ПРЕДЛОГ ЗАКОНА

О ПОТВРЂИВАЊУ УГОВОРА О КРЕДИТНОМ АРАНЖМАНУ У ИЗНОСУ ДО 203.775.000 ЕВРА ОСИГУРАНОГ КОД CHINA EXPORT & CREDIT INSURANCE CORPORATION ЗА ФИНАНСИРАЊЕ ПРВЕ ФАЗЕ ПРОЈЕКТА САКУПЉАЊА И ПРЕЧИШЋАВАЊА ОТПАДНИХ ВОДА ЦЕНТРАЛНОГ КАНАЛИЗАЦИОНОГ СИСТЕМА ГРАДА БЕОГРАДА ИЗМЕЂУ РЕПУБЛИКЕ СРБИЈЕ, КОЈУ ЗАСТУПА ВЛАДА РЕПУБЛИКЕ СРБИЈЕ, ПОСТУПАЈУЋИ ПРЕКО МИНИСТАРСТВА ФИНАНСИЈА, КАО ЗАЈМОПРИМЦА, BNP PARIBAS SA И UNICREDIT BANK AG, КАО АРАНЖЕРА, UNICREDIT BANK AG, BNP PARIBAS FORTIS SA/NV И BNP PARIBAS SA, КАО ПРВОБИТНИХ ЗАЈМОДАВАЦА, UNICREDIT BANK AG, КАО АГЕНТА И BNP PARIBAS SA, КАО ECA АГЕНТА

Члан 1.

Потврђује се Уговор о кредитном аранжману у износу до 203.775.000 евра осигураног код China Export & Credit Insurance Corporation за финансирање прве фазе Пројекта сакупљања и пречишћавања отпадних вода централног канализационог система града Београда између Републике Србије, коју заступа Влада Републике Србије, поступајући преко Министарства финансија, као Зајмопримца, BNP PARIBAS SA и UNICREDIT BANK AG, као Аранжера, UNICREDIT BANK AG, BNP PARIBAS FORTIS SA/NV и BNP PARIBAS SA, као Првобитних зајмодаваца, UNICREDIT BANK AG, као Агента и BNP PARIBAS SA, као ECA Агента, који је потписан у Београду, Минхену, Паризу и Бриселу 14. јануара 2022. године, у оригиналу на енглеском језику.

Члан 2.

Текст Уговора о кредитном аранжману у износу до 203.775.000 евра осигураног код China Export & Credit Insurance Corporation за финансирање прве фазе Пројекта сакупљања и пречишћавања отпадних вода централног канализационог система града Београда између Републике Србије, коју заступа Влада Републике Србије, поступајући преко Министарства финансија, као Зајмопримца, BNP PARIBAS SA и UNICREDIT BANK AG, као Аранжера, UNICREDIT BANK AG, BNP PARIBAS FORTIS SA/NV и BNP PARIBAS SA, као Првобитних зајмодаваца, UNICREDIT BANK AG, као Агента и BNP PARIBAS SA, као ECA Агента, у оригиналу на енглеском језику и у преводу на српски језик гласи:

|  |
| --- |
| Dated January 14, 2022 |
| 1. **REPUBLIC OF SERBIA**, represented by the Government of the Republic of Serbia acting by and through the Ministry of Finance as Borrower 2. **BNP PARIBAS SA** and **UNICREDIT BANK AG** as Arrangers 3. **UNICREDIT BANK AG, BNP PARIBAS FORTIS SA/NV, and BNP PARIBAS SA** as Original Lenders 4. **UNICREDIT BANK AG** as Agent 5. **BNP PARIBAS SA** as ECA Agent |
| FACILITY AGREEMENT  China Export & Credit Insurance Corporation insured facility of up to EUR 203,775,000 to finance the Phase 1 of the Project for the Treatment and Disposal of Urban Waste Water from the Central Area in Belgrade |
|  |

1. [1. Definitions 1](#_Toc88400809)
2. [2. Effectiveness 26](#_Toc88400810)
3. [3. The Facility 27](#_Toc88400811)
4. [4. Purpose 30](#_Toc88400812)
5. [5. Conditions of Utilisation 30](#_Toc88400813)
6. [6. Utilisation 33](#_Toc88400814)
7. [7. Repayment 35](#_Toc88400815)
8. [8. Prepayment and Cancellation 35](#_Toc88400816)
9. [9. Interest 40](#_Toc88400817)
10. [10. Interest periods 41](#_Toc88400818)
11. [11. Changes to the calculation of interest 41](#_Toc88400819)
12. [12. Fees and Sinosure Premium 44](#_Toc88400820)
13. [13. Tax gross up and indemnities 46](#_Toc88400821)
14. [14. Increased costs 50](#_Toc88400822)
15. [15. Other indemnities 52](#_Toc88400823)
16. [16. Mitigation by the Lenders 53](#_Toc88400824)
17. [17. Costs and expenses 54](#_Toc88400825)
18. [18. Representations 55](#_Toc88400826)
19. [19. Information undertakings 64](#_Toc88400827)
20. [20. General undertakings 69](#_Toc88400828)
21. [21. Events of default 79](#_Toc88400829)
22. [22. Subrogation 82](#_Toc88400830)
23. [23. Changes to the Lenders 83](#_Toc88400831)
24. [24. Changes to the Borrower 89](#_Toc88400832)
25. [25. Role of the Agent and the Arrangers 90](#_Toc88400833)
26. [26. Role of the ECA Agent 102](#_Toc88400834)
27. [27. Conduct of business by the Finance Parties 114](#_Toc88400835)
28. [28. Sharing among the Finance Parties 114](#_Toc88400836)
29. [29. Payment mechanics 117](#_Toc88400837)
30. [30. Set-off 121](#_Toc88400838)
31. [31. Notices 121](#_Toc88400839)
32. [32. Calculations and certificates 124](#_Toc88400840)
33. [33. Partial invalidity 124](#_Toc88400841)
34. [34. Remedies and waivers 125](#_Toc88400842)
35. [35. Amendments and waivers 125](#_Toc88400843)
36. [36. Confidential information 127](#_Toc88400844)
37. [37. Confidentiality of funding rates 132](#_Toc88400845)
38. [38. Counterparts 134](#_Toc88400846)
39. [39. Governing language 134](#_Toc88400847)
40. [40. Contractual Recognition of Bail-in 134](#_Toc88400848)
41. [41. Governing law 137](#_Toc88400849)
42. [42. Arbitration 137](#_Toc88400850)
43. [43. Jurisdiction 138](#_Toc88400851)
44. [44. Waiver of immunity 139](#_Toc88400852)

Schedules

* + 1. The Original Lenders 140
    2. Conditions Precedent 141
    3. Form of Utilisation Request 146
    4. Form of Contractor Certificate 148
    5. Form of Transfer Certificate 151
    6. Form of Assignment Agreement 153
    7. Timetables 156

**THIS AGREEMENT** is dated January 14, 2022 and made between:

1. **REPUBLIC OF SERBIA**,represented by the Government of the Republic of Serbia, acting by and through the Ministry of Finance**,** as borrower (the **"Borrower"**);
2. **BNP PARIBAS SA** and **UNICREDIT BANK AG** as mandated lead arrangers (whether acting individually or together, the **"Arrangers"**);
3. **UNICREDIT BANK AG, BNP PARIBAS FORTIS SA/NV, and BNP PARIBAS SA** as lenders (the **"Original Lenders"**);
4. **UNICREDIT BANK AG** as agent of the other Finance Parties (the **"Agent"**); and
5. **BNP PARIBAS SA** as agent of the Lenders in respect of the Sinosure Policy (the **"ECA Agent"**).

**IT IS AGREED that:**

**SECTION 1  
INTERPRETATION**

1. Definitions
   1. Definitions

In this Agreement:

1. **"Affiliate"** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.
2. **"Anti-Corruption Laws"** means the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977, the French Law No. 2016-1691 (Sapin II) and any similar laws or regulations in any jurisdiction relating to bribery, corruption or any similar practices.
3. **"****Anti-Money Laundering Laws"** means any applicable laws or regulations in any jurisdiction that relate to money laundering, counter-terrorism, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.
4. **"Applicable Law"** means:
   1. any law, statute, decree, constitution, regulation, rule, by-law, order, authorisation, judgment, injunction or other directive of any Government Entity or otherwise which is applicable in the Republic of Serbia;
   2. any treaty, pact or other binding agreement to which any Government Entity is a signatory or party; or
   3. any judicial or administrative interpretation with binding characteristics or application of those described in paragraph (a) or (b) above,
5. and in each case, which is applicable to the Borrower, the Borrower's assets or the Transaction Documents.
6. **"Assignment Agreement"** means an agreement substantially in the form set out in Schedule 6 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.
7. **"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.
8. **"Authorities"** means:
   1. any legislative, administrative or other governmental agency, department, commission, board, bureau or any other regulatory authority or, instrumentality thereof and any governmental authorities of China involved in the setting up of the terms, conditions and insurance of export credits, including inter alia, such entities to whom authority in respect of extension or administration of export financing matters have been delegated; or
   2. Sinosure.
9. **"Availability Period"** means the period from and including the Effective Date to and including the earlier of:
   1. 31 December 2022 (unless the CP Satisfaction Date has occurred on or prior to that date, in which case this paragraph (a) shall not apply);
   2. the Completion Date; and
   3. the date falling 60 Months after the latest to occur of:
      1. the Effective Date; and
      2. the CP Satisfaction Date.
10. **"Available Commitment"** means a Lender's Commitment minus:
    1. the amount of its participation in any outstanding Loans; and
    2. in relation to any proposed Utilisation, the amount of its participation in any Loans that are due to be made on or before the proposed Utilisation Date.
11. **"Available Facility"** means the aggregate for the time being of each Lender's Available Commitment.
12. **"Blocking Law"** means Council Regulation (EC) 2271/96 and section 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*).
13. **"Borrower Authorised Signatory"** means any person:
    1. authorised to execute any document to be delivered pursuant to or in connection with this Agreement on the Borrower's behalf; and
    2. in respect of whom the Agent has received evidence satisfactory to it of such authority and a specimen signature.
14. **"Break Costs"** means the amount (if any) by which:
    1. the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

* 1. the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

1. **"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in Beijing, Belgrade, Brussels, Hong Kong, Munich and Paris and (in relation to any date for payment or purchase of euro) a day which is a TARGET Day.
2. **"China"** means the People's Republic of China (excluding, for purposes of this Agreement only, Macao and Taiwan).

**"Code"** means the US Internal Revenue Code of 1986.

1. **"Commitment"** means:
   1. in relation to an Original Lender, the amount set opposite its name under the heading "Commitment (EUR)" in Schedule 1 (*The Original Lenders*) and the amount of any other Commitment transferred to it under this Agreement; and
   2. in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

1. **"Commitment Fee"** has the meaning given to that term in Clause 12.1 (*Commitment fee*).
2. **"Completion Date"** means the date the Taking-Over Certificate is issued in accordance with the EPC Contract.
3. **"Confidential Information"** means all information relating to the Borrower, the Transaction Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either:
   1. the Borrower or any of its advisers; or
   2. another Finance Party, if the information was obtained by that Finance Party directly or indirectly from the Borrower or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

* + 1. information that:
       1. is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 36 (*Confidential information*); or
       2. is identified in writing at the time of delivery as non-confidential by the Borrower, its government agencies or any of their advisers; or
       3. is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Borrower, its government agencies or any of their advisers and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
    2. any Funding Rate.

1. **"Confidentiality Undertaking"** means a confidentiality undertaking substantially in a recommended LMA form for secondary trading of loans or in any other form agreed between the Borrower and the Agent.
2. **"Contractor"** means China Machinery Engineering Corporation (中国机械设备工程股份有限公司), a company incorporated and existing under the laws of the PRC with unified social credit number 91110000100000710J, having its registered address at 178 Guanganmenwai Street, Xicheng District, Beijing, China.
3. **"Contractor Account"** means any account designated in writing as such by the Agent and a Contractor Authorised Signatory for and on behalf of the Contractor.
4. **"Corrective Action Plan"** means a plan prepared by the Borrower in consultation with and taking into account the comments of the Agent (acting on the instructions of the Majority Lenders), and the Environmental and Social Consultant (while recognising that the Borrower shall bear sole responsibility for the finalised plan), which sets out the measures to remove, remedy, abate, contain, treat, ameliorate or otherwise render compliant any matter, and which specifies time bound actions, targets and success criteria or objectives to be achieved in remedying the relevant matter.
5. **"Contractor Authorised Signatory"** means any person:
   1. authorised to execute any document to be delivered pursuant to or in connection with this Agreement on the Contractor's behalf; and
   2. in respect of whom the Agent has received evidence satisfactory to it of such authority and a specimen signature.
6. **"Contractor Certificate"** means a certificate substantially in the form set out in (iii) 4 (*Form of Contractor Certificate*).
7. **"CP Satisfaction Date"** means the date on which the Agent notifies the Borrower and each Lender that it has received all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to it, other than any such documents or other evidence which each Lender has waived, pursuant to Clause 5.1 (*Initial conditions precedent*).
8. **"Default"** means an Event of Default or any event or circumstance specified in Clause 21 (*Events of default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.
9. **"Deferred Sinosure Premium"** has the meaning given to it in Clause 12.5(a)(ii) (*Sinosure Premium*).
10. **"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 the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; 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 a Party preventing that, or any other Party:
       1. from performing its payment obligations under the Finance Documents; or
       2. from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

1. **"Down Payment"** means in the context of a proposed Loan to pay a portion of an invoice under the EPC Contract an aggregate amount that is equal to or more than 25 per cent. of that invoiced amount being paid to the Contractor by or on behalf of the Borrower using funds other than those made available under the Facility.
2. **"Effective Date"** means the date notified by the Agent to the Borrower as the "Effective Date", being the date upon which all of the conditions precedent listed in paragraph (a) of Clause 2.1 (*Effective Date*) have been met to the satisfaction of the Agent (acting on the instructions of all the Lenders).
3. **"EIAS Consent"** means the consent on the environmental impact assessment study as prescribed under the Law on Environmental Impact Assessment (*Zakon o proceni uticaja na životnu sredinu*, Official Gazette of the Republic of Serbia, no.135/2004 and 36/2009).
4. **"Employer"** means The Republic of Serbia, represented by the Government of the Republic of Serbia, acting by and through the Ministry of Construction, Transport and Infrastructure.
5. **"Employer Authorised Signatory"** means any person:
   1. authorised to execute any document to be delivered pursuant to or in connection with this Agreement on the Employer's behalf; and
   2. in respect of whom the Agent has received evidence satisfactory to it of such authority and a specimen signature.
6. **"Environment"** means humans, animals, plants and all other living organisms, including the ecological systems of which they form part and the following media:
   1. air (including, without limitation, air within natural or man-made structures, whether above or below ground);
   2. water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers);
   3. land and soil (including, without limitation, land under water);
   4. cultural heritage or archaeological artefacts and the build environment; and
   5. human health, labour workers’ rights, or human rights.
7. **"Environmental Claim"** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.
8. **"Environmental and Social Action Plan (ESAP)"** means the plan of environmental and social mitigation and improvement measures outlining the gaps and setting out the actions to be undertaken by the Borrower, after agreement with the Environmental and Social Consultant, the Agent and all the Lenders, in order to ensure that it, and the Project, are in compliance with the Environmental and Social Requirements to be provided pursuant to Clause 5.1 (*Initial conditions precedent*).
9. **"Environmental and Social Consultant"** means ERM Environmental Resources Management SRL or any other independent environmental and/or social expert appointed by the Lenders (at the cost of the Borrower or the Employer) and which advises and submits reports in relation to compliance with the Environmental and Social Requirements.
10. **"Environmental and Social Due Diligence (ESDD) Report"** means a report prepared by the Environmental and Social Consultant in form and substance satisfactory to the Lenders.
11. **"Environmental and Social Impact Assessment (ESIA)"** means the documents prepared by or on behalf of the Borrower in accordance with the Environmental and Social Requirements, as may be amended or supplemented from time to time by the Borrower in a form and substance satisfactory to all the Lenders, to be provided pursuant to Clause 5.1 (*Initial conditions precedent*).

**"Environmental and Social Monitoring Report"** means a periodic audit report from the Environmental and Social Consultant, provided in a form satisfactory to the Agent (acting on the instructions of the Majority Lenders) and, on the compliance of the Project with the Environmental and Social Requirements, remitted as often as the Majority Lenders agree with the Environmental and Social Consultant.

**"Environmental and Social Requirements"** means all requirements, conditions, standards, protection, obligations or performance required by:

1. (a) any Environmental Law;
2. (b) the Environmental and Social Standards; and
3. (c) the Environmental and Social Action Plan (ESAP).
4. **"Environmental and Social Standards"** applicable to the Projectmeans the Equator Principles, the IFC Performance Standards on Environmental and Social Sustainability, and the World Bank Group Environmental, Health and Safety (EHS) General Guideline, sector EHS Guidelines and EU Directives applicable to the Project.
5. **"Environmental Law"** means any applicable law or regulation which relates to:
   1. the pollution or protection of the Environment;
   2. the conditions of the workplace; or
   3. the generation, handling, storage, use, release or spillage of any substance (including any waste) which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.
6. **"Environmental Permits"** means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business or activities of the Borrower or the Employer.

**"EPC Contract"** means the contract for the treatment and disposal of urban waste water from the central area in Belgrade originally dated 20 January 2020 between the Employer, the Investor and the Contractor.

1. **"EPC Contract Value"** means the aggregate amount payable by the Employer and the Investor to the Contractor under the EPC Contract, being EUR 271,700,000.
2. **"Equator Principles"** means the principles entitled "Equator Principles - financial industry benchmark for determining, assessing and managing environmental and social risk in projects", published in July 2020, adopted by certain financial institutions available at the date hereof at the following address: https://equator-principles.com/wp-content/uploads/2020/01/The-Equator-Principles-July-2020.pdf.
3. **"EURIBOR"** means, in relation to any Loan:
   1. the applicable Screen Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan; or
   2. as otherwise determined pursuant to Clause 11.2 (*Unavailability of Screen Rate*),

and if, in either case, that rate is less than zero, EURIBOR shall be deemed to be zero.

1. **"Event of Default"** means any event or circumstance specified as such in Clause 21 (*Events of default*).

**"Excluded Assets"** has the meaning given to it in Clause 18.20 (*No immunity*).

1. **"External Financial Indebtedness"** means:
   1. all Financial Indebtedness expressed or denominated or payable (or which, at the option of the relevant creditor may be payable) in any currency other than the lawful currency of the Republic of Serbia from time to time; or
   2. all Financial Indebtedness which is or may become payable to a person which is resident outside the Republic of Serbia or has its registered office or principal place of business outside the Republic of Serbia.
2. **"Facility"** means the term loan facility made available under this Agreement as described in Clause 3 (*The Facility*).
3. **"Facility Currency"** means EUR.
4. **"Facility Office"** means:
   1. the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement; and
   2. in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.
5. **"FATCA**" means:
   1. sections 1471 to 1474 of the Code or any associated regulations;
   2. any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
   3. any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.
6. **"FATCA Application Date"** means:
   1. in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or
   2. in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.
7. **"FATCA Deduction"** means a deduction or withholding from a payment under a Finance Document required by FATCA.
8. **"FATCA Exempt Party"** means a Party that is entitled to receive payments free from any FATCA Deduction.
9. **"Fee Letter"** means any letter or letters dated on or about the date of this Agreement between the Agent and the Borrower, the ECA Agent and the Borrower and/or the Arrangers and the Borrower, in each case setting out any of the fees referred to in Clause 12 (*Fees and Sinosure Premium*).
10. **"Final Maturity Date"** means the date which is 120 Months after the expiry of the Availability Period.
11. **"Finance Document"** means this Agreement, any Fee Letter, any Utilisation Request and any other document designated as such by the Agent and the Borrower.
12. **"Finance Party"** means the Agent, the Arrangers, the ECA Agent or a Lender.
13. **"Financial Indebtedness"** means any indebtedness for or in respect of:
    1. moneys borrowed;
    2. any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
    3. any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
    4. the amount of any liability in respect of any lease or hire purchase contract which would be treated as a balance sheet liability;
    5. receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
    6. any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
    7. any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
    8. any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; or
    9. the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.
14. **"First Repayment Date"** means the date falling six Months after the earliest to occur of (a) the Completion Date, (b) the expiry of the Availability Period and (c) 30 June 2027.
15. **"Funding Rate"** means any individual rate notified by a Lender to the Agent pursuant to Clause 11.4(a)(ii) (*Cost of funds*).
16. **"Government"** means the Government of the Republic of Serbia.
17. **"Government Entity"** means:
    1. any national government or political subdivision of a national government;
    2. any banking or monetary authority of a national government or of a political subdivision of a national government;
    3. any local jurisdiction of a national government or of a political subdivision of a national government;
    4. the European Central Bank or the Council of Ministers of the European Union;
    5. any instrumentality, commission, board commission, authority, department, division, organ, court or agency of any of the foregoing, however constituted;
    6. any other entity, body or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to a national government or political subdivision of a national government, however constituted; or
    7. any association, organisation or institution of which any of the entities listed in the preceding paragraphs is a member (including, without limitation, any supranational body) or to whose jurisdiction any of them is subject or in whose activities any of them is a participant.
18. **"Holding Company"** means, in relation to a person, any other person in respect of which it is a Subsidiary.
19. **"IBRD"** means the International Bank for Reconstruction and Development.
20. **"IFC Performance Standards on Environmental and Social Sustainability"** means the World Bank Group Performance Standards on Environmental and Social Sustainability effective from 1 January 2012, as the same shall be amended from time to time.
21. **"IMF"** means the International Monetary Fund.

**"Impaired ECA Agent"** means the ECA Agent at any time when it has, in the opinion of the Majority Lenders (acting reasonably), failed to deliver (a) to Sinosure any notice which the Agent (on behalf of the Majority Lenders) has requested it to deliver to Sinosure or (b) to the Agent any information provided by Sinosure to the ECA Agent in relation to the Sinosure Policy or the Finance Documents, in each case within a reasonable period of time following receipt of such request or information by the ECA Agent.

