LD 1981 ADD 1 (2022)

**FRAMEWORK LOAN AGREEMENT**

*between*

**COUNCIL OF EUROPE DEVELOPMENT BANK**

*and*

*the* **REPUBLIC OF SERBIA**

- Health Public Sector Financing Facility (PFF) -

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**COUNCIL OF EUROPE DEVELOPMENT BANK**, international organisation with its headquarters at 55, Avenue Kléber, 75116 Paris (France) (hereinafter, the **“CEB”** or the **“Bank”**), on the one hand,

and

**The REPUBLIC OF SERBIA**, (hereinafter, the **“Borrower”** and together with the CEB, the **“Parties”** and each a **“Party”**), on the other hand,

**WHEREAS**

1. Having regard to the Framework Loan Agreement between the Parties dated 15th April 2019 with reference LD 1981 (2018) (hereinafter, the “Original Agreement”),
2. Having regard to the loan application submitted by the Republic of Serbia on 7th December 2021, whereby the Borrower requested to increase the Loan Amount of the Original Agreement by two hundred million euros (EUR 200 000 000), for the partial financing of the Republic of Serbia’s Public Financing Facility for health and social care,
3. Having regard to the CEB’s Administrative Council approval on 28th January 2022 of said loan application, increasing the Loan Amount of the Original Agreement by two hundred million euros (EUR 200 000 000), for the partial financing of the Republic of Serbia’s Public Financing Facility for health and social care, with reference LD 1981 ADD 1 (2022),
4. Having regard to the Third Protocol dated 6 March 1959 to the General Agreement on Privileges and Immunities of the Council of Europe dated 2 September 1949,
5. Having regard to the CEB’s Loan Regulations, as adopted by the CEB’s Administrative Council Resolution 1587 (2016) (hereinafter, the **“Loan Regulations”**),

(F) Having regard to the CEB’s Loan and Project Financing Policy, as adopted by the CEB’s Administrative Council Resolution 1617 (2020) (hereinafter, the **“Loan Policy”**),

(G) Having regard to the CEB’s Environmental and Social Safeguards Policy, as adopted by the CEB’s Administrative Council Resolution 1588 (2016) (hereinafter, the **“Environmental and Social Safeguards Policy”**),

(H) Having regard to the CEB’s Procurement Guidelines, as adopted by the CEB’s Administrative Council in September 2011 (hereinafter, the **“Procurement Guidelines”**),

(I) Having regard to the CEB’s Regulation on a system for the protection of personal data at the CEB, as adopted by CEB’s Administrative Council in September 2011 (hereinafter, the **“Personal Data Protection Regulation”**),

(J) Having regard to the CEB’s Anti-corruption Charter, as adopted by CEB’s Administrative Council Resolution 1628 (2021) in March 2021, and

(K) Having regard to the CEB’s Policy on Non-compliant/Uncooperative Jurisdictions, as adopted by CEB’s Administrative Council Resolution 1630 (2021) in September 2021.

**HEREBY AGREE AS FOLLOWS:**

# INTERPRETATION

## Definitions

The following terms shall have the meaning indicated below, except as the context requires otherwise:

**“Agreement”** means this framework loan agreement, including its appendices.

**“Allocation”** means the commitment of a Tranche by the Borrower to the eligible component parts of the Project/Sub-projects even if such Tranche has not yet been paid out under the Project.

**“Allocation Period”** has the meaning specified under Sub-clause 5.2.

**“Business Day”** means:

In relation to payments in Euro, any day on which TARGET 2 (the Trans European Automated Real-time Gross Settlement Express Transfer system) is operating.

**“Certificate”** has the meaning specified under Sub-clause 4.5 and the form stipulated under Appendix 4 hereto.

**“Closing Date”** means the date specified under Appendix 1 hereto from which no further disbursements under the Loan may take place. Such date may be modified upon prior written consent of both Parties, by means of an exchange of letters.

**“Completion Report”** has the meaning specified under Sub-clause 6.1(b).

**“Cross-Default Event”** has the meaning specified under Sub-clause 6.6.

**“Currency”** means, for the purposes of the Agreement, Euro.

**“Day Count Convention”** means the convention for determining the number of days between two dates and the number of days in a year specified in the relevant Disbursement Notice.

**“Debt Instrument”** means (i) any loan or other form of financial indebtedness; (ii) an instrument, including any receipt or statement of account, evidencing or constituting an obligation to repay a loan, deposit, advance or similar extension of credit (including without limitation any extension of credit under a refinancing or rescheduling agreement), (iii) a bond, note, debt security, debenture or similar written evidence of financial indebtedness; or (iv) an instrument evidencing a guarantee of an obligation constituting financial indebtedness of another.

**“Default Interest Rate”** has the meaning specified under Sub-clause 4.9.

**“Disbursement Date”** means the date on which a Tranche is scheduled to be disbursed pursuant to the applicable Disbursement Notice.

**“Disbursement Notice”** has the meaning specified under Sub-clause 4.3(b).

**“Disbursement Request”** has the meaning specified under Sub-clause 4.3 (a).

**“Effective Date”** means the date of entry into force of the Agreement resulting from Clause 20.

**“EU”** means the European Union.

**“EURIBOR”** means the percentage rate quoted by any financial news provider acceptable to the CEB at or about 11.00 a.m. Brussels time on the Interest Determination Date as the Euro wholesale funding rate administrated by the European Money Market Institute (or any other entity which takes over the administration of that rate) for the same period as the relevant Interest Period.

If the relevant Interest Period is not the same as a period quoted by the relevant financial news provider, the applicable EURIBOR shall be the percentage rate resulting from a linear interpolation by reference to two (2) EURIBOR rates, one of which is applicable for a period of whole months next shorter and the other for a period of whole months next longer than the length of the relevant Interest Period.

**“Euro”** and the sign **“EUR”** means the lawful currency of the Member States of the EU which from time to time adopt it as their currency in accordance with the relevant provisions of the Treaty of the EU and the Treaty on the Functioning of the EU or their succeeding treaties.

**“European Convention on Human Rights”** means the Convention for the Protection of Human Rights and Fundamental Freedoms dated 4 November 1950, CETS No. 5, as amended from time to time.

**“European Social Charter”** means the European Social Charter dated 3 May 1996, CETS No. 163, as amended from time to time.

**“Final Beneficiaries”** are specified under Appendix 1 hereto as the group benefitting from the social effects of the Project.

**“Financial Covenants”** has the meaning specified under Sub-clause 6.6.

**“Fixed Interest Rate”** means the interest rate *per annum* specified in the applicable Disbursement Notice.

**“Floating Interest Rate”** means the interest rate *per annum* determined by adding or subtracting the Spread specified in the applicable Disbursement Notice to or from, as the case may be, the Reference Rate.

For the avoidance of doubt, when the determination of the Floating Interest Rate results in a negative interest rate (due to a quoted negative Reference Rate, to the operation of a Spread that is subtracted from the Reference Rate or to any other circumstances), the interest to be paid by the Borrower for the Interest Period shall be deemed to be zero.

**“Forecasted Expenditure”** means the eligible costs planned to be incurred under the Project over the period of one (1) year.

**“Incurred Expenditure”** means the eligible costs incurred by the Project Implementing Entity.

**“Interest Determination Date”** means, for the purposes of determination of a Floating Interest Rate, the day falling two (2) Business Days prior to the first day of the Interest Period, unless otherwise specified in the relevant Disbursement Notice.

**“Interest Payment Dates”** means the dates for the payment of interest corresponding to the relevant Interest Period specified in the applicable Disbursement Notice.

**“Interest Period”** means the period commencing on an Interest Payment Date and ending on the day immediately prior to the following Interest Payment Date, provided that the first Interest Period applicable to each Tranche shall commence on the Disbursement Date and end on the day immediately prior to the next Interest Payment Date.

