3. a ratio of no less than 150% of Gross Operating Surplus to interest payments.

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

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

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

**“Total Debt”** means the aggregate of the total outstanding financial indebtedness of the Borrower including any guarantee granted by the Borrower in relation to the financial indebtedness of any third party.

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

**“Gross Operating Surplus”** means the aggregate of the Borrower’s Annual Operating Revenues minus the Borrower’s operating expenditures net of interest payments and other similar charges on financial indebtedness.

## Financial projections model

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

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

## General Representations and Warranties

The Borrower represents and warrants to the Bank that:

1. it is validly existing as *“kraj”* 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;
2. it has the power to execute, deliver and perform its obligations under this Contract and all necessary action has been taken to authorise the execution, delivery and performance of the same by it;
3. this Contract constitutes its legally valid, binding and enforceable obligations;
4. the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Contract do not and will not contravene or conflict with:
   1. any applicable law, statute, rule or regulation, or any judgement, decree or permit to which it is subject;
   2. any agreement or other instrument binding upon it which might reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Contract;
5. the latest available consolidated audited accounts of the Borrower have been prepared on a basis consistent with previous years and have been approved by its auditors or the Ministry of Finance of the Czech Republic 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;
6. there has been no Material Adverse Change since 5 June 2018;
7. no event or circumstance which constitutes a Prepayment Event or an Event of Default has occurred and is continuing unremedied or unwaived;
8. 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;
9. it has obtained all necessary Authorisations in connection with this Contract and in order to lawfully comply with its obligations hereunder, and the Project and all such Authorisations are in full force and effect and admissible in evidence;
10. 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;
11. it is in compliance with Article 6.5(e) and to the best of its knowledge and belief (having made due and careful enquiry) no Environmental Claim has been commenced or is threatened against it;
12. it is in compliance with all undertakings under this Article 6;
13. at the date of this Contract, no Security exists over its assets save as listed in Schedule F (Existing Security); and
14. to the best of its knowledge, no funds invested in the Project by the Borrower or by its controlling entities are of illicit origin, including products of money laundering or linked to the financing of terrorism. The Borrower shall promptly inform the Bank if at any time it becomes aware of the illicit origin of any such funds.

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

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Security

## Negative pledge

1. The Borrower shall not create or permit to subsist any Security over any of its assets.
2. 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.
3. Paragraph (a) above does not apply to any Security, listed below:
   1. any Security listed in Schedule F (Existing Security) except to the extent the principal amount secured by that Security exceeds the amount stated in that Schedule;
   2. 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;
   3. 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;

* 1. any security interest or preference arising by operation of law and in the ordinary course of trading;
  2. 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 12 (twelve) months of the date of acquisition of such asset;
  3. any Security entered into pursuant to this Contract;
  4. 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;
  5. any Security securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security other than any permitted under paragraphs (i) to (vii) above) does not exceed the level of 10% of Borrower’s total fixed net assets less the value of all assets disposed by the Borrower in accordance with Article 6.6.

## 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.

## Clauses by inclusion

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

7.4 Cash collateral and substitution with guarantee

7.4.A Alternative Security

If, at any time while the Loan is outstanding, the Borrower is in breach of Article 6.7, then the Bank may request the Borrower to consult it within 15 (fifteen days) from the date of the Bank’s request at the venue specified in the request.

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

(a) shall provide the Bank with a duly issued guarantee (herein the “**Guarantee**”) whereby the guarantor (the “**Guarantor**”) or guarantors (the “**Guarantors**”) unconditionally guarantee the due performance of the Borrower’s financial obligations under this Contract. Any such Guarantor shall be a Qualifying Guarantor; or

(b) shall make, with a bank approved by the Bank, a cash collateral deposit in CZK or EUR, as specified by the Bank in its notice, charged in favour of the Bank on such terms as the Bank may reasonably require, as security for the Borrower’s financial obligations under this Contract; or

(c) shall execute other security offering protection in manner, form and substance acceptable to the Bank.

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

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

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

7.4.B Qualifying Guarantor

For the purpose of this Article 7.4, “**Qualifying Guarantor**” means a bank or other financial institution which satisfies one of the following conditions:

(a) at the time of issue of the guarantee agreement, or, as the case may be, at the time it accedes to the Guarantee, and during the life of the Loan, each credit rating that it holds, in respect of its most recent unsecured and unsubordinated long-term issue on any capital market, is not lower than: BBB+ if the rating is assigned by Standard and Poor's Corporation or its successor; Baa1 if the rating is assigned by Moody's Investors Services Inc. or its successor; and BBB+ if the rating is assigned by Fitch Ratings Limited or its successor; and that such bank or other financial institution is otherwise acceptable to the Bank; or

(b) is accepted by the Bank by notice in writing, with copy to the Borrower, subject to the conditions the Bank may in its discretion deem appropriate, and to the acceptance thereof by the relevant Guarantor and acknowledgement by the Borrower.

7.4.C Substitution of Guarantor

If an event of the nature described in Article 10.1(A)(c) to (i) inclusive occurs to any Guarantor or any rating specified in Article 7.4.B falls below the specified threshold, the Borrower shall replace such Guarantor with a Qualifying Guarantor. If the Borrower fails to demonstrate to the Bank, promptly upon the latter’s request, that it has a reasonable prospect or replacing such Guarantor or if, in any case, the Borrower does not, following demand by the Bank, replace the Guarantor, within 30 days of the date when the said event occurred, the Bank may require the Borrower to prepay immediately all or part of the Loan outstanding, together with all unpaid interest accrued to the date of prepayment on the amount prepaid, as well as an indemnity calculated on the amount to be prepaid in accordance with Article 4.2.B and all other sums accrued payable under this Contract on the amount prepaid.

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Information and Visits

## Information concerning the Project

The Borrower shall:

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

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

1. submit for the approval of the Bank without delay any material change to the Project, also taking into account the disclosures made to the Bank in connection with the Project prior to the signing of this Contract, in respect of, inter alia, the price, design, plans, timetable or to the expenditure programme or financing plan for the Project;
2. promptly inform the Bank of:
   1. any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Borrower or any material Environmental Claim that is to its knowledge commenced, pending or threatened against it with regard to environmental or other matters affecting the Project;
   2. any fact or event known to the Borrower, which may substantially prejudice or affect the conditions of execution or operation of the Project;
   3. a genuine allegation, complaint or information with regard to Criminal Offence related to the Project;
   4. any non-compliance by it with any applicable Environmental Law;
   5. any suspension, revocation or modification of any Environmental Approval;
   6. any situation when the implementation of any Sub-Project allocated according to Article 1.9 is suspended or such Sub-Project is cancelled;
   7. any suspension of payments or infringement procedures initiated by the European Commission related to the implementation of a Sub-Project under this Contract and of initiation of any legal proceedings by the European Commission before the Court of Justice for non-compliance with EU law of any Sub-Project under this Contract;
   8. any material modifications to the Borrower’s development strategies;

and set out the action to be taken with respect to such matters and with respect to point (viii) send to the Bank a copy of the new development strategies and other related documents.

