

Execution version

Investment Number 39970

COMMON TERMS AGREEMENT

among

CAPITAL CITY OF PODGORICA

and

ERSTE BANK AD PODGORICA

and

INTERNATIONAL FINANCE CORPORATION

Dated 19 December 2017

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COMMON TERMS AGREEMENT

COMMON TERMS AGREEMENT (the "Agreement") dated 19 December 2017, among:

- (1) CAPITAL CITY OF PODGORICA, the capital of Montenegro, with address at Njegoseva 13, 81000 Podgorica, Montenegro, organized and existing under the laws of Montenegro, established in accordance with the Law on Territorial Organization of Montenegro and Law on the Capital City (the "**Borrower**");
- (2) ERSTE BANK AD PODGORICA, a commercial bank and joint stock company organized and existing in accordance with the laws of Montenegro, having its registered seat at Arsenija Boljevića 2a, Podgorica, Montenegro and registered with the Central Registry of Commercial Entities in Podgorica with registration number 40001671 ("**Erste Bank**"); and
- (3) INTERNATIONAL FINANCE CORPORATION, an international organization established by Articles of Agreement among its member countries including Montenegro ("**IFC**", and together with Erste Bank, the "**Senior Lenders**").

RECITALS

The Borrower is undertaking the construction, completion, ownership and operation of the Project;

The Borrower has requested the Senior Lenders to provide the loans described in this Agreement to finance the construction, completion, ownership and initial operation of the Project and certain other costs and expenditures associated with the development of the Project; and

The Senior Lenders are willing to provide those loans upon the terms and conditions set forth in this Agreement and the Senior Loan Agreements.

ARTICLE I

Definitions and Interpretation

Section 1.01. *Definitions.* Wherever used in this Agreement, the following terms have the meanings opposite them:



“Accounting Standards”	the accounting principles and standards generally accepted in respect of the budgetary financial accounting in Montenegro established in accordance with the Budget Law;
“Affiliate”	any Affiliated Entity and any Controlled Entity;
“Affiliated Entity”	any legal entity affiliated with the Borrower for the delivery of public services in accordance with the Constitution of the Country, Law on Local Self Government, other applicable laws and the Statute of the City of Podgorica;
“Annual Budget”	the annual budget of the Borrower duly enacted in accordance with the Budget Law;
“Annual E&S Monitoring Report”	means the annual monitoring report setting out the specific social, environmental and developmental impact information to be provided by the Borrower in respect of the Project, in the form and substance as enclosed herewith in Schedule 7, as such form of Annual E&S Monitoring Report may be amended or supplemented from time to time with the consent of the IFC;
“Applicable S&E Law”	all applicable statutes, laws, ordinances, rules and regulations of the Country, including without limitation, licenses, permits or other governmental Authorizations setting standards concerning environmental, social, labor, health and safety or security risks of the type contemplated by the E&S Performance Standards or imposing liability for the breach thereof;
“Auditors”	the audit firm that the Borrower appoints from time to time as its auditors pursuant to Section 5.01 (e) (<i>Affirmative Covenants</i>);
“Authority”	any national, supranational, regional or local government or governmental, administrative, fiscal, judicial, or government-owned body, department, commission, authority, tribunal, agency or entity, or central bank (or any Person, whether or not government owned and howsoever constituted or called, that exercises the functions of a central bank);

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“Authorization”	any consent, registration, filing, agreement, notarization, certificate, license, approval, permit, authority or exemption from, by or with any Authority, whether given by express action or deemed given by failure to act within any specified time period and all corporate, creditors’ and local self-government approvals or consents, including, for the avoidance of doubt, the approvals or consents of the Borrower’s Assembly;
“Authorized Representative”	any natural person who is duly authorized by the Borrower to act on its behalf for the purposes specified in, and whose name and a specimen of whose signature appear on, the Certificate of Incumbency and Authority most recently delivered by the Borrower to the Senior Lenders;
“Bills of Exchange in favour of Erste Bank“	20 (twenty) promissory notes i.e. blank bills of exchange (in Montenegrin “ <i>blanko sopstvene mjenice</i> ”) issued by the Borrower in favour of Erste Bank accompanied with appropriate authorization for filling in and collection as security for Erste Bank Loan;
“Bills of Exchange in favour of IFC“	20 (twenty) promissory notes i.e. blank bills of exchange (in Montenegrin “ <i>blanko sopstvene mjenice</i> ”) issued by the Borrower in favour of IFC accompanied with appropriate authorization for filling in and collection as security for IFC Loan;
“Borrower”	has the meaning specified in the preamble of this Agreement;
“Borrower’s Assembly”	the municipal parliament of the City of Podgorica that is the legislative local authority of the City of Podgorica and the highest local authority of the City of Podgorica which performs the deliberative functions of the local government, as established in accordance with the Constitution of the Country, Law on Local Self Government, other applicable laws and the Statute of the City of Podgorica;

“Budget Execution Report”	reports on execution of the Borrower's budget prepared by the Borrower's administration in accordance with the Accounting Standards and approved in accordance with the procedure set out in the Budget Law;
“Budget Inspection Authorities”	Budget Inspection of the Montenegro Ministry of Finance established in accordance with the Budget Law and other relevant regulations;
“Budget Law”	the “Budget Law” adopted by the Montenegro National Assembly (Official Gazette of Montenegro nos.020/14, 056/14 and 070/17) as may be amended from time to time and/or any other law or budgetary normative act relevant to the Borrower;
“Budget Revenues”	the aggregate amount of the Borrower’s revenues for any Fiscal Year;
“Business Day”	a day when banks are open for business in New York, New York, USA and London, England and Podgorica, Montenegro or, only for the purpose of determining the interest rate, a day on which the Trans-European Real-Time Gross Settlement Express Transfer (“TARGET”) system is open for the transaction of general business including dealings in foreign exchange and foreign currency deposits;
“Calculation Date”	March 30, June 30, September 30 and December 30 of any Financial Year;
“Certificate of Incumbency and Authority”	a certificate provided to the Senior Lenders by the Borrower in the form of Schedule 1;
“Coercive Practice”	has the meaning assigned to it in Annex C;
“Collusive Practice”	has the meaning assigned to it in Annex C;
“Commitment”	with respect to each Senior Lender, at any time, the aggregate principal amount (either disbursed or available for disbursement) of such Senior Lender’s Senior Loan;
“Controlled Entity”	with respect to the Borrower, a legal entity, which the Borrower directly or indirectly controls at any time,

provided that control means for purposes of this definition, the power to direct the management or policies of a person, directly or indirectly, whether through the ownership of shares or other securities, by contract or otherwise, provided that the direct or indirect ownership of over fifty per cent (50%) of the equity of a person is deemed to constitute control of that person, and "controlling" and "controlled" have corresponding meanings;

“Corrupt Practice”	has the meaning assigned to it in Annex C;
“Country”	Montenegro;
“Debt Service”	the aggregate amount of principal and interest and other charges payable or guaranteed in connection with any and all Financial Debt;
“Derivative Transaction”	any swap agreement, cap agreement, collar agreement, futures contract, forward contract or similar arrangement with respect to interest rates, currencies or commodity prices;
“Disbursement”	any disbursement of any of the Senior Loans;
“Disbursement Request”	a request for Disbursement substantially in the form of Schedule 2;
“EURIBOR”	the interbank offered rates for deposits in the Loan Currency which appear, on page EURIBOR01 of the Reuters Service or, if not available, on the relevant pages of any other service (such as Bloomberg Financial Markets Service) that displays such rates, provided that if such rates for any reason cease to be published, “EURIBOR” shall mean the rate determined pursuant to Section 2.03 (<i>Interest, Market Disruption</i>); provided further that if any such rate is less than zero, EURIBOR shall be deemed to be zero;
“Euro” and “EUR”	the single, unified, lawful currency of those member states of the European Union participating in the Economic and Monetary Union and the lawful currency of the Country at the date of this Agreement;



“Event of Default”	any one of the events specified in Section 6.02 (<i>Events of Default</i>);
“Environmental and Social Action Plan (ESAP) ”	the plan of environmental and social mitigation and improvement measure, in the form set out in Schedule 6 specifying environmental and social performance criteria, standards, policies, procedures, practices, capital investments and implementation schedules, including measures to achieve and maintain compliance with the E&S Performance Standards, as such ESAP may be amended or supplemented from time to time with the consent of the IFC;
“Environmental and Social Impact Assessment” and “ESIA”	the environmental and social impact assessment for the project dated 22 November 2017, prepared by the Borrower in accordance with Applicable S&E Law;
“Environmental and Social Management System”	the Borrower’s environmental and social management system enabling it to identify, assess and manage the Project risks on an ongoing basis established in compliance with the E&S Performance Standards;
“Environmental and Social Matter”	any matter that is the subject of any Applicable S&E Law, any E&S Performance Standards or the Environmental and Social Action Plan;
“Environmental Claim”	any written threatened complaint, order, directive, claim, citation or notice from any Authority which could reasonably be expected to have a Material Adverse Effects in respect of any Applicable S&E Law;
“E&S Performance Standards”	collectively: <ul style="list-style-type: none">(i) all Applicable S&E Laws applicable to the Borrower and/or the Project;(ii) IFC’s Performance Standards on Social, and Environmental Sustainability, dated 1 January 2012;

- (iii) the World Bank Group (WBG) Environmental, Health and Safety (EHS) Guidelines consist of:
- (iv) the World Bank EHS General Guidelines dated April 30, 2007; and
- (v) World Bank Group EHS Guidelines for Toll Roads April 30, 2007;

copies of which have been delivered to and receipt of which the Borrower acknowledges;

“Erste Bank
Loan”

the loan made or to be made by Erste Bank to the Borrower under the Erste Bank Loan Agreement or, as the context requires, its principal amount from time to time outstanding;

“Erste Bank
Loan Agreement”

the agreement entitled “Loan Agreement” dated on or about the date hereof between the Borrower and Erste Bank;

“Financial Debt”

any indebtedness of the Borrower or any of its Controlled Entities for or in respect of:

- (i) borrowed money;
- (ii) the outstanding principal amount of any bonds, debentures, notes, loan stock, commercial paper, acceptance credits, bills or promissory notes drawn, accepted, endorsed or issued by the Borrower or any of its Controlled Entities;
- (iii) the deferred purchase price of assets or services (except trade accounts incurred and payable in the ordinary course of business to trade creditors within 90 days of the date they are incurred and which are not overdue);
- (iv) non-contingent obligations of the Borrower or any of its Controlled Entities to reimburse any other Person for amounts paid by that Person under a letter of credit or similar instrument);



- (v) the amount of any obligation in respect of any Financial Lease;
- (vi) amounts raised under any other transaction having the financial effect of a borrowing and which would be classified as a borrowing under the Accounting Standards;
- (vii) the amount of the obligations of the Borrower or any of its Controlled Entities under derivative transactions entered into in connection with the protection against or benefit from fluctuation in any rate or price (but only the net amount owing by the Borrower or any of its Controlled Entities after marking the relevant derivative transactions to market);
- (viii) any and all indebtedness of the types described in the foregoing items secured by a lien on any property owned by the Borrower or any of its Controlled Entities, whether or not such indebtedness has been assumed by the Borrower or any of its Controlled Entities;
- (ix) any and all obligations of the Borrower or any of its Controlled Entities to pay a specified purchase price for goods and services, whether or not delivered or accepted (i.e., take or pay or similar obligations);
- (x) any repurchase obligation or liability of the Borrower or any of its Controlled Entities which is the functional equivalent of or takes the place of borrowing;
- (xi) the amount of any obligation of the Borrower or any of its Controlled Entities in respect of any guarantee or indemnity for any of the foregoing items incurred by any other Person; and
- (xii) any premium payable by the Borrower or any of its Controlled Entities on a mandatory redemption or replacement of any of the foregoing items.

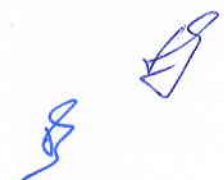


“Financial Lease”	any lease or hire purchase contract which would, under the Accounting Standards, be treated as a finance or capital lease;
“Financial Plan”	the proposed sources of financing for the Project as set out in Annex A (<i>Project Cost and Financial Plan</i>);
“Financial Year”	the accounting year of the Borrower commencing each year on 1 January and ending on the following 31 December, or such other period as the Borrower, with the consent of the Senior Lenders, from time to time designates as its accounting year;
“Financing Documents”	(i) this Agreement; (ii) the Senior Loan Agreements; (iii) the Intercreditor and Security Sharing Agreement; and (iv) the Security Documents;
“Fraudulent Practice”	has the meaning assigned to it in Annex C;
“IFC”	has the meaning specified in the preamble of this Agreement;
“IFC Loan”	the loan made or to be made by IFC to the Borrower under the IFC Loan Agreement or, as the context requires, the principal amount of the loan from time to time outstanding;
“IFC Loan Agreement”	the agreement entitled “Loan Agreement” dated on or about the date hereof between the Borrower and IFC;
“Increased Costs”	the amount certified in an Increased Costs Certificate to be the net incremental costs of, or reduction in return to, any Senior Lender (or any Participant thereof) in connection with the making or maintaining of its Senior Loan (or its Participation, as the case may be) that result from: (i) any enactment of any law or regulation or mandatory directive after the date of this Agreement or any change in any applicable

law or regulation or directive (whether or not having the force of law) or in its interpretation or application by any Authority charged with its administration; or

- (ii) compliance with any request from, or requirement of, any central bank or other monetary or other Authority;

which, in either case, after the date of this Agreement:

- (A) imposes, modifies or makes applicable any reserve, special deposit or similar requirements against assets held by, or deposits with or for the account of, or loans made by, that Senior Lender (or that Participant);
 - (B) imposes a cost on that Senior Lender as a result of that Senior Lender having made its Senior Loan (or on that Participant as a result of that Participant having acquired its Participation) or reduces the rate of return on the overall capital of that Senior Lender (or that Participant) that it would have achieved, had that Senior Lender not made its Senior Loan (or that Participant not acquired its Participation, as the case may be);
 - (C) changes the basis of taxation on payments received by that Senior Lender in respect of its Senior Loan (or by that Participant with respect to its Participation) (otherwise than by a change in taxation of the overall net income of that Senior Lender (or Participant) imposed by the jurisdiction of its incorporation (or in which it books its Participation) or in any political subdivision of such jurisdiction); or
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- (D) imposes on that Senior Lender (or that Participant) any other condition regarding the making or maintaining of its Senior Loan (or its Participation, as the case may be);

but excluding any incremental costs of making or maintaining a Participation that are a direct result of that Participant having its principal office in the Country or having or maintaining a permanent office or establishment in the Country, if and to the extent that permanent office or establishment acquires that Participation;

“Increased Costs Certificate”

a certificate provided from time to time by a Senior Lender (based on a certificate to such Senior Lender from any Participant of such Senior Lender, if Increased Costs affect its Participation), certifying:

- (i) the circumstances giving rise to the Increased Costs;
- (ii) that the costs of that Senior Lender (or that Participant) have increased or the rate of return of that Senior Lender (or that Participant) has been reduced;
- (iii) that such Senior Lender (or that Participant) has, in its opinion, exercised reasonable efforts to minimize or eliminate the relevant increase or reduction, as the case may be; and
- (iv) the amount of Increased Costs;

“Intercreditor and Security Sharing Agreement”

the agreement entitled “Intercreditor and Security Sharing Agreement” dated on or about the date of this Agreement among the Senior Lenders;

“Interest Determination Date”

except as otherwise provided in a Senior Loan Agreement, the second Business Day before the beginning of each Interest Period;

“Interest Payment Date”

April 15 and October 15 in each year;

- “Interest Period” each period of six (6) months, in each case beginning on an Interest Payment Date and ending on the day immediately before the next following Interest Payment Date, except in the case of the first period applicable to each Disbursement when it means the period beginning on the date on which that Disbursement is made and ending on the day immediately before the next following Interest Payment Date;
- “Interest Rate” in respect of any Senior Loan and for any Interest Period, the rate at which interest is payable on that Senior Loan during such Interest Period, determined in accordance with this Agreement and the Senior Loan Agreement under which that Senior Loan has been made;
- “Law on Financing Local Governments” the “Law on Financing Local Governments” adopted by the Montenegro National Assembly (“*Official Gazette of the Republic of Montenegro*”, no. 42/03 and the “*Official Journal of Montenegro*” no. 5/08, 051/08, 074/10, 001/15, 078/15, 003/16 and 030/17), as may be amended from time to time;
- “Law on Local Self Government” the “Law on Local Self Government” adopted by the Montenegro National Assembly (“*Official Gazette of the Republic of Montenegro nos. 42/03, 28/04, 75/05, 13/06 and “Official Journal of Montenegro” no. 88/09, 003/10, 073/10, 038/12, 010/14, 057/14 and 003/16*), as many be amended from time to time;
- “Liabilities” the aggregate of all obligations of the Borrower to pay or repay money, including, without limitation:
- (i) Financial Debt;
 - (ii) the amount of all liabilities of the Borrower (actual or contingent) under any conditional sale or a transfer with recourse or obligation to repurchase, including, without limitation, by way of discount or factoring of book debts or receivables;
 - (iii) taxes (including deferred taxes);