1. **"Interest Period"** means, in relation to a Loan, each period determined in accordance with Clause 10 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 9.3 (*Default interest*).
2. **"Interpolated Screen Rate"** means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:
   1. the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
   2. the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time for the Facility Currency.

1. **"Investor"** means the City of Belgrade, represented by PUC Belgrade Water and Sewerage.
2. **"Lender"** means:
   1. any Original Lender; and
   2. any bank, financial institution, trust, fund or other entity which has become a Party as a "Lender" in accordance with Clause 23 (*Changes to the Lenders*),

which, in each case, has not ceased to be a Party as such in accordance with the terms of this Agreement.

1. **"LMA"** means the Loan Market Association.
2. **"Loan"** means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.
3. **"Majority Lenders"** means a Lender or Lenders whose Commitments aggregate more than 662/3 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 662/3 per cent. of the Total Commitments immediately prior to the reduction).
4. **"Margin"** means 1.75 per cent. per annum.
5. **"Material Adverse Effect"** means, in the reasonable opinion of the Majority Lenders, a material adverse effect on:
   1. the properties, assets or financial or economic condition of the Borrower, the Employer or the Investor;
   2. the ability of the Borrower, the Employer or the Investor to perform any of its obligations under the Transaction Documents;
   3. the validity or enforceability of any Transaction Document or the Sinosure Policy or the rights or remedies of any Finance Party under any of the Finance Documents or the Sinosure Policy;
   4. the political, economic, financial, commercial, legal or fiscal environment in the Republic of Serbia or of the Project which, in each case, may have a material adverse effect on the ability of the Borrower to perform its payment or other obligations under the Finance Documents or the ability of the Employer or the Investor to perform its material obligations under the EPC Contract; or
   5. the domestic or international money or capital markets affecting facilities of this type which, in each case, may have a material adverse effect on the ability of the Borrower to perform its payment or other obligations under the Finance Documents or the ability of the Employer or the Investor to perform its material obligations under the EPC Contract.

**"Material EPC Contract Change"** means any:

* 1. assignment, novation or other disposal of any rights and/or obligations under the EPC Contract; or
  2. amendment, acquiescence, departure from or waiver of the terms of the EPC Contract which:
     1. on its own, or when aggregated with any previous amendments, acquiescences, departures from or waivers of any term of the EPC Contract, increases or decreases the amount payable by the Borrower and/or the Employer under the EPC Contract (in aggregate) by more than ten per cent.; or
     2. involves material change in nature of the supply made under the EPC Contract.

1. **"MOF"** means the Ministry of Finance of the PRC (including its successors) or, as applicable, its authorised local branch.
2. **"MOFCOM"** means the Ministry of Commerce of China (including its successors) or, as applicable, its authorised local branch.
3. **"Month"** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
   1. (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end, if there is one, or if there is not, on the immediately preceding Business Day;
   2. if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
   3. if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

**"NBS"** means the National Bank of Serbia (*Narodna banka Srbije*).

**"New Lender"** has the meaning given to that term in Clause 23 (*Changes to the Lenders*).

1. **"OFAC"** means the Department of the Treasury's Office of Foreign Assets Control of the United States of America.
2. **"Participating Member State"** means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.
3. **"Party"** means a party to this Agreement.
4. **"Premium Payment Ratio"** has the meaning given to that term in Clause 5.2(f)(ii) (*Further conditions precedent*).
5. **"Project"** has the meaning given to such term in the EPC Contract as at the date of this Agreement.
6. **"Public Assets"** means the whole or any part of present or future undertaking, assets, revenues and international monetary reserves (including gold, special drawing rights and foreign currency) held by the Borrower or its agencies, including the NBS and its successor(s).
7. **"Quotation Day"** means, in relation to any period for which an interest rate is to be determined, two TARGET Days before the first day of that period unless market practice differs in the Relevant Market, in which case the Quotation Day will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days).
8. **"Related Fund"** in relation to a fund (the **"first fund"**),means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.
9. **"Relevant Market"** means the European interbank market.
10. **"Relevant Nominating Body"** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.
11. **"Repayment Date"** means:
    1. the First Repayment Date;
    2. each date falling at six Monthly intervals after the First Repayment Date up to but excluding the Final Maturity Date; and
    3. the Final Maturity Date.

**"Repeating Representations"** means each of the representations set out in Clauses 18.1 (*Status*) to 18.27(*Reserves*).

1. **"Replacement Benchmark"** means a benchmark rate which is:
   1. formally designated, nominated or recommended as the replacement for a Screen Rate by:
      1. the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
      2. any Relevant Nominating Body,
      3. and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above;
   2. in the opinion of the Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Screen Rate; or
   3. in the opinion of the Majority Lenders and the Borrower, an appropriate successor to a Screen Rate.
2. **"Representative"** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.
3. **"Reserves"** of a state means the official external reserves of that state, by whoever and in whatever form owned, held, administered or controlled (including any not owned or not held or not administered or not controlled by that state but customarily regarded and held out as its official external reserves).
4. **"Sanctioned Territory**" means a country, region or territory that is the subject of country-wide, region-wide or territory-wide Sanctions or whose government is the subject of Sanctions broadly prohibiting dealings with such governments.
5. **"Sanctions"** means the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measures enacted, administered, implemented and/or enforced from time to time by any of the following (and including through any relevant Sanctions Authority):
   1. the United Nations (including for the avoidance of doubt, the United Nations Security Council);
   2. the European Union or any member state of the European Union;
   3. the government of the United States of America; and
   4. the government of the United Kingdom.
6. **"Sanctions Authority"** means any agency or person which is duly appointed, empowered or authorised to enact, administer, implement and/or enforce Sanctions, including (without limitation):
   1. OFAC;
   2. the United States Department of State or the United States Department of Commerce; and
   3. Her Majesty's Treasury.
7. **"Sanctions Event"** means any Sanctions Relevant Party becomes a Sanctions Restricted Person.
8. **"Sanctions List"** means any of the lists of designated sanctions targets maintained by a Sanctions Authority from time to time.
9. **"Sanctions Relevant Party"** means:
   1. the Borrower;
   2. the Employer;
   3. the Investor;
   4. the Contractor; and
   5. any other party designated as such by the Agent and the Borrower.
10. **"Sanctions Restricted Person"** means a person that is:
    1. listed on a Sanctions List, or directly or indirectly owned, or otherwise controlled within the meaning and scope of the relevant Sanctions, by any one or more persons listed on a Sanctions List;
    2. located or resident in, or incorporated or organised under the laws of, a Sanctioned Territory; or
    3. otherwise a subject of Sanctions.
11. **"Screen Rate"** means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.
12. **"Screen Rate Replacement Event"** means:
    1. the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Borrower, materially changed;
       * 1. the administrator of the Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
         2. information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of the Screen Rate is insolvent,
       1. the administrator of the Screen Rate publicly announces that it has ceased or will cease, to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;
       2. the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued;
       3. the administrator of the Screen Rate or its supervisor announces that it may no longer be used; or
       4. the supervisor of the administrator of the Screen Rate makes a public announcement or publishes in-formation:
          1. stating that the Screen Rate is no longer or, as of a specified future date will no longer be, representative of the underlying market or economic reality that it is intended to measure and that representativeness will not be restored (as determined by such supervisor); and
          2. with awareness that any such announcement or publication will engage certain triggers for fallback provisions in contracts which may be activated by any such pre-cessation announcement or publication;
    2. the administrator of the Screen Rate determines that the Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
       1. the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Borrower) temporary; or
       2. the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than 10 Business Days; or
    3. in the opinion of the Majority Lenders and the Borrower, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.
13. **"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
14. **"Sinosure"** means China Export & Credit Insurance Corporation, a state owned enterprise having its registered office at No. 11 Fenghuiyuan, Xicheng District, Beijing, China.
15. **"Sinosure Policy"** means the export credit insurance policy issued or to be issued by Sinosure which insures certain political and commercial risks in respect of the Facility and provides a coverage of at least 95 per cent. of all of the principal and interest of the Facility.
16. **"Sinosure Policy Event"** means each of the following events or circumstances:
    1. it is or becomes unlawful for Sinosure to perform any of its obligations under the Sinosure Policy or for a Finance Party to receive the benefit of the Sinosure Policy;
    2. any of the obligations of Sinosure under the Sinosure Policy are not or cease to be legal, valid, binding or enforceable or the Sinosure Policy is not or ceases to be in full force and effect;
    3. Sinosure avoids, rescinds, repudiates, suspends, cancels or terminates all or part of the Sinosure Policy or evidences an intention to or purports to avoid, rescind, repudiate, suspend, cancel or terminate all or part of the Sinosure Policy;
    4. Sinosure ceases to be a policy-oriented statutory financial institution under the direct authority of the China State Council or to be a company wholly owned by the government of China, or the Ministry of Finance of China ceases to maintain liquidity support for Sinosure; or
    5. any event or circumstance occurs in any relevant jurisdiction which has a material adverse effect on any payment or indemnity to be made by Sinosure under the Sinosure Policy.
17. **"Sinosure Premium"** means the full premium payable to Sinosure by the Borrower, pursuant to the Sinosure Policy and Sinosure's internal regulations, as notified by the ECA Agent to the Borrower.

**"Sinosure Regulations"** means all laws relating to Sinosure, including any implementing ordinances thereto, general terms and conditions issued by Sinosure and any other specific conditions imposed by Sinosure.

**"Specified Time"** means a day or time determined in accordance with Schedule 7 (*Timetables*).

1. **"Subsidiary"** means a company or corporation:
   1. which is controlled, directly or indirectly, by a company or corporation or a state or a government agency (a **"holding corporation"**);
   2. more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding corporation; or
   3. which is a Subsidiary of another Subsidiary of the holding corporation.
2. **"Supporting Documents"** means, in respect of a Contractor Certificate:
   1. in relation to an "advanced payment" as described in the EPC Contract:
      1. a copy of an invoice in the amount of the advance payment;
      2. a copy of the advance payment guarantee; and
      3. a copy of the performance security;
   2. in relation to an "interim payment" as described in the EPC Contract:
      1. for payment for design:
         1. a copy of an invoice in the same amount; and
         2. acceptance signed by the engineer;
      2. for payment for procurement:
         1. a copy of a pro-forma invoice, or a copy of an invoice in amount of the 100% of the contract value of the procurement; and
         2. acceptance, receipt, finish installation certificate of plant or taking-over certificate and materials signed by the engineer;
      3. for an interim payment for works not including design and procurement:
         1. a copy of an invoice; and
         2. quantitative acceptance of civil works, erection, training & commissioning signed by the engineer for the civil works, erection training & commissioning executed within the period of 1 (one) month;
   3. in relation to "retention money" as described in the EPC Contract**:** 
      1. for the first fifty percent (50%) of retention money:
         1. a copy of an invoice in the amount of fifty percent (50%) of retention money; and
         2. taking-over certificate;
      2. for the second fifty percent (50%) of retention money:
         1. a copy of an invoice in the amount of fifty percent (50%) of retention money; and
         2. a copy of retention money guarantee,

in each case in relation to amounts requested under the relevant Utilisation Request.

1. **"Taking-Over Certificate"** has the meaning given to such term in the EPC Contract as at the date of this Agreement.
2. **"TARGET2"** means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.
3. **"TARGET Day"** means any day on which TARGET2 is open for the settlement of payments in euro.
4. **"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).
5. **"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.
6. **"Total Commitments"** means the aggregate of the Commitments, being EUR 203,775,000 at the date of this Agreement.
7. **"Transaction Documents"** means the Finance Documents and the EPC Contract.
8. **"Transfer Certificate"** means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.
9. **"Transfer Date"** means, in relation to an assignment or a transfer, the later of:
   1. the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
   2. the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.
10. **"Unpaid Sum"** means any sum due and payable but unpaid by the Borrower under the Finance Documents.
11. **"Upfront Sinosure Premium"** has the meaning given to it in Clause 12.5(a)(i) (*Sinosure Premium*).
12. **"US"** means the United States of America.
13. **"Utilisation"** means a utilisation of the Facility.
14. **"Utilisation Date"** means the date of a Utilisation, being the date on which the relevant Loan is to be made.
15. **"Utilisation Request"** means a notice substantially in the form set out in Schedule 3, (*Utilisation Request*).
16. **"Utilised Loan Ratio"** has the meaning given to it in Clause 5.2(f)(ii) (*Further conditions precedent*).
17. **"VAT"** means:
    1. value added tax as provided for in the Value Added Tax Act (Zakon o porezu na dodatu vrednost), Official Gazette of the Republic of Serbia, nos. 84/2004, 86/2004, 61/2005, 61/2007, 93/2012, 108/2013, 6/2014, 68/2014, 142/2014, 5/2015. 83/2015, 5/2016, 108/2016, 7/2017, 113/2017, 13/2018, 30/2018,4/2019, 72/19, 8/2020 and 153/2020;
    2. any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
    3. any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (b) above, or imposed elsewhere.

**"World Bank"** means the World Bank Group, including the International Bank for Reconstruction and Development, The International Development Association (IDA), The International Finance Corporation (IFC) and The Multilateral Investment Guarantee Agency (MIGA).

* 1. Construction
     1. Unless a contrary indication appears, any reference in this Agreement to:
        1. the **"Agent"**, the **"Arranger"**, the **"ECA Agent"**, the **"Borrower"** any **"Finance Party"**, any **"Lender"**, **"Sinosure"** or any **"Party"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents or, as applicable, the Sinosure Policy;
        2. an **"agency"** shall be construed so as to include any governmental, intergovernmental or supranational agency, authority, body, central bank, commission, department, ministry, organisation, statutory corporation or tribunal (including any political sub-division, national, regional or municipal government and any administrative, fiscal, judicial, regulatory or self-regulatory body or person);
        3. a document in **"agreed form"** is a document which is previously agreed in writing by or on behalf of the Borrower and the Agent or, if not so agreed, is in the form specified by the Agent;
        4. **"assets"** includes present and future properties, revenues and rights of every description;
        5. a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
        6. a **"group of Lenders"** includes all the Lenders;
        7. **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
        8. **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
        9. a **"person"** includes any individual, firm, company, limited liability company, limited joint venture, joint stock company, unincorporated organisation, trust or other judicial entity, corporation, government, ministry, department, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity or political subdivision thereof or any other entity (whether or not having separate legal personality);
        10. a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any agency;
        11. a provision of law is a reference to that provision as amended or re‑enacted; and
        12. a time of day is a reference to Munich time.
     2. The determination of the extent to which a rate is "for a period equal in length" to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
     3. Section, Clause and Schedule headings are for ease of reference only.
     4. Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
     5. A Default (other than an Event of Default) is **"continuing"** if it has not been remedied or waived and an Event of Default is **"continuing"** if it has not been waived.
  2. Currency symbols and definitions

**"€"**, **"EUR"** and **"euro"** denote the single currency of the Participating Member States.

* 1. Third party rights
     1. Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the **"Third Parties Act"**) to enforce or to enjoy the benefit of any term of this Agreement.
     2. Subject to paragraph (c) below and the provisions of the Third Parties Act, Sinosure may rely on Clause 17.1 (*Transaction expenses*).
     3. Subject to Clause 35.3 (*Other exceptions*) but otherwise notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

1. Effectiveness
   1. Effective Date
      1. This Agreement shall take effect on the date on which the Agent notifies the Borrower that:
         1. the law on the ratification of this Agreement by the National Assembly of the Republic of Serbia has been published in the Official Gazette of the Republic of Serbia, in form and substance satisfactory to the Agent (acting on the instructions of all the Lenders); and
         2. it is satisfied (acting on the instructions of all the Lenders) that since the date of this Agreement, there has been no material adverse change, in any Lender’s opinion, to the international or any relevant domestic syndicated loan, debt, bank, capital or equity markets or political or social conditions, including any sovereign risk downgrading of the Republic of Serbia by an international agency and/or deterioration in financial sector of the Republic of Serbia, war, civil war, revolution, uprising, acts of terrorism and/or sabotage, an extension of exchange controls or a debt moratorium, or a change in law or regulation or in the political, economic, financial, commercial, legal or fiscal environment of the Republic of Serbia, and which in the opinion of all the Lenders would make it inadvisable to proceed with the Effective Date notification.
      2. The Agent shall promptly notify the Borrower, the Lenders and the ECA Agent in writing upon being so satisfied.
      3. For the avoidance of doubt, prior to the Effective Date, the Facility and the obligations of the Lenders are uncommitted and there is no obligation on any Finance Party to agree to any Utilisation Request or make any Utilisation available.
      4. Notwithstanding paragraph (a) above, the provisions of Clause 36 (*Confidential Information*) and Clauses 41 (*Governing law*) to 43 (*Jurisdiction*) (inclusive) shall take effect on the date of this Agreement.
   2. Longstop Date

If the Effective Date has not occurred by 28 February 2022 (or any later date which the Agent, acting on the instructions of all the Lenders, has notified to the Borrower), this Agreement shall not take effect and no Party shall have any rights or obligations hereunder, save to the extent contemplated in paragraph (d) of Clause 2.1 (*Effective Date*).

**SECTION 2  
THE FACILITY**

1. The Facility
   1. The Facility

Subject to the terms of this Agreement, the Lenders make available to the Borrower a euro term loan facility in an aggregate amount equal to the Total Commitments.

* 1. Finance Parties' rights and obligations
     1. The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
     2. The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Borrower is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with Clause 3.2(c). The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower which relates to a Finance Party's participation in the Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by the Borrower.
     3. A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.
  2. Sinosure override
     1. Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall oblige any Finance Party to act (or not act) in a manner that is inconsistent with any requirement of Sinosure in respect of the Facility, under, or in connection with, the Sinosure Policy and, in particular each Finance Party shall:
        1. be authorised to take all such actions as it may deem necessary to ensure that all requirements of Sinosure under or in connection with the Sinosure Policy are complied with in respect of the Facility; and
        2. not be obliged to do anything in respect of the Facility, if, in its opinion, acting reasonably, to do so could result in a breach of any requirements of Sinosure under or in connection with the Sinosure Policy or affect the validity of the Sinosure Policy.
     2. The Borrower agrees and acknowledges that:
        1. the Sinosure Policy is a separate arrangement between Sinosure and the Lenders and the Borrower shall not have any right or recourse against the Lenders in respect of, or arising by reason of, any payment made by Sinosure to any Finance Party pursuant to the Sinosure Policy;
        2. the Finance Parties may act on the instructions of the Authorities in relation to this Agreement;
        3. a Finance Party will not be acting or making any determination unreasonably if such action or such determination is made in accordance with the Sinosure Policy or any instructions given to it by Sinosure or the ECA Agent. Each Party agrees that it will not hold any Finance Party responsible for complying with any such instructions;
        4. it shall have no claims whatsoever in respect of any loss, damage or expense suffered or incurred by it against any Finance Party as a result of that Finance Party acting on the instructions of Sinosure in relation to this Agreement except to the extent that such loss, damage or expense arose due to the gross negligence or wilful misconduct of the relevant Finance Party; and
        5. the ECA Agent has obligations as agent of the holder of the Sinosure Policy which the ECA Agent would not have incurred (or in relation to which it would not have had any liability) if it had not become the agent of the holder of the Sinosure Policy. Accordingly, the Borrower agrees to indemnify the ECA Agent against any cost, loss or liability incurred by the ECA Agent as the agent of the holder of the Sinosure Policy and for any cost, loss or liability for which the ECA Agent may be liable to Sinosure in respect of the Sinosure Policy except to the extent that such cost, loss or liability arose due to the gross negligence or wilful misconduct of the ECA Agent.
     3. Nothing in this Clause shall affect the obligations of the Borrower under this Agreement.
  3. The Borrower and the EPC Contract
     1. The Borrower's obligations (including, without limitation, its payment obligations) under this Agreement are unconditional and irrevocable and accordingly are not:
        1. subject to or dependent upon the execution or performance by the Employer, the Investor, the Contractor or any other person of its obligations under the EPC Contract; nor
        2. affected or discharged by any matter affecting the EPC Contract or the Contractor including the following:
           1. any dispute under the EPC Contract nor any claim which the Borrower, the Employer, the Investor, the Contractor or any other person may have against, or consider that it has against, any person under the EPC Contract;
           2. the fact that all or any part of the sums requested under a Utilisation Request is or was not payable to the Contractor;
           3. the insolvency or dissolution of the Contractor;
           4. any action or inaction (whether negligent or by wilful misconduct of fraud) of the Contractor or any other person (or any of its agents, contractors, officers or employees);
           5. the fact that a Loan is drawn and applied in accordance with a Utilisation Request which has proven incorrect in any aspect;
           6. the Contractor being subject to an amalgamation, demerger, merger or reconstruction;
           7. any unenforceability, illegality or invalidity of any obligation of any person under the EPC Contract or any documents or agreements relating to the EPC Contract; or
           8. the breach, frustration or non-fulfilment of any provision of the EPC Contract or any documents or agreements related thereto or the destruction, non-completion or non-functioning of the Project.
     2. The Borrower acknowledges that the foregoing is an essential condition of each Lender's entry into this Agreement, and accordingly, by advancing the full amount of its Commitment (subject to and in accordance with the terms and conditions of this Agreement) each Lender shall have fulfilled its funding obligations under this Agreement.
     3. Without prejudice to the generality of Clause 3.4(a), the Borrower agrees that:
        1. it will not claim to be relieved of the performance of any of its obligations under this Agreement by reason of any failure, delay or default whatsoever on the part of the Contractor in the performance of its obligations under the EPC Contract; and
        2. its liability to make payments under this Agreement shall be independent and shall not be the subject of any rights of set off or counterclaim arising from any dispute over or in connection with the supply of goods or services under the EPC Contract.