## Information concerning the Borrower

The Borrower shall:

1. deliver to the Bank in the English language or with English translation:
   1. each year as soon as available and in any event within seven months after the end of each financial year, a copy of a summary of the executed consolidated budget statement, consolidated balance sheet and profit and loss account at the end of and for that financial year of the Borrower, and a summary balance sheet and profit and loss account, at the end of and for that financial year, for the Borrower’s contributory organisations; and
   2. at the Bank’s request, a copy of the full version of said annual budget statement;
2. deliver to the Bank in the English language or with English translation, as soon as available and in any event prior to 28 February of the relevant financial year, a copy of the consolidated annual budget for such financial year, as approved by the Borrower’s Assembly or, if not approved, deliver to the Bank, prior to 28 February of the relevant financial year, a copy of a pro-forma annual budget for that financial year and a copy of the approved annual budget prior to 30 June of the relevant financial year;
3. deliver to the Bank in the English language or with English translation no later than 31 October each year, its annual budget projections including capital expenditures and investment plan for each of the following three years;
4. submit (x) with each budget statement delivered under Article 8.2(a) a certificate from the Borrower’s external auditors or the Ministry of Finance of the Czech Republic and (y) with each budget statement delivered under Article 8.2(b) a certificate signed by a person or persons duly authorised to act on behalf of the Borrower declaring compliance by the Borrower with Financial Covenants pursuant to Article 6.8; each such certificate, in a form satisfactory to the Bank, shall include the computations necessary to demonstrate the said compliance;
5. deliver to the Bank, from time to time, such further information on its general financial situation as the Bank may reasonably require;
6. ensure that its accounting records fully reflect the operations relating to the financing, execution and operation of the Project; and
7. inform the Bank immediately of:
   1. any material change in the laws or regulatory environment in the Czech Republic or any material change in the Borrower’s activities, which may affect its ability to complete the Project or service the Loan;
   2. any fact which obliges it to prepay any financial indebtedness or any European Union funding;
   3. any event or decision that constitutes or may result in a Prepayment Event;
   4. any intention on its part to grant any Security over any of its assets in favour of a third party;
   5. any intention on its part to relinquish ownership of any material component of the Project;
   6. any fact or event that is reasonably likely to prevent the substantial fulfilment of any obligation of the Borrower under this Contract;
   7. any Event of Default having occurred or being threatened or anticipated;
   8. unless prohibited by law, any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority, which, to the best of its knowledge and belief, is current, imminent or pending against the Borrower or its controlling entities or members of the Borrower’s management bodies in connection with Criminal Offence related to the Credit, the Loan or the Project;
   9. any measure taken by the Borrower pursuant to Article 6.5(f) of this Contract;
   10. any litigation, arbitration or administrative proceedings or investigation which is current, threatened or pending and which might if adversely determined result in a Material Adverse Change.

## 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 European Union law,

1. to visit the sites, installations and works comprising the Project,
2. to interview representatives of the Borrower, and not obstruct contacts with any other person involved in or affected by the Project; and
3. 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.

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 European Union law.

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Charges and expenses

## Taxes, duties and fees

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

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

## 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.

## Increased costs, indemnity and set-off

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

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Events of Default

## Right to demand repayment

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

### Immediate demand

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

1. if the Borrower does not pay on the due date any amount payable pursuant to this Contract at the place and in the currency in which it is expressed to be payable, unless (i) its failure to pay is caused by an administrative or technical error or a Disruption Event and (ii) payment is made within 3 (three) Business Days of its due date;
2. if any information or document given to the Bank by or on behalf of the Borrower or any representation, warranty or statement made or deemed to be made by the Borrower in or pursuant to this Contract or in connection with the negotiation or performance of this Contract is or proves to have been incorrect, incomplete or misleading in any material respect;
3. if, following any default of the Borrower in relation to any loan, or any obligation arising out of any financial transaction, other than the Loan,
   1. the Borrower is required or is capable of being required or will, following expiry of any applicable contractual grace period, be required or be capable of being required to prepay, discharge, close out or terminate ahead of maturity such other loan or obligation, or
   2. any financial commitment for such other loan or obligation is cancelled or suspended;
4. if the Borrower is unable to pay its debts as they fall due, or suspends its debts, or makes or seeks to make a composition with its creditors;
5. if 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 (faillite), controlled management (gestion contrôlée), suspension of payments (sursis de paiement) arrangement with creditors (concordat préventif de la faillite) and judicial liquidation (liquidation judiciaire) proceedings or any analogous procedure or step is taken under any applicable law in any jurisdiction or an order is made or an effective resolution is passed for the winding up of the Borrower, or if the Borrower takes steps towards a substantial reduction in its 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 any situation similar to any of the above occurs under any applicable law;
6. 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;
7. if the Borrower defaults in the performance of any obligation in respect of any other loan granted by the Bank or financial instrument entered into with the Bank;
8. if the Borrower defaults in the performance of any obligation in respect of any other loan made to it from the resources of the Bank or the European Union;
9. 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;
10. if a Material Adverse Change occurs, as compared with the Borrower’s condition at the date of this Contract; or
11. if it is or becomes unlawful for the Borrower to perform any of its obligations under this Contract or this Contract is not effective in accordance with its terms or is alleged by the Borrower to be ineffective in accordance with its terms.

### Demand after notice to remedy

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

1. if the Borrower fails to comply with any provision of this Contract (other than those referred to in Article 6.7 or Article 10.1.A); or
2. if the Borrower fails to comply in a material respect with Article 6.7;
3. if any fact related to the Borrower or the Project stated in the Recitals materially alters and is not materially restored and if the alteration either prejudices the interests of the Bank as lender to the Borrower or adversely affects the implementation or operation of the Project,

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

## Other rights at law

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

## Indemnity

### Fixed Rate Tranches

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

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

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

### Floating Rate Tranches

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

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

### General

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

## Non-Waiver

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

# 

Law and jurisdiction, miscellaneous.

## 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.

## Jurisdiction

1. 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.
2. The parties agree that the courts of Luxembourg-City are the most appropriate and convenient courts to settle any disputes between them and, accordingly, that they will not argue to the contrary.
3. This Article 11.2 is for the benefit of the Bank only. As a result and notwithstanding Article 11.2(a), it does not prevent the Bank from taking proceedings relating to a dispute (including a dispute relating to the existence, validity or termination hereof or any non-contractual obligation arising out of or in connection with this Deed) in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

## Place of performance

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

## Evidence of sums due

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

## Entire Agreement

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

## Invalidity

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

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

## Amendments

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

## 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.

## Effectiveness of this Contract

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

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

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

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

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

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Final clauses

## Notices

### Form of Notice

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

### Addresses

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

|  |  |
| --- | --- |
| For the Bank | Attention: OPS/CSEE-3 PUB SEC (CZ,HU,SK)  100 boulevard Konrad Adenauer  L-2950 Luxembourg  E-mail address: [contactline-89086@eib.org](mailto:contactline-89086@eib.org) |
| For the Borrower | Attention: Head of Department of Economy  Žerotínovo nám. 3  601 82 Brno  Czech Republic  E-mail address: [eib@kr-jihomoravsky.cz](mailto:eib@kr-jihomoravsky.cz) |

### Notification of communication details

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

## English language

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

## Recitals, Schedules and Annexes

The Recitals and following Schedules form part of this Contract:

|  |  |
| --- | --- |
| Schedule A | Project Specification and Reporting |
| Schedule B | Definition(s) of Relevant Interbank Rate(s) |
| Schedule C | Forms for Borrower |
| Schedule D | Interest Rate Revision and Conversion |
| Schedule E | Certificates to be provided by the Borrower |
| Schedule F | Existing Security |

The following Annexes are attached hereto:

Annex I Resolution of Board of Directors of Borrower and authorisation of signatory

Annex II Agreed form legal opinion

The parties hereto have caused this Contract to be executed in 4 originals in the English language and have respectively caused Miroslav Kapinaj, Legal Counsel and Mgr. Jakub Váňa to initial each page of this Contract on their behalf.