- (iv) trade accounts incurred and payable in the ordinary course of business to trade creditors within 90 days of the date they are incurred and which are not overdue (including letters of credit or similar instruments issued for the account of the Borrower with respect to such trade accounts);
- (v) accrued expenses, including wages and other amounts due to employees and other services providers;
- (vi) the amount of all liabilities of the Borrower howsoever arising to redeem any of its shares; and
- (vii) to the extent (if any) not included in the definition of Financial Debt, the amount of all liabilities of any person to the extent the Borrower guarantees them or otherwise obligates itself to pay them;

“Lien”

any mortgage, pledge, charge, assignment, hypothecation, security interest, title retention, preferential right, trust arrangement, right of set-off, counterclaim or banker’s lien, privilege or priority of any kind having the effect of security, any designation of loss payees or beneficiaries or any similar arrangement under or with respect to any insurance policy or any preference of one creditor over another arising by operation of law;

“Loan Currency”

Euro;

“Long-term Debt”

that part of Financial Debt whose final maturity falls due more than one year after the date it is incurred (including the current maturities thereof);

“Market Disruption Event”

before close of business in Brussels on the Interest Determination Date for the relevant Interest Period, the cost to a Senior Lender (or the requisite Participants in any Senior Loan, as determined by the Senior Lender in accordance with the relevant Senior Loan Agreement or agreement governing the relevant Participations) of funding its Senior Loan (or such Participations) would be in excess of EURIBOR;



“Material Adverse Effect”	a material adverse effect on: <ul style="list-style-type: none">(i) the Borrower’s business, operations, property, liabilities, condition (financial or otherwise), prospects or carrying on of the business or operations of the Borrower;(ii) the implementation of the Project; or(iii) the ability of the Borrower to comply with its material obligations under this Agreement or under any other Finance Document;
“Obstructive Practice”	has the meaning assigned to it in Annex C;
“Participant”	with respect to any Senior Lender, any Person who acquires a Participation in the Senior Loan of such Senior Lender;
“Participation”	a participating interest in any Senior Loan, or as the context requires, in any Disbursement;
“Participation Agreement”	means an agreement entitled “Participation Agreement” between IFC and a Participant pursuant to which the Participant acquires a Participation;
“Payment Accounts”	the accounts of the Senior Lenders, as set forth in their respective Senior Loan Agreements, as each such account may be modified from time to time;
“Peak Debt Service”	based on the Financial Debt outstanding as of any given Calculation Date, the highest annual Debt Service which will be due from the Borrower in the Financial Year of the said Calculation Date and in any of the following twenty Financial Years.
“Person”	any natural person, corporation, company, partnership, firm, voluntary association, joint venture, trust, unincorporated organization, Authority or any other entity whether acting in an individual, fiduciary or other capacity;



- “Potential Event of Default” any event or circumstance which would, with notice, lapse of time, the making of a determination or any combination thereof, become an Event of Default;
- “Prohibited Activities” any of the activities listed in Annex D;
- “Project” the construction, completion, ownership and initial operation of the 3.5km-long section of the South-Western By-pass around the City of Podgorica connecting the Podgorica-Petrovac highway to the Podgorica-Niksic highway, including a bridge over the River Moraca;
- “Project Completion Report” the report prepared by the Borrower demonstrating that the Project has fulfilled all the requirements set forth for the Project Substantial Completion;
- “Project Cost” the total estimated cost of the Project, as set forth in Annex A (*Project Cost and Financial Plan*);
- “Project Documents” all construction permit/s for the Project, construction agreements with all contractors, designs on the basis of which construction permits are required, and all other documents required for lawful initiation and carrying out of construction and operation of the Project;
- “Project Substantial Completion” the last day of the month in which the following requirements have been fully satisfied:
- (i) the first phase of the South-Western Bypass around the City of Podgorica included in the Project has been properly constructed and completed and accepted by the Borrower;
 - (ii) there are no outstanding claims by contractors in respect of the construction of the Project (other than claims being contested in good faith and with respect to which the Borrower has made adequate reserves);

- (iii) all sites, plants, equipment and facilities comprising the Project have been acquired, developed, constructed and become fully operational in compliance with the Action Plan and otherwise in a manner consistent with the applicable requirements of the E&S Performance Standards in all respects;
- (iv) all Authorizations required for the normal operation of the Project and the performance by the Borrower of its obligations under the Transaction Documents have been obtained and remain in full force and effect;
- (v) no Event of Default or Potential Event of Default has occurred and is continuing;
- (vi) the Borrower has delivered to the Senior Lenders a notice, signed by an Authorized Representative, certifying that the requirements set out in paragraphs (i) through (iii) above have been fulfilled and that the requirements set out in paragraphs (iv), (v) and (vi) above are satisfied; and
- (vii) each of the Senior Lenders has notified the Borrower that the Borrower's notice is acceptable to that Senior Lender;

“Project Substantial Completion Date”

The date in which all the requirements set forth for the Project Substantial Completion are met;

“Sanctionable Practice”

any Corrupt Practice, Fraudulent Practice, Coercive Practice, Collusive Practice, or Obstructive Practice, as those terms are defined herein and interpreted in accordance with the Anti-Corruption Guidelines attached to this Agreement as Annex C;

“Security”

the security created by or pursuant to the Security Documents to secure all amounts owing by the Borrower to the Senior Lenders under this Agreement and the other Financing Documents;

“Security Documents”

the documents providing for the Security consisting of:

- (i) Bills of Exchange in favour of IFC; and
 - (ii) Bills of Exchange in favour of Erste Bank;
- “Senior Lender” has the meaning specified in the preamble of this Agreement;
- “Senior Loan Agreements” the IFC Loan Agreement and the Erste Bank Loan Agreement, and “Senior Loan Agreement” means any of them, as the context requires;
- “Senior Loans” collectively, the IFC Loan and the Erste Bank Loan, and “Senior Loan” means any of them, as the context requires;
- “Short-term Debt” all Financial Debt other than Long-term Debt;
- “Spread” 3.95% (three point ninety-five percent) per annum;
- “Taxes” any present or future taxes (including stamp taxes), withholding obligations, duties and other charges of whatever nature levied by any Authority;
- “Total Commitment” the aggregate amount of the Commitments of all the Senior Lenders;
- “Transaction Documents” (i) the Financing Documents; and
(ii) the Project Documents.
- “World Bank” the International Bank for Reconstruction and Development, an international organization established by Articles of Agreement among its member countries.

Section 1.02. *Financial Calculations.* (a) All financial calculations to be made under, or for the purposes of, this Agreement and any other Financing Document shall be made in accordance with the Accounting Standards and, except as otherwise required to conform to any provision of this Agreement, shall be calculated from the then most recently issued quarterly Budget Execution Report and supporting documents which the Borrower is obligated to furnish to the Senior Lenders under Section 5.03 (a) (*Reporting Requirements*).

(b) Where Budget Execution Report from the last quarter of a Financial Year are used for the purpose of making certain financial calculations then, at the

Senior Lenders' option, those calculations may instead be made from the Budget Execution Report for such Financial Year.

Section 1.03. *Interpretation*. In this Agreement, unless the context otherwise requires:


- (a) headings are for convenience only and do not affect the interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa;
- (c) a reference to an Annex, Article, party, Schedule or Section is a reference to that Article or Section of, or that Annex, party or Schedule to, this Agreement;
- (d) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document but disregarding any amendment, supplement, replacement or novation made in breach of this Agreement; and
- (e) a reference to a party to any document includes that party's successors and permitted assigns.

Section 1.04. *Business Day Adjustment*. (a) When an Interest Payment Date (or a day on which payment of principal in accordance with this Agreement and the relevant Senior Loan Agreement is to be made) is not a Business Day, then such Interest Payment Date (or a day on which payment of principal in accordance with this Agreement and the relevant Senior Loan Agreement is to be made) shall be automatically changed to the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

(b) When the day on or by which a payment (other than a payment of principal or interest) is due to be made is not a Business Day, that payment shall be made on or by the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

Section 1.05. *Senior Loan Agreements*. (a) This Agreement, including its definitions, conditions of disbursement, representations and warranties, covenants, events of default, principles of construction, rules of interpretation and its jurisdiction, governing law and notice provisions, is made a part of each of the Senior Loan Agreements.

- (b) Subject to paragraph (c) below of this Section 1.05:
 - (i) this Agreement and the IFC Loan Agreement shall be read and construed together as one agreement; and



(ii) this Agreement and the Erste Bank Loan Agreement shall be read and construed together as one agreement.

(c) If any provision of this Agreement conflicts with any provision of any Senior Loan Agreement, then the provisions of the relevant Senior Loan Agreement shall prevail.

Section 1.06. *Rights and Obligations of the Senior Lenders.* (a) The obligations of each Senior Lender under the Financing Documents are several. Failure by a Senior Lender to perform its obligations under the Financing Documents does not affect the obligations of any other Party under the Financing Documents. No Senior Lender is responsible for the obligations of any other Senior Lender under the Financing Documents.

(b) The rights of each Senior Lender under or in connection with the Financing Documents are separate and independent rights and any debt arising under the Financing Documents to a Senior Lender from the Borrower shall be a separate and independent debt.

(c) A Senior Lender may, except as otherwise stated in the Financing Documents, separately enforce its rights under the Financing Documents.

(d) Notwithstanding any term of any Financing Document, the consent of any Person who is not a party hereto is not required to rescind or vary this Agreement at any time.

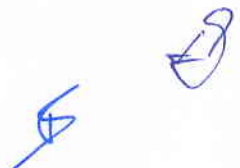
ARTICLE II

Common Funding Provisions, Payments, Prepayments

Section 2.01. *The Senior Loans.* (a) Subject to the provisions of this Agreement and the IFC Loan Agreement, IFC agrees to lend, and the Borrower agrees to borrow, the IFC Loan.

(b) Subject to the provisions of this Agreement and Erste Bank Loan Agreement, Erste Bank agrees to lend, and the Borrower agrees to borrow, the Erste Bank Loan.

Section 2.02. *Disbursement Procedure.* (a) The Borrower may request Disbursements by delivering to the relevant Senior Lender, or to both Senior Lenders, as applicable, at least fifteen (15) Business Days prior to the proposed date of disbursement, a Disbursement Request.



(b) Subject to the requirements of Section 4.01 (*Conditions of First Disbursement*), Section 4.02 (*Conditions of All Disbursements*) and Section 4.03 (*Borrower's Certification*):

- (i) each Disbursement of IFC Loan (other than the last one) shall be made in an aggregate amount of not less than EUR 2,000,000;
- (ii) each Disbursement of Erste Bank Loan (other than the last one) shall be made in an aggregate amount of not less than EUR 1,000,000;
- (iii) there will be a maximum of 4 (four) disbursement of IFC Loan in total;
- (iv) there will be a maximum of 8 (eight) disbursements of Erste Bank Loan in total; and
- (v) none of the Senior Lenders shall be required to make its first disbursement under its relevant Senior Loan unless the other Senior Lender makes the simultaneous disbursement under its relevant Senior Loan.

(c) The Borrower shall deliver to each Senior Lender a receipt, substantially in the form of Schedule 3, within five (5) Business Days following each Disbursement by such Senior Lender.

Section 2.03. Interest, Market Disruption.

(a) Interest Setting.

(i) Subject to the provisions of Section 2.04 (*Default Interest Rate*), the Borrower shall pay interest on each Senior Loan on the Interest Payment Dates in accordance with the terms of this Agreement and the relevant Senior Loan Agreement pursuant to which that Senior Loan was made.

(ii) On each Interest Determination Date for any Interest Period, each Senior Lender shall determine the Interest Rate applicable to that Interest Period for its Senior Loan and shall notify the Borrower.

(iii) If, for any Interest Period, any Senior Lender cannot determine EURIBOR by reference to the Reuters Service or any other service that displays such rates, such Senior Lender shall notify the Borrower and shall instead determine EURIBOR:

(X) on the second Business Day before the beginning of the relevant Interest Period by calculating the arithmetic mean (rounded upward to the nearest three decimal places) of the

offered rates advised to the Senior Lender on or around 11:00 a.m., Brussels time, for deposits in the Loan Currency by any four (4) major banks active in the Loan Currency in the Euro-zone interbank market, selected by the Senior Lender; provided that if less than four quotations are received, the Senior Lender may rely on the quotations so received if not less than two (2); or

- (Y) if less than two (2) quotations are received from the banks in accordance with subsection (X) above, on the first day of the relevant Interest Period, by calculating the arithmetic mean (rounded upward to the nearest three decimal places) of the offered rates advised to the Senior Lender on or around 11:00 a.m., Brussels time, for loans in the Loan Currency by a major bank active in the Loan Currency in the Euro-zone interbank market, selected by the Senior Lender.

(b) Subject to any alternative basis agreed as contemplated by Section 2.03 (c) below, if a Market Disruption Event occurs in relation to all or any part of a Senior Loan for any Interest Period, the relevant Senior Lender shall promptly notify the Borrower in writing (with a copy to all other Senior Lenders) of such event and the relevant Interest Rate with respect to such Senior Loan for that Interest Period shall be the rate which is the sum of:

- (i) the Spread; and
- (ii) either (A) the rate which expresses as a percentage rate per annum the cost to such Senior Lender (or the relevant Participant in relation to its Participation) of funding its Senior Loan (or Participation) from whatever source it may reasonably select or (B) at the option of such Senior Lender (or any such Participant, as the case may be), EURIBOR for the relevant period as determined in accordance with the relevant Senior Loan Agreement.

(c) (i) If a Market Disruption Event occurs in relation to a Senior Loan and the relevant Senior Lender or the Borrower so requires, within five (5) Business Days of the notification by such Senior Lender to the Borrower (with a copy to all other Senior Lenders), such Senior Lender and the Borrower shall enter into good faith negotiations (for a period of not more than thirty (30) days) with a view to agreeing a substitute basis for determining the rate of interest applicable to such Senior Loan.

(ii) Any alternative basis agreed pursuant to sub-paragraph (i) above shall take effect in accordance with its terms and be binding on the Borrower and the relevant Senior Lender.



(iii) If agreement cannot be reached, the Borrower may prepay the relevant portion of such Senior Loan in accordance with the relevant Senior Loan Agreement but without any prepayment premium.

(d) Each calculation and determination made by the Senior Lenders under this Agreement shall, absent manifest error, be final and conclusive and binding on all parties to this Agreement.

(e) The Parties agree that after expiration of two years as of the day of this Agreement the Borrower may request the Senior Lenders to consider providing for fixed interest rate for the Senior Loans instead of Interest Rate determined and payable in accordance with the provisions of this Agreement and the relevant Senior Loan Agreement. In the event that Senior Lenders accept such request from the Borrower, the Parties shall execute appropriate amendments to this Agreement and other Financing Documents, as applicable. For the avoidance of doubt, nothing in this Agreement or in any of the Senior Loan Agreements shall be interpreted as creating an obligation either on the side of the Borrower to seek that Interest Rate is changed to a fixed interest rate or on the side of either of the Senior Lenders to accept such fixing i.e. such request by the Borrower.

Section 2.04. *Default Interest Rate.* (a) Without limiting the remedies available to each Senior Lender under this Agreement, any other Financing Document or otherwise (and to the maximum extent permitted by applicable law), if the Borrower fails to make any payment of principal or interest (including interest payable pursuant to this Section) on any Senior Loan or any other payment provided for under this Agreement or any other Financing Document when due as specified in this Agreement or the relevant Financing Document (whether at stated maturity or upon acceleration), the Borrower shall pay to the applicable Senior Lender interest on the amount of that payment due and unpaid at the rate which shall be the sum of two per cent (2%) and the applicable Interest Rate in effect from time to time under the Senior Loan Agreement to which the relevant Senior Lender is party.

(b) Interest at the rate referred to in Section 2.04 (a) shall accrue from the date on which payment of the relevant overdue amount became due until the date of actual payment of that amount (as well after as before judgment), and shall be payable by the Borrower on demand by the relevant Senior Lender or, if not demanded, on each Interest Payment Date falling after any such overdue amount became due.