1. Purpose
   1. Purpose
      1. The Borrower shall apply all amounts borrowed by it under the Facility to finance up to 75 per cent. of the EPC Contract Value.
      2. None of the amounts borrowed by the Borrower under the Facility shall be used to finance or reimburse the Borrower for any part of the Down Payment.
   2. Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

1. Conditions of Utilisation
   1. Initial conditions precedent
      1. The Borrower may not deliver a Utilisation Request unless the Agent has received all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent. The Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.
      2. Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in Clause 5.1(a), the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
   2. Further conditions precedent

The Lenders will only be obliged to comply with Clause 6.5 (*Lenders' participation*) if, on the date of the Utilisation Request and on the proposed Utilisation Date:

* + 1. no Default is continuing or would result from the proposed Loan;
    2. the Repeating Representations to be made by the Borrower are true in all material respects;
    3. no External Financial Indebtedness is due and unpaid;
    4. no Sinosure Policy Event has occurred or would result from the proposed Loan;
    5. the ECA Agent has not received a notice from Sinosure requesting that further advances be suspended or terminated under this Agreement (unless such notice has been withdrawn by Sinosure);
    6. the ECA Agent has received evidence satisfactory to it that:
       1. the Sinosure Premium instalment required pursuant to Clause 12.5(a)(ii) (*Sinosure Premium*) has been paid; and
       2. the ratio of (A) the principal amount of the Loan that will be outstanding as at the proposed Utilisation Date (including the Loan requested pursuant to that Utilisation Request) to (B) the amount of the Total Commitments (the **"Utilised Loan Ratio"**) is less than or equal to the ratio of the amount of the Sinosure Premium that has been paid up to the date of that Utilisation Request to the aggregate amount of Sinosure Premium that is to be paid under the Sinosure Policy (the **"Premium Payment Ratio"**);
    7. the Borrower has provided copies of all relevant Authorisations relating to the proposed Loan including, without limitation, evidence of the inclusion of the proposed Loan in the relevant annual budget law of the Republic of Serbia;
    8. the ECA Agent is satisfied that:
       1. the Sinosure Policy is in full force and effect and has not been suspended, repudiated, terminated or cancelled;
       2. the credit insurance cover under the Sinosure Policy has been issued on terms covering commercial risks and political risks extending to 95 per cent. of the proposed Loan and interest thereon during the period that the relevant Loan is outstanding; and
       3. all conditions of the Sinosure Policy and the relevant credit insurance cover have been fulfilled;
    9. the ECA Agent has received such documents, evidence or certification as the ECA Agent acting on the instructions of Sinosure may require with respect to the Borrower or in connection with the Transaction Documents or any Sinosure related documents;
    10. the Lenders are not required by the terms of the Sinosure Policy to suspend or cancel the making of the Loan;
    11. there is no outstanding notice of mandatory prepayment from the Agent under Clause 8 (*Prepayment and cancellation*);
    12. there has been no event or circumstance that in the opinion of the Majority Lenders constitutes or may constitute a material adverse change in the Republic of Serbia or in its international financial, economic or political or social conditions, including any sovereign risk downgrading of the Republic of Serbia by an international agency and/or deterioration in financial sector of the Republic of Serbia, war, civil war, revolution, uprising, acts of terrorism and/or sabotage, an extension of exchange controls or a debt moratorium, or a change in law or regulation or in the political, economic, financial, commercial, legal and fiscal environment of the Republic of Serbia, and which in the opinion of the Majority Lenders would make it inadvisable to proceed with the Utilisations; and
    13. the Agent (acting on the instructions of the Majority Lenders) is satisfied with the confirmations set out in each Utilisation Request and the documents attached thereto, including but not limited to the Contractor's confirmation in the Contractor Certificate that it has been paid (other than from the proceeds of any Utilisation) an amount not less than the Down Payment in respect of the full amount payable to the Contractor under the EPC Contract in respect of which any Loans have been advanced or are due to be advanced on or prior to the proposed Utilisation Date

**SECTION 3  
UTILISATION**

1. Utilisation
   1. Delivery of a Utilisation Request

The Borrower may utilise the Facility by delivery to the Agent of a duly completed Utilisation Request which attaches a duly completed Contractor Certificate signed by a Contractor Authorised Signatory no later than the Specified Time.

* 1. Completion of a Utilisation Request
     1. Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
        1. the proposed Utilisation Date is a Business Day within the Availability Period;
        2. the currency and amount of the Utilisation comply with Clause 6.4 (*Currency and amount*);
        3. it provides for the proceeds of the proposed Utilisation to be credited to the Contractor Account;
        4. it is accompanied by a duly completed Contractor Certificate executed by a Contractor Authorised Signatory, including the Supporting Documents and all other attachments (if any) referred to therein, in each case in form and substance satisfactory to the Agent (acting on the instructions of the Majority Lenders); and
        5. it is signed by a Borrower Authorised Signatory.
     2. The Borrower shall supply the Agent or the ECA Agent with any additional documents or other evidence reasonably requested by it in connection with a proposed Utilisation or the Contractor Certificate or Supporting Documents relating to that proposed Utilisation.
     3. Only one Loan may be requested in each Utilisation Request.
  2. Utilisation Limits of the Facility

Unless otherwise agreed by the Agent in writing (acting on the instructions of the Majority Lenders) no more than one Utilisation Request may be submitted in any Month.

* 1. Currency and amount
     1. The currency specified in a Utilisation Request must be euro.
     2. The amount of the proposed Loan must be an amount which is not more than the Available Facility and which is a minimum of EUR 1,000,000 or, if less, the Available Facility.
  2. Lenders' participation
     1. If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available to the Agent by 11:00 a.m. CET on the Utilisation Date through its Facility Office.
     2. The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
     3. The Agent shall notify each Lender of the amount of each Loan and the amount of its participation in that Loan by the Specified Time.
  3. Cancellation of Commitment

The Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period.

**SECTION 4  
REPAYMENT, PREPAYMENT AND CANCELLATION**

1. Repayment
   1. Repayment of Loans
      1. The Borrower shall repay the Loans in 20 equal instalments by repaying on each Repayment Date an amount which reduces the amount of outstanding Loans by an amount equal to 1/20th of the Loans borrowed by the Borrower as at close of business in Munich on the last day of the Availability Period.
      2. The instalments referred to in paragraph (a) above shall be payable as follows:
         1. the first such instalment shall become due and payable on the First Repayment Date; and
         2. the Borrower shall continue to pay further such instalments on each succeeding Repayment Date until it has repaid all outstanding Loans.
      3. The Borrower shall repay all outstanding amounts on the Final Maturity Date.
   2. Reborrowing

The Borrower may not reborrow any part of the Facility which is repaid.

* 1. Absolute obligation to repay Loans

The Borrower acknowledges that it will be obliged to repay each Loan in full in accordance with the terms of this Agreement, notwithstanding that the proceeds of such Loan are to be paid directly to the Contractor.

1. Prepayment and Cancellation
   1. Illegality

If, in any applicable jurisdiction, it becomes unlawful for any Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

* + 1. that Lender shall promptly notify the Agent (who must then promptly notify the Borrower) upon becoming aware of that event;
    2. upon the Agent notifying the Borrower, the Available Commitment of that Lender will be immediately cancelled; and
    3. to the extent that the Lender's participation has not been transferred pursuant to Clause 8.6(d) (*Right of replacement or repayment and cancellation in relation to a single Lender*), the Borrower shall repay that Lender's participation in the Loans made to the Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment shall be immediately cancelled in the amount of the participations repaid.
  1. Material EPC Contract Change

If a Material EPC Contract Change is made without the prior written consent of the Agent (acting on the instructions of the Majority Lenders):

* + 1. the Lenders shall not be obliged to fund a Utilisation; and
    2. if the Majority Lenders so require, and with the prior consent of Sinosure, the Agent shall, by not less than five Business Days' notice to the Borrower, cancel the Total Commitments and declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding amounts will become immediately due and payable.
  1. Sinosure Policy Event

If a Sinosure Policy Event occurs:

* + 1. the ECA Agent shall promptly notify the Agent (who must then promptly notify the Borrower and the Lenders) upon becoming aware of that event;
    2. a Lender shall not be obliged to fund a Utilisation; and
    3. if a Lender so requires, the Agent shall, by not less than 20 Business Days' notice to the Borrower, cancel the Available Commitment of that Lender and declare the participation of that Lender in all Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents immediately due and payable, whereupon the Commitment of that Lender shall immediately cease to be available for further utilisation and all such Loans, accrued interest and other amounts shall become immediately due and payable.
  1. Voluntary cancellation
     1. Subject to the prior approval of Sinosure, the Borrower may, if it gives the Agent not less than 30 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of EUR 5,000,000) of the Available Facility. Any cancellation under this Clause 8.4 shall reduce the Commitments of the Lenders rateably.
     2. No voluntary cancellation under this Clause of all or any part of the Lenders' Commitments shall be permitted prior to the end of the Availability Period without the prior written confirmation of the Agent (on behalf of each Lender).
  2. Voluntary prepayment of Loans
     1. The Borrower may, if it gives the Agent not less than 30 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of EUR 5,000,000).
     2. A Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the Available Facility is zero).
     3. Any prepayment under this Clause 8.5 shall satisfy the obligations under Clause 7.1 (*Repayment of Loans*) in inverse chronological order.
  3. Right of replacement or repayment and cancellation in relation to a single Lender
     1. If:
        1. any sum payable to any Lender by the Borrower is required to be increased under Clause 13.2(c) (*Tax gross-up*); or
        2. any Lender claims indemnification from the Borrower under Clause 13.3(*Tax indemnity*) or Clause 14.1 (*Increased costs*),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, and subject to the prior approval of Sinosure, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Loans or give the Agent notice of its intention to replace that Lender in accordance with Clause 8.6(d).

* + 1. On receipt of a notice of cancellation referred to in Clause 8.6(a), the Available Commitment of that Lender shall be immediately reduced to zero.
    2. On the last day of each Interest Period which ends after the Borrower has given notice of cancellation under Clause 8.6(a) (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in that Loan and that Lender's corresponding Commitment shall be immediately cancelled in the amount of the participation repaid.
    3. If:
       1. any of the circumstances set out in Clause 8.6(a) apply to a Lender; or
       2. the Borrower becomes obliged to pay any amount in accordance with Clause 8.1 (*Illegality*),

the Borrower may on 30 Business Days' prior notice to the Agent and that Lender and with the prior consent of Sinosure, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 23 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower and acceptable to Sinosure which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 23 (*Changes to the Lenders*) for a purchase price in cash payable at the time of the transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest (to the extent that the Agent has not given a notification under Clause 23.9 (*Pro rata interest settlement*)), Break Costs and other amounts payable in relation thereto under the Finance Documents.

* + 1. The replacement of a Lender pursuant to Clause 8.6(d) shall be subject to the following conditions:
       1. the Borrower shall have no right to replace the Agent;
       2. neither the Agent nor any Lender shall have any obligation to find a replacement Lender;
       3. in no event shall the Lender replaced under Clause 8.6(d) be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and
       4. the Lender shall only be obliged to transfer its rights and obligations pursuant to Clause 8.6(d) once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
    2. A Lender shall perform the checks described in Clause 8.6(e)(iv) as soon as reasonably practicable following delivery of a notice referred to in Clause 8.6(d) and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.
  1. Restrictions
     1. Any notice of cancellation or prepayment given by any Party under this Clause 8 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
     2. Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
     3. The Borrower may not reborrow any part of the Facility which is prepaid.
     4. The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
     5. No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
     6. If the Agent receives a notice under this Clause 8 it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate and to the ECA Agent.
     7. If all or part of any Lender's participation in a Loan is repaid or prepaid, an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.
  2. Application of prepayments

Any prepayment of a Loan pursuant to Clause 8.5 (*Voluntary prepayment of Loans*) shall be applied pro rata to each Lender's participation in that Loan.

**SECTION 5**

**COSTS OF UTILISATION**

1. Interest
   1. Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

* + 1. Margin; and
    2. EURIBOR
  1. Payment of interest

The Borrower shall pay accrued interest on each Loan on the last day of each Interest Period.

* 1. Default interest
     1. If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to Clause 9.3(b), is two per cent. per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 9.3 shall be immediately payable by the Borrower on demand by the Agent.
     2. If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
        1. the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
        2. the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent. per annum higher than the rate which would have applied if the overdue amount had not become due.
     3. Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.
  2. Notification of rates of interest
     1. The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.
     2. The Agent shall promptly notify the Borrower of each Funding Rate relating to a Loan.

1. Interest periods
   1. Interest Periods

The period for which each Loan is outstanding shall be divided into successive Interest Periods, each of which (other than the first Interest Period for that Loan, which shall begin on its Utilisation Date) shall start on the last day of such preceding period.

* 1. Duration
     1. The last day of an Interest Period for a Loan shall be the earlier of:
        1. the date falling six Months after the first day of that Interest Period;
        2. the last day of an Interest Period of any other Loan; and
        3. the first Repayment Date falling after the first day of that Interest Period.
     2. An Interest Period for a Loan shall not extend beyond the Final Maturity Date.
  2. Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

* 1. Consolidation of Loans

If two or more Interest Periods relate to Loans and end on the same date, those Loans will be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

1. Changes to the calculation of interest
   1. Discontinuation of certain benchmarks
      1. The interest rate on a Loan may be derived from an interest rate benchmark that is, or may in the future become, the subject of regulatory reform. Regulators have signalled the need to use alternative benchmark reference rates for some of these interest rate benchmarks and, as a result, such interest rate benchmarks (i) may cease to comply with applicable laws and regulations, (ii) may be permanently discontinued, and/or (iii) the basis on which they are calculated may change. LIBOR is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. The interest rate on Loans denominated in euros is determined by reference to the Euro Interbank offered Rate (**"EURIBOR"**), which is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the European Union interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel any LIBOR panel bank, being a bank which contributes submissions to ICE LIBOR, to provide quotations to ICE Benchmark Administration Limited (together with any successor to ICE Benchmark Administration Limited, the **"IBA"**) for the purposes of the IBA administering LIBOR after 2021. As a result, it is possible that, commencing in 2022, LIBOR may no longer be available or deemed an appropriate reference rate upon which to determine the interest rate on Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of LIBOR. Similar initiatives are already, or may in the future be, underway to identify new or alternative reference rates or, in some cases, adjust methodology for other interest rate benchmarks, such as EURIBOR. The Parties acknowledge that, as a result of the circumstances described above, a Screen Rate Replacement Event may occur.
      2. None of the Finance Parties warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to EURIBOR or another interest rate benchmark or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, any such alternative, successor or replacement rate implemented pursuant to Clause 11.2 (*Unavailability of Screen Rate*)), including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, EURIBOR or such other interest rate benchmark or that it will have the same volume or liquidity as EURIBOR or such other interest rate benchmark did prior to its discontinuance or unavailability.
   2. Unavailability of Screen Rate
      1. ***Interpolated Screen Rate***: If no Screen Rate is available for EURIBOR for the Interest Period of a Loan, the applicable EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.
      2. ***Cost of funds***: If no Screen Rate is available for EURIBOR for:
         1. euro; or
         2. the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,

there shall be no EURIBOR for that Loan and Clause 11.4 (*Cost of funds*) shall apply to that Loan for that Interest Period.

* 1. Market disruption

If before close of business in London on the Quotation Day for the relevant Interest Period the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 40 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of EURIBOR then Clause 11.4 (*Cost of funds*) shall apply to that Loan for the relevant Interest Period.

* 1. Cost of funds
     1. If this Clause 11.4 applies, the rate of interest on each Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
        1. the Margin; and
        2. the rate notified to the Agent by that Lender as soon as practicable and in any event no later than the day falling five Business Days before the date on which interest is due to be paid in respect of that Interest Period), to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.
     2. If this Clause 11.4 applies and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.
     3. Any alternative basis agreed pursuant to Clause 11.4(b) shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
  2. Notification to Borrower

If Clause 11.4 (*Cost of funds*) applies the Agent shall, as soon as is practicable, notify the Borrower.

* 1. Break Costs
     1. The Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
     2. Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

1. Fees and Sinosure Premium
   1. Commitment fee
      1. The Borrower shall pay to the Agent (for the account of each Lender) a fee computed at the rate of 0.5 per cent. per annum on that Lender's Available Commitment for the Availability Period (the **"Commitment Fee"**).
      2. The accrued Commitment Fee is payable on the last day of each successive period of six Months which ends during the Availability Period, on the last day of the Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.
   2. Arrangement fee

The Borrower shall pay to the Arrangers an arrangement fee in the amount and at the times agreed in a Fee Letter.

* 1. Agency fee

The Borrower shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

* 1. ECA Agency fee

The Borrower shall pay to the ECA Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

* 1. Sinosure Premium
     1. The Borrower shall pay the Sinosure Premium directly to Sinosure in an amount to be notified by the ECA Agent to the Borrower prior to the initial Utilisation Date in the following amounts at the following times:
        1. at least 30 per cent. of the aggregate Sinosure Premium (the **"Upfront Sinosure Premium"**) prior to the delivery of the initial Utilisation Request; and
        2. the aggregate Sinosure Premium (other than the Upfront Sinosure Premium paid in accordance with sub-paragraph (i) above) (the **"Deferred Sinosure Premium"**), payable on the date which is the earlier of:
           1. one year from the date of payment of the Upfront Sinosure Premium; and
           2. the date on which the Utilised Loan Ratio exceeds the Premium Payment Ratio.
     2. The Borrower acknowledges that:
        1. no part of the Sinosure Premium is refundable for any reason whatsoever except with the specific approval of Sinosure;
        2. although the Borrower may request that the ECA Agent approach Sinosure for a refund of any part of the Sinosure Premium, no Finance Party will be under no obligation whatsoever to refund any such amount of the Sinosure Premium unless:
           1. Sinosure specifically approves the refund; and
           2. Sinosure actually refunds to the ECA Agent an amount of the Sinosure Premium equal to the amount of the requested refund, and

the ECA Agent will charge additional fees for the refund, the amount of which is to be determined between the ECA Agent and the Borrower at the time of the request of the Borrower; and

* + - 1. for the avoidance of doubt, no Finance Party will be liable to the Borrower should Sinosure refuse to refund any such amount of the Sinosure Premium.
    1. The Borrower acknowledges and each Finance Party confirms that no Finance Party is in any way involved in the calculation of any part of the Sinosure Premium.
    2. The Borrower shall not raise against any Finance Party any claim or defence of any kind whatsoever in relation to the calculation or payment of any part of the Sinosure Premium.

**SECTION 6**

**ADDITIONAL PAYMENT OBLIGATIONS**

1. Tax gross up and indemnities
   1. Definitions

In this Agreement:

1. **"Protected Party"** means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.
2. **"Tax Credit"** means a credit against, relief or remission for, or repayment of any Tax.
3. **"Tax Payment"** means either the increase in a payment made by the Borrower to a Finance Party under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

Unless a contrary indication appears, in this Clause 13 a reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination.

* 1. Tax gross-up
     1. The Borrower shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
     2. The Borrower shall promptly upon becoming aware that the Borrower must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower.
     3. If a Tax Deduction is required by law to be made by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
     4. If the Borrower is required to make a Tax Deduction, the Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
     5. Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
  2. Tax indemnity
     1. The Borrower shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
     2. Clause 13.3(a) shall not apply:
        1. with respect to any Tax assessed on a Finance Party:
           1. under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
           2. under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

* + - 1. to the extent a loss, liability or cost is compensated for by an increased payment under Clause 13.2 (*Tax gross-up*).
    1. A Protected Party making, or intending to make a claim under Clause 13.3(a) shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.
    2. A Protected Party shall, on receiving a payment from the Borrower under this Clause 13.3, notify the Agent.
  1. Tax Credit

If the Borrower makes a Tax Payment and the relevant Finance Party determines that:

* + 1. a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
    2. that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Borrower which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Borrower.

* 1. Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

* 1. VAT
     1. All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to Clause 13.6(b), if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
     2. If VAT is or becomes chargeable on any supply made by any Finance Party (the **"Supplier"**) to any other Finance Party (the **"Recipient"**) under a Finance Document, and any Party other than the Recipient (the **"Relevant Party"**) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
        1. (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this Clause 13.6(b)(i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
        2. (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
     3. Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
     4. Any reference in this Clause 13.6 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term **"representative member"** to have the same meaning as in the Value Added Tax Act 1994).
     5. In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.
  2. FATCA Information
     1. Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
        1. confirm to that other Party whether it is:
           1. a FATCA Exempt Party; or
           2. not a FATCA Exempt Party;
        2. supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
        3. supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
     2. If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
     3. Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
        1. any law or regulation;
        2. any fiduciary duty; or
        3. any duty of confidentiality.
     4. If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
  3. FATCA Deduction
     1. Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
     2. Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Finance Parties.

1. Increased costs
   1. Increased costs
      1. Subject to Clause 14.3 (*Exceptions*), the Borrower shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.
      2. In this Agreement **"Increased Costs"** means:
         1. a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
         2. an additional or increased cost; or
         3. a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

* 1. Increased cost claims
     1. A Finance Party intending to make a claim pursuant to Clause 14.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
     2. Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.
  2. Exceptions

Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

* + 1. attributable to a Tax Deduction required by law to be made by the Borrower;
    2. attributable to a FATCA Deduction required to be made by a Party;
    3. compensated for by Clause 13.3 (*Tax indemnity*) (or would have been compensated for under Clause 13.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in Clause 13.3(b) (*Tax indemnity*) applied); or
    4. attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

1. Other indemnities
   1. Currency indemnity
      1. If any sum due from the Borrower under the Finance Documents (a **"Sum"**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **"First Currency"**) in which that Sum is payable into another currency (the **"Second Currency"**) for the purpose of:
         1. making or filing a claim or proof against the Borrower; or
         2. obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion, including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

* + 1. The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.
  1. Other indemnities

The Borrower shall, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

* + 1. the occurrence of any Event of Default;
    2. a failure by the Borrower to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 28 (*Sharing among the Finance Parties*);
    3. funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
    4. a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.
  1. Indemnity to the Agent and the ECA Agent

The Borrower shall promptly indemnify the Agent and the ECA Agent against:

* + 1. any cost, loss or liability incurred by it (acting reasonably) as a result of:
       1. investigating any event which it reasonably believes is a Default;
       2. acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
       3. instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
    2. any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by it (otherwise than by reason of its gross negligence or wilful misconduct) in acting as Agent or ECA Agent under the Finance Documents.