At Brno, this 5 November 2018

At Luxembourg, this 5 November 2018

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Signed for and on behalf of  **EUROPEAN INVESTMENT BANK** | | | The acceptance of this Credit and the execution of this Contract was approved by the Assembly of the South-Moravia Region on 1 November 2018 in its 17th meeting, by Resolution No 1489/17/Z28, in accordance with Section 36 i) of the Act No. 129/2000 Coll., on Regions (regional establishment), as amended.  Signed for and on behalf of  **Jihomoravský kraj (South-Moravia Region)** | | |
| Manuel Dueñas |  | Dirk Ellerkmann | JUDr. Bohumil Šimek |  | Mgr. Ing. Taťána Malá |
| Head of Division |  | Head of Division | hejtman Jihomoravského kraje |  | náměstkyně hejtmana Jihomoravského kraje |

1. 1. Project Specification and Reporting
      * 1. Technical Description (Article 6.2)

**A.1.1 TECHNICAL DESCRIPTION**

**A.1.1.1 Purpose, Location**

The Project, structured as a Framework Loan, comprises the schemes implemented under the investment programme of the Region of South-Moravia that will improve the regional infrastructure, in the sectors of transport, health and social care. South Moravia is a Cohesion Priority Region (less developed) in Czech Republic, allowing for a 90% combined EU and EIB financing of the total project investment cost.

**A.1.1.2 Description**

The proposed operation will mainly concern 15 investment sub-projects with total estimated costs of approximately CZK 1.5bn (EUR 59m) in the social service, transport and health care sectors. Some of the schemes (mainly transport) will be co-financed from the Integrated Regional Operational Programme (ESIF) and from the Region’s own budget[[1]](#footnote-1). The eligible investments are as follows:

|  |  |
| --- | --- |
| **Sector** | **Eligible investments** |
| Transport improvement schemes in the regional roads network | * rehabilitation and/or modernisation of 2nd and 3rd Class regional roads, including networks, engineering structures (bridges, viaducts), improvements, reconstruction, re-paving, widening, intersections, selective extensions and bypasses, safety measures, transport accessibility * construction, rehabilitation and modernisation of the drainage system, realignment and replacement of the curbs, renovation of the sidewalks, the street lights, as well as planting of trees and greenery * road safety investments |
| Health and social care (Public infrastructure)  Public | * schemes aimed at improving the provision of health and social assistance facilities * extensions of existing or construction of new buildings |
| * modernisation, reconstruction or renewal of public buildings, open spaces (e.g. parks, public squares) or other public health and social care-related infrastructure, including safety and flood protection measures |
| Energy efficiency | * thermo-modernisation schemes * the following type of projects are also eligible under the rehabilitation of existing buildings aimed at increasing the energy efficiency (insulation, boiler replacement and rehabilitation of heat transmission and energy management systems) |

**A.1.1.3 Calendar**

The schemes will be implemented in the period 2018-2022.

**A.1.1.4. General provisions**

* The Bank will generally allocate its funds only to eligible schemes which are economically, technically and financially justified and environmentally sound. All schemes must comply with EU environmental, procurement and state aid legislation as well as comply with the principles and standards of the Bank’s Environmental Policy Statement[[2]](#footnote-2).
* The loan amount shall not exceed 50% of the total project investment cost and 100% of the eligible investment cost at the level of the Project (operation).
* The combined EU and EIB financing shall not exceed 90% of the total project investment cost at the level of the Project (operation).
* The project investment cost generally includes (non-exhaustive list) land, studies and engineering, civil works, equipment and installation, non-recoverable VAT, technical and price contingencies.
* The following costs are not eligible for the Bank: VAT and other taxes and duties, land acquisition, purchase of buildings, maintenance, repairs and other operating costs, acquisition of second-hand assets, interest during construction, purchase of licences for the use of non-generated public resources (e.g. telecom licences), patents, brands and trademarks. Purely financial transactions are also not eligible.
* The Bank does not finance works under “routine maintenance” or repairs. The term “routine maintenance” means: localised repairs (less than 150m in continuous length) of pavement and shoulder defects, and regular maintenance of road drainage, side slopes, verges and furniture. (Examples: pothole patching, crack sealing, reshaping side drains, repairing and cleaning culverts and drains, vegetation control, dust control, erosion control, snow and sand removal from travelled ways, repainting pavement strips and markings, repairing or replacing traffic signs, guard-rails, signals, lighting standards, roadside cleaning and the maintenance of rest areas, etc.). In the road budget, financing is normally by means of an annual expenditure; these works cannot be financed by the Bank.
* The eligibility for EIB financing will be checked by the Bank at allocation stage against the above list and the Bank’s standard eligibility criteria.
* The Bank reserves the right to review allocation procedures in view of the development of the Project.

**A.1.1.5 Allocation Procedures**

The EIB loan will be allocated to the eligible schemes in the regional multi-annual investment programmes, satisfying the sectors listed in the technical description with procedures modulated according to the scheme size and in line with the applicable Framework Loan procedures:

a) Eligible schemes with an investment cost below EUR 25m are selected by the Borrower. The choices are subject to ex-post confirmation of eligibility by the Bank’s services. The Borrower shall submit an allocation request in a form required by the Bank (as defined in A.1.1.7).

b) Eligible schemes with a cost between EUR 25m and EUR 50m are submitted ex-ante to the Bank for approval before funding, using a template as defined in A.1.1.8 or a feasibility study. The Bank keeps the right to ask for additional information; partial or in-depth appraisal of the scheme will be undertaken, if deemed necessary.

c) Schemes with a cost above EUR 50m are not eligible under this project.

d) The Borrower shall ensure environmental compliance of the schemes concerned in line with:

* EIA Directive 2014/52/EU, amending 2011/92/EU:
* For schemes requiring an EIA (Annex II screened in or Annex I of EIA Directive):
  + Copy of the Environmental Decision(s) (or equivalent) and Environmental Impact Assessment (EIA) Study with a summary description of the environmental measures adopted (mitigating, compensation, etc.) provided to the EIB upon request.
  + Copy of the corresponding Non-Technical Summary (NTS) or a link to a public version of it on a relevant public entity’s official web site provided to the Bank before the funds are allocated.
* For schemes which fall under Annex II of the EIA Directive and not requiring an EIA:
  + The Borrower shall ensure that a screening procedure taking into account the criteria listed in Annex III of EU EIA Directive was carried out by the environmental competent authority. The screening decision can be common for several schemes. A copy of this decision might be requested by the EIB.
* EU Habitats and Birds Directives (92/43/EEC and 2009/147/EC)
* For schemes with potential or likely significant effects on a Site of Community Importance (SCI) (Natura 2000 or otherwise) and subject to a screening under the EU Habitats and Birds Directives: Form A or its equivalent signed by the competent authority responsible for the monitoring of Natura 2000. This declaration should confirm that the required assessments under the EU Habitats and Birds Directives have been carried out (if necessary), that the scheme will have no significant impact on any protected site and that the appropriate mitigation measures have been identified.
* For schemes with a significant impact, potential or likely, on a SCI, requiring an assessment under Article 6(4) of the Habitats Directive: Form B or its equivalent - signed by the competent authority responsible for monitoring Natura 2000 Sites, together with the justification of overriding public interest as well as the opinion of the European Commission, if applicable.
* These declarations shall be provided to the Bank upon request before the funds are allocated.
* Water Framework Directive (2000/60/EC) (WFD)
* For schemes triggering Art. 4.7 of the WFD, the Borrower has to provide evidence of the compliance with the WFD before the Bank funds are allocated.

f) The Borrower shall store and keep the relevant documents updated, including documents supporting the compliance with the environmental legislation. In case the EIB requires such documentation for any of the schemes included in this operation, the Borrower shall promptly provide all documents requested.