Section 2.05. *Repayment.* (a) Subject to Section 1.04 (*Business Day Adjustment*), the Borrower shall repay the Senior Loans in 20 instalments in the period between 15 June 2020 and 15 October 2029, on the following dates which, with the exception of June 15, 2020 correspond to the Interest Payment Dates, and in the following amounts and as otherwise set forth in the Senior Loan Agreements:



Principal Amount Due

<u>Repayment instalment number</u>	<u>Interest Payment Date</u>	<u>IFC Loan</u>	<u>Erste bank Loan</u>
1	15 June 2020	€ 250,000	€ 250,000
2	15 June 2020	€ 250,000	€ 250,000
3	15 April 2021	€ 388,889	€ 388,889
4	15 October 2021	€ 388,889	€ 388,889
5	15 April 2022	€ 388,889	€ 388,889
6	15 October 2022	€ 388,889	€ 388,889
7	15 April 2023	€ 388,889	€ 388,889
8	15 October 2023	€ 388,889	€ 388,889
9	15 April 2024	€ 388,889	€ 388,889
10	15 October 2024	€ 388,889	€ 388,889
11	15 April 2025	€ 388,889	€ 388,889
12	15 October 2025	€ 388,889	€ 388,889
13	15 April 2026	€ 388,889	€ 388,889
14	15 October 2026	€ 388,889	€ 388,889
15	15 April 2027	€ 388,889	€ 388,889
16	15 October 2027	€ 388,889	€ 388,889
17	15 April 2028	€ 388,889	€ 388,889
18	15 October 2028	€ 388,889	€ 388,889
19	15 April 2029	€ 388,889	€ 388,889
20	15 October 2029	€ 388,887	€ 388,887

Total Commitment: € 15,000,000.00

For the avoidance of doubt, the Parties agree and confirm that the first and second instalment shall be repaid on the same day, i.e. on 15 June 2020 in accordance with the repayment schedule set out above.

(b) Upon the Disbursement of any Senior Loan, the amount disbursed shall be allocated for repayment on each of the respective dates for repayment of principal set out in the table in Section 2.05 (a) in amounts which are pro rata to the amounts of the respective installments of such Senior Loan shown opposite those dates in that table (with the Senior Lender of such Senior Loan adjusting those allocations as necessary so as to achieve whole numbers in each case).

(c) Any principal amount of any Senior Loan repaid under this Agreement or the applicable Senior Loan Agreement may not be re-borrowed.

Section 2.06. Prepayment

(a) Subject to Section 2.11 (*Unwinding Costs*) and without prejudice to Section 2.10 (*Increased Costs*), Section 2.14 (*Taxes*), Section 2.16 (*Illegality*) and Section 5.04 (*Insurance*) and subject to the terms of this Agreement and the Senior Loan Agreements, the Borrower may prepay on any Interest Payment Date all or any part of each the Senior Loans outstanding. Any prepayment shall be made on not less than thirty (30) Business Days prior notice to each of the Senior Lenders, but only if:

- (i) the Borrower simultaneously pays:
 - (A) the prepayment premium specified in Section 2.06 (b); and
 - (B) all accrued interest and Increased Costs (if any) on the amount of the Senior Loans to be prepaid, together with payment of all other amounts then due and payable under this Agreement and the Senior Loan Agreements, including the amount payable under Section 2.11 (*Unwinding Costs*);
- (ii) for a partial prepayment, the prepayment is an amount not less than EUR 2,000,000; and
- (iii) if requested by any Senior Lender, the Borrower delivers to the Senior Lenders, prior to the date of prepayment, evidence satisfactory to each of the Senior Lenders that all necessary Authorizations with respect to the prepayment have been obtained.

(b) On the date of any prepayment of the Senior Loans in accordance with Section 2.06 (a), the Borrower shall pay a prepayment premium, in respect of each of the Senior Loans prepaid, consisting of an amount in the Loan Currency for the relevant Senior Lender equal to the two percent (2%) of the amount to be prepaid. The determination by each Senior Lender of the prepayment premium applicable to that Senior Lender's Senior Loan shall be final and conclusive and bind the Borrower (unless the Borrower shows, to the satisfaction of each of the Senior Lenders, that such determination involved manifest error).

- (c) Amounts of principal prepaid under this Section shall:
 - (i) first be allocated and paid by the Borrower pro rata among the IFC Loan and the Erste Bank Loan in proportion to their respective principal amounts outstanding; and

(ii) then be applied by each Senior Lender to all the respective outstanding installments of principal of the IFC Loan or the Erste Bank, as the case may be, in inverse order of maturity.

(d) Upon delivery of a notice in accordance with Section 2.06 (a), the Borrower shall make the prepayment in accordance with the terms of that notice.

(e) Any principal amount of the Senior Loans prepaid under this Agreement may not be re-borrowed.

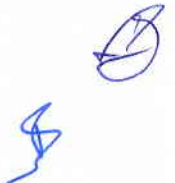
(f) The Borrower shall not prepay or purchase all or any part of any Senior Loan unless the Borrower simultaneously prepays the other Senior Loans on a pro rata basis in accordance with the provisions of this Section 2.06.

Section 2.07. *Fees.* The Borrower shall pay the fees payable to a Senior Lender, as specified in the relevant Senior Loan Agreement, to such Senior Lender, at such times and in the manner specified in the relevant Senior Loan Agreement.

Section 2.08. *Currency and Place of Payments.* (a) Except as provided in Section 2.08 (d), the Borrower shall make all payments of principal, interest, fees, and any other amount due to the Senior Lenders under this Agreement and the other Financing Documents in the Loan Currency, in same day funds, to the Senior Lender or Senior Lenders entitled thereto at the Payment Account(s). Payments must be received in the Payment Accounts no later than 11:00 a.m. Central European Time.

(b) The tender or payment of any amount payable under this Agreement or any other Financing Document (whether or not by recovery under a judgment) to any Senior Lender in any currency other than the Loan Currency for that Senior Lender shall not novate, discharge or satisfy the obligation of the Borrower to pay that Senior Lender in the Loan Currency for that Senior Lender all amounts payable under this Agreement or the applicable Financing Document except to the extent that (and as of the date when) that Senior Lender actually receives funds in such Loan Currency in the account specified in, or pursuant to, the relevant Senior Loan Agreement.

(c) The Borrower shall indemnify each Senior Lender against any losses resulting from a payment being received or an order or judgment being given under this Agreement in any currency other than the Loan Currency for that Senior Lender or any place other than the account specified in, or pursuant to, the relevant Senior Loan Agreement. The Borrower shall, as a separate obligation, pay such additional amount to such Senior Lender as is necessary to enable that Senior Lender to receive, after conversion to the Loan Currency for that Senior Lender at a market rate and transfer to that account, the full amount due to that Senior Lender under this Agreement or the relevant Financing Document in the Loan Currency



for that Senior Lender and in the account specified in, or pursuant to, the relevant Senior Loan Agreement.

(d) Notwithstanding the provisions of Section 2.08 (a) and Section 2.08 (b) and any provisions of the Senior Loan Agreements, each Senior Lender may require the Borrower by written notice (with a copy to all other Senior Lenders) to pay (or reimburse) that Senior Lender any Taxes, fees, costs, expenses and other amounts payable under Section 2.14 (a) (*Taxes*) and Section 2.15 (*Expenses*) and relevant Senior Loan Agreement in the currency in which they are payable, if other than the Loan Currency for that Senior Lender.

Section 2.09. *Allocation of Partial Payments*. If at any time a Senior Lender receives less than the full amount then due and payable to it under any of the Financing Documents, that Senior Lender may allocate and apply the amount received in any way or manner and for such purpose or purposes under the Financing Documents as that Senior Lender in its sole discretion determines, notwithstanding any instruction that the Borrower may give to the contrary.

Section 2.10. *Increased Costs*. On each Interest Payment Date, the Borrower shall pay, in addition to interest, the amount which each Senior Lender from time to time notifies to the Borrower (with a copy to all other Senior Lenders) in an Increased Costs Certificate as being the aggregate Increased Costs of that Senior Lender and each Participant thereof accrued and unpaid prior to that Interest Payment Date.

Section 2.11. *Unwinding Costs*. (a) If any Senior Lender (or any Participant thereof) incurs any cost, expense or loss as a result of the Borrower:

- (i) failing to borrow in accordance with a request for Disbursement made pursuant to Section 2.02 (*Disbursement Procedure*);
- (ii) failing to prepay in accordance with a notice of prepayment;
- (iii) prepaying all or any portion of a Senior Loan on a date other than an Interest Payment Date; or
- (iv) after acceleration of a Senior Loan, paying all or a portion of that Senior Loan on a date other than an Interest Payment Date;

then the Borrower shall immediately pay to the applicable Senior Lender the amount that such Senior Lender from time to time notifies to the Borrower (with a copy to all other Senior Lenders) as being the amount of those costs, expenses and losses incurred.

(b) For the purposes of this Section, "costs, expenses or losses" include any premium, penalty or expense incurred to liquidate or obtain third party deposits, borrowings, hedges or swaps in order to make, maintain, fund or hedge all or any part of any Disbursement or prepayment of any Senior Loan, or any payment of all or part of any Senior Loan upon acceleration.

Section 2.12. Suspension or Cancellation by Senior Lenders. (a) Each Senior Lender may, by notice to the Borrower (with a copy to the other Senior Lender), suspend the right of the Borrower to Disbursements or cancel the undisbursed portion of its Senior Loan in whole or in part:

- (i) if the first Disbursement has not been made by June 15, 2018, or such other date as the Borrower and the Senior Lenders may agree;
- (ii) if any Event of Default has occurred and is continuing or if the Event of Default specified in Section 6.02 (e) (*Events of Default*) is, in the reasonable opinion of that Senior Lender, imminent;
- (iii) if any event or condition has occurred which has or can be reasonably expected to have a Material Adverse Effect; or
- (iv) on or after 15 December, 2019.

(b) Upon the giving of any such notice by any Senior Lender, the right of the Borrower to any further Disbursement from that Senior Lender shall be suspended or cancelled, as the case may be. The exercise by any Senior Lender of its right of suspension shall not preclude that Senior Lender or any other Senior Lender from exercising its right of cancellation, either for the same or any other reason specified in Section 2.12 (a) and shall not limit any other provision of this Agreement or any other Financing Document. Upon any cancellation by a Senior Lender, the Borrower shall, subject to paragraph (c) of this Section 2.12, pay to that Senior Lender all fees and other amounts accrued (whether or not then due and payable) under this Agreement and the Senior Loan Agreement to which that Senior Lender is a party up to the date of that cancellation.

(c) In the case of partial cancellation of any Senior Loan pursuant to paragraph (a) of this Section 2.12, or Section 2.13 (a) (*Cancellation by the Borrower*), interest on the amount then outstanding of that Senior Loan remains payable as provided in Section 2.03 (*Interest, Market Disruption*).

Section 2.13. Cancellation by the Borrower. (a) The Borrower may, by notice to the Senior Lenders, irrevocably request the Senior Lenders to cancel the undisbursed portion of all of the Senior Loans on the date specified in that notice (which shall be a date not earlier than thirty (30) days after the date of that notice).



(b) Each Senior Lender shall, by notice to the Borrower (with a copy to all other Senior Lenders), cancel the undisbursed portion of its Senior Loan effective as of that specified date if:

- (i) subject to Section 2.12 (c) (*Suspension or Cancellation by Senior Lenders*), that Senior Lender has received all fees and other amounts accrued (whether or not then due and payable) under this Agreement and the Senior Loan Agreement to which that Senior Lender is a party up to such specified date; and
- (ii) if any amount of the Senior Loans is then outstanding, the Senior Lenders are reasonably satisfied that the Borrower has sufficient long-term funding available, on terms satisfactory to the Senior Lenders, to cause the Project Substantial Completion Date to occur as scheduled.

(c) Any portion of the Senior Loans that is cancelled under this Section 2.13 may not be reinstated or disbursed.

(d) In the case of partial cancellation of any Senior Loan pursuant to this Section 2.13 or Section 2.12 (*Suspension or Cancellation by Senior Lenders*), the principal amount of the relevant Senior Loan set forth in Section 2.05(a) (*Repayment*) shall be reduced in inverse order of maturity and in such event, the repayment schedule set forth in Section 2.05 (a) (*Repayment*) shall be adjusted accordingly.

Section 2.14. Taxes. (a) The Borrower shall pay or cause to be paid all Taxes (other than taxes, if any, payable on the overall income of a Senior Lender) on or in connection with the payment of any and all amounts due under this Agreement or any other Financing Document that are now or in the future levied or imposed by any Authority of the Country or any jurisdiction through or out of which a payment is made.

(b) All payments of principal, interest, fees and other amounts due under this Agreement or any other Financing Document shall be made without deduction for or on account of any Taxes.

(c) If the Borrower is prevented by operation of law or otherwise from making or causing to be made those payments without deduction, the principal or (as the case may be) interest, fees or other amounts due under this Agreement or, as the case may be, the relevant Financing Document shall be increased to such amount as may be necessary so that the applicable Senior Lender receives the full amount it would have received (taking into account any Taxes payable on amounts payable by the Borrower under this subsection) had those payments been made without that deduction.

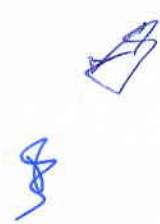
(d) If Section 2.14 (c) applies and any Senior Lender so requests, the Borrower shall deliver to the requesting Senior Lender (with a copy to the other Senior Lenders) official tax receipts evidencing payment (or certified copies of them) within thirty (30) days of the date of that request.

(e) Section 2.14 (a) and Section 2.14 (b) do not apply to Taxes which directly result from a Participant having its principal office in the Country or having or maintaining a permanent office or establishment in the Country, if and to the extent that such permanent office or establishment acquires the relevant Participation.

Section 2.15. *Expenses.* (a) The Borrower shall pay or, as the case may be, reimburse each Senior Lender or its assignees any amount paid by them on account of, all taxes (including stamp taxes), duties, fees or other charges payable on or in connection with the execution, issue, delivery, registration or notarization of the Financing Documents and any other documents related to this Agreement or any other Financing Document unless exempt from payment of such taxes by operation of the law, in which case the Borrower shall provide the Senior Lenders with a duly execute letter confirming such exemption.

(b) The Borrower shall pay to the relevant Senior Lender or as the Senior Lender may direct:

- (i) the fees and expenses of the Senior Lenders' consultants, translators incurred in connection with the investment by the Senior Lenders provided for under this Agreement and the other Financing Documents;
- (ii) one third (1/3) of all fees and expenses of local transaction legal counsel in respect of (1) the Country and (2) England, acting on behalf of all of the Senior Lenders, and, in each case incurred in connection with:
 - (A) the preparation of the investment by each Senior Lender provided for under this Agreement and any other Financing Document;
 - (B) the preparation and/or review, execution and, where appropriate, translation and registration of the Financing Documents and any other documents related to them;
 - (C) the giving of any legal opinions required by any Senior Lender under this Agreement and any other Financing Document;



- (D) the preparation of closing sets for each of the Senior Lenders;
- (iii) the fees and expenses of local transaction legal counsel in respect of (1) the Country and (2) England, acting on behalf of all of the Senior Lenders, and, in each case incurred in connection with:
 - (A) the administration by each Senior Lender of the investment provided for in this Agreement and the other Financing Documents or otherwise in connection with any amendment, supplement or modification to, or waiver under, any of the Financing Documents;
 - (B) the registration (where appropriate) and the delivery of the evidences of indebtedness relating to the Senior Loans and their disbursement;
 - (C) the occurrence of any Event of Default or Potential Event of Default; and
 - (D) the release of the Security following repayment in full of the Senior Loans;
- (iv) the costs and expenses, including legal and other professional consultants' fees and costs of translation on a full indemnity basis, incurred by each Senior Lender in relation to (A) any amendment, supplement or modification to, or waiver under, any of the Financing Documents, or (B) efforts to enforce or protect its rights under any Financing Document, or the exercise of its rights or powers consequent upon or arising out of the occurrence of any Event of Default or Potential Event of Default; and
- (v) If the Borrower and Senior Lenders agree to restructure all or part of the Senior Loans, the Borrower and relevant Senior Lender shall negotiate in good faith an appropriate amount to compensate such Senior Lender for the additional work of such Senior Lender's staff required in connection with such restructuring.

Section 2.16. *Illegality*. If, after the date of this Agreement, the enactment of or any change made in any applicable law or regulation or official directive (or its interpretation or application by any Authority charged with its administration)

(herein the "Relevant Change") makes it unlawful for any Senior Lender (or any Participant thereof) to continue to maintain or to fund its Senior Loan (or its Participation, as the case may be):

(a) the Borrower shall, upon request by the relevant Senior Lender, with a copy to all other Senior Lenders (but subject to any applicable Authorization having been obtained), on the earlier of (x) the next Interest Payment Date and (y) the date that such Senior Lender advises the Borrower is the latest day permitted by the Relevant Change, prepay in full that Senior Loan (or, as the case may be, that part of the Senior Loan that the relevant Senior Lender advises corresponds to that Participation);

(b) concurrently with the prepayment of any part of the Senior Loan, the Borrower shall pay all accrued interest, Increased Costs (if any) on that part of the Senior Loan (and, if that prepayment is not made on an Interest Payment Date, any amount payable in respect of the prepayment under Section 2.11 (*Unwinding Costs*));

(c) the Borrower agrees to take all reasonable steps to obtain, as quickly as possible after receipt of any Senior Lender's request for prepayment, the Authorization referred to in Section 2.16 (a) if any such Authorization is then required; and

(d) the Borrower shall have no further right to disbursement of the undisbursed portion of that Senior Loan (or the part thereof that corresponds to that Participation, as the case may be) after it has received that Senior Lender's request for prepayment under this Section.