1. Mitigation by the Lenders
   1. Mitigation
      1. Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 8.1 (*Illegality*), Clause 13 (*Tax gross up and indemnities*) or Clause 14 (*Increased costs*), including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
      2. Clause 16.1(a) does not in any way limit the obligations of the Borrower under the Finance Documents.
   2. Limitation of liability
      1. The Borrower shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 16.1 (*Mitigation*).
      2. A Finance Party is not obliged to take any steps under Clause 16.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.
2. Costs and expenses
   1. Transaction expenses

The Borrower shall promptly on demand pay the Agent, the ECA Agent, the Arrangers and Sinosure the amount of all costs and expenses (including without limitation, legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution, syndication and translation of:

* + 1. this Agreement and any other documents referred to in this Agreement (including but not limited to the Sinosure Policy); and
    2. any other Finance Documents executed after the date of this Agreement.
  1. Amendment costs

If:

* + 1. the Borrower requests an amendment, waiver or consent to a Finance Document;
    2. an amendment is required pursuant to Clause 29.10 (*Change of currency*), or following the occurrence of a Screen Rate Replacement Event; or
    3. an amendment to this Agreement is required to ensure that this Agreement complies with the terms of the Sinosure Policy or any other requirement of Sinosure,

the Borrower shall, within three Business Days of demand, reimburse the Agent and the ECA Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by them in responding to, evaluating, negotiating or complying with that request or requirement.

* 1. Enforcement costs

The Borrower shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party (including costs and expenses incurred by Sinosure for which that Finance Party is liable) or Sinosure in connection with the registration, stamp duty, enforcement of, or the preservation of any rights under or any dispute or court proceeding arising from or in connection with, any Finance Document.

* 1. Environmental and Social Consultant

The Borrower shall pay (or procure the payment of) any fees, costs or expenses of the Environmental and Social Consultant from time to time.

**SECTION 7**

**REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT**

1. Representations

The Borrower makes the representations and warranties set out in this Clause 18 to each Finance Party on the date of this Agreement and on the Effective Date.

* 1. Status
     1. The Borrower has entered into and will exercise its rights and perform the obligations under the Finance Documents on behalf of the Republic of Serbia.
     2. Each of the Borrower, the Employer and the Investor has the power to own its assets and carry on its operations and activities as they are being conducted.
  2. Binding obligations

The obligations expressed to be assumed by each of the Borrower, the Employer and the Investor in each Transaction Document are legal, valid, binding and enforceable obligations (subject only, in the case of the Borrower, in relation to the incurrence of indebtedness and the assumption of payment obligations by the Borrower under this Agreement, to the publication of the Official Gazette of the Republic of Serbia in which the law on ratification of this Agreement by the National Assembly of the Republic of Serbia has been published).

* 1. Non-conflict with other obligations

The entry into and performance by each of the Borrower, the Employer and the Investor of, and the transactions contemplated by, the Transaction Documents do not and will not conflict with:

* + 1. any Applicable Law;
    2. the constitution of the Republic of Serbia, any statutory act of any local or municipal authority in the Republic of Serbia (including, without limitation, the City of Belgrade) or their statutory documents or the statutory documents of any of their government agencies; or
    3. any agreement mortgage, bond, judgment, arbitral award or other instrument international agreement or treaty, including with the IMF or any other international institution, to which it or its government agencies are party or which is binding upon them or any of their assets or constitute a default or termination event (however described) under any such agreement or instrument.
  1. Authorisations
     1. Each of the Borrower, the Employer and the Investor has full power to enter into, perform and deliver, and has taken all necessary actions to authorise the entry into and performance and delivery of, the relevant Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents (subject only, in the case of the Borrower, in relation to the incurrence of indebtedness and the assumption of payment obligations by the Borrower under this Agreement, to the publication of the Official Gazette of the Republic of Serbia in which the law on ratification of this Agreement by the National Assembly of the Republic of Serbia has been published).
     2. No limit on the powers of the Borrower will be exceeded as a result of the borrowing or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party (including, for the avoidance of doubt, the limit on public debt set in the relevant annual budget law of the Republic of Serbia).
     3. All Authorisations and acts which are required or advisable in connection with the entry into, performance, legality, validity and enforceability of, and the transactions contemplated by, the relevant Transaction Documents have been obtained or performed (as appropriate) and are in full force and effect.
     4. It has the capacity to sue and be sued before any court and/or arbitration tribunal which may be competent pursuant to the Finance Documents.
  2. Validity and admissibility in evidence

All Authorisations and other acts, conditions and things required or desirable:

* + 1. to enable each of the Borrower, the Employer and the Investor lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party;
    2. to ensure that the obligations expressed to be assumed by each of the Borrower, the Employer and the Investor in the Transaction Documents are legal valid, binding and enforceable; and
    3. to make the Transaction Documents to which each of the Borrower, the Employer and the Investor is a party admissible in evidence in the Republic of Serbia (subject to such Transaction Document being translated into Serbian language),

have been obtained or effected and are in full force and effect (other than, in the case of the Borrower, in relation to the incurrence of indebtedness and the assumption of payment obligations by the Borrower under this Agreement, to the publication of the Official Gazette of the Republic of Serbia in which the law on ratification of this Agreement by the National Assembly of the Republic of Serbia has been published).

* 1. Governing law and enforcement
     1. The choice of the law stated to be the governing law of each Finance Document and all non-contractual obligations arising from or connected with them will be recognised and enforced in the Republic of Serbia.
     2. Any arbitral award or court judgment obtained in England in relation to a Finance Document will be recognised and enforced in the Republic of Serbia.
     3. The agreement not to claim immunity in relation to a Finance Document to which the Borrower or its assets may be entitled will be recognised and enforced in the Republic of Serbia
  2. Deduction of Tax
     1. Except for taxes imposed by way of withholding on interest paid to non-residents of the jurisdiction of the Borrower, it is not required to make any Tax Deduction for any payment it may make under any Finance Document.
     2. To the extent it is required to make any Tax Deduction, it is authorised and permitted to pay any additional amounts payable to any Finance Party pursuant to Clause 13.2 (*Tax gross-up*).
  3. No filing or stamp taxes

Under the law of the Republic of Serbia, it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except that the Borrower is obliged to:

* + 1. report (and pay the reporting fee) to the NBS:
       1. this Agreement and any changes thereto;
       2. any changes to the Lenders; and
       3. each Utilisation and each repayment or prepayment under this Agreement; and
    2. register the relevant information pertaining to this Agreement in the public debt records kept by the Public Debt Administration of the Ministry of Finance of the Republic of Serbia.
  1. No default
     1. No Event of Default and, on the date of this Agreement and on the Effective Date, no Default is continuing or is reasonably likely to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
     2. No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject which might have a Material Adverse Effect.
  2. No misleading information
     1. All factual information provided by or on behalf of it (including by its advisers) to a Finance Party in relation to the Facility was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.
     2. Nothing has occurred or been omitted and no information has been given or withheld that results in the information provided by or on behalf of the Borrower or any of its government agencies (including by their advisers) being untrue or misleading in any material respect.
  3. Financial position
     1. There has been no material adverse change in the Borrower's, the Employer's or the Investor's economic condition since the date of this Agreement.
     2. Any budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.
  4. Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors in respect of External Financial Indebtedness (save for such obligations as may be preferred by provisions of law that are of mandatory application at the date hereof) and will be payable out of the public revenues and other assets of the Borrower.

* 1. No proceedings pending or threatened
     1. No litigation, arbitration or administrative proceedings or investigations of, or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it and its government agencies.
     2. No judgment or order of a court, arbitral tribunal or other tribunal or any order of any governmental or other regulatory body which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it and its government agencies, the Employer or the Investor.
  2. No breach of laws

It has not breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

* 1. Environmental laws
     1. Each of the Borrower, the Employer, the Investor and in relation to the Project, the Contractor, is in compliance with Clause 20.6 (*Environmental compliance*) and, to the best of its knowledge and belief (having made due and careful enquiry), no circumstances have occurred which would prevent such compliance.
     2. No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against any of the Borrower, the Employer or the Investor.
  2. Anti-corruption and anti-money laundering laws
     1. Each of the Borrower, the Employer and the Investor, and each Subsidiary, minister, official, representative, director, officer, civil servant or (to the best knowledge of the Borrower) employee or agent of the Borrower, is in compliance with applicable Anti-Corruption Laws and Anti-Money Laundering Laws and has instituted and maintains as at the date of this Agreement and as at the Effective Date policies and procedures designed to promote and achieve compliance with such laws.
     2. None of:
        1. the Borrower, the Employer or the Investor (nor, to the best of their knowledge and belief (having made due and careful enquiry), any minister, official, representative, agent, director, employee or officer of any of them); nor
        2. (in any capacity in connection with the financing of the Project or in connection with the EPC Contract,) any of the Borrower's, Employer's or Investor's government agencies, (nor, to the best of their knowledge and belief (having made due and careful enquiry), any minister, official, representative, agent, director, employee or officer of any of any of them),

has made or received, or directed or authorised any other person to make or receive, any offer, payment or promise to pay, of any money, gift or other thing of value, directly or indirectly, to or for the use or benefit of any person, where this violates or would violate, or creates or would create liability for it or any other person under, any Anti-Corruption Laws or Anti-Money Laundering Laws.

* + 1. None of:
       1. the Borrower, the Employer or the Investor (nor to the best of their knowledge and belief (having made due and careful enquiry), any minister, official, representative, agent, director, employee or officer of any of them), nor
       2. (in any capacity in connection with the financing of the Project or in connection with the EPC Contract) any of the Borrower's government agencies (nor to the best of their knowledge and belief (having made due and careful enquiry) any minister, official, representative, agent, director, employee or officer of any of the Borrower's government agencies),

is being investigated by any agency, or party to any proceedings, in each case in relation to any Anti-Corruption Laws or Anti-Money Laundering Laws.

* 1. Sanctions Laws and Regulations
     1. None of the Borrower, the Employer, the Investor or any Subsidiary of the Borrower, nor any minister, official, representative, director or officer of the Borrower, the Employee or the Investor nor (to the knowledge of the Borrower) any employee, civil servant or agent of the Borrower, the Employer or the Investor, is a Sanctions Restricted Person or is directly or indirectly owned or controlled by persons that are Sanctions Restricted Persons.
     2. No Utilisation, use of proceeds or other transaction contemplated by this Agreement will violate any applicable Sanctions.
     3. No Finance Party may benefit from a breach of any of the foregoing representations in this Clause if it has notified the Agent that to do so could result in it breaching or violating (i) the Blocking Law, (ii) any regulation implementing the Blocking Law in any member state of the European Union or (iii) any similar law or regulation in the United Kingdom.
  2. External Financial Indebtedness

None of its External Financial Indebtedness is secured by any Security or Quasi-Security on or with respect to the Public Assets other than as permitted by this Agreement.

* 1. Good title to assets

Each of the Borrower, the Employer and the Investor has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on the Project.

* 1. No immunity

In any proceedings taken in the Republic of Serbia in relation to the Finance Documents, it will not be entitled to claim for itself or any of its assets immunity from suit or other legal process, except for immunity from enforcement in respect of any present or future:

* + 1. "premises of the mission" as such term is defined in the Vienna Convention on Diplomatic Relations signed in 1961;
    2. "consular premises" as such term is defined in the Vienna Convention on Consular Relations signed in 1963;
    3. assets that cannot be in commerce;
    4. military property or military assets and buildings, weapons or equipment designated for defence, state and public security;
    5. receivables the assignment of which is restricted by law;
    6. natural resources, common use items, grids in public ownership, river basin land and water facilities in public ownership, protected natural heritage in public ownership and cultural heritage in public ownership;
    7. real estate in public ownership which is, partly or entirely, used by the authorities of the Republic of Serbia, autonomous provinces or local self-government for the purpose of exercising their rights and duties;
    8. the state's, autonomous province's or local government's stocks and shares in companies and public enterprises, unless the relevant entity consented to the establishment of a pledge over such stocks or shares, or
    9. movable or immovable assets of health institutions, unless a mortgage was established based on the Government's decision; or
    10. other assets exempt from enforcement by law or international treaties,

(the assets listed in paragraphs (a) to (j) above (inclusive) being **"Excluded Assets"**).

* 1. Private and commercial acts

Each of the Borrower's, the Employer's and the Investor's execution of the Transaction Documents to which it is a party constitutes, and its exercise of its rights and performance of its obligations thereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

* 1. EPC Contract
     1. *EPC Contract in form provided*: Other than as amended in a manner that would not result in an obligation to prepay all outstanding Loans pursuant to Clause 8.2 (*Material EPC Contract Change*), the EPC Contract is in the form delivered to the Agent prior to the date of this Agreement or, if more recently, pursuant to Clause 5.1 (*Initial conditions precedent*).
     2. *EPC Contract in effect*: The EPC Contract is (or will immediately be, upon the occurrence of the Effective Date) in full force and effect and has not been suspended, terminated, cancelled or repudiated (in each case, in whole or in part).
     3. *Obligations legal, valid and binding*: The obligations of the Employer and the Investor under the EPC Contract are legal, valid, binding and enforceable and do not and will not conflict with any applicable law or regulation.
     4. *No force majeure or early termination event*: No event or circumstance has occurred that:
        1. gives rise or might reasonably be expected to give rise to a right to terminate early, suspend performance under, repudiate or cancel (in each case, in whole or in part) the EPC Contract; or
        2. constitutes a force majeure event (howsoever described) in relation to or under the EPC Contract.
     5. *No proceedings*: No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency has or have been started or, to the best of the Borrower's knowledge and belief, threatened in relation to the EPC Contract or the transactions contemplated under the EPC Contract and there are no disputes between the Employer and/or the Investor and the Contractor under the EPC Contract.
     6. *No claims or liabilities*: There are no claims, liabilities or obligations in existence between the Employer and/or the Investor and the Contractor or any other person that are or might reasonably be expected to be materially detrimental to the rights of any Finance Party under the Finance Documents or under the Sinosure Policy.
     7. *China Serbia Agreement*: The Agreement on Economic and Technical Cooperation in the Area of Infrastructure between the Government of the Republic of Serbia and the Government of China has been duly ratified by both parties, is in full force and effect and has not been suspended, terminated, cancelled or repudiated (in each case, in whole or in part).
  2. IMF

It is a member in good standing and eligible to use the resources of the IMF and the IBRD and is able to draw or make use of funds available to it under any IMF or IBRD funding programme and no such programme has been cancelled or suspended.

* 1. Exchange controls
     1. Under the laws of the Republic of Serbia, all payments to be made under the Finance Documents may be freely transferred out of the Republic of Serbia and may be paid in, or freely converted into, the Facility Currency
     2. The Borrower has obtained all foreign exchange control approvals or such other Authorisations as are required to assure the availability of the Facility Currency to enable the Borrower to perform all of its obligations under the Finance Documents to which it is a party.
     3. There are no restrictions or requirements currently in effect that limit the availability or transfer of foreign exchange which would restrict the ability of the Borrower to perform its obligations under any Finance Document.
  2. Public procurement rules

All public procurement rules in the Republic of Serbia which are applicable to the entry into and the exercise of its rights and performance of each of the Borrower's, the Employer's and the Investor's obligations under the Transaction Documents to which it is a party have been complied with.

* 1. Budget and limits
     1. The funds necessary for the payment of all of the obligations of the Borrower under the Finance Documents in respect of the relevant period have been provided for under the Law Approving the Budget of the Republic of Serbia for that year, (which for the year 2022 is *Zakon o budžetu Republike Srbije za 2022 godinu,* Official Gazette of the Republic of Serbia, no. 110/21).
     2. Its borrowings and guarantees are within any limits (if any) set by the IMF, the World Bank and applicable international treaties.
  2. Reserves
     1. The Republic of Serbia and the NBS have full ownership, power, control and authority to use the Reserves.
     2. The Borrower has fully disposable to it part of the available Reserves for the satisfaction and discharge of its obligations under the Finance Documents and does not require any licence or any other Authorisation of any person or Government Entity or other agency to use such part of the Reserves.
     3. The Republic of Serbia is the beneficial owner of the Reserves.
     4. The NBS is the central bank and monetary authority of the Republic of Serbia that is empowered to hold and manage the Reserves, including the part of the Reserves that is fully disposable by the Borrower, in a manner that contributes to the due performance of the Republic of Serbia's foreign debt obligations, which will include the obligations under the Finance Documents.
  3. Repetition

The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

1. Information undertakings

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

* 1. Annual Budget

The Borrower shall deliver to the Agent in a form satisfactory to the Agent (acting on the instructions of the Majority Lenders) (in sufficient copies for all the Lenders) as soon as the same become available, but in any event within 180 days after the end of each of its financial years the law approving the budget of the Republic of Serbia (*Zakon o budžetu Republike Srbije*) for that calendar year.

* 1. Information: miscellaneous

The Borrower shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

* + 1. such information concerning the EPC Contract or the Project as may reasonably be requested by the Agent, any Lender or Sinosure (via the ECA Agent) from time to time;
    2. all documents dispatched by the Borrower to its creditors of External Financial Indebtedness generally at the same time as they are dispatched;
    3. promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the Borrower, and which might, if adversely determined, have a Material Adverse Effect;
    4. promptly such other financial, statistical and general information regarding the financial condition, assets, functions and operations about the Borrower as the Agent may reasonably request, including any requested amplification or explanation or projections or any requested amplification or explanation of other material provided by the Borrower under this Agreement;
    5. promptly a copy of changes to:
       1. the constitutional documents of the Borrower that effect the status of it; and
       2. Public Debt Act (Zakon o javnom dugu, Official Gazette of the Republic of Serbia nos. 61/2005, 107/2009, 78/2011, 68/2015, 95/2018, 91/2019 and 149/2020) and the Budget System Act (Zakon o budžetskom sistemu, Official Gazette of the Republic of Serbia nos. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013, 108/2013, 142/2014, 68/2015, 103/2015, 99/2016, 113/2017, 5/2018, 31/2019, 72/2019 and 149/2020);
    6. notice of any change of a Borrower Authorised Signatory, a Contractor Authorised Signatory or an Employer Authorised Signatory, accompanied by specimen signatures in the form of a certificate signed by an existing Borrower Authorised Signatory, Contractor Authorised Signatory or Employer Authorised Signatory (as appropriate);
    7. promptly upon becoming aware of them, details of claim made against the Borrower in relation to Sanctions Event, money laundering and/or bribery and corruption; and
    8. subject to the confidentiality requirements that the Borrower is required to comply with as a matter of applicable policies (as consistently applied by the Republic of Serbia to all counterparties of the same type as the Finance Parties) and applicable laws and regulations, such further information regarding the financial condition of the Borrower or the financial condition, business or operation of the Project reasonably requested by the Agent, **provided that** such information has not otherwise been supplied to the Agent pursuant to the Finance Documents.
  1. Notification of default
     1. The Borrower shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
     2. Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by a Borrower Authorised Signatory certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).
  2. Notification of Completion Date

The Borrower shall notify the Agent promptly on the occurrence of the Completion Date, such notification to include a copy of the Taking-Over Certificate.

* 1. Use of websites
     1. The Borrower may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the **"Website Lenders"**) who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Agent (the **"Designated Website"**) if:
        1. the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
        2. both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
        3. the information is in a format previously agreed between the Borrower and the Agent.
     2. If any Lender (a **"Paper Form Lender"**) does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall supply the information to the Agent (in sufficient copies for each Paper Form Lender and Sinosure) in paper form. In any event, the Borrower shall supply the Agent with at least one copy in paper form of any information required to be provided by it.
     3. The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Agent.
     4. The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:
        1. the Designated Website cannot be accessed due to technical failure;
        2. the password specifications for the Designated Website change;
        3. any new information which is required to be provided under this Agreement is posted onto the Designated Website;
        4. any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
        5. the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.
     5. If the Borrower notifies the Agent under paragraph (d)(i) or paragraph (d)(v) above, all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.
     6. Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall comply with any such request within ten Business Days.
  2. "Know your customer" checks
     1. If:
        1. the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
        2. any change in the status of the Borrower after the date of this Agreement; or
        3. a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges Sinosure, the Agent or any Lender (or, in the case of Clause 19.6(a)(iii), any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the ECA Agent on behalf of Sinosure, the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of Sinosure or any Lender) or any Lender (for itself or, in the case of the event described in Clause 19.6(a)(iii), on behalf of any prospective new Lender) in order for Sinosure, the Agent, such Lender or, in the case of the event described in Clause 19.6(a)(iii), any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

* + 1. Each Lender shall promptly, upon the request of the Agent or the ECA Agent (for itself or on behalf of Sinosure), supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent or the ECA Agent (for itself or on behalf of Sinosure) in order for the Agent, the ECA Agent or Sinosure to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable law pursuant to the transactions contemplated in the Finance Documents and the Sinosure Policy.
  1. EPC Contract

The Borrower shall notify the Agent and the ECA Agent if any amendment is made to the EPC Contract and shall promptly provide a copy of that amendment to each of the Agent and the ECA Agent.

* 1. Sinosure Policy

The Borrower shall notify each of Sinosure and the Agent promptly in writing on becoming aware that the Utilised Loan Ratio exceeds the Premium Payment Ratio and the Borrower shall pay the Deferred Sinosure Premium no later than 10 days after the date on which the Utilised Loan Ratio first exceeded the Premium Payment Ratio.

* 1. Provisional and final acceptance certificates

The Borrower shall deliver to the Agent a copy of the provisional acceptance certificate and the final acceptance certificate issued under the EPC Contract or otherwise relating to the Project promptly following its issuance.

1. General undertakings

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

* 1. Authorisations

The Borrower shall (and shall ensure that in respect of paragraph (a) below, the Employer and the Investor will):

* + 1. maintain, comply with and do all that is necessary to maintain in full force and effect and (where applicable, and in such case as soon as practicable) obtain any Authorisation required under any Applicable Law in order to perform its obligations under, or for the legality, validity, enforceability or admissibility in evidence of the Transaction Documents (and supply certified copies to the Agent thereof) including, in respect of the Borrower only, any necessary Authorisation, if one is required, to ensure that the Borrower may fully dispose of any Reserves in order to perform its obligations under the Finance Documents; and
    2. ensure that all amounts which are scheduled to fall due under the Transaction Documents in each calendar year are included in the law approving the budget of the Republic of Serbia (*Zakon o budžetu Republike Srbije*) for that calendar year.
  1. Compliance with laws
     1. The Borrower shall (and shall ensure that the Employer and the Investor will) comply in all respects with the Applicable Law, if failure so to comply would materially impair the Borrower's ability to perform its obligations under the Finance Documents.
     2. The Borrower will (and shall ensure that the Employer and the Investor will) maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, the Employer, the Investor and their respective ministers, officials, representatives, directors, officers, employees and agents with Anti-Corruption Laws and Anti-Money Laundering Laws.
  2. IMF

The Borrower shall fulfil its obligations as a member of the IMF and IBRD (or any successor of the IMF or IBRD) at all times.