**A.1.1.6 Eligibilities**

**Excluded Sectors:**

* Manufacture and distribution of weapons and ammunition, arms and military equipment;
* Manufacture and distribution of tobacco or alcohol products;
* Waste incineration (including RDF) and processing of hazardous waste;
* Gambling and betting activities;
* Detention facilities e.g. prisons, police stations, schools with custodial functions;
* Sectors and activities with a strong ethical dimension considered to carry significant reputation risk.

**A.1.1.7 Allocation table**

|  |  |  |
| --- | --- | --- |
| **ALLOCATION NO. DATE:** | ***X***  ***DD/MM/YYYY*** |  |
| **Name of EIB Operation:** |  | **0** |
| **Number of EIB Operation:** |  | **0** |
| **Currency: EUR** |  |  |

**ALLOCATION and MONITORING TABLE (FOR ALL SCHEMES INCLUDED IN EIB OPERATION) - individual schemes**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| No. (order) | Sector | Scheme name (brief) | Scheme description (main features, objectives) and location | Reponsible Department/ Implementing body | Implementation dates | | Total cost of the scheme (EUR) | Financing Sources (EUR) | | | EIB Funds Allocated (EUR) | Environmental compliance | | Procurement | Indicator | | **If applicable please specify** | | |
| start mm/yyyy | end mm/yyyy | EU | Region | Other | EIA | Nature conservation (Natura 2000) | Type of tender (thresholds) | Output | Outcome | % of total cost related to climate change adaptation/mitigation | Energy savings in MWh per year | Permanent employment created after project is completed |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) | (11) | (12) | (13) | (14) | (15) | (16) | (17) | (18) | (19) | (20) |
|  | Sectors |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | Sectors |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | Sectors |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | Sectors |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | Sectors |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | Sectors |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | Sectors |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Total | | | | | | |  |  |  |  |  |  | | | | | | | |

**Explanatory notes:**

|  |  |
| --- | --- |
| (1) | No. order |
| (2) | Sector: 1 Urban Infrastructure (urban roads, schools, cultural facilities, etc.), 2 Mobility, 3 Drainage, 4 Other, (Please indicate sector) |
| (3) | Project name |
| (4) | Brief project description of the project (description, justification) and location |
| (5) | Responsible Department for implementation |
| (6),(7) | Please indicate the latest estimated dates for start and completion of the project |
| (8) | Estimated total investment cost paid by the Final Beneficiary (prior deduction of EU ineligible cost) |
| (9)-(11) | Financial Sources (EU grants, Municipal funds and other (National, etc.)) |
| (12) | EIB funds allocated |
| (13) | Please indicate:   1. Subject to EIA: Annex I of the EIA Directive. Please, provide copy of NTS or a link to a public version of it on a relevant public entity’s official web site at allocation or as soon as available. 2. Subject to EIA: Annex II “screened in” of the EIA Directive: Please, provide copy of NTS or a link to a public version of it on a relevant public entity’s official web site at allocation or as soon as available. 3. Sreenned out project: no EIA required. The Financial Intermediary shall ensure that a screening procedure taking into account the criteria listed in Annex III of EU EIA Directive was carried out by the environmental competent authority. The screening decision can be common for several schemes. A copy of this decision might be requested by the EIB. 4. Other |
| (14) | It refers to Natura 2000 or other habitats areas of international or national importance. Please indicate:   1. No significant impact, potential or likely, on a conservation site (Natura 2000 or otherwise). In that case a declaration signed by the Competent Authority Form A - or its equivalent - has to be provided. 2. A significant impact, potential or likely, on a conservation site. In that case Form B - or its equivalent - has to be signed by the Competent Authority and submited to the Bank toguether with the justification of overriding public interest as well as the opinion of the European Commission, if applicable by the Article 6 (4) of the Habitats Directive). 3. Not applicable |
| (15) | Please indicate the tender procedure - “I” International Open Tender, “N” National Open Tender, “Ne” Negotiation procedure, “D” Direct Attribution, “Em” Emergency Procedure and “C” Consultation. |
| (16)-(17) | Sector indicators |



**A.1.1.8 Project fiche**

**PROJECT fiche**(for schemes with total costs between EUR 25M-50M)

**SOUTH-MORAVIA REGIONAL INFRASTRUCTURE**

**2017-1000**

*This fiche could be replaced by any internal document (e.g. application submitted by the final beneficiary) providing the same information.*

|  |  |
| --- | --- |
| Scheme Name: | Scheme Borrower:  Location: |
| Scheme reference number:  Implementing body:  Contact Person:  Contact (e-mail, telephone): | Sector:  Type: new project/ extension/ rehabilitation  Date:  Signature: |

1. **Scheme**
   1. **Background**
   2. **Reasons for undertaking the Project and key objectives**

(Please refer to the strategic plans to which project is integrated)

* 1. **Technical description of the project including relevant key dimensions and capacities**
  2. **Entity(ies) responsible for project design, construction and supervision**
  3. **Investment cost** (total) in CZK

|  |  |
| --- | --- |
| Engineering and supervision | - |
| Land | - |
| Civil works (Building work) | - |
| Equipment | - |
| Miscellaneous | - |
| Technical contingencies | - |
| Price contingencies (…% escalation p.a.), if applicable | - |
|  |  |
| Interest during construction | - |
| **Total** | **-** |

Are the cost estimates before or after procurement?

* + 1. **Financial plan and requested allocation**

|  |  |
| --- | --- |
| **Sources of financing** | **in CZK** |
| EU funds (if applicable) |  |
| Regional budget |  |
| Other (e.g. private) |  |
| **Total** |  |
| of which requested EIB loan |  |

* 1. **Expected expenditure schedule** (in CZK)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **year** | **…** | **…** | **…** | **n** | **Total** |
| **EUR** |  |  |  |  |  |

* 1. **Expected technical/ economical life-span (years)**
  2. **Implementation period (dates: month, year)**

1. Start:
2. Completion:
   1. **Authorisation required to implement/operate the project**Please provide the name(s) of the authority(ties) issuing the relevant permit(s) and whether or not the authorisation(s) has (have) been issued. If permits are not issued, please indicate the expected date.
   2. **Jobs affected by the investment**Number of jobs that will be created, secured or lost as a consequence of the project

|  |  |
| --- | --- |
| 1. during construction: |  |
| 1. post construction (operation and maintenance) – secured: |  |

* 1. **Physical indicators**

Please indicate (quantify) planned physical output/result of the project.

|  |  |  |
| --- | --- | --- |
| **Indicator name and definition** | **Baseline (year)** | **Target value (year)** |
| 1. … |  |  |
|  |  |  |
|  |  |  |

* 1. **Procurement plan**

Number of contracts, their value and types of tender procedures, timetable

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Contracts/lots name | Type of contract: e.g. design, design-build, supply, services | Tender procedure | Start  (publication date) | End  (contract signature date) | Publication reference (OJEU or national journal) | Contract value (EUR) | Company awarded (if available) |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

* 1. **Environmental impacts, social issues and risk**

1. Please explain briefly the effects of the project on the environment
2. Does the Project have any particular environmental risks or benefits/opportunities?
3. Compliance with environmental requirements (local, national, EU) and a summary description of mitigating measures adopted, if any; indicate if a full EIA is required and if the project may have potential effects on a Natura 2000 sites or any other nature conservation site- in the affirmative cases, please provide information on the relevant assessment and administrative decisions for such projects, the Bank services may require further information.