Section 2.17. *Application of Payments; Sharing.* (a) Each of the Senior Lenders agrees that, if it should receive any amount hereunder or under any other Financing Document (whether by voluntary payment, by realization upon security, by the exercise of the right of setoff or banker's lien, by counterclaim or cross action, by the enforcement of any right under the Financing Documents, or otherwise), which, in any such case, is in excess of its pro rata share of payments obtained by all of the Senior Lenders hereunder or under any other Financing Document, then that Senior Lender receiving such excess payment shall promptly pro rata distribute to the other Senior Lender the amount of such payment in excess of the amount that would have been received had such payment been a pro rata payment, and any accrued interest thereon; provided, however, that if at such time redistribution of such payment in such manner is inadvisable in the judgment of any Senior Lender, then at the request of that Senior Lender the Senior Lenders shall promptly consult with each other to determine whether there is a preferable manner to make equitable adjustments (including the purchase by that Senior Lender of Senior Loans held by the other Senior Lender to the extent permitted by any applicable law and the Financing Documents) to permit all of the Senior Lenders to share such payment (net of expenses incurred by the recipient Senior Lender in obtaining

or preserving such payment) pro rata. If any such redistributed or shared payment is thereafter rescinded or must otherwise be restored by the Senior Lender which first obtained it, each of the other Senior Lenders which shared the benefit of such payment shall return to that Senior Lender its portion of the payment so rescinded or required to be restored.

(b) Any amount remitted by a Senior Lender to other Senior Lender pursuant to Section 2.17 (a), shall be treated as having been paid by the Borrower to other Senior Lender in accordance with the terms of this Agreement. On such distribution by the Senior Lender of a payment received by that Senior Lender from the Borrower, as between such Senior Lender and the Borrower an amount equal to the amount received by such Senior Lender and distributed to the other Senior Lenders will be treated as not having been paid by the Borrower.

ARTICLE III

Representations and Warranties

Section 3.01. Representations and Warranties. The Borrower represents and warrants to each Senior Lender that:

(a) Legal status and Authority. The Borrower is a city duly established and validly existing under the laws of the Country and has the power and authority and has obtained all required Authorizations to own its assets, conduct its operations as presently conducted and to enter into, and comply with its obligations under, the Transaction Documents to which it is a party or will, in the case of any Transaction Document not executed as at the date of this Agreement, when that Transaction Document is executed, have the power to enter into, and comply with its obligations under, that Transaction Document;

(b) Validity. Each Transaction Document to which the Borrower is a party has been, or will be, duly authorized and executed by the Borrower and constitutes, or will when executed constitute, a valid and legally binding obligation of the Borrower, enforceable in accordance with its terms and none of the Transaction Documents and/or Project Documents has been, or will be, amended or modified except as permitted under this Agreement;

(c) No Conflict. Neither the making of any Transaction Document to which the Borrower is a party nor (when all the Authorizations referred to in Section 4.01(d) (*Conditions of First Disbursement*) have been obtained) the compliance with its terms will conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default or require any consent under, any indenture, mortgage, agreement or other instrument or arrangement to which the Borrower is a party or by which it is bound, or violate any of the terms or provisions



of the Borrower's constitutive documents or any Authorization, judgment, decree or order or any statute, rule or regulation applicable to the Borrower;

(d) Status of Authorizations.

(i) (A) the Authorizations specified in Annex B are all the Authorizations (other than Authorizations that are of a routine nature and are obtained in the ordinary course of business) needed by the Borrower to conduct its finances and operations, carry out the Project and execute, and comply with its obligations under, this Agreement and each of the other Transaction Documents to which it is a party;

(B) all Authorizations specified in Section (1) of Annex B have been obtained and are in full force and effect; and

(C) the Borrower has applied (or is making arrangements to apply) for all Authorizations specified in Section (2) of Annex B, and has no reason to believe that it will not obtain those Authorizations in a timely manner;

and

(ii) except for rights that can reasonably be expected to be obtained on commercially reasonable terms at the time required, the Project Documents contain all rights that are necessary for the construction, completion, operation and ownership of the Project;

(e) No Amendments to constitutive documents. The Borrower's constitutive documents have not been amended since May 2017;

(f) No Immunity. This Agreement and other Financing Documents and the performance of the Borrower's obligations thereunder constitute private and commercial acts of the Borrower and neither the Borrower nor any of its property enjoys any right of immunity from set-off, suit or execution with respect to its assets or its obligations under any Transaction Document;

(g) Disclosure. All documents, reports or other written information pertaining to the Borrower or the Project that have been furnished to the Senior Lenders or any Senior Lender by the Borrower, including (i) any application to any Senior Lender for the extensions of credit provided for in the Financing Documents, (ii) the Financing Documents, including the exhibits and schedules attached thereto, and (iii) all other information relating to the Borrower or the Project provided by

the Borrower to the Senior Lenders or any Senior Lender (other than for projections and other forward-looking statements contained in that Information Memorandum and other forecasts and projections, which the Borrower believes to be reasonable), were and continue to be true and accurate and do not contain any information which is misleading in any material respect nor do they omit any information the omission of which makes the information contained in it misleading in any material respect;

(h) Financial Condition. Since June 30, 2017, the Borrower (i) has not suffered any change that has a Material Adverse Effect; (ii) has not incurred any substantial loss or liability; and (iii) is carrying on its financial operations in full compliance with the financial ratios, limits and other procedures specified in the Law on Public Finance, Law on Financing of the Local Self Governance, Law on Budget and any other applicable laws.

(i) Financial Statements. The 2016 Budget Execution Report and 2017 and 2018 Budget of the Borrower:

- (i) have been, or, in relation to 2018 Budget of the Borrower will be, prepared in accordance with the Budget Law and the Accounting Standards consistently applied, and present, or will present, as applicable, fairly the financial condition of the Borrower as of the date as of which they were prepared and the results of the Borrower's Operations during the period of the Financial Year then ended;
- (ii) disclose all liabilities (contingent or otherwise) of the Borrower, and the reserves, if any, for such liabilities and all unrealized or anticipated liabilities and losses arising from commitments entered into by the Borrower (whether or not such commitments have been disclosed in such financial statements);
- (iii) the obligations of the Borrower in connection with this Agreement and the other Financing Documents, have been, or on or before the first Disbursement at the latest will be, duly reflected in the Budget of the Borrower for year 2018 in and are valid and binding on the Borrower; the Borrower is carrying on its financial operations in full compliance with the financial ratios, limits and other procedures specified in the applicable legislation;

(j) Material Agreements. The Borrower is not a party to, or committed to enter into, any contract which would or might affect the judgment of a prospective investor;

(k) Indebtedness. Description of the indebtedness of the Borrower outlined in Annex E is true and accurate in all respects and there exists no outstanding default thereunder.

(l) Title to Assets and Permitted Liens. (i) The Borrower has good and marketable title to all of the assets purported to be owned by it and possesses a valid leasehold interest in all assets which it purports to lease, in all cases free and clear of all Liens, other than Permitted Liens, and no contracts or arrangements, conditional or unconditional, exist for the creation by the Borrower of any Lien, except for the Security; (ii) the provisions of the Security Documents are effective to create, in favor of the relevant Senior Lender, legal, valid and enforceable obligation; and (iii) all recordings and filings have been made in all public offices, all necessary consents obtained and all other action has been taken so that the Security created by each Security Document is valid and enforceable.

(m) Taxes. All tax returns and reports of the Borrower required by law to be filed have been duly filed and all Taxes, obligations, fees and other governmental charges upon the Borrower, or its properties, or its income or assets, which are due and payable or to be withheld, have been paid or withheld, other than those presently payable without penalty or interest. Under the laws of the Country, it is not necessary that the Financing Documents be filed, recorded or registered with a court or any other authority or that any stamp, registration or similar tax be paid on or in relation to the Financing Documents or the transactions contemplated by the Financing Documents.

(n) Litigation and Investigation.

- (i) The Borrower is not engaged in nor, to the best of its knowledge, after due inquiry, threatened by, any litigation, arbitration, administrative proceedings, or criminal or regulatory investigation the outcome of which could reasonably be expected to have a Material Adverse Effect; and
- (ii) no judgment or order has been issued which has or may reasonably be expected to have a Material Adverse Effect.

(o) Compliance with Law. The Borrower is in compliance with all applicable laws and regulations

(p) Use of proceeds. The proceeds of Senior Loans will be used in accordance with its purpose;

(q) Environmental Matters. (i) To the best of its knowledge and belief, after due inquiry, there are no material social or environmental risks or issues in relation to the Project other than those identified by the Environmental and Social Impact Assessment. It has not received nor is aware of: any existing or threatened



Environmental Claim; or any material written communication from any person concerning the Project's failure to comply with any matter covered by the E&S Performance Standards; and (ii) it has not received nor is aware of either (A) any existing or, to the best of its knowledge and belief, after due inquiry, threatened complaint, order, directive, claim, citation or notice from any Authority or (B) any material written communication from any Person concerning the Project's failure to comply with any matter covered by the Performance Standards which failure has, or could reasonably be expected to have, a Material Adverse Effect or a material adverse impact on the implementation or operation of the Project in accordance with the Performance Standards;

(r) Labor Matters. There are no ongoing or, to the best knowledge of the Borrower after due inquiry, threatened, strikes, slowdowns or work stoppages by employees of the Borrower or any contractor with respect to the Project;

(s) Sanctionable Practices. Neither the Borrower, nor any Person acting on its behalf, has committed or engaged in, with respect to the Project or any transaction contemplated by this Agreement, any Sanctionable Practice;

(t) UN Security Council Resolutions. The Borrower has neither entered into any transaction nor engaged in any activity prohibited by any resolution of the United Nations Security Council under Chapter VII of the United Nations Charter;

(u) Pari Passu Ranking. The Borrower's payment obligations under the Financing Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for the obligations mandatorily preferred by the laws of the Country, as applicable to the Borrower;

(v) Governing Law and Enforcement.

(i) The choice of English law as the governing law of the Financing Documents which purport to be governed thereby will be recognized and enforced in the Country; and

(ii) Any judgment obtained in England in relation to a Financing Document will be recognized and enforced in the Country; and

(w) No Material Omissions. None of the representations and warranties in this Section 3.01 omits any matter the omission of which makes any of such representations and warranties misleading in any material respect.

Section 3.02. Reliance. The Borrower acknowledges that it makes the representations and warranties in Section 3.01 (*Representations and Warranties*) with the intention of inducing each of the Senior Lenders to enter into this Agreement



and each of the other Financing Documents to which it is a party and that each of the Senior Lenders has entered into such documents on the basis of, and in full reliance on, each of such representations and warranties.

ARTICLE IV

Conditions of Disbursement

Section 4.01. *Conditions of First Disbursement.* The obligation of each Senior Lender to make the first Disbursement of its Senior Loan is subject to the fulfillment prior to delivery of the Disbursement Request of the following conditions:

(a) Financing Documents. The Financing Documents, each in form and substance satisfactory to the Senior Lenders, have been entered into by all parties to them and have become (or, as the case may be, remain) unconditional and fully effective in accordance with their respective terms (except for this Agreement having become unconditional and fully effective, if that is a condition of any of those agreements), and the Senior Lenders have received a copy of each Financing Document to which the Senior Lenders are not a party.

(b) Security. The Bills of Exchange in favour of IFC and the Bills of Exchange in favour of Erste Bank have been duly issued;

(c) Authorizations. The Borrower has obtained, and provided to the Senior Lenders copies of, all Authorizations listed in Section (1) and Section (2) of Annex B, and such other Authorizations not listed in those Sections that may become necessary for:

- (i) the Senior Loans;
- (ii) the Project and the implementation of the Financial Plan;
- (iii) the due execution, delivery, validity and enforceability of, and performance by the Borrower of its obligations under, this Agreement and the other Transaction Documents, and any other documents necessary or desirable to the implementation of any of those agreements or documents; and
- (iv) the remittance to each of the Senior Lenders in Euro of all monies payable with respect to the Transaction Documents;

and all those Authorizations are in full force and effect;



(d) Other Authorizations. Without limiting the generality of the foregoing Section 4.01 (c):

- (i) each of the Senior Loans and the Borrower's obligations under the Senior Loan Agreements have been adopted and approved by the Borrower's Assembly in form satisfactory to each Senior Lender and the Ministry of Finance of Montenegro has provided its consent to the borrowing as provided for in the Law on Financing Local Governments;
- (ii) the Government of Montenegro has provided consent to the Borrower to exceed the 10% debt limit prescribed in the Law of Financing the Local Self Government, the Borrower submitted evidence of such consent to the Senior Lenders and such consent is in the form and substance acceptable to each of them.

(e) Legal Opinions.

- (i) the Senior Lenders have received a legal opinion addressed to each of them in the form and substance acceptable to them, from their counsel in the Country and concurred in by counsel for the Borrower, and covering such other matters relating to the transactions contemplated by this Agreement as any Senior Lender may reasonably request;
- (ii) the Senior Lenders have received a legal opinion addressed to each of them, in the form and substance acceptable to them, from Harrison's special counsel to them in England with regard to the English law aspects of this Agreement and Senior Loan Agreements;

(f) Opinion from Montenegrin Directorate of Public Procurement. The Borrower has provided IFC with an Opinion issued by the Montenegrin Directorate of Public Procurement confirming that entering into this Agreement and each of the Financing Documents is not subject to laws and regulations concerning public procurement i.e. that no public procurement procedure should have been followed during the procedure of execution of this Agreement and each of the Financing Documents and performing the obligations stipulated thereunder.

(g) Public Procurement.

- (i) the tender notice related to the Project has been published on the national procurement portal and at www.dgmar-



ket.com and the final tender documents related to the Project have been delivered to the Senior Lenders, they have been reviewed by the Senior Lenders and are in the form and substance acceptable to each of them in their sole discretion;

- (ii) the Borrower has followed tender procedures agreed with the Senior Lenders and delivered to each of the Senior Lenders copies of the tender documents, a Procurement Report containing the results of the bid evaluation and contract award process for all procurement under the Project, in the form and substance acceptable to each of the Senior Lenders no later than 45 days after finalization of the tender award;
- (iii) the project cost and financing plan applicable to the Project, after finalization of the contract award price, are reconfirmed as adequate and satisfactory to each of the Senior Lenders.

(h) E&S matters.

- (i) the Borrower has provided each of the Senior Lenders with an Environmental and Social Impact Assessment and its Authorization obtained under Applicable S&E Law.
 - (ii) The Borrower has provided each of the Senior Lenders, in the form and substance satisfactory to each of them with the land acquisition management plan and such plan is in accordance with Applicable S&E Law and E&S Performance Standards and, such land acquisition management plan includes the expropriation study and proof of successful completion of the expropriation procedure pertaining to the site of the Project or, if not, the Borrower has provided each of the Senior Lenders with the Expropriation Study and proof of successful completion of the expropriation procedure pertaining to the site of the Project.
 - (iii) The Borrower and the Senior Lenders have agreed on the form of Annual S&E Monitoring Report.
- (i) Fees. Each of the Senior Lenders has received the fees which Section 2.07 (*Fees*) requires to be paid before the date of the first Disbursement;

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(j) Authorization of Auditors. The Senior Lenders have received a copy of the authorization to the Auditors referred to in Section 5.01 (e) (*Affirmative Covenants*);

(k) Incumbency. The Senior Lenders have received a Certificate of Incumbency and Authority;

(l) Other. The Borrower has provided each of the Senior Lenders with any other document or evidence that a Senior Lender may reasonably require prior to making the first Disbursement.