* 1. Negative pledge

In this Clause 20.4, **"Quasi-Security"** means an arrangement or transaction described in paragraph (c) below.

* + 1. The Borrower shall not, and shall ensure that each of its government agencies shall not, create or permit to subsist any Security over any Public Assets, owned or subsequently acquired, securing the payment of the Borrower's External Financial Indebtedness, unless at the same time or prior thereto, it or its agencies (as applicable) secure the Loans equally and rateably with such Security or provide such other arrangement (whether or not comprising Security) as is satisfactory to the Agent.
    2. The Borrower shall ensure that neither it nor the Employer nor the Investor nor any of their government agencies will:
       1. create or permit to subsist any Security or Quasi-Security over any assets comprised within the Project or any of the Employer's rights under the EPC Contract; or
       2. sell, transfer or otherwise dispose of any assets comprised within the Project or any of the Employer's rights under the EPC Contract.
    3. The Borrower shall ensure that neither it nor any of its government agencies will:
       1. sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Borrower or its government agencies;
       2. sell, transfer or otherwise dispose of any of its receivables on recourse terms;
       3. enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of ac-counts; or
       4. enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising External Financial Indebtedness.

* + 1. Paragraphs (a) and (c) above do not apply to any Security or (as the case may be) Quasi-Security, listed below:
       1. any netting or set-off arrangement entered into by the Borrower or any of its government agencies in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
       2. any payment or close out netting or set-off arrangement pursuant to any hedging transaction entered into by the Borrower and its government agencies for the purpose of:
          1. hedging any risk to which any government agencies are exposed in their 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 or Quasi-Security under a credit sup-port arrangement in relation to a hedging transaction;

* + - 1. any lien arising by operation of law;
      2. any Security or Quasi Security upon property incurred solely for the purpose of financing the acquisition or construction of such property;
      3. any Security or Quasi Security existing on property at the time of its acquisition;
      4. any renewal or extension of any Security or Quasi Security of the kind de-scribed in paragraphs (i) to (v) above, provided that the principal amount of the External Financial Indebtedness secured is not increased and such renewal or extension is limited to the original property covered thereby; and
      5. in addition to the Security or Quasi Security described in paragraphs (i) to (vi) above, Security over Public Assets in any calendar year having a market value of EUR 1,000,000 (in aggregate) or its equivalent in other currencies.
  1. Disposals

The Borrower shall not transfer or permit the transfer of any Public Assets to any separate agency, Government Entity or other legal entity controlled directly or indirectly by the Borrower or any of its agencies (i) for the purpose of avoiding the negative pledge in Clause 20.4 (*Negative pledge*) or (ii) if the transfer would impair its ability, or the Employer's or Investor's ability, to perform their obligations under the Transaction Documents, other than:

* + 1. disposals in the ordinary course of trading;
    2. disposals of assets (otherwise than in the ordinary course of business) for full cash consideration, provided that such disposal does not relate to or affect any assets comprised within the Project or any of the Employer's or Investor's rights under the EPC Contract;
    3. disposals of assets in exchange for other assets comparable or superior as to type, value or quality;
    4. disposals of cash raised or borrowed for the purpose for which it was raised or borrowed;
    5. disposals with the prior written consent of the Agent; and
    6. any other disposal for full value of an asset unless such disposal might (in the opinion of the Majority Lenders) have a Material Adverse Effect.
  1. Environmental compliance

The Borrower shall (and it shall ensure that each of the Employer, the Investor and, in relation to the Project, the Contractor will):

* + 1. comply with all Environmental Laws;
    2. obtain, maintain and ensure compliance with all requisite Environmental Permits;
    3. implement procedures to monitor compliance with and to prevent liability under any Environmental Law.
  1. Compliance with the Environmental and Social Action Plan (ESAP)
     1. The Borrower shall:
        1. comply (and ensure the compliance of any other party, including the Employer and the Contractor) with all material aspects relating to all terms, requirements and conditions set forth in the Environmental and Social Action Plan (ESAP), in accordance with the timetable for compliance and taking full account of all applicable laws (including applicable Environmental and Social Requirements); and
        2. cooperate and supply all necessary assistance to the Environmental and Social Consultant in the conduct and evaluation the compliance with the Environmental and Social Action Plan (ESAP), in particular by allowing the Environmental and Social Consultant to have, during normal business hours in the Republic of Serbia and after reasonable prior notice, reasonable access to all its properties and premises, and to all agents, employees, representatives or others, to accounting records, files, computer programs and any other data or information that may be necessary to control the declarations under the Environmental and Social Action Plan (ESAP).
     2. The Borrower shall (and shall procure that the Employer and the Contractor shall) promptly perform all actions required of it under the Environmental and Social Action Plan (ESAP) or pursuant to any binding recommendation or requirement of the Environmental and Social Consultant (including any recommendation made in any Environmental and Social Monitoring Report), in each case within the time period specified therein or by the Environmental and Social Consultant (or, if no such time period is stipulated, as the Agent may specify).
     3. If the Borrower fails to perform or comply with any of the obligations to be assumed by it in paragraphs 20.6 (*Environmental compliance*) and this Clause 20.7, the Borrower shall (and shall procure that the Employer or the Contractor shall, as applicable):
        1. immediately notify the Agent; and
        2. within ten Business Days of being notified of or becoming aware of such failure to perform or comply, deliver a Corrective Action Plan, setting out the measures to remove, remedy, abate, contain, treat, ameliorate or otherwise render compliant the relevant circumstances or event which has led to such non-performance or non-compliance. The Corrective Action Plan shall specify time bound actions, targets and success criteria or objectives to be achieved in remedying such non-performance or non-compliance and the Borrower shall comply with and shall ensure that the Contractor complies with any such Corrective Action Plan (with any amendments thereto approved by the Agent (acting on instructions of the Majority Lenders).
  2. Environmental Claims

The Borrower shall (and it shall ensure that each of the Employer, the Investor and any Subsidiary, minister, official, representative, director, officer, employee, civil servant and agent of the Borrower will) promptly and in any case within three Business Days of becoming aware of the same, inform the Agent in writing of:

* + 1. any Environmental Claim against it or any of them which is current, pending or threatened; and
    2. any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it (or any of them).
  1. Anti-corruption and anti-money laundering laws

The Borrower shall, and shall procure that the Employer, the Investor and any Subsidiary, minister, official, representative, director, officer, employee, civil servant or agent of the Borrower will:

* + 1. comply with and conduct its functions and operations in compliance with applicable Anti-Corruption Laws and Anti-Money Laundering Laws; and
    2. not directly or indirectly use the proceeds of the Facility for any purpose which would breach any Anti-Corruption Laws or Anti-Money Laundering Laws;
    3. maintain policies and procedures designed to promote and achieve compliance with Anti-Corruption Laws and Anti-Money Laundering Laws;
    4. not request any Loan, and shall not use, and shall procure that its ministers, officials, representatives, officers, employees and agents shall not use, the proceeds of any Loan in furtherance of an offer, payment, promise to pay, or authorisation of the payment or giving of money, or anything else of value, to any person in violation of any Anti-Corruption Laws or Anti-Money Laundering Laws; and
    5. not directly or indirectly, authorise, offer, promise, or make payments of anything of value, including but not limited to cash, cheques, wire transfers, tangible and intangible gifts, favours, services, and those entertainment and travel expenses that go beyond what is reasonable and customary and of modest value to:
       1. an executive, official, employee or agent of a governmental department, agency or instrumentality;
       2. a director, officer, employee or agent of a wholly or partially government-owned or controlled company or business;
       3. a political party or official thereof, or candidate for political office;
       4. a foreign public official; or
       5. any other person,

while knowing or having a reasonable belief that all or some portion will be used for any the purpose of:

* + - * 1. influencing any act, decision or failure to act by any such person in his or her official capacity;
        2. inducing any such person to use his or her influence with a government or instrumentality to affect any act or decision of such government or entity; or
        3. securing an unlawful advantage, in order to obtain, retain or direct business.
  1. Sanctions
     1. The Borrower will not request any Utilisation, and the Borrower shall not use, and shall procure that the Employer and the Investor, and its or their respective ministers, officials, representatives, directors, officers, employees and agents shall not use, the proceeds of any Utilisation (A) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctions Restricted Person, or in any Sanctioned Territory, or (B) in any manner that would result in the violation of any Sanctions applicable to any party.
     2. No Finance Party may benefit from a breach of the undertakings in paragraph (a) above if it has notified the Agent that to do so could result in it breaching or violating (i) the Blocking Law, (ii) any regulation implementing the Blocking Law in any member state of the European Union or (iii) any similar law or regulation in the United Kingdom.
  2. Insurance

The Borrower shall:

* + 1. procure that any goods and/or services to be supplied under the EPC Contract will be insured to the satisfaction of the Agent (acting on the instructions of the Majority Lenders) against the risk of loss or damage in accordance with normal commercial practice for similar contracts until final acceptance of those goods and/or services under the EPC Contract; and
    2. produce to the Agent (from time to time at the Agent's request) evidence that such insurance has been effected and maintained.
  1. Pari passu ranking

The Borrower shall ensure that at all times all its unsecured and unsubordinated obligations to the Finance Parties (or any of them) against it under the Finance Documents rank at least *pari passu* with its obligations to all of its other unsecured and unsubordinated creditors save for such obligations as may be preferred by provisions of law that are of mandatory application at the date hereof and, in the case of the Borrower, will be payable out of the public revenues and other assets of the Borrower.

* 1. Site visits
     1. The Borrower shall, or shall procure that the Employer or the Investor will, at the request of Sinosure, ensure access to the Project and arrange for a site visit by Sinosure or its nominated representative or the Environmental and Social Consultant:
        1. at any time while a Corrective Action Plan is in place or when a Default has occurred and is continuing; and
        2. for the purpose of monitoring the performance of the Environmental and Social Requirements (other than compliance with a Corrective Action Plan).
           1. in the case of Sinosure or its nominated representative, at least once in each twelve (12) month period; and
           2. in the case of the Environmental and Social Consultant, at least every 3 months during the period prior to the Completion Date and 6 months in the period following the Completion Date until 24 months after the Completion Date.
     2. The Borrower shall ensure that Sinosure or its nominated representative, and the Environmental and Social Consultant, are promptly and duly informed regarding, and have the right to attend, any multi-stakeholder meeting or focus groups or other meetings which form any part of the Borrower and/or Employer's public consultation process in relation to the Project.
     3. The agenda, scope and (subject to paragraph (a) above) timing of any site visits shall be determined by Sinosure or its nominated representative or the Environmental and Social Consultant following consultation with the Borrower.
     4. The Borrower shall pay all reasonable costs and expenses of Sinosure and/or its nominated representatives in relation to each site visit. To the extent that Sinosure or its nominated representative itself was required directly to pay any costs or expenses then the Borrower shall, within seven Business Days of written demand, reimburse Sinosure and/or its nominated representative any such amounts incurred.
     5. To the extent reasonably practicable, in advance of any visit to be made by Sinosure, its nominated representative, or the Environmental and Social Consultant:
        1. Sinosure, its nominated representative, or the Environmental and Social Consultant shall provide the Borrower with written details of those matters that Sinosure, its nominated representative, or the Environmental and Social Consultant wish to address during the proposed visit in order to assist the Borrower in arranging the visit; and
        2. the Borrower shall provide Sinosure, its nominated representative, or the Environmental and Social Consultant with such up to date information relating to those matters as Sinosure or its nominated representative, or the Environmental and Social Consultant may request.
     6. Following any visit made by Sinosure or its nominated representative, or the Environmental and Social Consultant, the Borrower shall provide such follow up reports or information as Sinosure or its nominated representative, or the Environmental and Social Consultant shall request.
  2. Filing and reporting requirements
     1. The Borrower shall register, promptly after the first Utilisation Date, the relevant details of this Agreement in the public debt records kept by the Public Debt Administration of the Ministry of Finance of the Republic of Serbia.
     2. The Borrower shall comply with all of its reporting obligations to the NBS in connection with this Agreement pursuant to the Foreign Exchange Act (*Zakon o deviznom poslovanju*, Official Gazette of the Republic of Serbia nos. 62/2006, 31/2011, 119/2012, 139/2014 and 30/2018) and its implementing regulations, or any other legislation or regulation that may amend, supplement or replace the foregoing, including, but limited to, the obligation to duly report to the NBS (and pay the reporting fee): (i) this Agreement and any changes made thereto; (ii) any changes to the Lenders; and (iii) each Utilisation and each repayment or prepayment under this Agreement.
  3. Budget and limits
     1. The Borrower shall include all amounts due and payable or that will fall due and payable to the Finance Parties under the Finance Documents during a calendar year in its yearly finance law and its budget statements or other financial plans for that calendar year and shall ensure that there will at no time be any restriction on the ability of the Borrower to meet its obligations under the Finance Documents.
     2. The Borrower shall maintain the funds necessary for the repayment of all of its obligations under the Finance Documents that have been provided for under the Law Approving the Budget of the Republic of Serbia for the year 2022 (*Zakon o budžetu Republike Srbije za 2022. godi*nu, Official Gazette of the Republic of Serbia, no. 110/21).
     3. The Borrower shall ensure that, at all times, its borrowings and guarantees remain within any limit set by the IMF, the World Bank and the applicable international treaties.
  4. Sinosure Policy
     1. The Borrower shall promptly comply in all respects with all requests by any Finance Party which arise as a result of requirements of Sinosure imposed upon that Finance Party or the Borrower under or by reason of the Sinosure Policy or required to ensure that the Sinosure Policy remains in full force and effect.
     2. The Borrower agrees that in the event that the ECA Agent notifies the Borrower that it has or intends to file a claim for payment under the Sinosure Policy, it shall:
        1. use its best efforts to assist in the filing of any claim for compensation, indemnity or reimbursement; and
        2. use its best efforts to co-operate in good faith with the ECA Agent and/or Sinosure with respect to the verification of claim, eligibility or amount by any such person (including but not limited to providing evidence, documentation, information, certificates and other forms of proof reasonably requested in connection therewith).
  5. Compliance with EPC Contract

The Borrower shall (and shall ensure that the Employer and the Investor will):

* + 1. comply in all material respects with its obligations under, and in the manner and at the times provided in the EPC Contract; and
    2. not repudiate or evidence an intention to repudiate the EPC Contract nor take nor omit to take any action that might result in any default on any of its payment or other material obligations under the EPC Contract.

1. Events of default

Each of the events or circumstances set out in Clause 21 is an Event of Default (save for Clause 21.14 (*Acceleration*)).

* 1. Non-payment

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

* + 1. its failure to pay is caused by:
       1. administrative or technical error; or
       2. a Disruption Event; and
    2. payment is made within three Business Days of its due date.
  1. Other obligations
     1. The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 21.1 (*Non-payment*)).
     2. No Event of Default under Clause 21.2(a) will occur if the failure to comply is capable of remedy and is remedied within 10 Business Days of the earlier of (i) the Agent giving notice to the Borrower and (ii) the Borrower becoming aware of the failure to comply.
  2. Misrepresentation

Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

* 1. Cross default
     1. Any External Financial Indebtedness of the Borrower is not paid when due nor within any originally applicable grace period.
     2. As a result of an event of default (howsoever described), any Financial Indebtedness of the Borrower or any of its government agencies is:
        1. declared to be or otherwise becomes due and payable prior to its specified maturity; or
        2. placed on demand.
     3. Any commitment for any External Financial Indebtedness of the Borrower is cancelled or suspended by a creditor of the Borrower as a result of an event of default (however described).
     4. Any creditor of the Borrower becomes entitled to declare any External Financial Indebtedness of the Borrower due and payable prior to its specified maturity as a result of an event of default (howsoever described).
     5. No Event of Default will occur under this Clause 21.4 if the aggregate amount of Financial Indebtedness and External Financial Indebtedness, and the aggregate commitments for Financial Indebtedness and External Financial Indebtedness, falling within Clause 21.4(a) to Clause 21.4(d), is less than EUR 50,000,000 (or its equivalent in any other currency or currencies as determined by the Agent).
  2. Moratorium

A moratorium is declared or de facto comes into effect on the payment of any External Financial Indebtedness of the Borrower or the Borrower commences negotiations with any one or more of its External Financial Indebtedness creditors with a view to the general readjustment or rescheduling of its indebtedness.

* 1. Creditors' process

Any expropriation, attachment, sequestration, distress, execution or any analogous process in any jurisdiction affects any asset or assets of the Borrower, the Employer or any governmental agencies having an aggregate value of EUR 5,000,000 and is not discharged within 30 days.

* 1. Unlawfulness and invalidity
     1. It is or becomes unlawful for the Borrower, the Employer or the Investor to perform any of its obligations under the Transaction Documents.
     2. Any obligation or obligations of the Borrower under any Finance Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.
     3. Any Finance Document ceases to be in full force and effect or is alleged by a party to it (other than a Finance Party) to be ineffective.
  2. IMF

The Borrower ceases to be a member in good standing or becomes ineligible to use the resources of the IMF or is unable for any reason to draw or make use of funds available to it under any IMF funding programme or any such programme is cancelled or suspended.

* 1. Repudiation of agreements

The Borrower, the Employer or the Investor repudiates a Transaction Document or evidences an intention to repudiate a Transaction Document.

* 1. Exchange controls

Any event or series of events occurs which limits the acquisition or the transfer of foreign exchange by the Borrower and such event or events has or is reasonably likely to affect the ability of the Borrower to perform its obligations under any Finance Documents.

* 1. Convertibility/Transferability

Any foreign exchange law is amended, enacted or introduced or is reasonably likely to be amended, enacted or introduced in the Republic of Serbia that (in the opinion of the Majority Lenders):

* + 1. has or is reasonably likely to have the effect of prohibiting, or restricting or delaying in any material respect any payment that the Borrower is required to make pursuant to the terms of any of the Finance Documents; or
    2. is materially prejudicial to the interests of the Finance Parties under or in connection with any of the Finance Documents.
  1. Environmental Claim

Any Environmental Claim is commenced or against any of the Borrower, the Contractor, the Employer or the Investor with respect to the Project.

* 1. Material adverse change

Any event or circumstance occurs which the Majority Lenders reasonably believe has or is reasonably likely to have a Material Adverse Effect.

* 1. Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

* + 1. cancel all or part of the Total Commitments whereupon they shall immediately be cancelled;
    2. declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
    3. declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

1. Subrogation
   * 1. Each Party acknowledges that Sinosure will be subrogated to the rights of the Agent and the Lenders to the extent of any payment made by or on behalf of Sinosure under the Sinosure Policy.
     2. Nothing in any Finance Document shall prejudice the right of Sinosure to be subrogated, pursuant to the Sinosure Policy or applicable law, to the rights of the Agent or any Lender under this Agreement and each other Finance Document.

**SECTION 9**

**CHANGES TO PARTIES**

1. Changes to the Lenders
   1. Assignments and transfers by the Lenders

Subject to this Clause 23, a Lender (the **"Existing Lender"**) may:

* + 1. assign any of its rights; or
    2. transfer by novation any of its rights and obligations,

under the Finance Documents to:

* + - 1. Sinosure;
      2. another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets; or
      3. to an Affiliate of such Existing Lender,

(the **"New Lender"**) **provided that**, in the case of sub-paragraphs (ii) or (iii) above, the prior written consent of Sinosure has been obtained by such Existing Lender to such assignment or transfer).

* 1. Conditions of assignment or transfer
     1. An assignment will only be effective on:
        1. receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and
        2. performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.
     2. A transfer will only be effective if the procedure set out in Clause 23.5 (*Procedure for transfer*) is complied with.
     3. If:
        1. a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
        2. as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 13 (*Tax gross up and indemnities*) or Clause 14 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred. This Clause 23.2(c) shall not apply in respect of an assignment or transfer made in the ordinary course of the primary syndication of the Facility or in respect of a transfer or assignment to Sinosure.

* + 1. Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.
  1. Assignment or transfer fee

Other than with respect to a transfer or assignment to Sinosure, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to (a) the Agent (for its own account) a fee of EUR 5,000 and (b) the ECA Agent (for its own account) a fee of EUR 5,000.

* 1. Limitation of responsibility of Existing Lenders
     1. Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
        1. the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Sinosure Policy or any other documents;
        2. the financial condition of the Borrower or Sinosure;
        3. the performance and observance by the Borrower of its obligations under the Finance Documents or any other documents;
        4. the performance and observance by Sinosure of its obligations under the Sinosure Policy; or
        5. the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document, the Sinosure Policy or any other document,

and any representations or warranties implied by law are excluded.