**“Loan”** means the loan granted to the Borrower by the CEB by means of the Agreement.

**“Loan Amount”** means the amount specified under Sub-clause 4.1.

**“Market Disruption Event”** has the meaning specified under Sub-clause 4.10.

**“Material Adverse Change”** means any event which, in CEB’s opinion, (i) materially impairs the Borrower’s ability to perform its financial obligations under the Agreement; (ii) adversely affects any Security provided by the Borrower or a third-party to secure the due performance of the Borrower’s financial obligations under the Agreement; or (iii) adversely affects any rights or remedies of the CEB under the Agreement.

**“Maturity Date”** means the last Principal Repayment Date for each Tranche specified in the applicable Disbursement Notice.

**“Modified Following Business Day Convention”** means a convention whereby if a specified date would fall on a day which is not a Business Day, such date would be the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date would be the first preceding day that is a Business Day.

**“Prepayment Confirmation”** has the meaning specified under Sub-clause 4.7.

**“Prepayment Costs”** has the meaning specified under Sub-clause 4.7.

**“Prepayment Date”** has the meaning specified under Sub-clause 4.7.

**“Prepayment Notice”** has the meaning specified under Sub-clause 4.7.

**“Principal Repayment Date(s)”** means the date(s) for the repayment(s) of principal under each Tranche specified in the applicable Disbursement Notice.

**“Principal Repayment Period”** means with respect of each Tranche the period running from its Disbursement Date to its Maturity Date.

**“Progress Report”** has the meaning specified under Sub-clause 6.1(a).

**“Prohibited Practices”** has the meaning specified under Sub-clause 5.8(c).

**“Project”** means the eligible investment scheme(s) set forth under Appendix 1 hereto to be partially financed with the Loan approved by the CEB’s Administrative Council with reference LD 1981 ADD 1 (2022).

**“Project Implementing Entity”** (hereinafter, the **“PIE”**) means the legal entity that, by delegation of the Borrower, is in charge of the implementation of the Project.

**“Reference Rate”** means EURIBOR for a Floating Interest Rate Tranche denominated in Euro.

**“Sanction Lists”** means (i) any economic, financial and trade restrictive measures and arms embargoes issued by the EU pursuant to chapter 2 of title V of the Treaty on European Union as well as article 215 of the Treaty on the Functioning of the European Union, as available on the official EU website[[1]](#footnote-1) or on any successor page, as amended and supplemented from time to time; or (ii) any economic, financial and trade restrictive measures and arms embargoes issued by the United Nations Security Council pursuant to article 41 of the UN Charter, as available on the official UN website or on any successor page, as amended and supplemented from time to time.

**“Sanctioned Persons”** means any individual or entity listed in and/or otherwise subject to one or more Sanction Lists.

**“Security”** means any agreement or arrangement creating a preferential rank, a preferential right of payment, a collateral or guarantee of any nature whatsoever which might confer enhanced rights upon third parties.

**“Spread”** means, in connection with Floating Interest Rate Tranches, the fixed-spread to the Reference Rate (being either plus or minus) specified in basis points in the applicable Disbursement Notice.

**“Sub-project”** means an eligible investment scheme to be financed under the Project as specified under Appendix 1 hereto.

**“Tranche”** means an amount disbursed or to be disbursed under the Loan.

## Construction

Unless the context otherwise requires, references to:

1. this Agreement shall be construed as references to this Agreement as supplemented, amended or restated from time to time;
2. a Party or any other person includes its successors in title or permitted transferee;
3. "Clauses", “Sub-clauses” and “Recitals” shall be construed as references to clauses, sub‑clauses and recitals respectively of this Agreement; and
4. words importing the singular shall include the plural and vice-versa.

## Headings

Headings in this Agreement have no legal significance and do not affect its interpretation.

## Rounding

For the purposes of any calculations referred to in this Agreement:

1. all percentages resulting from such calculations other than those determined through the use of interpolation will be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (*e.g.*, 9.876541% (or .09876541) being rounded down to 9.87654% (or .0987654) and 9.876545% (or .09876545) being rounded up to 9.87655% (or .0987655));
2. all percentages determined through the use of linear interpolation by reference to two (2) relevant Reference Rates will be rounded, if necessary, in accordance with the method set forth in subsection (a) above, but to the same degree of accuracy as the two (2) rates used to make the determination (except that such percentages will not be rounded to a lower degree of accuracy than the nearest one thousandth of a percentage point (0.001%)); and
3. all currency amounts used in or resulting from the above calculations will be rounded, unless otherwise specified in the relevant Currency definition, to the nearest two decimal places in the relevant currency (with .005 being rounded upwards (*e.g.*, .674 being rounded down to .67 and .675 being rounded up to .68).

# CONDITIONS

The Loan is granted under the general conditions of the Loan Regulations and under the special conditions of the Agreement.

# PURPOSE

The CEB grants the Loan to the Borrower, who accepts it, solely for the purpose of financing the Project as described under Appendix 1.

The proceeds of the Loan cannot be used for the financing of taxes (including VAT), customs and other duties.

Any change to the way the Loan is applied that has not received the CEB’s prior written approval would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

# FINANCIAL CONDITIONS

## Loan Amount

The Loan Amount is:

TWO HUNDRED MILLION EUROS

EUR 200,000,000

## Disbursement Amount

The Loan shall be disbursed in a minimum of two (2) Tranches.

The amount of each Tranche, except for the first Tranche, shall be determined according to the Incurred Expenditure and Forecasted Expenditure. The amount of the first Tranche shall not exceed twenty-five per cent (25 %) of the Loan Amount.

## Disbursement Procedure

The disbursement of each Tranche is determined through the following procedure:

1. Disbursement Request

Prior to each disbursement and upon prior consultation with CEB, the Borrower shall submit to the CEB a disbursement request substantially in the form set out under Appendix 3 hereto (hereinafter, a **“Disbursement Request”**).

A Disbursement Request shall specify the proposed:

1. Currency(ies) and amount(s) for the Tranche;
2. Disbursement Date; such Disbursement Date shall be a Business Day falling at least five (5) Business Days after the date of the Disbursement Request;
3. Principal Repayment Date(s), including the Maturity Date, taking into account that the Principal Repayment Period for each Tranche shall not exceed twenty (20) years including a grace period not greater than five (5) years;
4. maximum Fixed Interest Rate or maximum Spread to the Reference Rate;
5. Interest Period and Interest Payment Dates;
6. Day Count Convention and Business Days; and
7. Borrower’s account for payments.

Each Disbursement Request delivered to the CEB shall be irrevocable, unless otherwise agreed in writing by the CEB.

1. Disbursement Notice

If the CEB receives a Disbursement Request that complies with the Disbursement Request requirements set out in Sub-clause 4.3(a) above, and if all other relevant Disbursement Conditions as defined in Sub-clause 4.5 (*Disbursement Conditions*) below have been fulfilled by the Borrower, the CEB shall deliver to the Borrower a disbursement notice substantially in the form set out under Appendix 3 hereto (hereinafter, a **“Disbursement Notice”**). Each Disbursement Notice shall be delivered at least two (2) Business Days before the proposed Disbursement Date.

A Disbursement Notice shall specify:

1. the Currency(ies) and the amount(s) for the Tranche;
2. the Disbursement Date;
3. the Principal Repayment Period and Principal Repayment Date(s), including the Maturity Date;
4. the Fixed Interest Rate or the Spread to the Reference Rate;
5. the Interest Period and the Interest Payment Dates;
6. the Day Count Convention and the Business Days; and
7. the Borrower’s and the CEB’s accounts for payments.

A Disbursement Notice matching the elements included in a Disbursement Request shall constitute an irrevocable and unconditional commitment on the part of the Borrower to borrow from the CEB and on the part of the CEB to disburse to the Borrower the Tranche under the terms and conditions specified in the Disbursement Notice.

Notwithstanding the above, if the CEB has not delivered a Disbursement Notice within ten (10) Business Days following the receipt of a Disbursement Request, the relevant Disbursement Request shall be deemed as cancelled.