Section 4.02. Conditions of All Disbursements. The obligation of each Senior Lender to make any Disbursement of its Senior Loan, including the first Disbursement, is subject to each such Senior Lender being satisfied that the conditions set forth below in this Section 4.02 (and, in case of the first Disbursement, in Section 4.01 (*Conditions of First Disbursement*)) and in such Senior Lender's Loan Agreement have been either fulfilled or waived by such Senior Lender, as the case may be, prior to delivery of the Disbursement Request. For the avoidance of doubt, it is hereby understood and agreed that each Senior Lender will make its own independent judgment as to whether all conditions to Disbursement under this Agreement and its Senior Loan Agreement have been fulfilled prior to making the relevant Disbursement:

(a) No Default. No Event of Default and no Potential Event of Default has occurred and is continuing;

(b) Use of Proceeds. The proceeds of that Disbursement:

(i) are, at the date of the relevant request, needed by the Borrower for the purpose of the Project, to be used in accordance with the Financing Plan; and

(ii) in the case of the IFC Loan, are not in reimbursement of, or to be used for, expenditures in the territories of any country that is not a member of the World Bank or for goods produced in or services supplied from any such country;

(c) No Material Adverse Effect. Since the date of this Agreement nothing has occurred which has or can reasonably be expected to have a Material Adverse Effect;

(d) No Material Loss or Liability. Since the date of this Agreement the Borrower has not incurred any material loss or liability;



(c) Representations and Warranties. The representations and warranties made in Article III are true and correct in all material respects on and as of the date of that Disbursement with the same effect as if those representations and warranties had been made on and as of the date of that Disbursement (but in the case of Section 3.01 (c) (*Representations and Warranties*), without the words in parentheses);

(f) Legal Opinions. The Senior Lenders have received (if required by any of them) a legal opinion or opinions, addressed to each of them and in form and substance satisfactory to them, of their counsel in the Country, and concurred in by counsel for the Borrower, with respect to any matters relating to that Disbursement;

(g) No Violations. After giving effect to that Disbursement, the Borrower would not be in violation of:

- (i) any provision contained in any document to which the Borrower is a party (including this Agreement) or by which the Borrower is bound; or
- (ii) any law, rule, regulation, Authorization or agreement or other document binding on the Borrower directly or indirectly limiting or otherwise restricting the Borrower's borrowing power or authority or its ability to borrow;

(h) Financial Ratios. Without limiting the generality of Section 4.02 (g), after taking into account the amount of that Disbursement and any other Liabilities incurred by the Borrower after the date of the latest financial statements of the Borrower delivered to IFC pursuant to Section 5.03 (a) (*Reporting Requirements*), the Borrower would be in compliance with each of the financial covenants set out in Section 5.01 (p) (*Affirmative Covenants*);

(i) [intentionally left blank];

(j) Environmental Matters. The Borrower has provided evidence to IFC that all requirements set forth in the Environmental and Social Action Plan for the respective disbursement have been met in the form and substance acceptable to IFC;

(k) Other Fees, Costs and Expenses. Each of the Senior Lenders has received the reimbursement of all fees, costs and expenses due and payable to that Senior Lender on or prior to the relevant Disbursement in accordance with the Financing Documents, including the invoiced fees and expenses of the Senior Lenders' counsel as provided in Section 2.15 (b) (ii) (*Expenses*) or confirmation that those fees and expenses have been paid directly to that counsel;

(l) Annual Budget. The obligations of the Borrower to make any payments in connection with this Agreement and each of the Senior Loan Agreements,

have been duly approved and reflected in the relevant Annual Budget and are valid and binding on the Borrower;

(m) Borrower's contribution to the Financing Plan. The Borrower has provided evidence, in the form and substance acceptable to each of the Senior Lenders, that sufficient amount of budget funds were allocated in the relevant Annual Budget to cover the Borrowers' contribution to the Financing Plan.

(n) Other Conditions. Each of the other conditions specified in that Senior Lender's Senior Loan Agreement has been fulfilled.

Section 4.03. Borrower's Certification. The Borrower shall deliver to the Senior Lenders with respect to each request for Disbursement:

(a) certifications, in the form included in Schedule 2, relating to the conditions specified in Section 4.02 (*Conditions of All Disbursements*) (other than the condition in Section 4.02 (f)) expressed to be effective as of the date of that Disbursement, and in the case of Section 4.02 (d), also certified by the Auditors if any Senior Lender so requires; and

(b) such evidence as any Senior Lender may reasonably request of the proposed utilization of the proceeds of that Disbursement or the utilization of the proceeds of any prior Disbursement.

Section 4.04. Conditions for Senior Lenders' Benefit. The conditions in Section 4.01 through Section 4.03 are for the benefit of the Senior Lenders and may be waived only by each of the Senior Lenders in its sole discretion.

ARTICLE V

Particular Covenants

Section 5.01. Affirmative Covenants. Unless the Senior Lenders otherwise agree in writing, the Borrower shall:

(a) Conduct of Operations. Implement the Project and conduct its finances and operations with due diligence and efficiency and in accordance with sound financial, procurement, environmental and administrative practices and applicable legal requirements, as well as in compliance with this Agreement and the Financing Documents;

(b) Use of Proceeds. Cause the financing specified in the Financial Plan to be applied exclusively to the Project, apply the proceeds of the Senior Loans exclusively for the Project;

(c) Compliance with Laws:

- (i) conduct its business in compliance with all applicable requirements of law; and
- (ii) comply with applicable laws in connection with the conduct of its business and operations and ownership of its property;

(d) Accounting and Financial Management. Maintain adequate accounting system, cost control system, management information system and books of account and other records, which together adequately reflect truly and fairly the financial condition of the Borrower and the results of its operations in conformity with the Budget Law and the applicable Accounting Standards;

(e) Auditors.

- (i) Appoint and maintain at all times a firm of recognized independent public accountants acceptable to the Senior Lenders as auditors of the Borrower; and
- (ii) irrevocably authorize, in the form of Schedule 4, the Auditors (whose fees and expenses shall be for the account of the Borrower) to communicate directly with the Senior Lenders at any time regarding the Borrower's financial statements (both audited and unaudited), accounts and operations, and provide to the Senior Lenders a copy of that authorization; and
- (iii) no later than thirty (30) days after any change in Auditors, issue a similar authorization to the new Auditors and provide a copy thereof to the Senior Lenders;

(f) Access. Upon any Senior Lender's request, and with reasonable prior notice to the Borrower, permit representatives of the Senior Lenders and Compliance Advisor Ombudsman, during normal office hours to:

- (i) visit any of the sites and premises where the operations of the Borrower are conducted;
- (ii) inspect any of the Borrower's sites, facilities, plants and equipment;
- (iii) have access to the Borrower's books of account and all records; and

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- (iv) have access to those employees, agents, contractors and sub-contractors of the Borrower who have or may have knowledge of matters with respect to which any Senior Lender seeks information;

provided that no such reasonable prior notice shall be necessary if an Event of Default or Potential Event of Default is continuing or if special circumstances so require;

(g) Environmental and Social Matters. Through its employees, agents, contractors and subcontractors), ensure that the design, construction, operation, maintenance, management and monitoring of the Project's sites, equipment, operations and facilities and its respective operations are undertaken in compliance with (i) the ESIA, (ii) the Environmental and Social Action Plan, and (ii) the applicable requirements of the E&S Performance Standards;

(h) Review of Annual Monitoring Report. Periodically review the form of the Annual Monitoring Report and advise the Senior Lenders as to whether revision of the form is necessary or appropriate in light of changes to the Borrower's business or operations, or in light of environmental or social risks identified by the Borrower's S&E Management System; and revise the form as agreed with the Senior Lenders;

(i) Environmental and Social Management System. Use all reasonable efforts to ensure the continuing implementation and operation of the E&S Management System to assess and manage the social and environmental performance of the Project in a manner consistent with the E&S Performance Standards;

(j) Mandatory prepayment.

- (i) To the extent that the Borrower fails to utilize any of the proceeds of any Disbursement for the purposes of the Project within six (6) months of the relevant Disbursement date, unless otherwise agreed by the Senior Lenders, the Borrower shall, if relevant Senior Lender so require, immediately prepay any such unused amount of any Disbursement in accordance with the provisions of Section 2.06 (*Prepayment*) except that there shall be no minimum amount or advance notice period for that prepayment. In the event the Borrower establishes, to the satisfaction of the Senior Lenders that it failed to use the proceeds of any Disbursement within six (6) months due to documented reasons outside of the control of the Borrower, the relevant Senior Lender may, in its sole discretion, determine that no prepayment premium is due with respect to such prepayment; and

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- (ii) If at any point in time the EUR ceases to be the official currency of the Country, the Borrower shall, if relevant Senior Lender so require, immediately prepay any such unused amount of any Disbursement in accordance with the provisions of Section 2.06 (*Prepayment*) except that there shall be no minimum amount or advance notice period for that prepayment; and

(k) Authorizations.

- (i) obtain and maintain in force (and where appropriate, renew in a timely manner) all Authorizations, including without limitation the Authorizations specified in Annex B, which are necessary for the implementation of the Project, the carrying out of the Borrower's operations generally and the compliance by the Borrower with all its obligations under the Transaction Documents; and
- (ii) comply with all the conditions and restrictions contained in, or imposed on the Borrower by, those Authorizations;

(l) Access to Montenegro Budget Inspection. Take all necessary action and use its best efforts to ensure that each of the Senior Lenders has access to Montenegro Budget Inspection and the National Audit Institution (collectively "Budget Inspection Authorities") and the Auditor or their staff and any accountants nominated by the Auditor, Budget Inspection Authorities or other Authority to carry out any accounting or auditing review of the Borrower, for purposes of providing all such information as IFC may reasonably request with regard to the financial matters of the Borrower, such request to be made only if the Borrower has not provided promptly any information that it is required to provide pursuant to the this Agreement and other Financing Documents or such information is, in the opinion of relevant Senior Lender, inadequate.

(m) Pari Passu. Ensure that at all times the claims of the Senior Lenders under the Senior Loans rank at least *pari passu* with the claims of the other unsecured and unsubordinated creditors of the Borrower.

(n) Bank Accounts. Keep each of the Senior Lenders informed of the relevant bank account in which the Borrower's revenues are deposited, and confirm that no other accounts are used by the Borrower for the same purpose. In case the Borrower changes its bank account, immediately notify Senior Lenders and take all necessary actions required by each of the Senior Lenders to update or amend the Bills of Exchange in favour of IFC and/or Bills of Exchange in favour of Erste Bank



and/or to issue new Bills of Exchange in favour of IFC and/or Bills of Exchange in favour of Erste Bank, if needed, in order to ensure that the correct bank account is designated therein.

(o) Moraca Bridge Works. Ensure that a suitably qualified panel of professionals will review the detailed design submitted by the contractor for the Moraca bridge, and that a suitably experienced engineering firm will be engaged to assist with construction supervision and contract administration of the bridge works related thereto.

(p) Financial Ratios. Comply with the following ratios and requirements:

(i) As of any Calculation Date, maintain the ratio of Peak Debt Service over the total Budget Revenues for the Financial Year immediately preceding said Calculation Date not to exceed 15%;

provided that if the Law on Financing Local Governments and/or any other budgetary normative act relevant to the Borrower is amended to impose financial requirements of ratios that are more stringent than those in paragraph (i) above, the Borrower shall observe and comply with the more stringent requirements or ratios;

(ii) incur expenditures, create indebtedness, allocate funds and otherwise carry on its financial operations in full compliance with the financial ratios, prudential limits, procedures and other requirements specified in the Law on Financing Local Governments and the relevant Annual Budget and local normative acts and promptly upon the written request from any of the Senior Lenders, provide evidence reasonably satisfactory to such Senior Lender of such compliance;

(iii) ensure the proper reflection of the Borrower's obligations under the Senior Loans in each subsequent Annual Budget in accordance with the procedure set out in the Budget Law and other applicable budget regulation within the whole period when such obligations remain outstanding;

(iv) ensure the allocation of sufficient funds to cover the obligations of the Borrower under this Agreement and Senior Loan Agreements for each respective financial year while the Senior Loans are outstanding in each of its respective Annual Budgets; and

(v) ensure that the Annual Budgets as well as Budget Execution Reports delivered to the Senior Lenders as part of the Reporting Requirements are prepared in accordance with the Budget Law and the Law on Financing Local Governments in compliance with all



the mandatory financial ratios provided therein and in compliance with the Borrower's adopted Annual Budget.

Section 5.02. Negative Covenants. Unless the Senior Lenders otherwise agree in writing, the Borrower shall not:

(a) Transactions. Enter into any transaction that would have a materially adverse impact on the ability of the Borrower to repay the Senior Loans;

(b) Amendments to Budget Regulation. Initiate, support or otherwise facilitate making any amendments in the Budget Law, other relevant budget regulations, or any other relevant local normative acts which are inconsistent with the Borrower's obligations under this Agreement and Senior Loan Agreements;

(c) Permitted Financial Debt. Incur, assume or permit to exist any Financial Debt except:

- (i) the Senior Loans; and
- (ii) existing Financial Debt;

without first ensuring that sufficient amount of funds is allocated in the Annual Budget for the relevant Financial Year to cover the then existing Financial Debt and the outstanding obligations of the Borrower under the Senior Loans.

(d) Leases. Enter into any agreement or arrangement to lease any property or equipment of any kind, to the extent the aggregate payments under all such agreements or arrangements do not exceed the equivalent of EUR 1,000,000 in any Financial Year.

(e) Derivative Transactions. Enter into any Derivative Transaction or assume the obligations of any party to any Derivative Transaction;

(f) Guarantees and Other Obligations. Enter into any agreement or arrangement to guarantee or, in any way or under any condition, assume or become obligated for all or any part of any financial or other obligation of another Person, in case: (i) the granting of such guarantees would result in breach of any of the financial undertakings set forth in the Financing Documents or (b) an Event of Default or Potential Event of Default has occurred and is continuing;

(g) Permitted Liens. Create or permit to exist any Lien (including banker's lien to the extent permitted under the law) on the whole of any property, revenues or other assets, present or future, of the Borrower, other than those securing any existing Financial Debt unless simultaneously therewith or prior thereto, the Borrower's obligations under this Agreement and Senior Loan Agreements: (i)



are secured equally and ratably therewith or (ii) have the benefit of such other security or other arrangement which is equivalent in all material respects to such security and which shall be approved by each of the Senior Lenders;

(h) Arm's Length Transactions. Enter into any transaction except in the ordinary course of business on the basis of arm's-length arrangements (including, without limitation, transactions whereby the Borrower might pay more than the ordinary commercial price for any purchase or might receive less than the full ex-works commercial price (subject to normal trade discounts) for its products or services);

(i) Controlled Entities. In case an Event of Default has occurred and remain uncured, make advances, investments or loans to, acquire stock or other securities in, or make capital contributions to any Person or form or acquire any Controlled Entity;

(j) Permitted Investments. Make or permit to exist loans or advances to, or deposits (except commercial bank deposits in the ordinary course of business) with, other Persons or investments in any Person or enterprise in excess of an aggregate amount of EUR 5,000,000 at any one time outstanding other than short-term investment grade marketable securities acquired solely to give temporary employment to its idle funds;

(k) Fundamental Changes. Change:

- (i) its constitutive documents in any manner which would be inconsistent with the provisions of any Transaction Document;
- (ii) its Financial Year; or
- (iii) the Financial Plan.

(l) Amendments, Waivers, Etc., of Material Agreements. Terminate, amend or grant any waiver with respect to any provision of any Transaction Document.

(m) Prepayment of Financial Debt. Prepay (whether voluntarily or involuntarily) or repurchase any Financial Debt (other than the Senior Loans) pursuant to any provision of any agreement or note with respect to that Financial Debt unless:

- (i) that Financial Debt is refinanced using new Financial Debt on terms and conditions (as to interest rate, other costs and tenor) at least as favorable to the Borrower as those of the Financial Debt being refinanced; or



- (ii) the Borrower gives the Senior Lenders at least thirty (30) days' advance notice of its intention to make the proposed prepayment and, if any Senior Lender so requires, the Borrower contemporaneously prepays a proportion of that Senior Lender's Senior Loan equivalent to the proportion of the part of the Financial Debt being prepaid, such prepayment to be made in accordance with the provisions of Section 2.06 (*Prepayment*) except that there shall be no minimum amount or advance notice period for that prepayment;

- (n) Use of Proceeds. Use the proceeds of any Disbursement in the territories of any country that is not a member of the World Bank or for reimbursements of expenditures in those territories or for goods produced in or services supplied from any such country;

- (o) Amendment of Action Plan. Amend the Environmental and Social Action Plan in any material respect;

- (p) Sanctionable Practices. Engage in (and shall not authorize or permit any Affiliate or any other Person acting on its behalf to engage in) with respect to the Project or any transaction contemplated by this Agreement, any Sanctionable Practices. The Borrower further covenants that should any Senior Lender notify the Borrower of its concerns that there has been a violation of the provisions of this Section or of Section 3.01(s) of this Agreement, it shall cooperate in good faith with that Senior Lender and its representatives in determining whether such a violation has occurred, and shall respond promptly and in reasonable detail to any notice from that Senior Lender, and shall furnish documentary support for such response upon that Senior Lender's request;

- (q) UN Security Council Resolutions. In connection with the Project, enter into any transaction or contractual relationship with any individuals or firms listed on the World Bank Listing of Ineligible Firms (see, www.worldbank.org/debarr) or engage in any activity prohibited by any resolution of the United Nations Security Council under Chapter VII of the United Nations Charter; or

- (r) Prohibited Activities. Engage (and shall not authorize or permit any Affiliate or any other Person acting on its behalf to engage in) with respect to the Project or any transaction contemplated by this Agreement, in any Prohibited Activity.