Project documentation to be provided[[3]](#footnote-3):

* EIA Directive 2014/52/EU amending 2011/92/EU:
* For schemes requiring an EIA (Annex II screened in or Annex I of EIA Directive):
  + Copy of the Environmental Decision(s) (or equivalent) and Environmental Impact Assessment (EIA) Study with a summary description of the environmental measures adopted (mitigating, compensation, etc.) provided to the EIB upon request.
  + [Copy of the corresponding Non-Technical Summary (NTS) or a link to a public version of it on a relevant public entity’s official web site provided to the Bank before the funds are allocated.]
* For schemes which fall under Annex II of the EIA Directive and not requiring an EIA:
  + The Borrower shall ensure that a screening procedure taking into account the criteria listed in Annex III of EU EIA Directive was carried out by the environmental competent authority. The screening decision can be common for several schemes. A copy of this decision might be requested by the EIB.
* EU Habitats and Birds Directives (92/43/EEC and 2009/147/EC)
* For schemes with potential or likely significant effects on a Site of Community Importance (SCI) (Natura 2000 or otherwise) and subject to a screening under the EU Habitats and Birds Directives: Form A or its equivalent signed by the competent authority responsible for the monitoring of Natura 2000. This declaration should confirm that the required assessments under the EU Habitats and Birds Directives have been carried out (if necessary), that the scheme will have no significant impact on any protected site and that the appropriate mitigation measures have been identified.
* For schemes with a significant impact, potential or likely, on a SCI, requiring an assessment under Article 6(4) of the Habitats Directive: Form B or its equivalent - signed by the competent authority responsible for monitoring Natura 2000 Sites, together with the justification of overriding public interest as well as the opinion of the European Commission, if applicable.
* These declarations shall be provided to the Bank upon request before the funds are allocated.

1. Does the project have any particular social issues (involuntary economic and/or physical displacement, impacts on vulnerable groups, labour standards, occupational health, safety and security)? Social impacts may be negative (e.g. from compulsory purchase of property) or positive (e.g. from improvement in housing stock, improved access to municipal services, improvement on quality of life, integration of vulnerable groups, etc.)

* Public consultation process and involvement of local communities and most vulnerable groups.
* In case of applicable, please indicate how the resettlement of people has been managed and its impact in terms of affected people and compensation measures.
* How have gender considerations been incorporated into the preparation of the project? Is the project considered to have positive or negative impacts on gender by virtue of its selection, design, implementation or operation?

1. Does the project have any particular biodiversity impacts notably on critical habitats, or priority/key biodiversity areas?
   1. **Operation and maintenance of the facilities:**
2. Organisation in charge of the operation and maintenance of the Scheme:
3. Operating and maintenance costs and available budget for operation and maintenance:
   1. **Climate change risks**
4. Has there been a climate risk and vulnerability undertaken for the project? Please outline main results.
5. How will the design and layout of the infrastructure maximise opportunities for building infrastructure resilience (e.g. water and energy efficiency measures, sustainable urban drainage, flood risk)?
   1. **Economic and financial aspects**
6. Population served by the Scheme, or other pertinent demand analysis. In the case of road scheme actual and forecast traffic flows have to be included.
7. If applicable, a summary of cost-benefit or economic feasibility analysis
8. If applicable, cost recovery mechanism (Will users be required to contribute to the cost of the Scheme? Tariff policy?)
9. **Overall conclusions and recommendations**

Place:

Date:

Borrower:

Responsible person:

**A.1.2 PROJECT RELATED CONDITIONS TO BE FULFILLED, if any**

**Disbursement conditions**

**Before the first disbursement**

* + The first disbursement shall not exceed the amount of 30% of the total loan amount without allocation.

**Before subsequent disbursements**:

* + The Borrower shall submit, in writing, evidence satisfactory to the Bank showing that (i) 80% of all previously disbursed sums have been allocated to eligible schemes or (ii) that 50% of all previously disbursed sums have effectively been paid out towards any expenditure incurred with respect to any allocated scheme.
  + Prior to the disbursement of the last 10% of the loan, all previously disbursed loan sums have to be allocated. For the remaining 10%, the Borrower shall provide a list of schemes, which are expected to be allocated under this amount.

**Undertakings**

* + The loan will be allocated to eligible schemes with procedures modulated according to scheme size in line with the applicable Framework Loan procedures and as indicated in Annex A.1.1. The schemes with a cost equal or above EUR 50m are not financed by this project.
  + The Borrower shall verify the compliance of the schemes with the relevant and applicable rules of the European Union legislation, in particular in the fields of environment, road safety, state aid and public procurement.
  + The Borrower shall not commit any EIB funds against schemes that require an EIA or biodiversity assessment according to EU and national law without, prior to commitment, receiving the consent from the competent authority, and the Non-Technical Summary of the EIA having been made available to the public.
  + The Borrower shall ensure that Road Safety Audits are performed on all road schemes, co-financed by EU grant funds, and on other relevant schemes on a best effort basis in line with the principles of Directive 2008/96/EC, and confirmation shall be provided to the Bank that the audit recommendations have been included in the final design or justification shall be given for alternative measures where recommendations have not been adopted.
  + The Borrower shall ensure, on a best effort basis, that as at date of the Project completion, at least 10% (ten per cent) of the total cost of the Project, financed with the proceeds of the Loan, is dedicated to climate action i.e. concerns energy efficiency and/or renewable energy and/or other eligible mitigation components.
  + The Borrower shall ensure that there is no double-financing of the schemes with other EIB loans with the same Borrower.
  + The Borrower shall promptly inform the Bank: (i) when the implementation of any allocated scheme is suspended or the scheme is cancelled; (ii) of any suspension of payments or infringement procedures initiated by the European Commission related to the implementation of a scheme under this operation and of the initiation of any legal proceedings by the European Commission before the European Court of Justice for non-compliance with EU law of any scheme under this project; (iii) about any material modifications to the region’s development strategies, and send to the Bank a copy of the new strategies and relevant documents.
    - 1. Information Duties under Article 8.1(a)

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

1. Dispatch of information: designation of the person responsible

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

|  |  |  |
| --- | --- | --- |
|  | **Financial Contact** | **Technical Contact** |
| Company | *To be confirmed prior to signature* |  |
| Contact person |  |  |
| Title |  |  |
| Function / Department financial and technical |  |  |
| Address |  |  |
| Phone |  |  |
| 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.