* + 1. Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
       1. has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower and its related entities in connection with its participation in this Agreement, and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Transaction Document; and
       2. will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
    2. Nothing in any Finance Document obliges an Existing Lender to:
       1. accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 23; or
       2. support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Borrower of its obligations under the Finance Documents or otherwise.
  1. Procedure for transfer
     1. Subject to the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with Clause 23.5(c) when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to Clause 23.5(b), as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
     2. The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
     3. Subject to Clause 23.9 (*Pro rata interest settlement*), on the Transfer Date:
        1. to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents the Borrower and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the **"Discharged Rights and Obligations"**);
        2. the Borrower and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower and the New Lender have assumed and/or acquired the same in place of the Borrower and the Existing Lender;
        3. the Agent, the ECA Agent, the Arrangers, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the ECA Agent, the Arrangers and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
        4. the New Lender shall become a Party as a "Lender".
  2. Procedure for assignment
     1. Subject to the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with Clause 23.6(c) when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to Clause 23.6(b), as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
     2. The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
     3. Subject to Clause 23.9 (*Pro rata interest settlement*), on the Transfer Date:
        1. the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
        2. the Existing Lender will be released by the Borrower and the other Finance Parties from the obligations owed by it (the **"Relevant Obligations"**) and expressed to be the subject of the release in the Assignment Agreement; and
        3. the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.
     4. Lenders may utilise procedures other than those set out in this Clause 23.6 to assign their rights under the Finance Documents (but not, without the consent of the Borrower or unless in accordance with Clause 23.5 (*Procedure for transfer*), to obtain a release by the Borrower from the obligations owed to the Borrower by the Lenders nor the assumption of equivalent obligations by a New Lender) provided that they comply with the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*).
  3. Copy of Transfer Certificate or Assignment Agreement to the Borrower and to the NBS
     1. The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.
     2. The Borrower shall, as soon as reasonably practicable after it has received a copy of the Transfer Certificate or Assignment Agreement, deliver to the NBS any documents or other information that may be required by the NBS for reporting the change to the Lender.
  4. Security over Lenders' rights
     1. Subject to paragraph (b) below, in addition to the other rights provided to Lenders under this Clause 23, each Lender may, without consulting with or obtaining consent from the Borrower, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document or the Sinosure Policy to, as applicable, Sinosure, a federal reserve, central bank, any securitisation special purpose entity, trust or fund or any person to whom that Lender may assign or transfer its rights and / or obligations under the Finance Documents to secure obligations of that Lender including, without limitation:
        1. any charge, assignment or other Security to secure obligations to Sinosure, a federal reserve or central bank; and
        2. any charge, assignment or other Security granted to any holders (or trustees or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

* + - * 1. release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
        2. require any payments to be made by the Borrower other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.
    1. The written consent of Sinosure is required by any Lender which wishes to charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender.
  1. Pro rata interest settlement
     1. If the Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 23.5 (*Procedure for transfer*) or any assignment pursuant to Clause 23.6 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):
        1. any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (**"Accrued Amounts"**) and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period; and
        2. the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
           1. when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
           2. the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 23.9, have been payable to it on that date, but after deduction of the Accrued Amounts.
     2. In this Clause 23.9, references to "Interest Period" shall be construed to include a reference to any other period for accrual of fees.
     3. An Existing Lender which retains the right to the Accrued Amounts pursuant to this Clause 23.9, but which does not have a Commitment, shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

1. Changes to the Borrower
   1. Assignments and transfer the Borrower

The Borrower may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

**SECTION 10**

**THE FINANCE PARTIES**

1. Role of the Agent and the Arrangers
   1. Appointment of the Agent
      1. Each of the Arrangers and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.
      2. Each of the Arrangers and the Lenders authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.
      3. Each of the Arrangers and the Lenders hereby exempts the Agent from the restrictions pursuant to section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and any similar restrictions on self-dealing under any applicable law. An Arranger or Lender which cannot grant such exemption (as a matter of law or fact) shall notify the Agent accordingly.
   2. Instructions
      1. The Agent shall:
         1. exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the ECA Agent;
         2. in the absence of instructions from the ECA Agent and unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
            1. all the Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
            2. in all other cases, the Majority Lenders; and
         3. not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with Clause 25.2(a)(i) or Clause 25.2(a)(ii).
      2. The Agent shall be entitled to request instructions, or clarification of any instruction, from the ECA Agent or the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
      3. Unless a contrary indication appears in the Sinosure Policy, any instructions given to the Agent by the ECA Agent relating to, or required by, Sinosure or the Sinosure Policy shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
      4. In the absence of instructions from the ECA Agent, save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
      5. The Agent may refrain from acting in accordance with any instructions of the ECA Agent, or any Lender or group of Lenders, until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
      6. In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
      7. The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
   3. Duties of the Agent
      1. The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
      2. Subject to Clause 25.3(d), the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
      3. The Agent shall promptly forward to the Lenders a copy of any instructions given to it by the ECA Agent and details of any actions that it has taken or proposes to take pursuant to such instructions.
      4. Without prejudice to Clause 23.7 (*Copy of Transfer Certificate or Assignment Agreement to the Borrower*), Clause 25.3(b) shall not apply to any Transfer Certificate or any Assignment Agreement.
      5. Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
      6. If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
      7. If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the ECA Agent or the Arrangers) under this Agreement it shall promptly notify the other Finance Parties.
      8. The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).
   4. Role of the Arrangers

Except as specifically provided in the Finance Documents, the Arrangers have no obligations of any kind to any other Party under or in connection with any Finance Document.

* 1. No fiduciary duties
     1. Nothing in any Finance Document constitutes the Agent or the Arrangers as a trustee or fiduciary of any other person.
     2. Neither the Agent nor the Arrangers shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.
  2. Business with the Borrower

The Agent and the Arrangers may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.

* 1. Rights and discretions
     1. The Agent may:
        1. rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
        2. assume that:
           1. any instructions received by it from the ECA Agent, the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
           2. unless it has received notice of revocation, that those instructions have not been revoked; and
        3. rely on a certificate from any person:
           1. as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
           2. to the effect that such person approves of any particular dealing, transaction, step, action or thing, as sufficient evidence that is the case and, in the case of Clause 25.7(a)(iii)(A), may assume the truth and accuracy of that certificate.
     2. The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
        1. no Default has occurred (unless it has actual knowledge of a Default arising under Clause 21.1 (*Non-payment*)); and
        2. any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised.
     3. The Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
     4. Without prejudice to the generality of Clause 25.7(c) or Clause 25.7(e), the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be necessary.
     5. The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
     6. The Agent may act in relation to the Finance Documents through its officers, employees and agents.
     7. Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as Agent under this Agreement.
     8. Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arrangers is obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
     9. Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.
  2. Responsibility for documentation

Neither the Agent nor the Arrangers are responsible or liable for:

* + 1. the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Arrangers, the Borrower, the ECA Agent, or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents, the Sinosure Policy or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy;
    2. the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Sinosure Policy or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or
    3. any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.
  1. No duty to monitor

The Agent shall not be bound to enquire:

* + 1. whether or not any Default has occurred;
    2. as to the performance, default or any breach by any Party or any other person of its obligations under any Finance Document or the Sinosure Policy; or
    3. whether any other event specified in any Finance Document or the Sinosure Policy has occurred.
  1. Exclusion of liability
     1. Without limiting Clause 25.10(b) (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent), the Agent will not be liable to any Party for:
        1. any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Sinosure Policy unless directly caused by its gross negligence or wilful misconduct;
        2. exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Sinosure Policy or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Sinosure Policy, other than by reason of its gross negligence or wilful misconduct; or
        3. without prejudice to the generality of Clause 25.10(a)(i) and Clause 25.10(a)(ii), any damages, costs or losses to any person, any diminution in value or any liability whatsoever (but not including any claim based on the fraud of the Agent) arising as a result of:
           1. any act, event or circumstance not reasonably within its control; or
           2. the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

* + 1. No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or the Sinosure Policy and any officer, employee or agent of the Agent may rely on this Clause 25.10(b) subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.
    2. The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents or the Sinosure Policy to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
    3. Nothing in this Agreement shall oblige the Agent or the Arrangers to carry out:
       1. any **"know your customer"** or other checks in relation to any person; or
       2. any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arrangers.

* + 1. Without prejudice to any provision of any Finance Document or the Sinosure Policy excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Finance Document or the Sinosure Policy shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.
  1. Lenders' indemnity to the Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 29.11 (*Disruption to payment systems etc*.) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Borrower pursuant to a Finance Document.

* 1. Resignation of the Agent
     1. The Agent may resign and (with the prior consent of Sinosure) appoint one of its Affiliates as successor by giving notice to the Lenders and the Borrower.
     2. Alternatively the Agent may resign by giving 30 days' notice to the Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may, with prior consent of Sinosure, appoint a successor Agent.
     3. If the Majority Lenders have not appointed a successor Agent in accordance with Clause 25.12(b) within 20 days after notice of resignation was given, the retiring Agent (after consultation with the Borrower) may, with the prior consent of Sinosure, appoint a successor Agent.
     4. If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under Clause 25.12(c), the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 25 and any other term of this Agreement dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will bind the Parties.
     5. The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
     6. The Agent's resignation notice shall only take effect upon the appointment of a successor.
     7. Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 25.12(e)) but shall remain entitled to the benefit of Clause 15.3 (*Indemnity to the Agent and the ECA Agent*) and this Clause 25 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
     8. After consultation with the Borrower, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.
     9. The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (b) above) if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:
        1. the Agent fails to respond to a request under Clause 12.7 (FATCA Information) and the Borrower or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
        2. the information supplied by the Agent pursuant to Clause 12.7 (FATCA Information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
        3. the Agent notifies the Borrower and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party and that Lender, by notice to the Agent, requires it to resign. The consent of the Borrower is not required for an assignment or transfer of rights and/or obligations by the Agent.

* 1. Replacement of the Agent
     1. After consultation with the Borrower, the Majority Lenders may, by giving 30 days' notice to the Agent replace the Agent by appointing a successor Agent.
     2. The retiring Agent shall (at the expense of the Lenders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
     3. The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent.
     4. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 25.13(b)) but shall remain entitled to the benefit of Clause 15.3 (*Indemnity to the Agent and the ECA Agent*) and this Clause 25 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
     5. Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
     6. The Borrower shall, as soon as reasonably practicable after it has been notified about the appointment of the successor Agent, notify the NBS about the change of the Agent.
  2. Confidentiality
     1. In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
     2. If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
  3. Relationship with the Lenders
     1. Subject to Clause 23.9 (*Pro rata interest* settlement), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
        1. entitled to or liable for any payment due under any Finance Document on that day; and
        2. entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

* + 1. Any Lender may, by notice to the Agent, appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address and (where communication by electronic mail or other electronic means is permitted under Clause 31.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 31.2 (*Addresses*) and Clause 31.5(a)(ii) (*Electronic communication*), and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.
  1. Credit appraisal by the Lenders

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document or the Sinosure Policy, each Lender confirms to the Agent and the Arrangers that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document or the Sinosure Policy, including but not limited to:

* + 1. the financial condition, status and nature of the Borrower, each of its government agencies, the Employer and the Investor;
    2. the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Sinosure Policy and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy;
    3. whether that Lender has recourse, and the nature and extent of that recourse, against any Party, or any of their respective assets under or in connection with any Finance Document or the Sinosure Policy, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy; and
    4. the adequacy, accuracy or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document or the Sinosure Policy, the transactions contemplated by any Finance Document or the Sinosure Policyor any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy.
  1. Agent's management time

Any amount payable to the Agent under Clause 15.3 (*Indemnity to the Agent and the ECA Agent*), Clause 17 (*Costs and expenses*) and Clause 25.11 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 12 (*Fees and Sinosure Premium*).

* 1. Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

* 1. Examination of documents

Without prejudice to the obligations of the Agent under the Sinosure Policy, the Borrower and each Lender hereby unconditionally and irrevocably agrees that:

* + 1. the Agent's responsibility for the examination of any Utilisation Request, any Contractor Certificate, any Supporting Document or any other document received with respect thereto shall be limited to ascertaining that such document appears on its face (or, if any such document is not only in English, the English translation or version of which appears on its face) to be in accordance with its description;
    2. no Finance Party shall be obliged to enquire as to, or be responsible for, the validity, truthfulness or genuineness of any Utilisation Request, any Contractor Certificate, any Supporting Document or any other document received with respect thereto, or any of the statements set out therein;
    3. each Finance Party shall be fully entitled to rely on the accuracy of any statements contained in a Utilisation Request, any Contractor Certificate, Supporting Document or any other document received with respect thereto; and
    4. no Finance Party shall be responsible for any delay in the making of any Loan resulting from a request for evidence or documentation by Sinosure, or by a Finance Party in order to be satisfied that the Sinosure Policy shall apply to the corresponding Loan when made.
  1. Amounts paid in error
     1. If the Agent pays an amount to another Party and within five Business Days of the date of payment the Agent notifies that Party that such payment was an Erroneous Payment then the Party to whom that amount was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
     2. Neither:
        1. the obligations of any Party to the Agent; nor
        2. the remedies of the Agent, (whether arising under this Clause 25.20 or otherwise) which relate to an Erroneous Payment will be affected by any act, omission, matter or thing which, but for this paragraph (b), would reduce, release or prejudice any such obligation or remedy (whether or not known by the Agent or any other Party).
     3. All payments to be made by a Party to the Agent (whether made pursuant to this Clause or otherwise) which relate to an Erroneous Payment shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
     4. In this Clause, **"Erroneous Payment"** means a payment of an amount by the Agent to another Party which the Agent determines (in its sole discretion) was made in error.

1. Role of the ECA Agent
   1. Appointment of the ECA Agent
      1. Each Lender irrevocably appoints the ECA Agent to act as its agent under and in connection with:
         1. the Sinosure Policy; and
         2. the Finance Documents in relation to matters involving Sinosure and the Sinosure Policy.
      2. Each Lender irrevocably authorises the ECA Agent to perform the duties, obligations and responsibilities and exercise the rights, powers, authorities and discretions specifically given to the ECA Agent under or in connection with the Finance Documents and the Sinosure Policy, together with any other incidental rights, powers, authorities and discretions.
   2. Instructions
      1. The ECA Agent shall:
         1. exercise or refrain from exercising any right, power, authority or discretion vested in it as ECA Agent in accordance with any instructions given to it by Sinosure or in accordance with the terms of the Sinosure Policy; and
         2. not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with Clause 26.2(a)(i).
      2. The ECA Agent shall be entitled to request instructions, or clarification of any instruction, from Sinosure as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The ECA Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
      3. Any instructions given to the ECA Agent by Sinosure relating to, or required by, Sinosure or the Sinosure Policy shall override any conflicting instructions given by any Party and will be binding on all Finance Parties.
      4. The ECA Agent may refrain from acting in accordance with any instructions of Sinosure until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
      5. In the absence of instructions, the ECA Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
      6. The ECA Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document or the Sinosure Policy.
      7. Each Lender authorises the ECA Agent to follow any instructions that it receives from Sinosure which are in accordance with the terms and conditions of the Sinosure Policy.
      8. Each Lender acknowledges that any failure by the ECA Agent to conform to any instructions in accordance with Clause 26.2(g), or to the terms and conditions of the Sinosure Policy, may result in lapse of coverage thereunder.
   3. Duties of the ECA Agent
      1. The ECA Agent shall promptly forward:
         1. a copy of any instructions given to it by Sinosure to the Agent and details of any actions that it has taken or proposes to take pursuant to such instructions; and
         2. the original or a copy of any document which is delivered to the ECA Agent by:
            1. Sinosure for a Party to that Party; or
            2. a Party for Sinosure to Sinosure.
      2. Except where a Finance Document or the Sinosure Policy specifically provides otherwise, the ECA Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party or to Sinosure.
      3. The ECA Agent has only those duties which are expressly specified in the Finance Documents and the Sinosure Policy (and no others should be implied).
      4. The ECA Agent shall notify the Agent (who shall then notify the Lenders) if it becomes aware that a Sinosure Policy Event has occurred.
      5. The ECA Agent shall promptly notify the Agent if any conditions set out in Clause 5.2(c) to Clause 5.2(f)(i) (*Further conditions precedent*) are not satisfied.
      6. Any payment received by the ECA Agent from Sinosure under the Sinosure Policy shall be made available by the ECA Agent to the Agent as soon as practicable after receipt, to such account as the Agent may notify to the ECA Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of the relevant currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), and any such amount so received shall be applied by the Agent against amounts due from the Borrower to the Finance Parties under or in connection with the Finance Documents in accordance with this Agreement.
   4. No fiduciary duties
      1. Nothing in any Finance Document or the Sinosure Policy constitutes the ECA Agent as a trustee or fiduciary of any other person.
      2. The ECA Agent shall not be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.
   5. Business with the Borrower

The ECA Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.

* 1. Rights and discretions
     1. Without prejudice to any provisions of the Sinosure Policy, the ECA Agent may:
        1. rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
        2. assume that:
           1. any instructions received by it from (1) the Agent are duly given in accordance with the terms of the Finance Documents, or (2) Sinosure are duly given in accordance with the terms of the Sinosure Policy; and
           2. unless it has received notice of revocation, that those instructions have not been revoked;
        3. rely on a certificate from any person:
           1. as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
           2. to the effect that such person approves of any particular dealing, transaction, step, action or thing, as sufficient evidence that that is the case and, in the case of Clause 26.6(a)(iii)(A), may assume the truth and accuracy of that certificate; and
        4. inform Sinosure of any increase or material change in any risk covered by the Sinosure Policy to the extent it is required to do so under the terms of the Sinosure Policy or for the purposes of ensuring the continuing validity of the Sinosure Policy (and the ECA Agent will so inform Sinosure if instructed to do so by the Agent on behalf of the Majority Lenders).
     2. The ECA Agent may assume (unless it has received notice to the contrary in its capacity as ECA Agent for the Lenders) that:
        1. no Default has occurred;
        2. any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised; and
        3. any notice or request of which it is made aware by the Agent or any other Party is made on behalf of and with the consent and knowledge of the person to whom such notice is purported to be from.
     3. The ECA Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
     4. Without prejudice to the generality of Clause 26.6(c) or Clause 26.6(e), the ECA Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the ECA Agent (and so separate from any lawyers instructed by the Lenders or the Agent) if the ECA Agent in its reasonable opinion deems this to be necessary.
     5. The ECA Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the ECA Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
     6. The ECA Agent may act in relation to the Finance Documents and the Sinosure Policy through its officers, employees and agents.
     7. The ECA Agent may disclose to Sinosure and to each other Finance Party any information it reasonably believes it has received as ECA Agent under any Finance Document.
     8. Notwithstanding any other provision of any Finance Document or the Sinosure Policy to the contrary, the ECA Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
     9. Notwithstanding any provision of any Finance Document or the Sinosure Policy to the contrary, the ECA Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.
  2. Responsibility for documentation

The ECA Agent is not responsible or liable for:

* + 1. the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the ECA Agent, the Agent, the Arrangers, the Borrower, Sinosure or any other person in or in connection with any Finance Document, the Sinosure Policy or the transactions contemplated in the Finance Documents, the Sinosure Policy or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy;
    2. the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Sinosure Policy or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy; or
    3. any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.
  1. No duty to monitor

The ECA Agent shall not be bound to enquire:

* + 1. whether or not any Default has occurred;
    2. as to the performance, default or any breach by any Party or Sinosure of its obligations under any Finance Document or the Sinosure Policy; or
    3. whether any other event specified in any Finance Document or the Sinosure Policy has occurred.
  1. Exclusion of liability
     1. Without limiting Clause 26.9(b) (and without prejudice to any other provision of any Finance Document excluding or limiting its liability), the ECA Agent will not be liable for:
        1. any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Sinosure Policy, unless directly caused by its gross negligence or wilful misconduct;
        2. exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Sinosure Policy or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Sinosure Policy, other than by reason of its gross negligence or wilful misconduct; or
        3. without prejudice to the generality of Clause 26.9(a)(i) and Clause 26.9(a)(ii), any damages, costs or losses to any person, any diminution in value or any liability whatsoever (but not including any claim based on the fraud of the ECA Agent) arising as a result of:
           1. any act, event or circumstance not reasonably within its control; or
           2. the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

* + 1. No Party (other than the ECA Agent) may take any proceedings against any officer, employee or agent of the ECA Agent in respect of any claim it might have against the ECA Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or the Sinosure Policy and any officer, employee or agent of the ECA Agent may rely on this Clause subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.
    2. The ECA Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents or the Sinosure Policy to be paid by the ECA Agent if the ECA Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the ECA Agent for that purpose.
    3. Nothing in this Agreement shall oblige the ECA Agent to carry out:
       1. any **"know your customer"** or other checks in relation to any person; or
       2. any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender or for any Affiliate of any Lender,

on behalf of any Lender and each Lender confirms to the ECA Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the ECA Agent.

* + 1. Without prejudice to any provision of any Finance Document or the Sinosure Policy excluding or limiting the ECA Agent's liability, any liability of the ECA Agent arising under or in connection with any Finance Document or the Sinosure Policy shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the ECA Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the ECA Agent at any time which increase the amount of that loss. In no event shall the ECA Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the ECA Agent has been advised of the possibility of such loss or damages.
  1. Lenders' indemnity to the ECA Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the ECA Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the ECA Agent (otherwise than by reason of the ECA Agent's gross negligence or wilful misconduct) in acting as ECA Agent under the Finance Documents or in being party to the Sinosure Policy (unless the ECA Agent has been reimbursed by the Borrower pursuant to a Finance Document or by Sinosure pursuant to the Sinosure Policy).