Section 5.03. Reporting Requirements. Unless the Senior Lenders otherwise agree, the Borrower shall:



(a) Quarterly Financial Statements and Reports. As soon as available but in any event within forty-five (45) days after the end of each quarter of each Financial Year, deliver to the Senior Lenders:

- (i) one (1) copy of the Budget Execution Report, including capital expenditure program, debt book, report on cash balance, accounts receivable and accounts payable of the Borrower for such quarter, certified by the Borrower's authorized representative, if requested by Senior Lenders and prepared on a basis consistent with the Annual Budget and the Accounting Standards;
- (ii) a report (in the form pre-agreed by the Senior Lenders), signed by the Borrower's authorized representative, concerning compliance with all of the Borrower's obligations under this Agreement and attaching the calculation of the ratios as set out in the financial covenants in this Agreement (including a clear description of the methodology used in the respective calculations); and
- (iii) until the Project Substantial Completion Date has occurred, a report, in the form attached as Schedule 5, on the progress in the implementation of the Project, including any factors that have or could reasonably be expected to have a Material Adverse Effect and within ninety (90) days of end of defect liability period and after the Project Substantial Completion Date has occurred, a Project Completion Report;

(b) Annual Financial Statements and Reports. As soon as available, but in any event no later than June 30 of each Financial Year, deliver to the Senior Lenders:

- (i) one (1) copy of the Budget Execution Report approved by the Borrower's Assembly;
- (ii) as applicable, any other communication from the Auditor and Budget Inspection Authorities and/or the Ministry of Finance commenting, with respect to that Financial Year, on, among other things, the adequacy of the Borrower's financial control procedures, accounting systems and management information system;

(c) Annual E&S Monitoring Report. Within ninety (90) days after the end of each Financial Year, deliver to the Senior Lenders the corresponding Annual Monitoring Report (in a pre-agreed form) which must : (i) confirm compliance with

the Environmental and Social Action Plan; (ii) confirm compliance with all Applicable S&E Laws and the Environmental Covenants or identify any non-compliance and detail the actions taken to remedy such non-compliance; (iii) include such Project-related information as is reasonably required by the Facility Agent in order to measure the ongoing development results of the Project against the indicators specified in the Annual Monitoring Report; (iv) include information on how the Borrower has monitored the compliance with the E&S Performance Standards and the Environmental and Social Action Plan by any contractor engaged for the Project and a summary of any material non-compliance by such contractor with the E&S Performance Standards and the Environmental and Social Action Plan and of any measures taken to remedy such non-compliance; (v) include information on compliance by the Borrower with Applicable S&E Law in relation to the Project, the Borrower's business and operations including a description of any claim, proceeding, order or investigation commenced or threatened against the Borrower, the status of any Authorisation required therefor, the results of any inspection carried out by any regulatory authority, any violation of applicable laws, regulations or standards and any remedial action or fine relating to such violation, a summary of any material notice, report and other communication on Environmental and Social Matters relating to the Project submitted by the Borrower to any regulatory authority and any other circumstances giving rise to liability of the Borrower for any Environmental and Social Matter; (vi) include information on occupational health and safety management and the occupational health and safety record of the Project, including the rates of accidents, lost time incidents and near-misses, any preventive or mitigation measures taken or planned by the Borrower, any staff training on occupational health and safety and any other initiatives in relation to occupational health and safety management which have been implemented or planned by the Borrower; (vii) include a summary of any change in Applicable S&E Law which may have a material effect on the Project; and (viii) include copies of any information on Environmental and Social Matters periodically submitted by the Borrower to the general public;

(d) Notice of Accidents, Etc. Within three (3) days after its occurrence, notify the Senior Lenders of any social, labor, health and safety, security or environmental incident, accident or circumstance having, or which could reasonably be expected to have, a Material Adverse Effect or material adverse impact on the implementation or operation of the Project in accordance with the E&S Performance Standards, specifying in each case the nature of the incident, accident, or circumstance and any effect resulting or likely to result therefrom, and the measures the Borrower is taking or plans to take to address them and to prevent any future similar event; and keep the Senior Lenders informed of the on-going implementation of those measures and plans;

(e) Annual Budget. (A) as soon as available, but in any case prior to submission for the approval to the Borrower's Assembly, the Borrower shall deliver to the Senior Lenders a copy of the Annual Budget for the following Financial Year and copies of any amendments to the Annual Budget; and (B) promptly following



the approval, the Borrower shall deliver to the Senior Lenders copies of the approved Annual Budget and any amendments thereto;

(f) Changes to Operations of the Borrower; Material Adverse Effect. Promptly notify the Senior Lenders of any proposed change in the operations of the Borrower and of any event or condition that has or may reasonably be expected to have a Material Adverse Effect;

(g) Litigation, Etc. Promptly upon becoming aware of any litigation or administrative proceedings before any Authority or arbitral body which has or may reasonably be expected to have a Material Adverse Effect, notify the Senior Lenders by facsimile of that event specifying the nature of that litigation or those proceedings and the steps the Borrower is taking or proposes to take with respect thereto;


(h) Default. Promptly upon the occurrence of an Event of Default or Potential Event of Default, notify the Senior Lenders by facsimile specifying the nature of that Event of Default or Potential Event of Default and any steps the Borrower is taking to remedy it;

(i) Compliance Requirements. Promptly provide to the Senior Lenders such information about the Borrower, its assets and the Project that the Senior Lenders request from time to time for the Senior Lenders to satisfy requirements under applicable laws and regulations, including those concerning anti-money laundering and combating the financing of terrorism (AML/CFT); and

(j) Other Information. Promptly provide to any Senior Lender such other information as that Senior Lender from time to time requests about the Borrower, its assets and the Project, and the transactions contemplated by this Agreement, including but not limited to any information required by any Senior Lender to complete any necessary "Know Your Customer" inquiries.

Section 5.04. Insurance. Unless IFC otherwise agrees, the Borrower shall:

- (i) pursue its plans to insure its assets and operations to prudently address its major property and liability risks, and maintain any insurance required by applicable laws and regulations;
- (ii) punctually pay any premium, commission and any other amounts necessary for effecting and maintaining in force any insurance policy;
- (iii) promptly notify the relevant insurer of any claim by the Borrower under any policy written by that insurer and diligently pursue that claim;



- (iv) comply with all warranties under any policy of insurance;
- (v) not do or omit to do, or permit to be done or not done, anything which might prejudice the Borrower's right to claim or recover under any insurance policy;
- (vi) use any insurance proceeds for loss of or damage to any asset solely to replace or repair that asset; and
- (vii) provide to each Senior Lenders as soon as possible after its occurrence, notice of any event which entitles the Borrower to claim for an aggregate amount exceeding EUR 1,000,000 under any one or more insurance policies.

ARTICLE VI

Events of Default

Section 6.01. *Acceleration after Default.* If any Event of Default occurs and is continuing (whether it is voluntary or involuntary, or results from operation of law or otherwise), each Senior Lender may, by notice to the Borrower (with a copy to all other Senior Lenders), require the Borrower to repay its Senior Loan or such part of its Senior Loan as is specified in that notice. On receipt of any such notice, the Borrower shall immediately repay such Senior Loan (or that part of such Senior Loan specified in that notice) and pay all interest accrued on it, the prepayment premium specified in Section 2.06 (b) (*Prepayment*) on the amount of such Senior Loan whose payment is accelerated and any other amounts then payable under this Agreement and the relevant Senior Loan Agreement. The Borrower waives any right it might have to further notice, presentment, demand or protest with respect to that demand for immediate payment.

Section 6.02. *Events of Default.* It shall be an Event of Default if:

(a) Failure to Pay Principal or Interest. The Borrower fails to pay any part of the principal of, or interest on, any Senior Loan when due or, only if the failure to pay is caused by an administrative or technical error, if such failure to pay continues for a period of five (5) days thereafter;

(b) Failure to Pay Other Loans. The Borrower fails to pay when due any part of the principal of, or interest on, any loan from any Senior Lender to the Borrower other than its Senior Loan and any such failure continues for the relevant grace period allowed for in the agreement providing for that loan;

g B

(c) Failure to Comply with Obligations. The Borrower fails to comply with any of its obligations under this Agreement or any other Transaction Document or any other agreement between the Borrower and any Senior Lender (other than for the payment of the principal of, or interest on, the Senior Loans or any other loan from any Senior Lender to the Borrower), and any such failure continues for a period of thirty (30) days after the date on which any Senior Lender notifies the Borrower of that failure;

(d) Misrepresentation. Any representation or warranty made in Article III or in connection with the execution of, or any request (including a request for Disbursement) under, this Agreement or any other Financing Document is found to be incorrect in any material respect;

(e) Expropriation, Nationalization, Etc. Any Authority condemns, nationalizes, seizes, or otherwise expropriates all or any substantial part of the property or other assets of the Borrower, or assumes custody or control of that property or other assets or of the operations of the Borrower, or takes any action for the dissolution or disestablishment of the Borrower or any action that would prevent the Borrower or its officers from carrying on all or a substantial part of its operations;

(f) Cross-Default. The Borrower fails to make any payment in respect of any of its Liabilities (other than the Senior Loans or any other loan from any Senior Lender to the Borrower) or to perform any of its obligations under any agreement pursuant to which there is outstanding any Liability, and any such failure continues for more than any applicable period of grace or any such Liability becomes prematurely due and payable or is placed on demand;

(g) Failure to Maintain Authorizations. Any Authorization necessary for the Borrower to perform and observe its obligations under any Transaction Document, or to carry out the Project, is not obtained when required or is rescinded, terminated, lapses or otherwise ceases to be in full force and effect, including with respect to the remittance to any Senior Lender or its assignees, in the Loan Currency, of any amounts payable under any Transaction Document, and is not restored or reinstated within thirty (30) days of notice by any Senior Lender to the Borrower requiring that restoration or reinstatement;

(h) Revocation, Etc., of Security Documents. Any Security Document or any of its provisions:

- (i) is revoked, terminated or ceases to be in full force and effect or ceases to provide the security intended, without, in each case, the prior consent of the Senior Lenders;
- (ii) becomes unlawful or is declared void; or



- (iii) is repudiated or its validity or enforceability is challenged by any Person and any such repudiation or challenge continues for a period of thirty (30) days during which period such repudiation or challenge has no effect;

(i) Revocation, Etc., of Financing Documents. Any Financing Document (other than a Security Document) or any of its provisions:

- (i) is revoked, terminated or ceases to be in full force and effect without, in each case, the prior consent of the Senior Lenders, and that event, if capable of being remedied, is not remedied to the satisfaction of the Senior Lenders within thirty (30) days of any Senior Lender's notice to the Borrower;
- (ii) becomes unlawful or is declared void; or
- (iii) is repudiated or the validity or enforceability of any of its provisions at any time is challenged by any Person and such repudiation or challenge is not withdrawn within thirty (30) days of any Senior Lender's notice to the Borrower requiring that withdrawal; provided that no such notice shall be required or, as the case may be, the notice period shall terminate if and when such repudiation or challenge becomes effective;

(j) Non-Performance of Transaction Document. Any Transaction Document or any of its provisions:

- (i) is breached by any party to it and such breach has or could reasonably be expected to have a Material Adverse Effect; or
- (ii) is revoked, terminated or ceases to be in full force and effect without the prior consent of the Senior Lenders, or performance of any of the material obligations under any such agreement becomes unlawful or any such agreement is declared to be void or is repudiated or its validity or enforceability at any time is challenged by any party to it;

(k) Misuse of proceeds of the Senior Loans. The Borrower uses proceeds of any Disbursement for any purpose other than for the Project;

(l) Judgments. A final and non-appealable judgment, order or arbitral award for the payment of money in excess of the equivalent of EUR 5,000,000 is rendered against the Borrower and that judgment, order or arbitral award continues to be unsatisfied for a period of thirty (30) days.



(m) Amendments to the Law. Any amendments have been made to any law, rule, regulation, or normative act which would adversely affect the Borrower's ability to fulfill its obligations under the provisions of this Agreement and the Senior Loan Agreements.

ARTICLE VII

Miscellaneous

Section 7.01. Saving of Rights. (a) The rights and remedies of the Senior Lenders in relation to any misrepresentation or breach of warranty on the part of the Borrower shall not be prejudiced by any investigation by or on behalf of any of the Senior Lenders into the affairs of the Borrower, by the execution or the performance of this Agreement or the other Financing Documents or by any other act or thing which may be done by or on behalf of any of the Senior Lenders in connection with this Agreement or the other Financing Documents and which might, apart from this Section, prejudice such rights or remedies.

(b) No course of dealing or waiver by any Senior Lender in connection with any condition of Disbursement under this Agreement shall impair any right, power or remedy of that Senior Lender with respect to any other condition of Disbursement, or be construed to be a waiver thereof; nor shall the action of any Senior Lender with respect to any Disbursement affect or impair any right, power or remedy of that Senior Lender with respect to any other Disbursement.

(c) Unless otherwise notified to the Borrower by any Senior Lender and without prejudice to the generality of Section 7.01 (b), the right of that Senior Lender to require compliance with any condition under this Agreement or any other Financing Document that may be waived by that Senior Lender with respect to any Disbursement is expressly preserved for the purposes of any subsequent Disbursement.

(d) No course of dealing and no failure or delay by any Senior Lender in exercising, in whole or in part, any power, remedy, discretion, authority or other right under this Agreement, any other Financing Document or any other agreement shall waive or impair, or be construed to be a waiver of, such or any other power, remedy, discretion, authority or right hereunder or thereunder, or in any manner preclude its additional or future exercise; nor shall the action of any Senior Lender with respect to any default, or any acquiescence by it therein, affect or impair any right, power or remedy of that Senior Lender with respect to any other default.

Section 7.02. Notices. Any notice, request or other communication to be given or made under this Agreement shall be in writing. Subject to Section 5.03

(g) and (h) (*Reporting Requirements*) and Section 7.05 (*Applicable Law and Jurisdiction*), any such communication may be delivered by hand, airmail, facsimile or established courier service to the party's address specified below or at such other address as such party notifies to the other parties from time to time, and will be effective upon receipt; provided, that (except with respect to requests for Disbursement under Section 2.02 (*Disbursement Procedure*)), the Senior Lenders may, at their election, deliver notices, requests or communications to the Borrower by e-mail to such address as the Borrower notifies the Senior Lenders from time to time.

For the Borrower:

City of Podgorica
Njegoseva 13
81000 Podgorica
Montenegro

Facsimile: + 382 81 665 042

Attention: City Manager

For Erste Bank:

Erste Bank AD Podgorica
Arsenija Boljevića 2a, 81000 Podgorica
Montenegro

Facsimile: +382-20-440-432

Attention: Corporate Division

For IFC:

International Finance Corporation
2121 Pennsylvania Avenue, N.W.
Washington, D.C. 20433
United States of America

Facsimile: 202-974-4323

Attention: Director, Infrastructure Department

With a copy (in the case of communications relating to payments) sent to the attention of the Director, Department of Financial Operations, at:



Facsimile: 202-522-3064

Project No: 39970

Section 7.03. *English Language.* (a) All documents to be provided or communications to be given or made under this Agreement shall be in the English language.

(b) To the extent that the original version of any document to be provided, or communication to be given or made, to any Senior Lender under this Agreement or any other Financing Document is in a language other than English, that document or communication shall be accompanied by an English translation certified by an Authorized Representative to be a true and correct translation of the original. A Senior Lender may, if it so requires, obtain an English translation of any document or communication received in a language other than English at the cost and expense of the Borrower. Such Senior Lender may deem any such English translation to be the governing version between the Borrower and such Senior Lender.

(c) This Agreement shall be executed in English and in Montenegrin language. In the case of discrepancy (whether in arbitral proceedings or otherwise) the English version shall prevail.

Section 7.04. *Term of Agreement.* This Agreement shall continue in force until all monies payable under it have been fully paid in accordance with its provisions.

Section 7.05. *Applicable Law and Jurisdiction.*

(a) This Agreement, and all non-contractual obligations arising out of or in connection with it, are governed by and shall be construed in accordance with English law.

(b) The Borrower irrevocably agrees that any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or invalidity of this Agreement (including any dispute regarding non-contractual obligations and any dispute regarding the existence, validity or termination of this Agreement or the consequences of its nullity) (a "Dispute") shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules from time to time in force.

(c) There shall be one arbitrator who shall, if arbitration has commenced under this Agreement, be the arbitrator appointed for the purposes of that arbitration. If no such arbitration has been commenced, there shall be one arbitrator who shall be appointed by agreement between the claimant(s) and the respondent(s)

or, failing such agreement within thirty (30) days of the commencement of arbitration, shall be appointed by the President for the time being of the London Court of International Arbitration. Any provisions of the UNCITRAL Arbitration Rules related to the nationality of an arbitrator shall, to that extent, not apply.

(a) The place of arbitration shall be London, England.

(b) The English language shall be used throughout the arbitral proceedings.

(c) Any arbitral award rendered by the arbitral tribunal shall be final and binding on all parties. The parties hereby waive any rights under any applicable law to appeal any arbitration award or to seek determination of a preliminary point of law with respect to such proceedings.

(d) The arbitral tribunal shall not be authorized to take or provide, and the Borrower shall not be authorized to seek from any judicial authority, any interim measures of protection or pre-award relief against any of the Senior Lenders, any provisions of the UNCITRAL Arbitration Rules notwithstanding.

(e) The arbitral tribunal shall have authority to consider and include in any proceeding, decision or award any further dispute properly brought before it insofar as such dispute arises out of this Agreement, but, subject to the foregoing, no other parties or other disputes shall be included in, or consolidated with, the arbitral proceedings.

(i) The parties acknowledge and agree that no provision of this Agreement in any way constitutes or implies a waiver, termination or modification by IFC of any privilege, immunity or exemption of IFC granted in the Articles of Agreement establishing IFC, international conventions or applicable law.