## Disbursement Period

Unless otherwise agreed in writing by the CEB, the Borrower shall not be entitled to:

(i) the issue of a Disbursement Request for the first Tranche beyond twelve (12) months after the execution of the Agreement by the Parties;

(ii) the issue of any further Disbursement Request beyond eighteen (18) months after the last disbursement; or

(iii) the issue of any further Disbursement Request beyond the day falling fifteen (15) Business Days before the Closing Date.

## Disbursement Conditions

1. Conditions precedent to the Disbursement Request for the first Tranche:
2. Legal opinion in English issued by the Ministry of Justice of the Borrower confirming to the CEB’s satisfaction, substantially in the form set out under Appendix 2 hereto, that the Agreement has been duly executed by authorised representatives of the Borrower and that the Agreement is valid, binding and enforceable in accordance with its terms in the Borrower’s jurisdiction.

(ii) Evidence in English (*e.g.*, power of attorney, etc.) to the CEB’s satisfaction of the person(s) authorised to execute the Agreement and the Disbursement Requests on behalf of the Borrower, together with the authenticated specimen of the signature(s) of such person(s).

(iii) A Certificate from the Borrower in the form of Appendix 4 hereto, signed by the person(s) authorised to execute the Disbursement Requests on behalf of the Borrower and dated not earlier than a date falling five (5) Business Days before the Disbursement Request.

(iv) The Borrower shall share with the CEB, for approval, the Procurement Plan in a format and substance satisfactory to the CEB

1. Conditions precedent to any further Disbursement Request:
2. Evidence in English (*e.g.*, Power of Attorney, etc.) to the CEB’s satisfaction of the person(s) authorised to execute the Disbursement Requests on behalf of the Borrower, together with the authenticated specimen of the signature(s) of such person(s).

(ii) Progress Report confirming to the CEB’s satisfaction the full Allocation of previous Tranche.

(iii) A Certificate from the Borrower in the form of Appendix 4, signed by the person(s) authorised to execute the Disbursement Requests on behalf of the Borrower and dated not earlier than a date falling five (5) Business Days before the Disbursement Request.

## Repayment

On any Principal Repayment Date, the Borrower shall repay the principal of each Tranche due on that Principal Repayment Date in accordance with the terms set forth in the applicable Disbursement Notice.

## Prepayment

1. Mechanics

If in any event specified in this Agreement referring to this Sub-clause the Borrower ought to prepay all or part of a Tranche or in the event of voluntary prepayment, the Borrower shall give at least a two (2) months prior written notice to the CEB (hereinafter, the **“Prepayment Notice”**) specifying the amounts to be prepaid, the date on which the prepayment will take place (hereinafter, the **“Prepayment Date”**) and, upon prior consultation with the CEB, the Prepayment Costs. The Prepayment Date shall fall on an Interest Payment Date, unless otherwise agreed in writing by the CEB.

Upon receipt of the Prepayment Notice, the CEB shall send a written notice to the Borrower (hereinafter, the **“Prepayment Confirmation”**), not later than fifteen (15) Business Days prior to the Prepayment Date, indicating the accrued interest due thereon and the Prepayment Costs in accordance with Sub-clause 4.7 (b).

A Prepayment Confirmation matching all the elements included in the Prepayment Notice shall constitute an irrevocable and unconditional commitment on the part of the Borrower to prepay the relevant amounts to the CEB under the terms and conditions specified in the Prepayment Confirmation. If the CEB has not delivered a Prepayment Confirmation within the deadline specified above, the relevant Prepayment Notice shall be deemed as cancelled.

If the Borrower partially prepays a Tranche, the prepaid amount shall be applied pro rata to each outstanding principal repayment. In such an event, the Prepayment Confirmation shall accordingly include an adjusted repayment schedule which shall be binding on the Borrower.

1. Prepayment Costs

The costs resulting from prepayment in accordance with Sub-clause 4.7 (a) (hereinafter, the **“Prepayment Costs”**) shall be determined by the CEB on the basis of the costs to it of redeploying the amount to be prepaid from the Prepayment Date to the Maturity Date, including any related costs, such as unwinding any underlying hedging arrangements. The costs of redeployment will be established on the basis of the difference between the original rate and the redeployment rate, which shall be determined by the CEB on the basis of market conditions on the date of the Prepayment Notice.

## Interest Determination

The Borrower shall pay interest on the principal of each Tranche from time to time outstanding during each Interest Period at the Fixed Interest Rate/Floating Interest Rate specified in the applicable Disbursement Notice.

Interest shall (i) accrue from and including the first day of the Interest Period to but excluding the last day of such Interest Period; and (ii) be due and payable on the Interest Payment Dates specified in the applicable Disbursement Notice. Interest shall be calculated on the basis of the Day Count Convention specified in the relevant Disbursement Notice.

In the case of Floating Interest Rate Tranches, the CEB shall determine on each Interest Determination Date the interest rate applicable during the relevant Interest Period in accordance with the Agreement and promptly give notice thereof to the Borrower. Each determination by the CEB shall be final, conclusive and binding upon the Borrower unless shown by the Borrower to the satisfaction of the CEB that any such determination has involved manifest error.

## Default Interest Rate

In the event that the Borrower fails to pay, in full or in part, any amount under the Agreement, and notwithstanding any other recourse available to the CEB under the Agreement or otherwise, the Borrower shall pay interest on such unpaid amounts from the due date until the date of receipt of such payment by the CEB at the interest rate *per annum* equal to the one-month EURIBOR quoted on the due date plus two hundred basis points (200 bps) (hereinafter, the **“Default Interest Rate”**).

The applicable Default Interest Rate shall be updated every thirty (30) calendar days.

## Market Disruption Event

The CEB shall promptly, upon becoming aware of it, notify to the Borrower that a Market Disruption Event has occurred.

For the purposes of the Agreement, **“Market Disruption Event”** refers to the following circumstances:

1. The relevant financial news provider referred to under the EURIBOR definition does not quote any percentage rate or its corresponding screen rate page is not accessible.

Under such a Market Disruption Event, the applicable EURIBOR shall be the percentage rate *per annum* determined by the CEB to be the arithmetic mean of the rates at which loans in Euro, in an amount identical or nearest comparable to the Loan amount in question and for a period identical or nearest comparable to the relative Interest Period, are offered on the Interest Determination Date by three (3) leading banks in the EU interbank market selected by the CEB. If at least two (2) quotations are provided, the applicable EURIBOR for that Interest Determination Date shall be the arithmetic mean of all quotations provided.

If only one (1) or no quotation is provided, the applicable EURIBOR shall be the percentage rate *per annum* determined by the CEB to be the arithmetic mean of the rates at which loans in Euro, in an amount identical or nearest comparable to the Loan amount in question and for a period identical or nearest comparable to the relative Interest Period, are offered on the second Business Day after the beginning of the relevant Interest Period by major banks in the EU interbank market selected by the CEB.

1. The CEB determines that it is not possible to determine the applicable Reference Rate in accordance with paragraph (a) above.

Under such a Market Disruption Event, the applicable Floating Interest Rate shall be replaced by the rate that expresses as a percentage rate *per annum* the cost to the CEB of funding the Loan from whatever source the CEB may reasonably select.

1. At any time between the delivery of a Disbursement Notice and the Disbursement Date the CEB reasonably determines that there are exceptional and unexpected circumstances of an economic, financial, political or other external nature adversely affecting the CEB’s access to its sources of funding.

Under such a Market Disruption Event, the CEB shall be entitled to cancel at no cost the scheduled disbursement.

In the case of the Market Disruption Events set forth under paragraphs (a) and (b) above:

1. If the Borrower so requires, the Parties, acting in good faith, shall enter into negotiations for a period of not more than thirty (30) calendar days in order to agree on an alternative to the applicable EURIBOR. If no agreement is reached, the Borrower shall proceed with prepayment on the next Interest Payment Date in the terms provided under Sub-clause 4.7.
2. The CEB shall have the right, acting in good faith and in consultation with the Borrower to the extent reasonably practicable, to change the duration of any subsequent Interest Period to thirty (30) calendar days or less by sending to the Borrower a notice thereof. Any such change to an Interest Period shall take effect on the date specified by the CEB in such notice.
3. For the avoidance of doubt, items (i) and (ii) above shall only apply in circumstances where the Borrower shall pay interest on the principal of a Tranche outstanding at a Floating Interest Rate.