* 1. Resignation of ECA Agent
     1. The ECA Agent may (with the prior consent of Sinosure) resign and appoint one of its Affiliates as successor by giving notice to the Agent (and the Agent will promptly forward any such notice to the Lenders and the Borrower).
     2. Alternatively, the ECA Agent may (with the prior consent of Sinosure) resign by giving 30 days' notice to the Agent (and the Agent will promptly forward any such notice to the Lenders and the Borrower), in which case the Majority Lenders (after consultation with the Borrower) may (with the prior consent of Sinosure) appoint a successor ECA Agent.
     3. If the Majority Lenders have not appointed a successor ECA Agent in accordance with Clause 26.11(b) within 20 days after notice of resignation was given, the retiring ECA Agent (after consultation with the Borrower) may (with the prior consent of Sinosure) appoint a successor ECA Agent.
     4. If the ECA Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the ECA Agent is entitled to appoint a successor ECA Agent under Clause 26.11(c) (the ECA Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor ECA Agent to become a party to this Agreement as ECA Agent), agree with the proposed successor ECA Agent and Sinosure amendments to this Clause 26 and any other term of this Agreement dealing with the rights or obligations of the ECA Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the ECA agency fee payable under this Agreement which are consistent with the successor ECA Agent's normal fee rates and those amendments will bind the Parties.
     5. The retiring ECA Agent shall, make available to the successor ECA Agent such documents and records and provide such assistance as the successor ECA Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents and the Sinosure Policy. The Borrower shall, within three Business Days of demand, reimburse the retiring ECA Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
     6. The ECA Agent's resignation notice shall only take effect upon the later of:
        1. the appointment of a successor; and
        2. the transfer of the Sinosure Policy to that successor.
     7. As from the date on which the ECA Agent's resignation notice takes effect, the retiring ECA Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 26.11(e)) but shall remain entitled to the benefit of Clause 15.3 (*Indemnity to the Agent and the ECA Agent*) and this Clause 26 (and any agency fees for the account of the retiring ECA Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
  2. Replacement of the ECA Agent
     1. After consultation with the Borrower, the Majority Lenders may (with the prior consent of Sinosure), by giving 30 days' notice to the ECA Agent replace the ECA Agent by appointing a successor ECA Agent.
     2. The retiring ECA Agent shall (at the expense of the Lenders) make available to the successor ECA Agent such documents and records and provide such assistance as the successor ECA Agent may reasonably request for the purposes of performing its functions as ECA Agent under the Finance Documents.
     3. The appointment of the successor ECA Agent shall take effect on the later of:
        1. the date specified in the notice from the Majority Lenders to the retiring ECA Agent; and
        2. the transfer of the Sinosure Policy to that successor.
     4. As from the date on which the appointment of the successor ECA Agent takes effect, the retiring ECA Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 26.12(b)) but shall remain entitled to the benefit of Clause 15.3 (*Indemnity to the Agent and the ECA Agent*) and this Clause 26 (and any agency fees for the account of the retiring ECA Agent shall cease to accrue from (and shall be payable on) that date).
     5. Any successor ECA Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
  3. Confidentiality
     1. In acting as agent for the Lenders, the ECA Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
     2. If information is received by another division or department of the ECA Agent, it may be treated as confidential to that division or department and the ECA Agent shall not be deemed to have notice of it.
  4. Relationship with the Agent and the Lenders
     1. The Agent will notify the ECA Agent of the identity and notice details of each Lender upon the request of the ECA Agent (who may then notify Sinosure). The ECA Agent may treat the person shown in the Agent's records as Lender at any time.
     2. Subject to Clause 26.19 (*Impaired ECA Agent*), each of the Lenders and the Agent agrees that any communication between it and Sinosure in connection with the Sinosure Policy or any Finance Document shall be conducted by and through the ECA Agent.
     3. Each of the Lenders and the ECA Agent agrees that any communication between the ECA Agent and any Lender in connection with the Sinosure Policy or any Finance Document shall be conducted by and through the Agent.
     4. The ECA Agent will be entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document or the Sinosure Policy on behalf of a Lender or a group of Lenders if the Agent has notified it of such notice, request, document or communication on behalf of that Lender or group of Lenders, without further verification.
  5. Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document or the Sinosure Policy, each Lender confirms to the ECA Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document, Sinosure and the Sinosure Policy, including but not limited to:

* + 1. the financial condition, status and nature of the Borrower and Sinosure;
    2. the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Sinosure Policy and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy;
    3. whether that Lender has recourse, and the nature and extent of that recourse, against any Party or Sinosure, or any of their respective assets under or in connection with any Finance Document or the Sinosure Policy, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy; and
    4. the adequacy, accuracy or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document or the Sinosure Policy, the transactions contemplated by any Finance Document, the Sinosure Policy or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Sinosure Policy.
  1. ECA Agent's management time

Any amount payable to the ECA Agent under Clause 15.3 (*Indemnity to the Agent and the ECA Agent*), Clause 17 (*Costs and expenses*) and Clause 26.10 (*Lenders' indemnity to the ECA Agent*) shall include the cost of utilising the ECA Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the ECA Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the ECA Agent under Clause 12 (*Fees and Sinosure Premium*).

* 1. Deduction from amounts payable by the ECA Agent

If any Party owes an amount to the ECA Agent under the Finance Documents or the Sinosure Policy, the ECA Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the ECA Agent would otherwise be obliged to make under the Finance Documents or the Sinosure Policy and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents or the Sinosure Policy that Party shall be regarded as having received any amount so deducted.

* 1. Sinosure Policy

Each Lender confirms to the ECA Agent that:

* + 1. has made (and shall continue to make) its own independent investigation and assessment of the Sinosure Policy;
    2. it understands that the ECA Agent will be entering into the Sinosure Policy on behalf of the Lenders and authorises the ECA Agent to do so;
    3. the ECA Agent and Sinosure have been provided with all information requested from that Lender by the ECA Agent in order for the ECA Agent to enter into the Sinosure Policy;
    4. all information provided by that Lender to the ECA Agent in relation to the Sinosure Policy is correct, complete and up to date and is not misleading;
    5. any representations and warranties to be made by the Agent (on behalf of that Lender) to Sinosure in the Sinosure Policy were or will be true in all material respects as at the date such representations or warranties were made, so far as that Lender is aware;
    6. subject to Clause 26.19 (*Impaired ECA Agent*), any communication between it and Sinosure in connection with the Sinosure Policy or any Finance Document shall be conducted by and through the ECA Agent; and
    7. any act taken by the ECA Agent under the Sinosure Policy shall be deemed as the act of the Lenders and the Lenders shall bear the legal consequence of such acts taken by the ECA Agent.
  1. Impaired ECA Agent

If, at any time, the ECA Agent becomes an Impaired ECA Agent, the Agent may communicate directly with Sinosure (on its own behalf or on behalf of any Lender).

1. Conduct of business by the Finance Parties

No provision of this Agreement will:

* + 1. interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
    2. oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
    3. oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

1. Sharing among the Finance Parties
   1. Payments to Finance Parties

If a Finance Party (a **"Recovering Finance Party"**) receives or recovers any amount from the Borrower other than in accordance with Clause 29 (*Payment mechanics*) (a **"Recovered Amount"**) and applies that amount to a payment due under the Finance Documents then:

* + 1. the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Agent;
    2. the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 29 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
    3. the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the **"Sharing Payment"**) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 29.6 (*Partial payments*).
  1. Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the **"Sharing Finance Parties"**) in accordance with Clause 29.6 (*Partial payments*) towards the obligations of the Borrower to the Sharing Finance Parties.

* 1. Recovering Finance Party's rights

On a distribution by the Agent under Clause 28.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from the Borrower, as between the Borrower and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Borrower.

* 1. Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

* + 1. each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the **"Redistributed Amount"**); and
    2. as between the Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Borrower.
  1. Exceptions
     1. This Clause 28 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Borrower.
     2. A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
        1. it notified that other Finance Party of the legal or arbitration proceedings; and
        2. that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

**SECTION 11**

**ADMINISTRATION**

1. Payment mechanics
   1. Payments to the Agent
      1. On each date on which the Borrower or a Lender is required to make a payment under a Finance Document, the Borrower or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value by 11:00 a.m. CET on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
      2. Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent) and with such bank as the Agent, in each case, specifies.
   2. Distributions by the Agent and the ECA Agent

Each payment received by the Agent or the ECA Agent under the Finance Documents or the Sinosure Policy for another Party shall, subject to Clause 29.4 (*Distributions to* ) and Clause 29.5 (*Clawback and pre-funding)* be made available by the Agent or the ECA Agent (as the case may be) as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent (following which the Agent shall promptly notify the ECA Agent, if relevant to it) by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London, as specified by that Party).

* 1. Distributions in respect of Utilisations

The Borrower and each Lender irrevocably and unconditionally authorises and directs the Agent to pay the proceeds of any Loan, directly to the Contractor.

* 1. Distributions to the Borrower

The Agent may (with the consent of the Borrower or in accordance with Clause 30 (*Set-off*)) apply any amount received by it for the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

* 1. Clawback and pre-funding
     1. Where a sum is to be paid to the Agent or the ECA Agent under the Finance Documents or the Sinosure Policy for another Party, the Agent or the ECA Agent (as the case may be) is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
     2. Unless Clause 29.5(c) applies, if the Agent or the ECA Agent pays an amount to another Party and it proves to be the case that the Agent or the ECA Agent (as the case may be) had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent or the ECA Agent shall on demand refund the same to the Agent or the ECA Agent (as the case may be) together with interest on that amount from the date of payment to the date of receipt by the Agent or the ECA Agent, calculated by the Agent or the ECA Agent to reflect its cost of funds.
     3. If the Agent is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
        1. the Borrower shall on demand refund it to the Agent; and
        2. the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.
  2. Partial payments
     1. If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Agent shall apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:
        1. first, in or towards payment pro rata of any unpaid amounts owing to the Agent under the Finance Documents;
        2. secondly, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this Agreement;
        3. thirdly, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
        4. fourthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
     2. The Agent shall, if so directed by Sinosure or the Majority Lenders (with the instructions of Sinosure prevailing in the event its instructions conflict with those of the Majority Lenders), vary the order set out in Clause 29.6(a)(ii) to Clause 29.6(a)(iv).
     3. Clauses 29.6(a) and 29.6(b) will override any appropriation made by the Borrower.
     4. A payment by Sinosure to the Finance Parties under the Sinosure Policy will not discharge the Borrower from its payment obligations to such Finance Party under any Finance Document.
  3. No set-off by the Borrower

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

* 1. Business Days
     1. Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
     2. During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.
  2. Currency of account
     1. Subject to Clause 29.9(b) and Clause 29.9(c) below, the Facility Currency is the currency of account and payment for any sum due from the Borrower under any Finance Document.
     2. Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
     3. Any amount expressed to be payable in a currency other than the Facility Currency shall be paid in that other currency.
  3. Change of currency
     1. Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
        1. any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and
        2. any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
     2. If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.
  4. Disruption to payment systems etc.

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

* + 1. the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facility as the Agent may deem necessary in the circumstances;
    2. the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in Clause 29.11(a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event it shall have no obligation to agree to such changes;
    3. the Agent may consult with the Finance Parties in relation to any changes mentioned in Clause 29.11(a) but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
    4. any such changes agreed upon by the Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 35 (*Amendments and waivers*);
    5. the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 29.11; and
    6. the Agent shall notify the Finance Parties of all changes agreed pursuant to Clause 29.11(d).

1. Set-off

A Finance Party may set-off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. The Borrower shall execute any documents and take any other actions as the Finance Party may reasonably request to effect the set off.

1. Notices
   1. Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by letter or (where communication by electronic mail or other electronic means is permitted under Clause 31.5 (*Electronic communication*)) electronic mail.

* 1. 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 or document to be made or delivered under or in connection with the Finance Documents is:

* + 1. in the case of the Borrower, that identified with its name below;
    2. in the case of each Lender, that notified in writing to the Agent and the ECA Agent on or prior to the date on which it becomes a Party; and
    3. in the case of the Agent and the ECA Agent, that identified with its name below,

or any substitute address or electronic mail address or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

* 1. Delivery
     1. Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
        1. if by way of electronic mail, in accordance with 31.5(c) (*Electronic communication*); or
        2. if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 31.2 (*Addresses*), if addressed to that department or officer.

* + 1. Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).
    2. All notices from or to the Borrower shall be sent through the Agent.
    3. Any communication or document which becomes effective, in accordance with Clause 31.3(a) to Clause 31.3(c), after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.
  1. Notification of address and electronic mail address

Promptly upon changing its address or electronic mail address, the Agent shall notify the other Parties.

* 1. Electronic communication
     1. Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
        1. notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
        2. notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
     2. Any such electronic communication as specified in Clause 31.5(a) above to be made between the Borrower and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.
     3. Any such electronic communication as specified in Clause 31.5(a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.
     4. Any electronic communication which becomes effective, in accordance with Clause 31.5(c), after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
     5. For reasons of technical practicality, electronic communications may be sent in unencrypted form, even if the content may be subject to confidentiality and banking secrecy. The Parties agree to release each other from any liability for damages arising out of an unauthorized disclosure of such unencrypted electronic communication and each Party assumes for itself full responsibility for all possible consequences arising from such unauthorized disclosure. However, this shall not apply if a Party sends an unencrypted electronic communication disclosing information despite having been specifically forbidden by the other Party in writing from disclosing such information in an unencrypted electronic communication or if a Party has intentionally or gross negligently omitted to perform the duty to take care in its dealings via electronic communication.
     6. Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause.
  2. English language
     1. Any notice given under or in connection with any Finance Document must be in English.
     2. All other documents provided under or in connection with any Finance Document must be:
        1. in English; or
        2. if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

1. Calculations and certificates
   1. Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

* 1. Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

* 1. Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

1. Partial invalidity

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

1. Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

1. Amendments and waivers
   1. Required consents
      1. Subject to Clause 35.2 (*All Lender matters*) and Clause 35.3 (*Other exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders, and the Borrower and any such amendment or waiver will be binding on all Parties.
      2. The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 35
      3. Clause 23.9(c) (*Pro rata interest* *settlement*) shall apply to this Clause 35.
   2. All Lender matters

Subject to Clauses 35.3(b) (*Other exceptions*) and 35.4 (*Replacement of Screen Rate*) an amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:

* + 1. the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);
    2. an extension to the date of payment of any amount under the Finance Documents;
    3. a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
    4. a change in currency of payment of any amount under the Finance Documents;
    5. an increase in any Commitment or the Total Commitments, an extension of the Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under the Facility;
    6. a change to the Borrower;
    7. any provision which expressly requires the consent of all the Lenders;
    8. Clause 3.2 (*Finance Parties' rights and obligations*), Clause 8.1 (*Illegality*), Clause 8.2 (*Material EPC Contract Change*), Clause 8.3 (*Sinosure Policy Event*), Clause 8.8 (*Application of prepayments*), Clause 23 (*Changes to the Lenders*); Clause 28 (*Sharing among the Finance Parties*), this Clause 35, the governing law of any Finance Document, Clause 42 (*Arbitration*) or Clause 43 (*Jurisdiction*); or
    9. the nature or scope of the Sinosure Policy,

shall not be made without the prior consent of all the Lenders.

* 1. Other exceptions
     1. An amendment or waiver which relates to the rights or obligations of the Agent, the ECA Agent or the Arrangers (each in their capacity as such) may not be effected without the consent of the Agent, the ECA Agent, the Arrangers, as the case may be.
     2. An amendment or waiver which relates to a Fee Letter may only be effected with the consent of all the parties to that Fee Letter.
  2. Replacement of Screen Rate

Subject to Clause 35.3 (*Other exceptions*), if a Screen Rate Replacement Event has occurred in relation to the Screen Rate for euros any amendment or waiver which relates to:

* + 1. providing for the use of a Replacement Benchmark in relation to euro in place of the Screen Rate; and
       1. aligning any provision of any Finance Document to the use of that Replacement Benchmark;
       2. enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
       3. implementing market conventions applicable to that Replacement Benchmark;
       4. providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
       5. adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders and the Borrower.

1. Confidential information
   1. Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 36.2 (*Disclosure of Confidential Information*), Clause 36.3 (*Disclosure to numbering service providers*) and Clause 36.4 (*Disclosure to financial information agencies*)*,* and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

* 1. Disclosure of Confidential Information

Any Finance Party may disclose:

* + 1. to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this Clause 36.2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
    2. to any person:
       1. to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
       2. with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrower and to any of that person's Affiliates, Representatives and professional advisers;
       3. appointed by any Finance Party or by a person to whom Clause 36.2(b)(i) or Clause 36.2(b)(ii) applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under Clause 25.15(b) (*Relationship with the Lenders*));
       4. who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in Clause 36.2(b)(i) or Clause 36.2(b)(ii);
       5. to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the Sinosure Regulations, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
       6. to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
       7. to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 23.8 (*Security over Lenders' rights*);
       8. who is a Party;
       9. who is the Contractor; or
       10. with the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

* + - * 1. in relation to Clause 36.2(b)(i), Clause 36.2(b)(ii) and Clause 36.2(b)(iii), the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
        2. in relation to Clause 36.2(b)(iv), the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
        3. in relation to Clause 36.2(b)(v), Clause 36.2(b)(vi) and Clause 36.2(b)(vii), the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
    1. to the Authorities and Sinosure (and any of its officers, directors, employees, professional advisers, auditors, partners and Representatives) such Confidential Information as that Finance Party shall consider appropriate;
    2. to any person appointed by that Finance Party or by a person to whom Clause 36.2(b)(i) or Clause 36.2(b)(ii) applies to provide administration or settlement services in respect of one or more of the Finance Documents including, without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this Clause 36.2(d) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party; and
    3. to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrower if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.
  1. Disclosure to numbering service providers
     1. Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or the Borrower the following information:
        1. names of the Borrower;
        2. country of domicile of the Borrower;
        3. place of incorporation of the Borrower;
        4. date of this Agreement;
        5. Clause 41 (Governing law)
        6. the names of the Agent and the Arrangers;
        7. date of each amendment and restatement of this Agreement;
        8. amount of the Facility;
        9. amount of Total Commitments;
        10. currency of the Facility;
        11. type of Facility;
        12. ranking of Facility;
        13. Final Maturity Date for the Facility;
        14. changes to any of the information previously supplied pursuant to Clauses 36.3(a)(i) to Clause 36.3(a)(xiii); and
        15. such other information agreed between such Finance Party and the Borrower,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

* + 1. The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or the Borrower by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
    2. The Borrower represents that none of the information set out in Clause 36.3(a)(i) to Clause 36.3(a)(xv) is, nor will at any time be, unpublished price-sensitive information.]
    3. The Agent shall notify the Borrower and the other Finance Parties of:
       1. the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facility and/or the Borrower; and
       2. the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or the Borrower by such numbering service provider.
  1. Disclosure to financial information agencies
     1. Any Finance Party may disclose to any financial information agency such information as may be necessary or desirable (limited to name of the Borrower, date of this Agreement, Clause 41 (*Governing law*), names of the Agent, ECA Agent and the Arrangers, amount of, and name of, the Facility, purpose for which borrowed amounts under the Facility will be applied, currency of the Facility, type of Facility, and Final Maturity Date) for the purpose of such financial information agency compiling league table data in relation to transactions and participants.
     2. The Parties acknowledge and agree that league table data compiled by a financial information agency may be disclosed to users of its service in accordance with the standard terms and conditions of that financial information agency.
  2. Entire agreement

This Clause 36 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

* 1. Inside information

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

* 1. Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

* + 1. of the circumstances of any disclosure of Confidential Information made pursuant to Clause 36.2(b)(v) (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that Clause during the ordinary course of its supervisory or regulatory functions; and
    2. upon becoming aware that Confidential Information has been disclosed in breach of this Clause 36.
  1. Continuing obligations

The obligations in this Clause 36 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve months from the earlier of:

* + 1. the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available: and
    2. the date on which such Finance Party otherwise ceases to be a Finance Party.

1. Confidentiality of funding rates
   1. Confidentiality and disclosure
      1. The Agent and the Borrower agree to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by Clause 37.1(b) and Clause 37.1(c).
      2. The Agent may disclose:
         1. any Funding Rate to the Borrower pursuant to Clause 9.4 (*Notification of rates of interest*);
         2. any Funding Rate to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender;
         3. any Funding Rate to the ECA Agent for disclosure by it to Sinosure to the extent requested by Sinosure.
      3. The Agent may disclose any Funding Rate, and the Borrower may disclose any Funding Rate, to:
         1. any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate is to be given pursuant to this Clause 37.1(c)(i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;
         2. any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
         3. any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
         4. any person with the consent of the relevant Lender.
   2. Related obligations
      1. The Agent and the Borrower acknowledge that each Funding Rate is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and the Borrower undertake not to use any Funding Rate for any unlawful purpose.
      2. The Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender:
         1. of the circumstances of any disclosure made pursuant to Clause 37.1(c)(ii) (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that clause during the ordinary course of its supervisory or regulatory function; and
         2. upon becoming aware that any information has been disclosed in breach of this Clause 37.
   3. No Event of Default

No Event of Default will occur under Clause 21.2 (*Other obligations*) by reason only of the Borrower failure to comply with this Clause 37.

1. Counterparts

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

1. Governing language

Although this Agreement may be translated into Serbian, the Serbian language version of this Agreement is for information purposes only. In the event of any conflict or inconsistency between the English language version and the Serbian language version of this Agreement or any dispute regarding the interpretation of any provision in the English language version or the Serbian language version of this Agreement, the English language version of this Agreement shall prevail and questions of interpretation shall be addressed solely by reference to the English language version.

1. Contractual Recognition of Bail-in

It is agreed that notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

* + 1. any Bail-In Action in relation to any such liability, including (without limitation):
       1. a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
       2. a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
       3. a cancellation of any such liability; and
    2. a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

In this Clause 40:

**"Article 55 BRRD"** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

**"Bail-In Action**" means the exercise of any Write-down and Conversion Powers.

**"Bail-In Legislation"** means:

* + 1. in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time, and
    2. in relation to the United Kingdom, the UK Bail-In Legislation; and
    3. in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

**"EEA Member Country"** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**"EU Bail-In Legislation Schedule"** means the document described as such and published by the LMA (or any successor person) from time to time.

**"Resolution Authority"** means any body which has authority to exercise any Write-down and Conversion Powers.

**"UK Bail-In Legislation"** means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**"Write-down and Conversion Powers"** means:

* + 1. in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
    2. in relation to the UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and
    3. in relation to any other applicable Bail-In Legislation:
       1. any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers, and
       2. any similar or analogous powers under that Bail-In Legislation.

**SECTION 12**

**GOVERNING LAW, ARBITRATION AND JURISDICTION**

1. Governing law

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

1. Arbitration
   1. Arbitration

Subject to Clause 42.4 (*Agent's option*), any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a **"Dispute"**) shall be referred to and finally resolved by arbitration under the arbitration rules of the London Court of International Arbitration (LCIA) (the **"Arbitration Rules"**).

* 1. Formation of arbitral tribunal, seat and language of arbitration
     1. The arbitral tribunal shall consist of three arbitrators. The claimant(s), irrespective of number, shall nominate jointly one arbitrator; the respondent(s), irrespective of number, shall nominate jointly the second arbitrator, and a third arbitrator (who shall act as presiding arbitrator) shall be nominated by the arbitrators nominated by or on behalf of the claimant(s) and respondent(s) or, in the absence of agreement on the third arbitrator within 30 days of the date of nomination of the later of the two party-nominated arbitrators to be nominated, he shall be chosen by the LCIA Court (as defined in the Arbitration Rules) and in relation to that appointment, the Parties agree and acknowledge that in accordance with the Arbitration Rules, the LCIA Court is solely empowered to appoint the third arbitrator.
     2. The seat of arbitration shall be London, England.
     3. The language of the arbitration shall be English.
     4. This arbitration agreement is governed by English law.
  2. Recourse to courts

For the purposes of arbitration pursuant to this Clause 42 (*Arbitration*), the Parties waive any right of application to determine a preliminary point of law or appeal on a point of law under Sections 45 and 69 of the Arbitration Act 1996.