(j) To the extent that the Borrower may be entitled in any jurisdiction to claim for itself or its assets immunity with respect to its obligations under this Agreement or any other Transaction Document to which it is a party, from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process or to the extent that in any jurisdiction that immunity (whether or not claimed), may be attributed to it or its assets, the Borrower irrevocably agrees not to claim and irrevocably waives such immunity to the fullest extent permitted now or in the future by the laws of such jurisdiction.

Section 7.06. *Disclosure of Information.* (a) Any of the Senior Lenders may disclose any documents, records, or information about the Project or the Borrower to:

(i) its outside counsel, auditors and rating agencies,



- (ii) any Person who intends to purchase a Participation in a portion of any of the Senior Loans, and
- (iii) any other Person as that Senior Lender may deem appropriate for the purpose of exercising any power, remedy, right, authority, or discretion relevant to this Agreement or any other Transaction Document or in connection with any proposed sale, transfer, assignment or other disposition of that Senior Lender's rights as contemplated by Section 7.07 (*Successors and Assignees*).

(b) The Borrower acknowledges and agrees that, notwithstanding the terms of any other agreement between the Borrower and any Senior Lender, a disclosure of information by that Senior Lender in the circumstances contemplated by Section 7.06 (a) does not violate any duty owed to the Borrower under this Agreement or under any such other agreement.

Section 7.07. *Successors and Assignees*. (a) This Agreement and the other Financing Documents bind and benefit the respective successors and assignees of the parties hereto. However, the Borrower may not assign or delegate any of its rights or obligations under this Agreement or any other Financing Document without the prior consent of each of the Senior Lenders.

(b) Each Senior Lender may sell, transfer, assign, novate or otherwise dispose of all or part of its rights or obligations under this Agreement and any other Financing Document (including by granting of Participations) in accordance with the provisions of its respective Senior Loan Agreement, and shall promptly provide written notice thereof to the other Senior Lenders.

Section 7.08. *Amendments, Waivers and Consents*. (a) No provision of this Agreement or any other Financing Document may be amended, supplemented, modified or waived, except by a written instrument signed by all of the Senior Lenders and the Borrower (but only if the Borrower is a party thereto).

(b) Any waiver and any amendment, supplement or modification made or entered into in accordance with Section 7.08 (a) shall be binding upon the Borrower and the Senior Lenders.

Section 7.09. *Counterparts*. This Agreement may be executed in several counterparts, each of which is an original, but all of which together constitute one and the same agreement. For the avoidance of doubt, this Agreement shall be executed in English and in Montenegrin language. In the case of discrepancy (whether in arbitral proceedings or otherwise) the English version shall prevail.

Section 7.10. Third Party Rights. A person who is not a party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

Section 7.11. No Reliance. Notwithstanding any other provisions of this Agreement:

(a) each Senior Lender acknowledges that it has not relied, nor shall it rely, on the other Senior Lenders, or any of their respective officers, directors, employees, representatives, attorneys, agents and affiliates, to inquire into or verify the accuracy or completeness of any information provided, or made available to any of the Senior Lenders, by the Borrower or any other Person, on or prior to the date of this Agreement or hereafter;

(b) each Senior Lender acknowledges that none of the other Senior Lenders, nor any of their respective officers, directors, employees, representatives, attorneys, agents and affiliates, has made any representation or warranty to it, and that no act by any Senior Lender hereafter taken, including any review of the Project or of the affairs of the Borrower, shall be deemed to constitute any representation or warranty by such Senior Lender to any other Senior Lender. Each Senior Lender represents to the other Senior Lenders that it has, independently and based on such documents and information as it has deemed appropriate, and without reliance on any documents, reports or other information (including any materials prepared by any other Senior Lender for use in its own credit analysis, appraisals and decisions) provided by, or on views expressed by, any other Senior Lender, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower, the Project, the value of and title to any Security, and all applicable laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and the other Financing Documents and to extend credit to the Borrower hereunder. Each Senior Lender also represents that it will, independently and without reliance upon any other Senior Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Transaction Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the Project; and

(c) each Senior Lender acknowledges that none of the other Senior Lenders, nor any of their respective officers, directors, employees, representatives, attorneys, agents and affiliates, shall be liable for any documents, reports or other information (including any materials prepared by any other Senior Lender for use in its own credit analysis, appraisals and decisions) provided by, or for any views expressed by, any other Senior Lender on or prior to the date of this Agreement or hereafter.




Section 7.12. *Indemnification; No Consequential Damages.* (a) Whether or not the transactions contemplated hereby are consummated, the Borrower shall indemnify each Senior Lender and its officers, directors, employees, agents and representatives (each, an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, and expenses (including fees, charges and disbursements of counsel) incurred by or asserted against any Indemnitee arising out of, in connection with, or related to (i) the execution, delivery or performance of any Financing Document or any other agreement or instrument contemplated thereby or the consummation of the transactions contemplated hereby, (ii) the relevant Senior Loan or the use of proceeds thereof, (iii) non-compliance with any law or regulation, including any environmental law or regulation, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is party thereto; *provided* that such indemnity will not be available to any Indemnitee to the extent that such losses, claims, damages, liabilities or expenses resulted directly from such Indemnitee's gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction.

(b) To the maximum extent permitted by applicable law, the Borrower shall not assert, and hereby agree to waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages arising out of, in connection with, or relating to, this Agreement or any agreement or instrument contemplated hereby, the Senior Loans or the use of the proceeds thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed in their respective names as of the date first above written.

CITY OF PODGORICA

By: 

Name: Slavoljub Stijepović

Title: the Mayor



ERSTE BANK AD PODGORICA

By: 

Name: Damir Ivaštinović

Title: Executive Director



By: 

Name: Aleksa Lukić

Title: Chief Executive Officer

INTERNATIONAL FINANCE CORPORATION

By: 

Name: Thomas Lubeck

Title: Regional Manager for Central and South East Europe

PROJECT COST AND FINANCIAL PLAN

Project Cost Estimate and Financing Plan

2018-2019

No.	Project Cost Breakdown	EUR
A	Road and Ancilliary Works	14,853,672
	Road Works	3,406,400
	Traffic Signage	40,406
	Road overpass	843,360
	Hydroelectrical works	8,114,471
	Electrical installations	733,651
	Protection around and shifting of electricity pylons	365,050
	Contingency (10%)	1,350,334
B	Bridge over River Moraca	6,286,817
	Bridge	4,726,930
	Contingency	1,559,887
A+B	Total Project Cost (excluding VAT): A+B	21,140,489
	VAT	4,439,503
	Total Project Cost (including VAT)	25,579,992

No.	Financing Plan	EUR
1	IFC Loan	7,500,000
2	Erste Loan	7,500,000
3	Municipal Budget	10,579,992
	Total Financing Plan	25,579,992

BORROWER/PROJECT AUTHORIZATIONS

(See Sections 3.01 (d) and 4.01 (c) of the Common Terms Agreement)

Section (1). Authorizations Already Obtained

- (a) Decision of the City Assembly approving of borrowing and terms of the borrowing with the Senior Lenders enacted on the session of the City Assembly held on 14 November 2017;
- (b) Approval of the Government of Montenegro in the form of Conclusions No 07-3648 dated 7 December 2017 related to the session of the Government held on 30 November 2017;

Section (2). Authorizations to be Obtained Prior to First Disbursement

- (c) Opinion of the Public Procurement Commission on applicability of public procurement provisions to the borrowing under the loan agreements with Senior Lenders;
- (d) New Strategic plan of development of the Capital City is adopted and it envisages development of the Project as a project of strategic relevance;
- (e) Decision on the budget of the Capital City for 2018;
- (f) Decision of the City Assembly amending the Decision approving of borrowing and terms of the borrowing with the Senior Lenders or evidence, in the form and substance satisfactory to the Senior Lenders, that the City Assembly has been informed and has acknowledged changes in the repayment plan and other terms of this Agreement and the Senior Loan Agreements that occurred after the approval under item (a) above;
- (g) Amended Approval of the Government of Montenegro or evidence, in the form and substance satisfactory to the Senior Lenders, that the Ministry of Finance and, if so required by the Senior Lenders, the Government of Montenegro have been informed and have acknowledged changes in the repayment plan and other terms of this Agreement and the Senior



Loan Agreements that occurred after the approval under item (b) above;

Section (3). *Authorizations to be Obtained after the First Disbursement*

- (h) Decision on the budget of the Capital City for relevant Financial Year from 2019 to 2029, which is to be obtained before the end of the relevant year for the following year.

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ANTI-CORRUPTION GUIDELINES

The purpose of these Guidelines is to clarify the meaning of the terms “Corrupt Practices”, “Fraudulent Practices”, “Coercive Practices”, “Collusive Practices” and “Obstructive Practices” in the context of the Senior Lenders’ operations.

1. CORRUPT PRACTICES

A “Corrupt Practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.

INTERPRETATION

- A. Corrupt practices are understood as kickbacks and bribery. The conduct in question must involve the use of improper means (such as bribery) to violate or derogate a duty owed by the recipient in order for the payor to obtain an undue advantage or to avoid an obligation. Antitrust, securities and other violations of law that are not of this nature are excluded from the definition of corrupt practices.
- B. It is acknowledged that foreign investment agreements, concessions and other types of contracts commonly require investors to make contributions for bona fide social development purposes or to provide funding for infrastructure unrelated to the project. Similarly, investors are often required or expected to make contributions to bona fide local charities. These practices are not viewed as Corrupt Practices for purposes of these definitions, so long as they are permitted under local law and fully disclosed in the payor’s books and records. Similarly, an investor will not be held liable for corrupt or fraudulent practices committed by entities that administer bona fide social development funds or charitable contributions.
- C. In the context of conduct between private parties, the offering, giving, receiving or soliciting of corporate hospitality and gifts that are customary by internationally-accepted industry standards shall

not constitute corrupt practices unless the action violates applicable law.

- D. Payment by private sector persons of the reasonable travel and entertainment expenses of public officials that are consistent with existing practice under relevant law and international conventions will not be viewed as Corrupt Practices.
- E. The World Bank Group does not condone facilitation payments. For the purposes of implementation, the interpretation of "Corrupt Practices" relating to facilitation payments will take into account relevant law and international conventions pertaining to corruption.

2. FRAUDULENT PRACTICES

A "Fraudulent Practice" is any action or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial benefit or to avoid an obligation.

INTERPRETATION

- A. An action, omission, or misrepresentation will be regarded as made recklessly if it is made with reckless indifference as to whether it is true or false. Mere inaccuracy in such information, committed through simple negligence, is not enough to constitute a "Fraudulent Practice" for purposes of this Agreement.
- B. Fraudulent Practices are intended to cover actions or omissions that are directed to or against a World Bank Group entity, or Erste Bank. It also covers Fraudulent Practices directed to or against a World Bank Group member country in connection with the award or implementation of a government contract or concession in a project financed by the World Bank Group. Frauds on other third parties are not condoned but are not specifically sanctioned in IFC, MIGA, PRG, or Erste Bank operations. Similarly, other illegal behavior is



not condoned, but will not be considered as a Fraudulent Practice for purposes of this Agreement.

3. COERCIVE PRACTICES

A "Coercive Practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

INTERPRETATION

- A. Coercive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.
- B. Coercive Practices are threatened or actual illegal actions such as personal injury or abduction, damage to property, or injury to legally recognizable interests, in order to obtain an undue advantage or to avoid an obligation. It is not intended to cover hard bargaining, the exercise of legal or contractual remedies or litigation.

4. COLLUSIVE PRACTICES

A "Collusive Practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.

INTERPRETATION

Collusive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.

5. OBSTRUCTIVE PRACTICES

An "Obstructive Practice" is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making of false statements to investigators, in order to materially impede a World Bank Group or Erste Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the



investigation, or (ii) acts intended to materially impede the exercise of the Senior Lenders' access to contractually required information in connection with a World Bank Group or Erste Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice.

INTERPRETATION

Any action legally or otherwise properly taken by a party to maintain or preserve its regulatory, legal or constitutional rights such as the attorney-client privilege, regardless of whether such action had the effect of impeding an investigation, does not constitute an Obstructive Practice.

GENERAL INTERPRETATION

A person should not be liable for actions taken by unrelated third parties unless the first party participated in the prohibited act in question.

PROHIBITED ACTIVITIES

- Production or activities involving harmful or exploitative forms of forced labor¹/harmful child labor.²
- Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements.
- Production or trade in weapons and munitions.³
- Production or trade in alcoholic beverages (excluding beer and wine).
- Production or trade in tobacco
- Gambling, casinos and equivalent enterprises.
- Trade in wildlife or wildlife products regulated under Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- Production or trade in radioactive materials.⁴
- Production or trade in or use of unbonded asbestos fibers.⁵
- Commercial logging operations or the purchase of logging equipment for use in primary tropical moist forest (prohibited by the Forestry policy).⁶

¹ Forced labor means all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.

² Harmful child labor means the employment of children that is economical exploitive, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health, or physical, mental, spiritual, moral, or social development.

³ These activities are prohibited only if a Borrower is substantially involved in such activities, i.e. the activity is not considered ancillary to such Borrower's primary operations.

⁴ This does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where IFC considers the radioactive source to be trivial and/or adequately shielded.

⁵ This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is <20%.

⁶ See IFC OP 4.35, Forestry (under review).

- Production or trade in products containing PCBs.⁷
- Production or trade in pharmaceuticals subject to international phase outs or bans.
- Production or trade in pesticides/herbicides subject to international phase out.
- Production or trade in ozone depleting substances subject to international phase out.⁸
- Drift net fishing in the marine environment using nets in excess of 2.5 km in length.
- Knowingly provide or permit to be provided any product or services (or any text, pictures, graphics, sound, video, or other data in connection with any services) that:
 1. infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights or publicity of privacy;
 2. violate any law, statute, ordinance or regulation (including, without limitation, the laws and regulations governing export control);
 3. are defamatory, trade libelous, unlawfully threatening or harassing;
 4. are obscene or pornographic or contain child pornography;
 5. violate any laws regarding competition, privacy, anti-discrimination or false advertising; or

⁷ PCBs: Polychlorinated biphenyls – a group of highly toxic chemicals. PCBs are likely to be found in oil-filled electrical transformers, capacitors and switchgear dating from 1950-1985.

⁸ Ozone Depleting Substances (ODSs): Chemical compounds which react with and deplete ozone, resulting in the widely publicized 'ozone holes'. The Montreal Protocol lists ODSs and their target reduction and phase out dates.



6. contain any viruses, Trojan horses, worms, time-bombs, cancel bots or other computer routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information.

⚡ ⚡

EXISTING FINANCIAL DEBT

Creditor	Contract number	Contract date	Loan Amount, EUR	Outstanding Amount as of November 7, 2017, EUR
Dexia banka	No. 100.341	Dec-14-06	2,200,000	305,555
Dexia banka	No. 100.619	Apr-16-08	8,000,000	3,666,666
Bonds	No. 01-875	Jul-9-09	700,000	68,630
IFC	No. 30009	Dec-17-10	10,150,000	5,316,671
IFC	No. 31065	Jun-8-12	10,700,000	7,133,332
Government of Spain to "Deponija" DOO	No.3867	Jun-4-09	4,981,740	3,623,084
EIB to "Deponija" DOO	No.5467	Jul-25-13	1,867,028	1,867,028
Investment Fund of Montenegro to Vodovod I kanalizacija DOO	No.0041102005234	Jun-20-13	3,500,000	2,665,790
Investment Fund of Montenegro to Vodovod I kanalizacija DOO	No.0041102010319	Dec-28-15	1,200,000	1,023,797
TOTAL				25,670,553



FORM OF CERTIFICATE OF INCUMBENCY AND AUTHORITY

(See Section 1.01 and Section 4.01(k) of the Common Terms Agreement)

[Borrower's Letterhead]

[Date]

ERSTE BANK AD PODGORICA

[address]

Attention: [_____]

International Finance Corporation

2121 Pennsylvania Avenue, N.W.

Washington, D.C. 20433

United States of America

Attention: Director, [_____]

Ladies and Gentlemen:

Certificate of Incumbency and Authority

With reference to the Common Terms Agreement among us and the Senior Lenders party thereto dated _____, _____ (the "Common Terms Agreement"), I, the undersigned [Chairman/Director] of [Name of Borrower] (the "Borrower"), duly authorized to do so, hereby certify that the following are the names, offices and true specimen signatures of the persons [each] [any two] of whom [is] [are], and will continue to be, authorized:

(a) to sign on behalf of the Borrower the requests for the disbursement of funds provided for in Section 2.02 of the Common Terms Agreement;

(b) to sign the certifications provided for in Section 4.02 and Section 4.03 of the Common Terms Agreement; and

(c) to take any other action required or permitted to be taken, done, signed or executed under the Common Terms Agreement, any other Financing Document or any other agreement to which any of the Senior Lenders and the Borrower may be parties.