1. Information on specific subjects

The Borrower shall deliver to the Bank the following information at the latest by the deadline indicated below.

|  |  |
| --- | --- |
| **Document / information** | **Deadline** |
|  |  |

1. 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.

|  |  |  |
| --- | --- | --- |
| **Document / information** | **Deadline** | **Frequency of reporting** |
| Project Progress Report, related to the allocated schemes, including:   * *A brief update on the Technical Description, explaining the reasons for significant changes vs. initial scope;* * *Update on the date of completion of each of the main project’s components, explaining reasons for any possible delay;* * *Update on the cost of the project, explaining reasons for any possible cost variations vs. initial budgeted cost;* * *A description of any major issue with impact on the environment;* * *Update on the project’s demand or usage and comments;* * *Any significant issue that has occurred and any significant risk that may affect the project’s operation;* * *Any legal action concerning the project that may be on-going;* * *Non-confidential project-related pictures, if available (links to projects web sites).* | *30 June 2019,*  *30 June 2020,*  *30 June 2021,*  *30 June 2022,*  *30 June 2023.* | *annual* |

1. 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.

|  |  |
| --- | --- |
| **Document / information** | **Date of delivery  to the Bank** |
| Project Completion Report, including:   * *A final Technical Description of the project as completed, explaining the reasons for any significant change compared to the Technical Description in A.1.1;* * *The date of completion of each of the main project’s components, explaining reasons for any possible delay;* * *The final cost of the project, explaining reasons for any possible cost variations vs. initial budgeted cost;* * *Employment effects of the project: person-days required during implementation as well as permanent new jobs created;* * *A description of any major issue with impact on the environment or social impacts;* * *Update on the project’s demand or usage and comments;* * *Any significant issue that has occurred and any significant risk that may affect the project’s operation;* * *Any legal action concerning the project that may be on going.* * *Non-confidential project-related pictures, if available.* * *An update on the following Monitoring Indicators:* * *New or rehabilitated health facilities (number)* * *Length of road built or upgraded (km)* | *31 March 2024* |

|  |  |
| --- | --- |
| **Language of reports** | *English* |



Definition(s) of Relevant Interbank Rates(s)

* + 1. EURIBOR

“EURIBOR” means:

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

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

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

“available” means the rates, for given maturities, that are calculated and published by Global Rate Set Systems Ltd (GRSS), or such other service provider selected by the European Money Markets Institute (EMMI), under the sponsorship of EMMI and EURIBOR ACI, or any successor to that function of EMMI and EURIBOR ACI as determined by the Bank; and

“Screen Rate” means the rate of interest for deposits in EUR for the relevant period as published at 11h00, Brussels time, or at a later time acceptable to the Bank on the day (the “Reset Date”) which falls 2 (two) Relevant Business Days prior to the first day of the relevant period, on Reuters page EURIBOR 01 or its successor page or, failing which, by any other means of publication chosen for this purpose by the Bank.

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

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

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

* + 1. PRIBOR

**“PRIBOR”** means**:**

(a) in respect of a relevant period of less than one month, the Screen Rate (as defined below) for a term of one month;

(b) in respect of a relevant period of one or more months for which a Screen Rate is available, the applicable Screen Rate for a term for the corresponding number of months; and

(c) in respect of a relevant period of more than one month for which a Screen Rate is not available, the rate resulting from a linear interpolation by reference to two Screen Rates, one of which is applicable for a period of 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 11h00, Prague time, or at a later time acceptable to the Bank on the day (the **“Reset Date”**) which falls two Prague Business Days prior to the first day of the relevant period, on Reuters page PRBO 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 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 11h00, 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 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.

* + 1. GENERAL

For the purposes of the foregoing definitions:

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

Forms for Borrower

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

To: Jihomoravský kraj (South-Moravia Region)

From: European Investment Bank

Date:

Subject: Disbursement Offer/Acceptance for the Finance Contract between European Investment Bank and Jihomoravský kraj (South-Moravia Region) dated  (the “Finance Contract”)

Serapis number 2017-1000 FI number 89086

Dear Sirs,

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

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

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

To make the Tranche available subject to the terms and conditions of the Finance Contract, the Bank must receive a Disbursement Acceptance in the form of a copy of this Disbursement Offer duly signed on your behalf, to the following 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 Jihomoravský kraj (South-Moravia Region)

Date:

Account to be credited:

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

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

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

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

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

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

Please transmit information relevant to:

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

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

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

IMPORTANT NOTICE TO THE BORROWER:

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

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



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.

Mechanics of Interest Revision/Conversion

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

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

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

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

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

Effects of Interest Revision/Conversion

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

Prior to the Interest Revision/Conversion Date, the relevant provisions of the Contract and Disbursement 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.

No or Partial Interest Revision/Conversion

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

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

**Schedule E**

Certificates to be provided by the Borrower

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

To: European Investment Bank

From: Jihomoravský kraj (South-Moravia Region)

Date:

Subject: SOUTH-MORAVIA REGIONAL INFRA III Finance Contract between European Investment Bank and Jihomoravský kraj (South-Moravia Region) dated  (the “Finance Contract”)

Serapis number 2017-1000 FI number 89086

Dear Sirs,

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

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

1. no Prepayment Event has occurred and is continuing unremedied or unwaived;
2. we are in compliance with the financial covenants pursuant to Article 6.8 and attached is evidence of such compliance and related calculations;
3. no security of the type prohibited under Article 7.1 has been created or is in existence;
4. 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;
5. no event or circumstance which constitutes or would with the passage of time or giving of notice under the Finance Contract constitute an Event of Default has occurred and is continuing unremedied or unwaived;
6. no litigation, arbitration administrative proceedings or investigation is current or to our knowledge is threatened or pending before any court, arbitral body or agency which has resulted or if adversely determined is reasonably likely to result in a Material Adverse Change, nor is there subsisting against us or any of our subsidiaries any unsatisfied judgement or award;
7. the representations and warranties to be made or repeated by us under Article 6.10 are true in all respects; and
8. no Material Adverse Change has occurred, as compared with the situation at the date of the Finance Contract.

Yours faithfully,

For and on behalf of Jihomoravský kraj (South-Moravia Region)

Date:

E.2 Form of Compliance Certificate

To: European Investment Bank

From: Jihomoravský kraj (South-Moravia Region)

Date:

Subject: SOUTH-MORAVIA REGIONAL INFRA III Finance Contract between European Investment Bank and Jihomoravský kraj (South-Moravia Region) dated  (the “Finance Contract”)

Serapis number 2017-1000 FI number 89086

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:

1. 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];
2. [no asset disposal prohibited under Article [6.6] has taken place] / [insert information regarding asset disposal];
3. [no security of the type prohibited under Article 7.1 has been created or is in existence;]
4. [no event or circumstance which constitutes or would with the passage of time or giving of notice under the Finance Contract constitute an Event of Default has occurred and is continuing unremedied or unwaived. [If this statement cannot be made, this certificate should identify any potential event of default that is continuing and the steps, if any, being taken to remedy it].