If the CEB determines that the relevant Market Disruption Event no longer exists, then, subject to any further Market Disruption Event occurring or existing, the Floating Interest Rate and/or Interest Period applicable to any relevant Tranche shall revert, from the first day of the following Interest Period to being calculated in accordance with the Floating Interest Rate and Interest Period specified in the relevant Disbursement Notice.

## Payments

All the amounts due by the Borrower under this Agreement are payable in the Currency of each Tranche to the CEB’s account indicated in the applicable Disbursement Notice. Any payment under this Agreement shall be made on a Business Day subject to the Modified Following Business Day Convention. Any payment shall be deemed paid when the CEB has received the amount on its account.

The Borrower or the bank instructed by the Borrower, as the case may be, shall send a written payment notice to the CEB at least five (5) Business Days before payment of any amounts due under this Agreement.

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

If the CEB receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under this Agreement, the CEB shall apply that payment in or towards payment of:

1. first, any fees, costs, charges or expenses due but unpaid under this Agreement;
2. secondly, any accrued interest due but unpaid under this Agreement,
3. thirdly, any principal due but unpaid under this Agreement; and
4. fourthly, any other sum due but unpaid under this Agreement.

# PROJECT IMPLEMENTATION

The Borrower shall implement the Project in accordance with the Agreement.

The Borrower designates the Ministry for Public Investment as PIE. The PIE is entrusted with specific implementation tasks, including but not limited to procurement, management of consultants, financial management (accounting and payments), reporting, evaluation, monitoring and control.

The PIE shall ensure appropriate staff and equipment throughout the Project implementation period, to the satisfaction of CEB.

In any event, the Borrower remains solely liable to comply with its obligations under the Agreement.

Failure to comply with the undertakings set forth hereby under Clause 5 would constitute, irrespective of any other applicable provision of the Loan Regulations, an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to (i) the relevant Sub‑project expenditure declared ineligible for Allocation under the Project; and/or (ii) the early reimbursement, suspension or cancellation of the Loan, in whole or in part, under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

## Duty of Care

The Borrower through the PIE shall apply all care and diligence, and shall exercise all typically used means (including, but not limited to, legal, financial, managerial and technical) required for the proper implementation of the Project.

## Allocation Period

The Borrower shall allocate each Tranche to the Project within twelve (12) months after the relevant Disbursement Date (hereinafter, the **“Allocation Period”**), unless otherwise agreed in writing by the Borrower and CEB.

If a Tranche disbursed by the CEB is not allocated to the Project or is only partially allocated to it within the Allocation Period, the Borrower shall proceed with prepayment of the unallocated amounts on the next Interest Payment Date in the terms provided under Sub-clause 4.7 unless otherwise agreed between the Borrower and CEB.

## Project Costs

The Tranches disbursed under the Loan shall not exceed sixty-three point five percent (63.5%%) of the total eligible costs of the Project specified under Appendix 1 hereto. If the Tranches disbursed under the Loan exceed the above 63.5 % (by reduction of the total eligible costs or otherwise), the Borrower shall proceed with prepayment of the surplus on the next Interest Payment Date in the terms provided under Sub-clause 4.7.

Should the total eligible costs of the Project increase or be revised for whatever reason, the Borrower shall ensure that the additional financial resources for the completion of the Project are available without recourse to the CEB. The plans to finance the increased costs shall be communicated to the CEB without delay.

## Project Specific Undertakings

1. The Borrower through the PIE shall inform the CEB as soon as possible about any significant (above 10%) revision in the project costs as set forth in appendix 5 table 1;
2. The Borrower through the PIE shall inform the CEB in case subsidies are needed to ensure the long-term viability of the investment, e.g. to cover operations and maintenance costs; the Borrower through the PIE shall ensure the availability of funds for such purposes;
3. The Borrower through the PIE shall ensure that further undertakings with regards to environmental and social safeguards as stipulated in Sub-clause 5.6 hereunder are complied with;
4. All assets and plants under the Project are permanently insured, maintained and operated in accordance with international best practices; and
5. all the land, real property rights and permits required for the implementation of the Project are timely available;

## Procurement

Procurement of supplies, works and services to be financed under the Project shall comply with the CEB Procurement Guidelines.

The Borrower shall conduct all procurement procedures under the Project in accordance with the public procurement laws of Serbia. In particular, the Borrower shall ensure that any party having an interest in obtaining a particular contract to be financed under the Project shall have access to the review procedures and remedies provided for under the laws of Serbia.

To be eligible for financing under the Loan, procurement of works, services and goods carried out in accordance with the above shall be in line with the Procurement Guidelines. In particular, the Procurement Plan (as such term is defined under the Procurement Guidelines) (and any update thereof) indicating the procurement methods for each contract shall be submitted to the CEB for approval. Upon receipt, the CEB will inform the Borrower of the scope of review that CEB will carry out for each contract.

## Environmental and Social Safeguards

The Borrower through the PIE shall implement the Project in conformity with the requirements set forth in the Environmental and Social Safeguards Policy. In particular, should the Project require an Environmental Impact Assessment (EIA) or an Environmental and Social Impact Assessment (ESIA) in accordance with the Environmental and Social Safeguards Policy, the Borrower through the PIE shall notify the CEB and shall submit it for information before utilising CEB funding for the component concerned by the EIA/ESIA. The Borrower through the PIE shall ensure that the EIA/ESIA is undertaken in accordance with the requirements of the Environmental and Social Safeguards Policy. The Borrower through the PIE shall ensure that any potential complaint concerning land acquired, will be handled in accordance with the Environmental and Social Safeguards Policy. The relevant EIA/ESIA documentation shall be made available for the CEB’s review upon request.

## Human Rights

The Borrower through the PIE shall ensure that the implementation of the Project does not give rise to a violation of (i) the European Convention on Human Rights; or (ii) the European Social Charter.

## Integrity

The Borrower, directly or through the PIE, undertakes that:

1. it will institute and thereafter comply with internal policies, procedures and controls, in line with applicable legislation and international best practices, for the purpose of preventing the Borrower to become, in connection with the implementation of the Project or otherwise, an instrument for money laundering or terrorism financing;
2. it will not make any Loan proceeds available to or for the benefit of, directly or indirectly, any Sanctioned Person;
3. it will not commit, and no person, with its consent or prior knowledge, will commit, in connection with the implementation of the Project a Corrupt Practice, a Fraudulent Practice, a Coercive Practice, a Collusive Practice or an Obstructive Practice (hereinafter, together with money laundering, terrorism financing and making available any Loan proceeds to Sanctioned Persons referred to as the **“Prohibited Practices”**).

For the purposes of this Agreement:

1. A **“Corrupt Practice”** means any act of offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.
2. A **“Fraudulent Practice”** means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit, or to avoid an obligation.
3. A **“Coercive Practice”** means any act of impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party to influence improperly the actions of a party.
4. A **“Collusive Practice”** means any arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
5. An “**Obstructive Practice**” means, in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice, (a) any act of deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; (b) any act of threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; and/or (c) any act intending to materially impede the exercise of the contractual rights of audit or access to information.

The Borrower, directly or through the PIE undertakes to inform CEB if it should become aware of any fact or information suggestive of the commission of any such Prohibited Practice. For this purpose, the knowledge of any member of the PIE shall be deemed the knowledge of the Borrower.

The Borrower, directly or through the PIE undertakes:

1. to take timely such action as the CEB may reasonably request to investigate and/or terminate any alleged or actual Prohibited Practice;
2. to facilitate any investigation that the CEB may conduct concerning any alleged or actual Prohibited Practice; and
3. to inform the CEB of the measures taken to seek damages from the persons responsible for any loss resulting from any such Prohibited Practice.