* 1. Agent's option
     1. Before the Finance Parties have filed a Request for Arbitration or Response as defined in the Arbitration Rules (as the case may be), the Agent may (and shall, if so instructed by the Majority Lenders) by notice in writing to all other Parties require that all Disputes or a specific Dispute be heard by a court of law. If the Agent gives such notice, the Dispute to which such notice refers shall be determined in accordance with Clause 43 (*Jurisdiction*).
     2. Promptly upon having filed a Request for Arbitration or a Response (as the case may be), the respective Finance Party shall notify the Agent hereof by specifying the subject matter of the Dispute to which such Request for Arbitration or Response (as the case may be) relates.

1. Jurisdiction
   1. Jurisdiction

If the Agent issues a notice pursuant to Clause 42.4 (*Agent's option*), the provisions of this Clause 43 shall apply.

* + 1. The courts of England have exclusive jurisdiction to settle any Dispute.
    2. The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue the contrary.
    3. Notwithstanding paragraphs (a) and (b) above, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdiction.
  1. Service of process
     1. Without prejudice to any other mode of service allowed under any relevant law, the Borrower:
        1. irrevocably appoints the Ambassador of the Republic of Serbia to the Court of St. James's at 28 Belgrave Square, London SW1X 8QB as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
        2. agrees that failure by an agent for service of process to notify the Borrower of the process will not invalidate the proceedings concerned.
     2. If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower must immediately (and in any event within five days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

1. Waiver of immunity
   * 1. The Borrower irrevocably waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including without immunity in respect of:
        1. jurisdiction of any court or tribunal;
        2. the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues;
        3. any process for execution any award or judgment against its property;
        4. service of process; and
        5. the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues,

and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), the Borrower irrevocably consents to the enforcement of any judgment or award and agrees not to claim and irrevocably waives such immunity to the fullest extent permitted by the laws of the jurisdiction, subject to paragraph (d) below.

* + 1. The Borrower agrees that in any proceedings in England this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of the English State Immunity Act 1978.
    2. Without limitation to the obligations of the Borrower under paragraphs (a) and (b) above, in respect of any proceedings arising out of or in connection with the enforcement and/or execution of any award or judgment made against it, the Borrower hereby submits to the jurisdiction of any court in which any such proceedings are brought.
    3. Notwithstanding the provisions of paragraphs (a) to (c) above, the Borrower does not waive any immunity from enforcement in respect of any Excluded Assets.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**



The Original Lenders

|  |  |
| --- | --- |
| **Name of Original Lender** | **Commitment (EUR)** |
| UniCredit Bank AG | 101,887,500 |
| BNP Paribas Fortis SA/NV | 96,793,125 |
| BNP Paribas SA | 5,094,375 |



Conditions Precedent

1. Borrower
   * 1. Copies of all relevant laws, regulations and/or Authorisations relating to the power and authority of the Borrower, the Ministry of Finance, the Minister of Finance and/or the Acting Minister of Finance (as applicable) and the performance of the Borrower's obligations under the Finance Documents, including but not limited to:
        1. the constitution of the Republic of Serbia; and
        2. Public Debt Act (Zakon o javnom dugu, Official Gazette of the Republic of Serbia nos. 61/2005, 107/2009, 78/2011, 68/2015, 95/2018, 91/2019 and 149/2020) and the Budget System Act (Zakon o budžetskom sistemu, Official Gazette of the Republic of Serbia nos. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013, 108/2013, 142/2014, 68/2015, 103/2015, 99/2016, 113/2017,5/2018, 31/2019, 72/2019 and 149/2020).
     2. A certified copy of a decision of the Government of the Republic of Serbia: (i) approving the borrowing by the Borrower under this Agreement and the Finance Documents and (ii) authorizing the Minister of Finance of the Republic of Serbia to execute the Finance Documents and any other documents necessary for the transactions contemplated by the Finance Documents (including, without limitation, each Utilisation Request) on behalf of the Republic of Serbia.
     3. An evidence of the enactment by the National Assembly of the Republic of Serbia of the law approving this Agreement (together with evidence of such law being promulgated by the President of the Republic of Serbia and published in the Official Gazette of the Republic of Serbia).
     4. A copy of KZ forms (in Serbian: "*KZ obrasci*") certified by the NBS evidencing that this Agreement has been duly reported to the NBS.
     5. A certificate of a Borrower Authorised Signatory:
        1. evidencing the Borrower Authorised Signatory setting out the full name, title and true signature of each representative of the Borrower authorised to sign and execute, on behalf of the Borrower, this Agreement and any documents to be delivered by the Borrower pursuant to the Finance Documents;
        2. certifying that each copy document specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement; and
        3. confirming that the borrowing of the full amount of the Facility would not cause any borrowing, guaranteeing or similar limit binding on the Borrower or the Republic of Serbia to be breached (including, for the avoidance of doubt, the limit on public debt set in the relevant annual budget law of the Republic of Serbia).
2. Finance Documents
   * 1. This Agreement duly executed by all original parties to it.
     2. The Fee Letters duly executed by all parties.
     3. Evidence that each Finance Document has been duly authorised, executed and delivered by each party thereto and in full force and effect, with, if applicable, evidence that any stamp duties have been duly paid in relation to each such Finance Document and that such Finance Document has been registered with the appropriate authorities in the Republic of Serbia.
     4. The delivery of a legal opinion of the Ministry of Justice of the Republic of Serbia to the Finance Parties in relation to the Finance Documents.
     5. A certified Serbian translation of each Finance Document.
     6. The delivery of an opinion of the NBS confirming that the Borrower may utilise the Loans by way of disbursement of the proceeds of any Loan to the Contractor Account directly.
3. Employer Authorisations
   * 1. Evidence that the signatory who signed the EPC Contract on behalf of the Employer was duly authorised to sign it.
     2. A certificate of an Employer Authorised Signatory:
        1. evidencing the Employer Authorised Signatory setting out the full name, title and true signature of each representative of the Employer authorised to sign and execute, on behalf of the Employer, any documents to be delivered by the Employer pursuant to the Finance Documents; and
        2. certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.
4. Contractor and EPC Contract
   * 1. A certificate of a Contractor Authorised Signatory (with the company chop of the Contractor affixed):
        1. setting out the full name, title and true signature of each Contractor Authorised Signatory authorised to sign and execute, on behalf of the Contractor, the EPC Contract, the Contractor Certificate and any documents to be delivered by the Contractor pursuant to the Finance Documents (including any appendix to a Utilisation Request); and
        2. certifying all documents delivered by the Contractor pursuant to the Finance Documents are correct, complete, up-to-date and may be relied upon as at a date no earlier than the date of this Agreement.
     2. Certified copy of the Contractor (with the company chop of the Contractor affixed) of the following: (i) a statement issued by the Contractor specifying the names, titles and specimen signatures of the Contractor representatives duly authorised by the Contractor to sign the Contractor Certificates; (ii) evidence of the filing with MOFCOM of the foreign construction project; and (iii) (if applicable) evidence of filing with MOFCOM as foreign trade operators.
     3. A certified copy of the EPC Contract duly executed by the parties thereto and the evidence that all conditions precedent to the effectiveness thereof have been satisfied.
     4. Evidence that the Government has approved the entering into the EPC Contract.
5. Sinosure
   * 1. The Sinosure Policy, in form and substance satisfactory to the Lenders, duly issued by Sinosure and evidence that all conditions precedent to the effectiveness thereof have been satisfied.
     2. Evidence that all conditions to the effectiveness of the Sinosure Policy have been satisfied.
     3. Evidence that Sinosure has received the Upfront Sinosure Premium.
6. Legal opinions
   * 1. A legal opinion of Mayer Brown International LLP, legal advisers to the Finance Parties in England, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
     2. A legal opinion of BDK Advokati, legal advisers to the Finance Parties in the Republic of Serbia, substantially in the form distributed to the Original Lenders prior to signing this Agreement
     3. A legal opinion of Fangda Partners, legal advisers to the Finance Parties in China relating to Sinosure and the Sinosure Policy, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
     4. A legal opinion from the Ministry of Justice of the Republic of Serbia.
7. Other documents and evidence
   * 1. Evidence that the fees, costs and expenses then due from the Borrower pursuant to Clause 12 (*Fees and Sinosure Premium*), Clause 13.5 (*Stamp taxes*) and Clause 17 (*Costs and expenses*) have been paid or will be paid by the first Utilisation Date.
     2. Copy of:
        1. the final Environmental and Social Due Diligence (ESDD) Report; and
        2. the final Environmental and Social Action Plan (ESAP),

prepared by the Environmental and Social Consultant and based on their review of the Environmental and Social Impact Assessment (ESIA) and both in a form and substance satisfactory to the Lenders.

* + 1. Copy of the Environmental and Social Impact Assessment (ESIA) based on the Environmental and Social Requirements (in English language) and evidence that a summary of the Environmental and Social Impact Assessment (ESIA) (in English language) is accessible and available online in line with the Equator Principles.
    2. The evidence of the appointment of an Environmental and Social Consultant acceptable to the Agent (acting on the instructions of the Majority Lenders), who will be mandated in particular to (i) prepare the final Environmental and Social Due Diligence (ESDD) Report and Environmental and Social Action Plan (ESAP), (ii) provide monitoring of the implementation of the actions provided for in the Environmental and Social Action Plan (ESAP) and (iii) provide Environmental and Social Monitoring Reports (A) quarterly in addition to two site visit reports per annum during the construction phase and (B) semi-annually in addition to one site visit report per annum during the operational phase (noting that the frequency of delivery may be amended based on the results of the final Environmental and Social Due Diligence (ESDD) Report and the Final Environmental and Social Action Plan (ESAP)), relating to the compliance of the execution of the Project in line with the Environmental and Social Requirements.
    3. Evidence that all necessary Environmental Permits required under the Applicable Law for the realisation of the Project, including the EIAS Consent for the Project, have been obtained and are in full force and effect.
    4. Evidence that any process agent referred to in Clause 43.2(a) (*Service of process*) has accepted its appointment.
    5. Confirmation of details of the Contractor Account.
    6. Any information and evidence requested by any Finance Party in respect of the Borrower which is necessary to enable such Finance Party to comply with its anti-money laundering procedures or "know your client" requirements.
    7. A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Transaction Document or for the validity and enforceability of any Transaction Document.

Form of Utilisation Request

From: **REPUBLIC OF SERBIA**, represented by the Government of the Republic of Serbia acting by and through the Ministry of Finance (the **"Borrower"**)

To: [*Agent*]

Dated:

Dear Sirs

**REPUBLIC OF SERBIA**, represented by the Government of the Republic of Serbia acting by and through the Ministry of Finance **– EUR [●] Facility Agreement dated [●] (the "Agreement")**

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow a Loan on the following terms:

|  |  |
| --- | --- |
| Proposed Utilisation Date: | [               ] (or, if that is not a Business Day, the next Business Day) |
| Amount: | [               ] or, if less, the Available Facility |

1. We refer to the attached Contractor Certificate and certify that the information specified in that Contractor Certificate is true and accurate and has not been amended or superseded at the date of this Utilisation Request.
2. This Loan is to be made in respect of amounts due and payable under the EPC Contract.
3. The proceeds of this Loan should be credited to the Contractor Account referred to in the attached Contractor Certificate.
4. We confirm that:
   1. on the date of this Utilisation Request, the Utilised Loan Ratio is less than or equal to the Premium Payment Ratio;
   2. on the proposed Utilisation Date, the Utilised Loan Ratio will be less than or equal to the Premium Payment Ratio;
      1. the Repeating Representations are, as of the date hereof, and will be as of the proposed Utilisation Date, true and correct in all material respects;
      2. no Default has, of the date hereof, occurred and is continuing or would result from the Utilisation requested above; and
      3. each other condition specified in Clause 5.2 (*Further conditions precedent*) of the Agreement is satisfied on the date of this Utilisation Request; and
   3. the Amount to be advanced pursuant to this Utilisation Request does not include any amounts for which a Loan has already been made;
   4. the Amount to be advanced pursuant to this Utilisation Request does not include any amount which is currently the subject of any dispute to the best of our knowledge and belief will it or any part of it be subject to such dispute; and
   5. [we shall deliver the notice to proceed as described in the EPC Contract to the Contractor within **[●]** Business Days of the Utilisation Date].\*
5. This Utilisation Request is irrevocable.

Yours faithfully

…………………………………

Borrower Authorised Signatory for and on behalf of the Borrower

**REPUBLIC OF SERBIA**, represented by the Government of the Republic of Serbia acting by and through the Ministry of Finance

\*Applicable only for the Initial Utilisation. Delete for any other Utilisation

Form of Contractor Certificate

From: China Machinery Engineering Corporation

(中国机械设备工程股份有限公司) (the **"Contractor"**)

To: [●] as Agent

Dated:

Dear Sirs

**Republic of Serbia – Belgrade wastewater treatment plant - Facility Agreement dated [●] (the "Agreement")**

1. We refer to the Agreement. Terms defined in the Agreement shall have the same meaning in this Contractor Certificate unless given a different meaning in this Contractor Certificate. This is the Contractor Certificate issued in respect of the attached Utilisation Request.
2. We have attached the Supporting Documents (as required in relation to [an "advanced payment"] [an "interim payment"] [the "retention money"] as described in the EPC Contract) relevant to the transaction described below.
3. We hereby and on oath confirm that:
   1. as per our invoice n°[ • ] dated [ • ], we have invoiced the Employer or the Investor for an amount of EUR [•] in respect of the EPC Contract (in relation to [*insert description of the relevant supply or works*]) (the **"Invoiced Amount"**).
   2. we have already received EUR [•] of the Invoiced Amount (being at least twenty-five per cent. (25%) of the Invoiced Amount) in cleared funds directly from the Republic of Serbia;
   3. the amount of the requested Loan referred to in the attached Utilisation Request (being EUR [•]) is less than or equal to seventy-five per cent (75%) of the Invoiced Amount and should be made into the following account (being the Contractor Account defined in the Agreement):

Name of account holder: [ ]

Name of receiving bank: [ ]

Address of receiving bank: [ ]

Swift Code: [ ]

Account number (EUR): [ ]

* 1. such payment [together with any previously requested Loan referred to in a Contractor Certificate] represents no more than 75 per cent. of the EPC Contract Value;
  2. each of the Supporting Documents is complete, authentic and in effect and in conformity with the EPC Contract in all material aspects;
  3. we have complied with Sinosure's instructions regarding the utilisation schedule;
  4. our above mentioned invoice is not disputed by the Employer or the Investor;
  5. the EPC Contract has not:
     1. been repudiated, revoked, rescinded or terminated;
     2. as far as we are aware, ceased to be in full force and effect;
     3. as far as we are aware, ceased to be legal, valid, binding, enforceable or effective; or
     4. been alleged by a party to it to be ineffective;
  6. as far as we are aware, it is not, nor has it become, unlawful for us to perform our obligations under the EPC Contract;
  7. we have not directly or indirectly used the proceeds of the Facility for any purpose which would breach any Anti-Corruption Laws or any Anti-Money Laundering Laws.
  8. we have not directly or indirectly used the proceeds of the Facility hereunder, or lend, contribute or otherwise make available such proceeds to or other person or entity:
     1. to fund or facilitate any activities of or business with any Sanctions Restricted Person:

the subject or the target of any sanctions or trade embargos administered or enforced by the Sanctions Authority, or

owned fifty per cent. (50%) or more by or otherwise controlled by, or acting on behalf of one or more Sanctions Restricted Persons, or

located, organized or resident in a Sanctioned Territory,

* + 1. to fund or facilitate any activities of or business in any Sanctioned Territory, or
    2. in any other manner that will result in a violation by any Sanctions Restricted Person (including any Sanctions Restricted Person participating in the transaction, whether as initial purchaser, advisor, investor or otherwise) of Sanctions;
  1. all information given by us to the Agent or the ECA Agent in connection with this Contractor Certificate is true and correct in all material aspects as at the date when such information is presented by us and can be relied on by the Agent and the ECA Agent; and

1. the Invoiced Amount set forth above is eligible for financing under the Agreement.

Yours faithfully

…………………………………

Contractor Authorised Signatory for and on behalf of the Contractor

China Machinery Engineering Corporation (中国机械设备工程股份有限公司)



Form of Transfer Certificate

To: UniCredit Bank AG as Agent

From: [the Existing Lender] (the **"Existing Lender"**) and [the New Lender] (the **"New Lender"**)

Dated:

**Republic of Serbia – [●] Facility Agreement dated [●] (the "Agreement")**

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to Clause 23.5 (*Procedure for transfer*) of the Agreement:
   1. The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 23.5 (*Procedure for transfer*) of the Agreement, all of the Existing Lender's rights and obligations under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement as specified in the Schedule.
   2. The proposed Transfer Date is [●].
   3. The Facility Office and address, electronic mail address and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) of the Agreement are set out in the Schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 23.4(c) (*Limitation of responsibility of Existing Lenders*) of the Agreement.
4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
5. This Transfer Certificate, and any non-contractual obligations arising out of or in connection with it, are governed by English law.
6. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**THE SCHEDULE  
Commitment/rights and obligations to be transferred**

[*insert relevant details*]

[Facility Office address, electronic mail address and attention details for notices and account details for payments]

|  |  |
| --- | --- |
| [Existing Lender] | [New Lender] |
| By: | By: |

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [●].

[Agent]

By:



Form of Assignment Agreement

To: UniCredit Bank AG as Agent and Republic of Serbia as Borrower

From: [the Existing Lender] (the **"Existing Lender"**) and [the **"New Lender"**)]

Dated:

**Republic of Serbia – [●] Facility Agreement dated [●] (the "Agreement")**

1. We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
2. We refer to Clause 23.6 (*Procedure for assignment*) of the Agreement:
   1. The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement as specified in the Schedule.
   2. The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement specified in the Schedule.
   3. The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph 2(b) above.
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
5. The Facility Office and address, electronic mail address and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) of the Agreement are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 23.4(c) (*Limitation of responsibility of Existing Lenders*) of the Agreement.
7. This Assignment Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 23.7 (*Copy of Transfer Certificate or Assignment Agreement to the Borrower*) of the Agreement, to the Borrower (on behalf of each Obligor) of the assignment referred to in this Assignment Agreement.
8. This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.
9. This Assignment Agreement, and any non-contractual obligations arising out of or in connection with it, are governed by English law.
10. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

**THE SCHEDULE  
Rights to be assigned and obligations to be released and undertaken**

[Insert relevant details]

[Facility office address, electronic mail address and attention details for notices and account details for payments]

[Existing Lender] [New Lender]

By: By:

This Assignment Agreement is accepted by the Agent and the Transfer Date is confirmed as [●].

Signature of this Assignment Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:



Timetables

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Delivery of a duly completed Utilisation Request (Clause 6.1 (*Delivery of a Utilisation Request*)) |  | U – 15  10.00 a.m. (CET) |  |  |  |  |
| Agent notifies the Lenders of the Loan in accordance with Clause 6.5 (*Lenders' participation*) |  | U – 10  10.00 a.m. (CET) |  |  |  |  |
| EURIBOR is fixed |  | Quotation Day 11:00 a.m. (Brussels time) in respect of EURIBOR |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

U = Utilisation Date

U – X = the day falling X Business Days prior to U

**SIGNATURES**

**THE BORROWER**

**REPUBLIC OF SERBIA**

Represented by the Government of the Republic of Serbia,

acting by and through the Ministry of Finance

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Siniša Mali

Position: Minister of Finance

Contact details for notices:

Address: 20 Kneza Miloša St, 11000 Belgrade

Attention: Minister of Finance

Email: [kabinet@mfin.gov.rs](mailto:kabinet@mfin.gov.rs) and [uprava@javnidug.gov.rs](mailto:uprava@javnidug.gov.rs)

**THE ARRANGERS**

**BNP PARIBAS SA**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Amel Ouarti

Position: Director – Export Finance EMEA

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Jean Philippe POIRIER

Position: Managing Director

**UNICREDIT BANK AG**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Michael Schwarz

Position: Director

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Michaela Schranner

Position: Director

**THE AGENT**

**UNICREDIT BANK AG**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Massimo Orlandi

Position: Managing Director

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Julian Bellet

Position: Analyst

Contact details for notices:

Address: Arabellastrasse 14, D-81925 Munich, Germany

Attention: Julian Bellet – Loans Agency/MFN2LA; Hans Maltz – Loans Agency/MFN2LA

Email: julian.bellet@unicredit.de / hans.maltz2@unicredit.de

**THE ECA AGENT**

**BNP PARIBAS SA**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Amel Ouarti

Position: Director – Export Finance EMEA

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Jean Philippe POIRIER

Position: Managing Director

Contact details for notices:

Address : Credit Transaction Management Export Finance

Immeuble Océanie,

ACI : CPE02A1

9 rue du Débarcadère, 93500 Pantin,

France

Attention : Sylvie CASET CARRICABURU, Nadia TIDJANI

Telephone : +33 1 43 16 81 69/+33 1 42 98 16 57

Email : sylvie.casetcarricaburu@bnpparibas.com/nadia.tidjani@bnpparibas.com

**THE ORIGINAL LENDERS**

**BNP PARIBAS SA**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Amel OUARTI

Position: Director – Export Finance EMEA

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Jean Philippe POIRIER

Position: Managing Director

**BNP PARIBAS FORTIS SA/NV**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Gilles POLET

Position: Head of Capital Markets EMEA

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Damien HEYMANS

Position: Head of Export Finance Benelux

**UNICREDIT BANK AG**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Michael Schwarz

Position: Director

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Michaela Schranner

Position: Director