Yours faithfully,

For and on behalf of Jihomoravský kraj (South-Moravia Region) / [auditor of the Borrower]

[director] [director]

**Schedule F**

**Existing Security**

* Contributory organisation Leisure time centre Hodonín, creditor DIAMÍR, s.r.o.; value of CZK 1 821 889; immovable property.
* Guarantee for loan of Thermal Pasohlávky a.s. in the amount of CZK 55 000 000, the unpaid amount of the loan as of 31.12.2017 was CZK 42 777 778.
* Guarantee for loan of South Moravia Regional Development Agency in the amount of CZK 3 000 000, the unpaid amount of the loan as of 31. 12. 2017 was CZK 2 500 000.
* Guarantee for loan for European projects of Center of Tourism – South Moravia in the amount of CZK 23 000 000. This loan was not disbursed in 2017.
* Guarantees for loans of Borrower’s contributory organizations:
  + - * 1. Hospital Znojmo investment loan in the amount of CZK 130 000 000, unpaid amount of the loan as of 31.12.2017 was CZK 17 572 865,12, and
        2. Hospital Hustopeče investment loan in the amount of CZK 8 500 000, unpaid amount of the loan as of 31.12.2017 was CZK 4 982 753.

1. 1. Resolution of Assembly of Borrower and authorisation of signatory

**VÝPIS**

**usnesení ze 17. zasedání Zastupitelstva Jihomoravského kraje konaného dne 01.11.2018**

**Bod č. 19**

**Smlouva o financování III mezi Evropskou investiční bankou  
a Jihomoravským krajem**

**Usnesení č. 1489/17/Z28:**

Zastupitelstvo Jihomoravského kraje v souladu s ustanovením § 36 odst. 1 písm. i) zákona č. 129/2000 Sb., o krajích (krajské zřízení), ve znění pozdějších předpisů,

**schvaluje** návrh na uzavření Smlouvy o financování mezi Evropskou investiční bankou a Jihomoravským krajem na financování Projektu regionální infrastruktury Jihomoravského kraje III ve výši 700 mil. Kč dle přílohy č. …. zápisu (příloha č. 1 tohoto materiálu) a čerpání úvěru do výše 700 mil. Kč od Evropské investiční banky za podmínek stanovených návrhem na uzavření Smlouvy o financování mezi Evropskou investiční bankou a Jihomoravským krajem na financování Projektu regionální infrastruktury Jihomoravského kraje III,

**ukládá** hejtmanovi Jihomoravského kraje a náměstkyni hejtmana Jihomoravského kraje, Mgr. Ing. Taťáně Malé, uzavřít Smlouvu o financování mezi Evropskou investiční bankou a Jihomoravským krajem na financování Projektu regionální infrastruktury Jihomoravského kraje III,

**Termín: 21.11.2018**

**ukládá** Krajskému úřadu Jihomoravského kraje zabezpečit podpis právního garanta na každé straně návrhu na uzavření Smlouvy o financování mezi Evropskou investiční bankou a Jihomoravským krajem na financování Projektu regionální infrastruktury Jihomoravského kraje III, a to před uzavřením této smlouvy; přičemž tímto podpisem bude stvrzeno předchozí provedení právní kontroly smlouvy,

**Termín: před uzavřením smlouvy**

**ukládá** Radě Jihomoravského kraje zabezpečit plnění podmínek plynoucích ze Smlouvy o financování mezi Evropskou investiční bankou a Jihomoravským krajem na financování Projektu regionální infrastruktury Jihomoravského kraje III,

**Termín: průběžně po dobu trvání smlouvy**

**ukládá** Radě Jihomoravského kraje rozhodovat o jednotlivých žádostech o čerpání úvěrové linky, na základě kterých Evropská investiční banka připraví jednotlivé nabídky čerpání,

**Termín: průběžně po dobu trvání smlouvy**

**ukládá** Radě Jihomoravského kraje rozhodovat o jednotlivých nabídkách čerpání od Evropské investiční banky,

**Termín: průběžně po dobu trvání smlouvy**

**ukládá** Radě Jihomoravského kraje rozhodovat o žádostech o alokaci, na základě kterých budou uplatněny prostředky z úvěru od Evropské investiční banky na financování akcí prováděných Jihomoravským krajem,

**Termín: průběžně po dobu trvání smlouvy**

**ukládá** Radě Jihomoravského kraje čtvrtletně předkládat Zastupitelstvu Jihomoravského kraje průběžnou informaci o stavu a čerpání úvěru přijatého na základě Smlouvy o financování mezi Evropskou investiční bankou a Jihomoravským krajem na financování Projektu regionální infrastruktury Jihomoravského kraje III,

**Termín: průběžně po dobu trvání smlouvy**

**bere na vědomí** Seznam projektů Jihomoravského kraje s možností financování úvěrem od Evropské investiční banky dle přílohy č. … zápisu (příloha č. 3 tohoto materiálu).

**Hlasování č. 4: 58 – 0 - 0**

JUDr. Bohumil Šimek, v.r.

hejtman

Ověřovatelé zápisu:

Ing. Tomáš Soukal, v.r.

JUDr. Jana Pejchalová, v.r.

Bc. Michal Doležel, v.r.

Ing. Jiří Hlavenka, v.r.

Za správnost vyhotovení: Michaela Kováčová, 2. listopadu 2018.

**Signature Patterns – The Regional Infrastructure Project of the South Moravia Region III financed by the European Investment Bank**

Given Name and Surname signature pattern

function

**JUDr. Bohumil Šimek**  signature

Governor of the South Moravia Region

**Mgr. Ing. Taťána Malá** signature

Deputy Governor of the South Moravia Region

**VÝPIS**

**ZE ZÁPISU**

**o průběhu ustavujícího zasedání Zastupitelstva Jihomoravského kraje,**

**konaného dne 16.11.2016 ve velké zasedací síni sídla Jihomoravského kraje,**

**Žerotínovo nám. 3, Brno**

**Bod č. 3**

**Volba hejtmana**

**Volba č. 1/16/Z1:**

* počet vydaných hlasovacích lístků: 64
* počet odevzdaných platných i neplatných hlasovacích lístků: 64
* počet neodevzdaných hlasovacích lístků: 0
* počet platných hlasů odevzdaných pro kandidáta: 55

Předseda volební komise konstatoval, že hejtmanem Jihomoravského kraje byl zvolen   
JUDr. Bohumil Šimek.

**Hlasování: 53 – 0 - 11**

JUDr. Bohumil Šimek, v.r.

hejtman

Ověřovatelé zápisu:

Ing. Petr Hýbler v. r.

JUDr. Helena Sýkorová v. r.

Mgr. Vladimir Šmerda v. r.

Ing. Petr Kunc v. r.

Mgr. Jan Grolich v. r.

Radomír Pavlíček v. r.

Igor Chlup v. r.

Ing. Jiří Hlavenka v. r.

Za správnost vyhotovení: Michaela Kováčová, odbor kancelář hejtmana KrÚ JMK.

V Brně dne 19. října 2018

**VÝPIS**

**ZE ZÁPISU**

**o průběhu ustavujícího zasedání Zastupitelstva Jihomoravského kraje,**

**konaného dne 16.11.2016 ve velké zasedací síni sídla Jihomoravského kraje,**

**Žerotínovo nám. 3, Brno**

**Bod č. 4**

**Volba náměstků hejtmana**

**Usnesení č. 5/16/Z1:**

Zastupitelstvo Jihomoravského kraje

**stanovuje** počet náměstků hejtmana na 5.

***Hlasování č. 5: 53 – 0 – 11***

**Volba č. 2/16/Z1**

* počet vydaných hlasovacích lístků: 63
* počet odevzdaných platných i neplatných hlasovacích lístků: 63
* počet neodevzdaných hlasovacích lístků: 0
* počet platných hlasů odevzdaných pro kandidáta: 46

Předseda volební komise konstatoval, že náměstkem hejtmana Jihomoravského kraje byl zvolen Bc. Roman Hanák.