The PIE shall be responsible for contacts with the CEB for the purposes of this Sub-clause.

## Visibility

The Borrower shall inform the Final Beneficiaries that the Project is partly financed by the CEB through appropriate means of communication such as dedicated notices in relevant websites, social media, press releases, brochures or the exhibit of billboards/plates on relevant Project sites/facilities. In any case, information to the Final Beneficiaries shall display in an appropriate way the CEB’s name and logo.

# MONITORING

## Reporting

1. Progress Reports

The Borrower through the PIE shall send to the CEB a progress report (hereinafter, a **“Progress Report”**) (i) once a year, until the completion of the Project; and (ii) prior to every Disbursement Request, except for the Disbursement Request for the first Tranche.

Appendix 5 hereto provides a template specifying the minimum information required by the CEB. Alternative formats containing the same information may also be used.

1. Completion Report

Upon completion of the Project, the Borrower through the PIE shall submit a completion report (hereinafter, a **“Completion Report”**) including an appraisal of the Project’s social impact.

Appendix 5 hereto provides a template specifying the minimum information required by the CEB. Alternative formats containing the same information may also be used.

## Visits

The Borrower, directly or through the PIE undertakes to favourably receive any monitoring/technical/evaluation visits, including by facilitating access to relevant Project sites/contractors, carried out by the CEB’s staff members or designated third parties.

## Audit

Should the Borrower fail to comply with any of its undertakings under the Agreement, the Borrower undertakes to favourably receive any on-site audit, carried out by the CEB’s staff members or designated third parties, which shall be at the Borrower’s expense.

## Project Information

The Borrower shall keep accounting records concerning the Project, which shall be in conformity with international standards, showing, at any point in time, the Project’s state of progress, and which shall record all operations made and identify the assets and services partially financed with the Loan.

The Borrower through the PIE shall deliver to the CEB in a timely manner any information or document concerning the financing or the implementation (including in particular environmental/social and procurement issues) of the Project as the CEB may reasonably require.

The Borrower through the PIE shall inform the CEB immediately of any event in connection with the Project, including but not limited to:

1. any action or protest initiated or any objection raised by any third party or any complaint received by the Borrower or any litigation that is commenced or threatened against it with regard to procurement or environmental, social or occupational health and safety (e.g. loss of life or important accident) matters or other matters in connection with the Project; or
2. any enactment of or any amendment to any law, rule or regulation (or in the application or official interpretation of any law, rule or regulation) in connection with the Project.

Any event that may have a material adverse impact on the implementation of the Project would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

## Borrower Information

The Borrower, directly or through the PIE shall deliver a summary every year, in a form and substance satisfactory to the CEB, of the Borrower’s annual budget and the related budget implementation and any such information on its general financial situation as the CEB may reasonably require from time to time, unless it is published on the official website of the Ministry of Finance or the National Bank of Serbia and available in English.

The Borrower directly or through the PIE shall inform the CEB of any Material Adverse Change immediately after becoming aware thereof. Any Material Adverse Change would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (Early reimbursement of disbursed loans), 3.5 (Suspension by the Bank of undisbursed loans) and 3.6 (Cancellation by the Bank of undisbursed loans) of the Loan Regulations.

## Financial Covenants

The Borrower shall inform the CEB if any Cross-Default Event occurs. Any Cross-Default Event would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the suspension, cancellation or early reimbursement of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

For the purpose of this Agreement, “**Cross-Default Event**” means a situation in which, following any default in relation thereto, the Borrower is required or is capable of being required or will, following expiry of any applicable contractual grace period, be required or be capable of being required to prepay, repay or terminate ahead of maturity any Debt Instrument or any commitment in connection with any Debt Instrument is cancelled or suspended.

# PARI PASSU

Failure to comply with the provisions set forth below under Clause 7 would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

## Ranking

The Borrower shall ensure that its payment obligations under this Agreement rank, and will rank, not less than *pari passu* in right of payment with all other present and future unsecured and unsubordinated obligations under any of its Debt Instruments.

In particular, the Borrower shall not make (or authorise) any payment in respect of any other such Debt Instrument (whether regularly scheduled or otherwise) if:

1. the CEB makes a demand of early reimbursement under Article 3.3 (*Early reimbursement of disbursed loans)* of the Loan Regulations; or
2. an event or potential event of default under any unsecured and unsubordinated Debt Instrument of the Borrower or any of its agencies or instrumentalities has occurred and is continuing.

However, payment in respect of such Debt Instrument is possible if the Borrower:

1. simultaneously pays; or
2. sets aside in a designated account for payment on the next Interest Payment Date;

a sum equal to the same proportion of the principal outstanding under this Agreement as the proportion that the payment under such Debt Instrument bears to the total debt outstanding under that instrument.

For this purpose, any payment of a Debt Instrument that is made out of the proceeds of the issue of another instrument, to which substantially the same persons as hold claims under the Debt Instrument have subscribed, shall be disregarded.

## Security

Should a Security be granted for the performance of any of the Borrower’s Debt Instruments, the Borrower shall timely inform the CEB of its intentions and shall, if so required by the CEB, provide to the CEB, within the deadline set forth in the CEB’s notice, identical or equivalent Security for the performance of its financial obligations under this Agreement.

This provision shall not apply to a Security:

1. created on property at the time of purchase solely as security for the payment of the purchase price or for the payment of debt incurred for the purpose of financing the purchase of such property;
2. securing a Debt Instrument maturing not more than one (1) year after the date on which it was originally incurred; or
3. previously approved by the CEB.

## Clause by Inclusion

Should any of the Borrower’s Debt Instruments include a loss-of-rating covenant, a financial ratios covenant or *pari passu* provisions that are not included in the Agreement or that are stricter than any equivalent provision of this Agreement, the Borrower shall so inform the CEB and shall, at the request of the CEB by means of a written notice, execute within the deadline indicated in the CEB’s notice, an amendment to this Agreement to provide an equivalent provision in favour of the CEB.

## Prepayment to Third Parties

Should the Borrower voluntarily prepay (for the avoidance of doubt, prepayment shall include a repurchase where applicable) in whole or in part any Debt Instrument and such prepayment:

1. is not made within a revolving credit facility which remains open for drawing on the same terms after such prepayment; or
2. is not made out of the proceeds of another Debt Instrument having a term at least equal to the unexpired term of the prepaid Debt Instrument;

the Borrower shall inform the CEB. In such an event, and upon the CEB’s request, the Borrower shall prepay to the CEB within two (2) months from any such prepayment the amounts disbursed under the Loan in accordance with Sub-clause 4.7 in such proportion as the prepaid amount bears to the corresponding Debt Instrument.

# REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants that:

1. it is not and none of its officers, directors, agents or employees is a Sanctioned Person or is the subject of a final and irrevocable court ruling in connection with Prohibited Practices perpetrated in the exercise of its professional duties and none of them did or does enter into business relationships with Sanctioned Persons;
2. its competent bodies have authorised it to enter into the Agreement and have given the signatory(ies) the authorisation therefor, in accordance with the laws, decrees, regulations, articles of association and other texts applicable to it;

(c) the execution and delivery of, the performance of its obligations under and compliance with the provisions of this Agreement do not:

1. contravene or conflict with any applicable law, statute, rule or regulation, or any judgment, decree or permit to which it is subject;
2. contravene or conflict with any Debt Instrument or any other agreement binding upon it which might reasonably be expected to give rise to a Material Adverse Change;
3. no event or circumstance is outstanding that constitutes a default under any Debt Instrument or any other agreement, which is binding on it or to which its assets are subject, which might reasonably be expected to give rise to a Material Adverse Change;

(e) no Security has been granted to a third party in breach of Sub-clause 7.2;

(f) no litigation, arbitration or administrative proceedings of or before any court, arbitral tribunal or agency which might reasonably be expected to give rise to a Material Adverse Change have (to the best of its knowledge and belief) been started or threatened against it; and

(g) it has received a copy of the Loan Regulations, the Loan Policy, the Environmental and Social Safeguards Policy, the Procurement Guidelines and the Personal Data Protection Regulation and has taken note thereto.