**Volba č. 3/16/Z1**

* počet vydaných hlasovacích lístků: 64
* počet odevzdaných platných i neplatných hlasovacích lístků: 64
* počet neodevzdaných hlasovacích lístků: 0
* počet platných hlasů odevzdaných pro kandidáta: 46

Předseda volební komise konstatoval, že náměstkyní hejtmana Jihomoravského kraje byla zvolena Mgr. Ing. Taťána Malá.

**Volba č. 4/16/Z1**

* počet vydaných hlasovacích lístků: 64
* počet odevzdaných platných i neplatných hlasovacích lístků: 64
* počet neodevzdaných hlasovacích lístků: 0
* počet platných hlasů odevzdaných pro kandidáta: 45

Předseda volební komise konstatoval, že náměstkem hejtmana Jihomoravského kraje byl

**Volba č. 5/16/Z1**

* počet vydaných hlasovacích lístků: 64
* počet odevzdaných platných i neplatných hlasovacích lístků: 64
* počet neodevzdaných hlasovacích lístků: 0
* počet platných hlasů odevzdaných pro kandidáta: 40

Předseda volební komise konstatoval, že náměstkem hejtmana Jihomoravského kraje byl zvolen Ing. Jan Vitula.

**Volba č. 6/16/Z1**

* počet vydaných hlasovacích lístků: 64
* počet odevzdaných platných i neplatných hlasovacích lístků: 64
* počet neodevzdaných hlasovacích lístků: 0
* počet platných hlasů odevzdaných pro kandidáta: 48

Předseda volební komise konstatoval, že náměstkem hejtmana Jihomoravského kraje byl zvolen Mgr. Martin Maleček.

JUDr. Bohumil Šimek, v.r.

hejtman

Ověřovatelé zápisu:

Ing. Petr Hýbler v. r.

JUDr. Helena Sýkorová v. r.

Mgr. Vladimir Šmerda v. r.

Ing. Petr Kunc v. r.

Mgr. Jan Grolich v. r.

Radomír Pavlíček v. r.

Igor Chlup v. r.

Ing. Jiří Hlavenka v. r.

Za správnost vyhotovení: Michaela Kováčová, odbor kancelář hejtmana KrÚ JMK.

V Brně dne 19. října 2018

**Form of legal opinion**

European Investment Bank

98-100 Blvd. Konrad Adenauer

L-2950 Luxembourg

Grand Duchy of Luxembourg

To the attention of the Legal Department - Operations

</>, </>

Re: **Finance Contract for South-Moravia Regional Infra III**

Dear Sirs,

I am acting as counsel to Jihomoravský kraj (the “Borrower”) in connection with the finance contract (the “Finance Contract”) for South-Moravia Regional Infra III in an amount of EUR </>, made on </> between the European Investment Bank (the “Bank”) and the Borrower. I am giving this opinion pursuant to Article 1.4.B of the Finance Contract. All terms used herein and not otherwise defined shall have the same meaning as in the Finance Contract.

I have examined an original of the Finance Contract and such laws, documents and other matters as I have deemed necessary or appropriate for the purposes of giving this opinion.

This opinion is confined to matters of Czech law and no opinion is expressed as to the laws of any other jurisdiction.

Subject to the foregoing, I am of the opinion that:

1. The Borrower is a *</>* validly existing under the laws of the Czech Republic and has full powers to own the properties which it owns and to carry out the business which it carries out.

2. The Borrower has the corporate power to enter into and perform the Finance Contract.

3. Pursuant to </>, the </> is the competent organ to authorize the Borrower to enter into the Finance Contract and such organ has authorized the execution of the Finance Contract.

4. The Finance Contract has been duly executed and delivered on behalf of the Borrower by </>, </> by virtue of the powers given to them by </>.

5. The entry into the Finance Contract and the compliance with its terms:

(i) will not result in violation of the Borrower’s constitutional documents or any provision contained in any law applicable to the Borrower;

(ii) will not conflict with or result in the breach of any provision of, or require any consent under, or result in the imposition of any Security (as defined in the Finance Contract) under, any agreement or instrument to which the Borrower is a party or by which the Borrower or any of its assets is bound; and

(iii) will not constitute a default or an event that, with the giving of notice or the passing or time or both, would constitute a default under any such agreement or instrument.

6. No provision exists in the Czech Republic which would make it necessary that the Finance Contract be filed, recorded or enrolled with any court or authority in order to ensure its legality, validity or enforceability (except for the registration in the registry of contracts (in Czech: *registr smluv*)).

7. The Finance Contract constitutes a direct, unconditional obligation of the Borrower which ranks in priority of payment at least *pari passu* with all other present and future indebtedness of the Borrower other than indebtedness mandatorily preferred by law.

8. To the best of my knowledge after due inquiry:

(i) the Borrower is not in violation of any present statute, regulation, judgment or order applicable to it in the Czech Republic;

(ii) no statute or regulation has been proposed and no judgment or order is expected which may have any materially adverse effect on the Borrower’s business prospects or financial condition;

(iii) the Borrower is not engaged in, or threatened by, any litigation, arbitration or administrative proceeding the outcome of which may materially and adversely affect its business prospects or financial condition;

(iv) the Borrower is not in default under any material agreement, obligation or duty to which it is a party or by which it or any of its properties or assets is bound; and

(v) there exists no event of default (as set out in Article 10.1 of the Finance Contract) and no event which, with the giving of notice, the passage of time or the making of any determination, or any combination thereof, could become such an event of default.

9. The choice of Luxembourg law as the law governing the Finance Contract is valid and enforceable.

10. Pursuant to Article 11.2 of the Finance Contract, the Courts of the District of Luxembourg City shall have jurisdiction in connection with any claim or dispute between the Borrower and the Bank, and any judgment of such courts pertaining to the Finance Contract can be enforced in the Czech Republic in accordance with the Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters.

11. No taxes, duties, fees or other charges, including, without limitation, any registration or transfer tax, stamp duty or similar levy, imposed by the Czech Republic or any political subdivision or taxing authority thereof or therein are payable in connection with the execution and delivery of the Finance Contract, nor in connection with any payment to be made by the Borrower to the Bank pursuant to the same Finance Contract.

12. All exchange control consents which may be necessary pursuant to the laws of the Czech Republic to receive disbursements, to repay the same and to pay interest and all other amounts due under the Finance Contract are in full force and effect.

Based on the foregoing, I am of the opinion that all requirements currently applicable to the Borrower and governing the Finance Contract in relation to the laws of the Czech Republic have been complied with and that the Finance Contract constitutes legally valid and binding obligations of the Borrower enforceable in the Czech Republic in accordance with their terms.

Yours faithfully,

1. ESIF does not allow for building close institutions in social care sector (de-institutionalisation principles must be applied). [↑](#footnote-ref-1)
2. <http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf> [↑](#footnote-ref-2)
3. Documentation requirements for the medium-sized scheme should be aligned to the general requirements defined for the project in Step 1 appraisal. [↑](#footnote-ref-3)