The above representations and warranties are deemed repeated on the date of signature of each Disbursement Request and on the date of each Certificate. Any change in relation to the above representations and warranties must, for the entire Loan period, be notified and any supporting documents provided to the CEB immediately after the Borrower having become aware of the change.

If any of the above representations and warranties is or proves to have been incorrect or misleading in any respect, this would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the suspension, cancellation or early reimbursement of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

# THIRD PARTIES

The Borrower may not raise any fact relating, within the scope of the use of the Loan, to its relations with third parties in order to avoid fulfilling, either totally or partially, the obligations resulting from the Agreement.

The CEB may not be involved in disputes which might arise between the Borrower and third parties and the costs, whatever their nature, incurred by the CEB due to any claims, and in particular all legal or court costs, shall be at the expense of the Borrower.

# NON-WAIVER

In no case, including delay or partial exercise, shall it be presumed that the CEB has tacitly waived any right granted to it by the Agreement.

# TRANSFER

The Borrower may not transfer any of its rights and/or obligations under the Agreement without the prior written consent of the CEB.

The Borrower hereby gives its consent to any transfer by the CEB of all or part of its rights and/or obligations under the Agreement. CEB will inform the Borrower prior to such transfer.

# ILLEGALITY

If it is or becomes unlawful in any jurisdiction for the CEB to make, maintain or fund the Loan or perform any of its obligations under this Agreement, this would constitute an event in the terms of Article 3.3 (h) of the Loan Regulations and may give rise to the suspension, cancellation or early reimbursement of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations.

# NO HARDSHIP

Each Party hereby acknowledges that:

(i) unless otherwise contemplated in this Agreement, any applicable legal norm pursuant to which a Party may request the other Party to renegotiate the Agreement or may cease to perform its obligations in case of a change of circumstances unforeseeable at the time of the conclusion of the Agreement which makes performance excessively onerous for a Party who had not agreed to assume such risk, shall not apply to it with respect to its financial obligations hereunder; and

(ii) it shall not be entitled to any claim under such legal norm;

For avoidance of doubt, this clause does not exclude any other applicable legal or contractual rights under the Agreement for a Party to cease to perform its obligations hereunder with respect to the implementation of the Project or to terminate the Agreement.

# GOVERNING LAW

The Agreement shall be governed by the rules of the CEB as specified in the provisions of Article 1, paragraph 3, of the Third Protocol (dated 6 March 1959) to the General Agreement on Privileges and Immunities of the Council of Europe (dated 2 September 1949) and, secondarily, if necessary, by French law.

# DISPUTES

Disputes between the Parties shall be subject to arbitration under the conditions laid down in Chapter 4 of the Loan Regulations.

The Parties agree not to take advantage of any privilege, immunity or legislation before any jurisdictional or other authority, whether domestic or international, in order to object to the enforcement of an award handed down under the conditions laid down in Chapter 4 of the Loan Regulations.

In any legal action arising from this Agreement, the CEB’s certificate as to any amount due or interest rate applicable under the Agreement shall, in the absence of manifest error, be *prima facie* evidence of such amount or interest rate.

# PERSONAL DATA PROTECTION

The processing of any personal data collected under the Agreement shall be carried out by the CEB in accordance with the Personal Data Protection Regulation.

# NOTICES

Any notice (including any document or communication) to be given or made under or in connection with this Agreement to the CEB or the Borrower shall be in writing and unless otherwise stated, may be made by registered letter, electronic mail or facsimile. Such notice shall be deemed to have been received by the other Party:

1. in the case of a hand-delivered or registered letter, on the date of delivery;
2. in the case of electronic mail, only when actually received in readable form and only if it is addressed in such a manner as the other Party shall specify for this purpose;
3. in the case of electronic mail, which contains a Disbursement Notice, sent by the CEB to the Borrower, when the electronic mail is sent; and
4. in the case of a facsimile, on receipt of transmission.

Any notice provided by the Borrower to the CEB by electronic mail shall:

1. mention the LD reference in the subject line; and
2. be in the form of a non-editable electronic image (pdf, tif or any other common non-editable file format agreed between the Parties) signed by the person or persons duly authorised to sign such notice on behalf of the Borrower, attached to the electronic mail.

Without affecting the validity of notices by electronic mail or facsimile made in accordance with this Clause, the following notices shall also be sent by registered letter to the other Party at the latest on the immediately following Business Day:

1. Disbursement Requests;
2. any communications in respect of the suspension, cancellation and/or prepayment, of the Loan or in respect of a Prepayment Notice; and
3. any other communication required by the CEB.

The Parties agree that any above notice (including via electronic mail) is an accepted form of communication, shall constitute admissible evidence in court and shall have the same evidential value as an agreement under hand.

The postal address, fax number and electronic mail address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication to be given or made under or in connection with this Agreement is:

For the Borrower:

Ministry of Finance of the Republic of Serbia

20, Kneza Miloša Street

11000 Belgrade

Serbia

Attention: Minister of Finance

Fax: +381 11 765 2007

For the CEB:

Council of Europe Development Bank

55 Avenue Kléber

75116 Paris

France

Attention: Head of Projects Division

Fax: + 33 1 47 55 37 52

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

All notices to be given or made under or in connection with the Agreement shall be in English or French or, if in another language, shall be accompanied by an English or French certified translation thereof, when so required by the CEB.

All notices to be given or made by the Borrower under or in connection with this Agreement shall, where required by the CEB, be delivered to the CEB together with satisfactory evidence of the authority of the person or persons authorised to sign such notice on behalf of the Borrower and the authenticated specimen signature of such person or persons.

# TAXES AND EXPENSES

The Borrower shall pay, to the extent applicable, all taxes, duties, fees and other impositions of whatsoever nature, including stamp duty and registration fees, arising out of the signing, registration, implementation, termination or enforcement of the Agreement and/or any related document as well as of the creation, perfection, registration, enforcement or release of any Security required under the Agreement.

For the avoidance of any doubt, provisions of this Clause 18 do not relate to enforcement of Clause 3 of this Agreement.

The Borrower shall bear all charges and expenses (including legal, professional, banking or exchange costs) incurred in connection with (i) the preparation, execution, perfection, implementation, termination and enforcement of this Agreement and/or any related document; (ii) any amendment, supplement or waiver in respect of this Agreement and/or any related document; and (iii) the preparation, execution, perfection, management, enforcement and release of any Security required under the Agreement. Notwithstanding the above, Article 4.7 (*Cost of arbitration*) of the Loan Regulations shall apply regarding the costs of the arbitration set forth under Clause 15 *(Disputes).*

# DISCHARGE

After repayment of all outstanding principal under the Loan as well as payment of all interests and other expenses resulting from the Agreement, including in particular those amounts under Sub‑clause 4.9 *(Default Interest Rate)* and Clause 18 *(Taxes and Expenses*), the Borrower shall be fully released from its obligations arising out of or in connection with this Agreement.

Without prejudice of the above, the Borrower shall nevertheless undertake, for a period not exceeding six (6) years following the receipt of a Completion Report to the CEB’s satisfaction confirming the full Allocation of all amounts disbursed under the Loan (i) to keep the Project-related documentation; and (ii) to favourably receive any evaluation visits, including by facilitating access to relevant Sub-project sites carried out by the CEB’s staff members or designated third parties.

# ENTRY INTO FORCE

The Agreement shall enter into force upon execution by the Parties and ratification by the Parliament of the Republic of Serbia. The Borrower will provide to the CEB a written confirmation to that effect.

IN WITNESS THEREOF the Parties have caused the Agreement to be executed by duly authorised signatories in four (4) originals, each of which is equally valid. One (1) original is for CEB and (3) three for the Borrower.

For the Borrower

Belgrade, on March 28, 2023

Name: Siniša Mali

Title: Deputy Prime Minister and Minister of Finance

For the CEB

Paris, on 20/3/2023 Paris, on 20 March, 2023

Name: Cristian TABACARU Name: Jan DE BEL

Title: L&D Director Title: General Counsel

# APPENDIX 1

**Project Description**

|  |  |  |  |
| --- | --- | --- | --- |
| **I.** | **LD** | 1981 ADD 1 (2022) | |
|  | **Borrower** | Republic of Serbia | |
|  | **Loan Type** | Public Sector Financing Facility | |
|  | **Loan Amount** | EUR 200 000 000 | |
|  | **Approval by the**  **CEB’s Administrative Council** | 28 January 2022 | |
|  |  |  |  | |
| **II.** | **Line(s) of action** | Health and Social Care | |
|  | **Planned Works/** | Indicative list of PFF sub-projects: | |
|  | **Location** | Across Serbia | |
|  | **Final Beneficiaries** | Citizens of the Republic of Serbia | |
|  | **Project Total Cost** | EUR 630,000,000 | |
|  | **Indicative Financing Plan** | The Borrower had already borrowed EUR 200,000,000 for a Health PFF 1981 (2018). The present PFF 1981 ADD1 is a subsequent Health PFF constituting a loan increase to the existing PFF loan.  Following the loan increase, the CEB share of financing on the overall financing plan of the Project will be of 63.5%. The contributions of the Serbian Government and CEB in relation to total project cost would be as follows: | |
|  | **Schedule of Works** | 2023-2026 | |
|  | **Closing Date** | 31 March 2026 | |
|  |  |  |  | |
| **III.** | **Eligibility criteria** | Sub-projects co-financed by CEB will be based on the eligibility criteria set out in CEB’s Loan and Project Financing Policy for the “Health and Social Care” sector of action. Eligible investments may include works and supplies for construction and medical equipment and other costs related to hospitals/care centres construction and reconstruction. | |
|  | **Eligible Costs** | 1. Eligible costs may include:  i. The cost of surveys or studies (technical, economic or commercial, engineering) as well as the cost of technical supervision of the project. These costs should not exceed 5% of the total cost of the project, unless justified;  ii. The cost of acquiring land directly linked to a project, at its purchase price, unless it has been donated or granted;  iii. Preparation of the land;  iv. Construction/renovation/modernization or purchase of buildings directly linked to a project;  v. The installation of basic infrastructure such as sewerage, water supply, electricity and telecommunications networks, waste disposal and waste water treatment, roads, etc.;  vi. The purchase of materials, equipment and machinery, as well as the related costs linked to the training of staff.  vii. Contingencies for unanticipated costs (technical and/or price increases). These represent financial coverage in respect of possible changes in the quantity of work required, or of unit prices, in the type and quantity of equipment to be purchased or in the method of carrying out the project. Depending on the sector of activity and the various components of the project, these contingencies may represent up to 10% of the Project Total Cost.  viii. Costs related to professional/vocational training and public awareness-raising campaigns.  2. Non-eligible costs  i. CEB loans cannot cover staff costs (wages/salaries and other related benefits such as pension payments), financial charges and non-cash elements such as depreciation. Such costs may however be considered eligible when they relate to project management and technical assistance services required for whole period of project preparation and implementation.  ii. Financial costs or investments (payment of debts, refinancing, interest charges, acquisition of interest in the capital of an enterprise, etc.) cannot be included in the estimated costs of the project and cannot be financed by the CEB.  iii. The proceeds of the Loan cannot be used for the financing of taxes (including VAT), customs and other duties. | |
|  |  |  |  | |
| **IV.** | **Social impact** | The EUR 200 million PFF Loan to the Republic of Serbia aims at contributing to the continuous improvement of healthcare facilities and technological infrastructure in primary, secondary and tertiary care, and social care centres, while adapting them to the needs of the country’s population considering the demographic trends and the demand for healthcare. By providing access to this financial instrument, CEB would promote and support the completion of priority investments undertaken by Serbian health authorities in CEB’s “Health and Social Care” sector of action. | |

# APPENDIX 2

**Form of Legal Opinion**

Council of Europe Development Bank

55, avenue Kléber

75116 Paris (France)

Attn: Projects Department

Cc: Office of the General Counsel

[INSERT DATE]

**Re: *Framework Loan Agreement between the Council of Europe Development Bank and the Republic of Serbia (Reference*** ***LD 1981 ADD 1 (2022))***

Dear Sir or Madam,

In my capacity as the Minister of Justice, I hereby submit this opinion in line with the provisions of Article 4.5(a)(i) of the Framework Loan Agreement LD 1981 ADD 1 (2022) between Council of Europe Development Bank and Republic of Serbia, for an amount of 200,000,000 EUR, signed on \_\_\_\_\_ and effective as of \_\_\_\_\_ (hereinafter referred to as the ”**Loan Agreement”**). All the terms that are used here, if not otherwise defined, have the same meaning as in the Loan Agreement.

I have reviewed the Loan Agreement and the provisions of the Constitution of the Republic of Serbia (”Official Gazette of the Republic of Serbia” No. 98/2006), as well as legal documents and other regulations, and I have undertaken other activities that I deemed necessary in order to submit this opinion.

According to the aforementioned, my opinion is as follows:

(a) Pursuant to the provision of Article 123, Item 1 of the Constitution of the Republic of Serbia, it is provided that the Government shall establish and pursue the policy, and pursuant to the provision of Article 2, Paragraph 1 and Article 43, Paragraph 3 of the Law on Government (”Official Gazette of the Republic of Serbia” No. 55/05, 71/05-corrigendum, 101/07, 65/08, 16/11, 68/12-Constitutional Court, 72/12, 7/14 – Constitutional Court, 44/14 and 30/18-other law) it is provided that the Government shall establish and pursue the policy of the Republic of Serbia, and when it does not pass other acts, the Government adopts conclusions. In line with the referred provisions, the Government at its session held on \_\_\_\_\_\_\_ adopted the Conclusion No: \_\_\_\_\_\_\_, whereby it adopted the Draft Loan Agreement and authorized \_\_\_\_\_\_\_\_\_\_\_\_\_\_, to sign the Loan Agreement on behalf of the Government as the representative of the Republic of Serbia;

(b) Pursuant to the provision of Article 99, Paragraph 1, Item 4 of the Constitution of the Republic of Serbia, it is provided that the National Assembly of the Republic of Serbia ratifies the international treaties when their ratification is provided by law, and subject to the provision under Article 2, Paragraph 1 of the Law on Conclusion and Execution of International Treaties (”Official Gazette of the Republic of Serbia” No. 32/13) which provides that an international treaty shall be a treaty which the Republic of Serbia concludes in written form with one or more countries or one or more international organizations, which is governed by international law. Pursuant to the provision of Article 5, Paragraph 2 of the Law on Public Debt (”Official Gazette of the Republic of Serbia” No. 61/05, 107/09, 78/11, 68/15, 95/18, 91/19 and 149/20) it is provided that the National Assembly of the Republic of Serbia decides on borrowing of the Republic by taking long-term loans, borrowing for investment and program projects financing by taking long-term loans, issuing guarantees, and on direct taking over of the liabilities as a debtor under issued guarantee. In line with the stated provisions, the National Assembly of the Republic of Serbia rendered the Law on Ratification of Framework Loan Agreement LD 1981 ADD 1 (2022) between Council of Europe Development Bank and Republic of Serbia, Health Public Sector Financing Facility (PFF) (”Official Gazette of the Republic of Serbia - International Treaties”, No. \_\_\_\_\_\_);

(c) There are no other provisions according to which it would be necessary to submit, record or register the Loan Agreement with any court or state authority or organization in order to secure its legality, effectiveness and enforceability;

(d) The choice of the law set forth in Article 14 of the Loan Agreement, is legally valid and binding on the Borrower under the laws of the Republic of Serbia;

(е) Pursuant to Article 15 of the Loan Agreement, the arbitration provisions set forth in Chapter 4 of the CEB Loan Regulations shall apply for any claim or dispute between the Republic of Serbia and the Council of Europe Development Bank arising from the Loan Agreement, and any decision of the arbitration tribunal pertaining to the Loan Agreement can be executed in the Republic of Serbia without re-examination or re-litigation of the matters thereby adjudicated. In line with the aforementioned the waiver of immunity pursuant to Article 15 of the Loan Agreement is legally valid and binding;

(f) No taxes, customs duties, fees or other impositions, including without limitation taxes, fees or other levies for registration or transfers that are applicable in the Republic of Serbia, or any other unit of territorial autonomy or local government, shall be payable in connection with the conclusion or execution of the Loan Agreement, or in connection with the payments that the Republic of Serbia is to make to the Council of Europe Development Bank under the Loan Agreement;

(g) No exchange control restrictions are in place or consents are required in order to permit the receipt of all amounts to be disbursed under the Loan Agreement and to permit the repayment of the Loan and the payment of interest and all other amounts due under this Loan Agreement;

(h) The execution of the Loan Agreement did not, and its performance will not violate any norms of the Republic of Serbia or cause any material breach of any agreement or undertaking to which the Republic of Serbia is bound.

In view of everything stated above, I am of the opinion that all conditions that are stipulated by the Constitution, laws and other acts of the Republic of Serbia which could be applied to the Loan Agreement are met, that the provisions of the Loan Agreement are in full force and effect and that the Loan Agreement is legally valid, binding and enforceable in the Republic of Serbia in accordance with its terms.

Yours faithfully,

MINISTER

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

# APPENDIX 3

**DISBURSEMENT REQUEST (TEMPLATE)**

**LD 1981 ADD 1 – [•] Tranche**

With reference to the Framework Loan Agreement dated [●] (hereinafter, the “**Agreement”**) between the Council of Europe Development Bank (hereinafter, the “**CEB**”) and the Republic of Serbia (hereinafter, the “**Borrower**”), the Borrower hereby requests the CEB, in accordance with Sub-clause 4.3(a) of the Agreement, to proceed with the disbursement of a Tranche under the specific terms and conditions set out below.

Terms defined in the Agreement shall have the same meaning herein, unless otherwise specified.

|  |  |  |  |
| --- | --- | --- | --- |
| Currency/Amount[[2]](#footnote-2) | [●] | | |
| Disbursement Date | [●] | | |
| Principal Repayment Period | [●] years [including a grace period of [●] years] | | |
| Principal Repayment Date(s) | [●] | | |
| Maturity Date | [●] | | |
| Interest Rate | Fixed | Maximum [●] *per annum* | |
| Floating | Reference Rate: | [[●]-month EURIBOR/INSERT ANY OTHER REFERENCE RATE] *per annum* |
| Spread | Maximum [●] basis points |
| Interest Period | [Quarterly] [Semi-annually] in arrears | | |
| Interest Payment Dates | The interest payment will take place on [●] every year and for the first time on [●] | | |
| Day Count Convention | Modified Following Business Day Convention | | |
| Business Day | [●] | | |
| Borrower’s Account | |  |  |  | | --- | --- | --- | | Beneficiary’s Name | [●] | | | Beneficiary’s Bank | Name | [●] | | City | [●] | | SWIFT | [●] | | IBAN | [●] | | Reference | [●] | | Correspondent Bank (if applicable) | Name | [●] | | City | [●] | | SWIFT | [●] | | IBAN | [●] | | | |

[•], on [•].

For the Borrower

[INSERT NAME(S)/TITLE(S)]

**DISBURSEMENT NOTICE (TEMPLATE)**

**LD 1981 ADD 1 – [•] Tranche**

In response to your Disbursement Request dated [●] with reference to the Framework Loan Agreement dated [●] (hereinafter, the “**Agreement”**) between the Council of Europe Development Bank (hereinafter, the “**CEB**”) and the Republic of Serbia (hereinafter, the “**Borrower**”), the CEB hereby notifies to the Borrower, in accordance with Sub-clause 4.3(b) of the Agreement, the terms and conditions of the disbursement of the relevant Tranche.

Terms defined in the Agreement shall have the same meaning herein, unless otherwise specified.

|  |  |  |  |
| --- | --- | --- | --- |
| Currency/Amount[[3]](#footnote-3) | [●] | | |
| Disbursement Date | [●] | | |
| Principal Repayment Period | [●] years [including a grace period of [●] years] | | |
| Principal Repayment Date(s) | [●] | | |
| Maturity Date | [●] | | |
| Interest Rate | Fixed | [●] *per annum* | |
| Floating | Reference Rate: | [[●]-month EURIBOR/INSERT ANY OTHER REFERENCE RATE] *per annum* |
| Spread | [●] basis points |
| Interest Period | [Quarterly] [Semi-annually] in arrears | | |
| Interest Payment Dates | The interest payment will take place on [●] every year and for the first time on [●] | | |
| Day Count Convention | Modified Following Business Day Convention | | |
| Business Day | [●] | | |
| Borrower’s Account | |  |  |  | | --- | --- | --- | | Beneficiary’s Name | [●] | | | Beneficiary’s Bank | Name | [●] | | City | [●] | | SWIFT | [●] | | IBAN | [●] | | Reference | [●] | | Correspondent Bank (if applicable) | Name | [●] | | City | [●] | | SWIFT | [●] | | IBAN | [●] | | | |
| CEB’s account | |  |  |  | | --- | --- | --- | | Beneficiary’s Name | Council of Europe Development Bank | | | Beneficiary’s SWIFT | CEFPFRPP | | | Beneficiary’s Bank | Name | Deutsche Bank | | City | Frankfurt (Germany) | | SWIFT | DEUTDEFF | | IBAN | DE44 5007 0010 0928 7384 00 | | | |

Paris, on [•]

For the CEB

[INSERT NAME(S)/TITLE(S)]

# APPENDIX 4

**Form of Certificate**

[INSERT LETTERHEAD]

To: Council of Europe Development Bank

From: [BORROWER]

Date: [NOT EARLIER THAN FIVE (5) BUSINESS DAYS BEFORE THE DISBURSEMENT REQUEST]

Subject: Framework Loan Agreement between Council of Europe Development Bank and [BORROWER] dated [●] (the “**Agreement**”).

Dear Sir or Madam,

Terms defined in the Agreement have the same meaning when used in this Certificate. For the purposes of Sub-clause 4.5 (a)(iii) of the Agreement, we hereby certify to you as follows:

1. No Material Adverse Change has occurred, as compared with the situation at the date of signature of the Agreement;
2. No Cross-Default Event has occurred;

(c) None of the Borrower’s Debt Instruments includes loss-of-rating, financial ratios or *pari passu* provisions that are stricter than any equivalent provision of the Agreement;

(d) The representations and warranties to be made or repeated by us under Clause 8 of the Agreement are true in all respects; in particular, no Security has been granted to a third party in breach of Sub-clause 7.2 of the Agreement; and

(e) No event or circumstance which could give rise to the early reimbursement, suspension or cancellation of the Loan under the terms of Articles 3.3 (*Early reimbursement of disbursed loans*), 3.5 (*Suspension by the Bank of undisbursed loans*) and 3.6 (*Cancellation by the Bank of undisbursed loans*) of the Loan Regulations has occurred or may reasonably be expected to/is likely to occur.

For the [BORROWER]

**LD 1981 ADD 1 (2022)**

**APPENDIX 5:**

**Reporting Template (annual progress report/ completion report)**





1. <http://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_en>. [↑](#footnote-ref-1)
2. [In case of Sub-Tranches, a separate table shall indicate the Amount, Principal Repayment Period, Principal Repayment Date(s), Interest Rate, Interest Period, Interest Payment Dates for each Sub-Tranche.] [↑](#footnote-ref-2)
3. [In case of Sub-Tranches, a separate table shall indicate the Amount, Principal Repayment Period, Principal Repayment Date(s), Interest Rate, Interest Period, Interest Payment Dates for each Sub-Tranche.] [↑](#footnote-ref-3)