<u>Name</u>	<u>Office</u>	<u>Specimen Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

You may assume that any such person continues to be so authorized until you receive written notice from an Authorized Representative of the Borrower that they, or any of them, is no longer so authorized.

Terms defined in the Common Terms Agreement have their defined meanings whenever used herein.

Yours truly,

[NAME OF BORROWER]

By _____
[Chairman/Director]



FORM OF REQUEST FOR DISBURSEMENT

(See Section 2.02 and Section 4.03 of the Common Terms Agreement)

[Borrower's Letterhead]

[Date]

[ERSTE BANK A.D. PODGORICA]

[address]

Attention: [_____]

International Finance Corporation

2121 Pennsylvania Avenue, N.W.

Washington, D.C. 20433

United States of America

Attention: [Director, _____ Department]

Ladies and Gentlemen:

Disbursement Request No. []

1. Please refer to the Common Terms Agreement (the "Common Terms Agreement") dated _____, __, among [City of Podgorica] (the "Borrower"), Erste Bank AD Podgorica and International Finance Corporation (collectively, the "Senior Lenders"). Terms defined in the Common Terms Agreement have their defined meanings whenever used in this Disbursement Request.

2. The Borrower irrevocably requests the disbursement (the "Disbursement") on _____, ____ (or as soon as practicable thereafter) of:



SCHEDULE 2

Page 2 of 3

[(a) the amount of _____ (_____) under the IFC Loan in accordance with the provisions of Section 2.02 of the Common Terms Agreement; [and]]

[(b) the amount of _____ (_____) under Erste Bank Loan in accordance with the provisions of Section 2.02 of the Common Terms Agreement; and]

[Each] [Relevant] Senior Lender is requested to pay such amounts to the account in [] of [Name of Borrower] [Name of correspondent Bank], Account No. _____ at [Name and address of Bank] [for further credit to the Borrower's Account No. _____ at [Name and address of Bank] in [city and country].

3. For the purpose of Section 4.02 and Section 4.03 of the Common Terms Agreement, the Borrower certifies as follows:

(a) no Event of Default and no Potential Event of Default has occurred and is continuing;

(b) the proceeds of the Disbursement are at the date of this Disbursement Request needed by the Borrower for the purpose of the Project, or will be needed for such purpose within [six (6)] months of such date;

(c) since the date of the Common Terms Agreement nothing has occurred which has or could reasonably be expected to have a Material Adverse Effect;

3



(d) since [insert date] [the date of the Common Terms Agreement]** the Borrower has not incurred any material loss or liability (except such liabilities as may be incurred by the Borrower in accordance with Section 5.02 of the Common Terms Agreement);

(e) the representations and warranties made in Article III of the Common Terms Agreement are true on the date of this Disbursement Request and will be true on the date of Disbursement with the same effect as if such representations and warranties had been made on and as of each such date (but in the case of Section 3.01(c), without the words in parenthesis);

(f) the proceeds of the Disbursement are not in reimbursement of, or to be used for, expenditures in the territories of any country that is not a member of the World Bank or for goods produced in or services supplied from any such country;

(g) after giving effect to the Disbursement, the Borrower will not be in violation of:

- (i) its foundation documents;
- (ii) any provision contained in any document to which the Borrower is a party (including the Common Terms Agreement) or by which the Borrower is bound; or
- (iii) any law, rule, regulation, Authorization or agreement or other document binding on the Borrower, directly or indirectly limiting or otherwise restricting the Borrower's borrowing power or authority or its ability to borrow; and

[(h) _____.]

The above certifications are effective as of the date of this Disbursement Request and shall continue to be effective as of the date of the Disbursement. If any of these certifications is no longer valid as of or prior to the date of the requested Disbursement, the Borrower undertakes to immediately notify the Senior Lenders.

Yours truly,
[NAME OF BORROWER]

By _____
Authorized Representative

The date should be the same as is used in Section 3.01 (h) and (i). Use the second formulation if the Borrower is a start-up company which did not deliver meaningful financial statements prior to the date of the Common Terms Agreement.



FORM OF DISBURSEMENT RECEIPT

(See Section 2.02 (d) of the Common Terms Agreement)

[Borrower's Letterhead]

ERSTE BANK AD PODGORICA

[address]

Attention: [_____]]

[International Finance Corporation

2121 Pennsylvania Avenue, N.W.

Washington, D.C. 20433

United States of America

Attention: Director, Department of Financial Operations]

Ladies and Gentlemen:

[Investment No. ____]

Disbursement Receipt No. [__]

We, City of Podgorica, hereby acknowledge receipt on the date hereof of the sum of _____ (____) disbursed to us by [Erste Bank AD Podgorica] [International Finance Corporation] under its Senior Loan of _____ (____) provided for in the Common Terms Agreement dated _____, _____ among City of Podgorica, Erste Bank AD Podgorica and International Finance Corporation, and the Loan Agreement dated _____, _____ between City of Podgorica and [International Finance Corporation] [Erste Bank].

Yours truly,

[NAME OF BORROWER]

By _____
Authorized Representative

FORM OF LETTER TO BORROWER'S AUDITORS

(See Section 4.01(j) and Section 5.01(e) of
the Common Terms Agreement)

[Borrower's Letterhead]

[Date]

[NAME OF AUDITORS]
[ADDRESS]

Ladies and Gentlemen:

We hereby authorize and request you to give to Erste Bank AD Podgorica and International Finance Corporation (the "Senior Lenders") all such information as the Senior Lenders may reasonably request with regard to the financial statements (both audited and unaudited), accounts and operations of the undersigned company. We have agreed to supply that information and those statements under the terms of a Common Terms Agreement among the undersigned company and the Senior Lenders dated _____, ____ (the "Common Terms Agreement"). For your information we enclose a copy of the Common Terms Agreement.

We authorize and request you to send two copies of the audited accounts of the undersigned company to the Senior Lenders to enable us to satisfy our obligation to the Senior Lenders under Section 5.03 (b) (i) of the Common Terms Agreement. When submitting the same to the Senior Lenders, please also send, at the same time, a copy of your full report on such accounts in a form reasonably acceptable to the Senior Lenders.

Please note that under Section 5.03 (b) (ii) and (iii) and Section 5.03 (c) of the Common Terms Agreement, we are obliged to provide the Senior Lenders with:

(a) a copy of the annual and any other management letter or other communication from you to the undersigned company or its management commenting on, among other things, the adequacy of the undersigned company's financial control procedures and accounting and management information systems; and

(b) a report (in form pre-agreed by the Senior Lenders), signed by the Borrower's chief financial officer [and reviewed by the Auditors] to the effect that, on the basis of its financial statements:

SCHEDULE 4
Page 2 of 2

- (A) the Borrower was in compliance with the covenants in Section [] and Section []; and
- (B) the Auditors are not aware of any non-compliance by the Borrower with such covenants.

Please also submit each such communication and report to the Senior Lenders with the audited accounts.

For our records, please ensure that you send to us a copy of every letter that you receive from the Senior Lenders immediately upon receipt and a copy of each reply made by you immediately upon the issue of that reply.

Yours truly,

[NAME OF BORROWER]

By _____
Authorized Representative

Enclosure

cc: Director
[Name of Department]
International Finance Corporation
2121 Pennsylvania Avenue, N.W.
Washington, D.C. 20433
United States of America

Erste Bank AD Podgorica
[address]

FORM OF QUARTERLY PROJECT IMPLEMENTATION REPORT
(To be provided throughout the project implementation period)

(See Section 5.03 (a) (iii) of the Common Terms Agreement)

A. Project Cost Data
Quarter Ended _____, 20__

ESTIMATED COSTS

Project Items	Per Common Terms Agreement	As Revised Up To End of Previous Quarter	Costs Incurred and Recorded on Books	Funds Committed But Not Yet Incurred	Balance of Funds Not Committed or Incurred
	(1)	(2)	(3)	(4)	(5) = (2) - (3) - (4)
<u>Property, Plant and Equipment:</u>					
Land					
Buildings					
Design and engineering					
Civil works					
Equipment					
[...]					
Total Property, Plant and Equipment				(4)	(5) = (2) - (3) - (4)

<p><u>Other Project Items:</u> Contingency Interest During Construction Short-Term Debt Refinancing Working Capital [...] Total Other Project Items TOTAL PROJECT COST</p>							
<p>Project [Physical] Completion _____ Date: _____</p> <p><i>Note: All costs should be clearly identified by project items. Wherever applicable, further breakdowns should be also provided. (e.g.: retail project: costs per store built/ modernized)</i></p> <p><i>IFC should fill out Column 1 (Project Cost as per Common Terms Agreement).</i></p>							

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B. Sources of Project Financing
Quarter Ended _____, 20__

	Financial Plan		Draw-down as of End of This Quarter (3)	Undis- bursed (4) = (2) - (3)
	Original (1)	Latest (2)		
Share Capital:				
Shareholder A				
Shareholder B				
[...]				
[IFC]				
Total Share Capital				
Long-Term Debt:				
Parallel DFI Lender No. 1				
Parallel DFI Lender No. 2				
[...]				
IFC				
Total Long-Term Debt				
Other Financing:				
Cash Generation				
Short-Term Borrowing				
Total Other Financing				
TOTAL FINANCING				

Maturity _____ *Interest Rate*
 _____ %
 _____ %
 _____ %
 _____ %

Note: IFC should fill out Column 1 (Financial Plan as per Common Terms Agreement).

C. Material Adverse Effects

Please comment on any factors that could have a material adverse effect on:

- the carrying out of the Project or the implementation of the Financial Plan;
- the Company's business, operations or financial condition.

Note:

The MAC reporting beyond the project implementation period is captured in the new standard term sheet. Please refer to paragraph 17.3 (c) "Other requirements".



ENVIRONMENTAL AND SOCIAL ACTION PLAN (ESAP)

#	Actions	Indicators of Completion	Milestone
1.	<p>The Borrower will require the project EPC contractor to identify and appoint an environmental, health and safety (EHS) manager with experience in the application of the E&S standards of international financial institutions to ensure implementation of the project's EHS management system in the construction phase, according to IFC's E&S standards.</p>	<p>EHS organizational structure agreed with IFC.</p>	<p>60 days prior to construction commence</p>
2.	<p>The Borrower will require the project EPC contractor to develop a Construction EHS Management Plan (CEHSMP) comprising all environmental, social, health and safety performance requirements and detailed timelines for implementation of specific mitigation measures and monitoring activities. The Borrower will monitor and assure that the management plan is implemented and complies with Borrower's policies and IFC Performance Standards.</p> <p>Construction EHS management plan will define responsibilities, include subcontractor managements, and will comprise the following:</p>	<p>Submission of CEHSMP with all listed EHS management plans approved by the EPC contractor to IFC for review and comments.</p>	<p>30 days prior /construction commencement</p>

	<ul style="list-style-type: none"> • Air emissions and dust management; • Waste management (covering hazardous and non-hazardous waste streams); • Emissions control plan for the concrete batch plant (air and liquid effluents) • Oil and chemical spill management; • Traffic and transport management; • Occupational health and safety management • Emergency preparedness and response; • Community health and safety management; • Security management; • Grievance procedure (external for affected parties); • Noise and vibration management; • Chance find procedure • Environmental monitoring 		
3.	<p>In accordance with the stakeholder engagement plan (SEP) the Borrower will provide early notice to villages and residents prior to the Project construction phase commence, including details on mitigation and management measures for project activities in the area (traffic management, route diversions, noise/vibration management, etc.).</p>	<p>Submit report to IFC on engagement with the affected stakeholders.</p>	<p>30 days prior to construction work commence</p>

4.	<p>The Borrower shall require the EPC contractor to develop and implement a grievance procedure for all workers, including subcontractor employees. The procedure will be included in the contractor HR policy, and the Borrower and contractor will ensure that all workers are aware of the mechanism.</p>	Adoption and implementation of employee grievance procedure.	30 days prior to construction works commence
5.	<p>(i) The Borrower will develop an Operational EHS management plan (OESHMP) for the project including the following:</p> <ul style="list-style-type: none"> • Emergency preparedness and response plan; • Community health and safety management plan; • Grievance procedure (external for affected parties); • Noise and vibration management plan. <p>(ii) The Borrower will engage a consultant to assess the effectiveness of the noise barriers that were constructed along the southwest bypass.</p>	<p>Submission of OESHMP to IFC for review and comment, including all listed E&S management plans approved by the City of Podgorica</p> <p>Consultant acceptable to IFC. Noise assessment reports reviewed and accepted by IFC</p>	<p>30 days prior to operational phase commence</p> <p>12 months after south west bypass is opened</p>
6.	<p>(i) The Borrower will prepare the land acquisition management plan in accordance with local legal requirements and PSS;</p> <p>(ii) The Borrower will develop a grievance redress mechanism to receive and address the affected land owners' concerns regarding the expropriation plans and process.</p>	<p>Present the land acquisition management plan to IFC for review and comments</p> <p>Present the grievance mechanism to IFC for review and comments.</p>	<p>30 days before launching of the tender for EPC</p> <p>30 days before launching of the tender for EPC</p>

	<p>(iii) The Borrower will actively cooperate with IFC to undertake a third-party review of the land acquisition process against PS5 requirements and report outcomes. The Borrower will implement the agreed corrective measures, as needed.</p>	<p>Submission of report to IFC for review and comments. Completion audit submitted to IFC</p>	<p>1 year after completion of the land acquisition process, including implementation of any agreed corrective actions, as needed</p>
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INTERNATIONAL FINANCE CORPORATION

ENVIRONMENTAL AND SOCIAL PERFORMANCE
ANNUAL MONITORING REPORT (AMR)

MONTENEGRO

Podgorica Roads
#39970

REPORTING PERIOD: (month/year) through (month/year)

AMR COMPLETION DATE: (31/March/20__)

83 85



Environment and Social Development Department
2121 Pennsylvania Avenue, NW
Washington, DC 20433 USA
www.ifc.org/enviro

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AMR Section I

The Annual Monitoring Report

IFC's Investment Agreement requires the City Of Podgorica to prepare a comprehensive Annual Monitoring Report (AMR) for Podgorica Bypass facilities and operations. This document comprises IFC's preferred format for environmental and social performance reporting. The AMR informs the Environment and Social Development Department about the environmental and social state of the investment.

AMR will be prepared by Podgorica Bypass and submitted annually to IFC. AMR will report on all identified aspects of the project development. AMR may be modified to accommodate for EHS issues that may become relevant for the project during its development and operations. Eventual modification of AMR can be done only in consultation with IFC EHS specialist.

Preparation Instructions

The following points should assist you in completing this form. Please be descriptive in your responses and attach additional information as needed.

- IFC's Investment Agreement requires designated EHS team of the project to complete and submit annual environmental and social monitoring reports in compliance with the schedule stipulated in the Investment agreement. (generally, within 90 days after the end of the financial year or before March 31)
- The city of Podgorica EHS team must report qualitative and quantitative project performance data each year of the investment for the environmental and social monitoring parameters included in this report format.
- The main purpose of completing this form is to provide the following information:
 1. Environmental and Social Management
 2. Occupational Health and Safety (OHS) Performance
 3. Significant Environmental and Social Events
 4. General Information and Feedback
 5. Sustainability of Project and Associated Operations
 6. Compliance with World Bank Group and local environmental requirements as specified in the Investment Agreement

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7. Compliance with World Bank Group and local social requirements as specified in the Investment Agreement
8. Data Interpretation and Corrective Measures
9. Progress on implementing the Corrective Environmental Social Action Plan (ESAP) agreed with IFC

*Specialist Contact
Information*

If you have any questions regarding the AMR or wish to discuss completion of the AMR please contact the the project assigned E&S specialist via email emohora@ifc.org.

AMR SECTION II

Client's Representation Statement by Sponsor authorized representative

I (name) in my role of (position) and representing ClientCompany's certify that

- a) *The Project is in compliance with all applicable E & S Requirements as described in the investment agreement/contract/.../, and all actions required to be undertaken pursuant to the Environmental and Social Action Plan (ESAP) and any subsequent supplemental action plans.*

ES *ES*

- b) Beyond what is reported in this AMR for the current reporting period, in relation to the Project, to the best of my knowledge , after due inquiry, there no:
- Circumstances or occurrences that have given or would give rise to violations of E &S and labor Laws or E &S and labor Claims;
 - Social unrest, local population disruption or negative NGO attention due to the project
 - Material social or environmental risks or issues in relation to the Project other than those identified by the E&S Assessment and the Environmental and Social Review Summary.
 - Existing or threatened complaint, order, directive, claim, citation or notice from any Authority.
 - Any written communication from any Person, in either case, concerning the Project's failure to comply with any matter covered by the Performance Standards;
 - Ongoing or, threatened, strikes, slowdowns or work stoppages by employees of the Borrower or any contractor or subcontractor with respect to the Project;
- c) *All information contained in this AMR is true, complete and accurate in all respects at the time of submission and no such document or material omitted any information the omission of which would have made such document or material misleading.*
- d) *There have not been any new activities of the city of Podgorica (eg. expansions, construction works, etc) that could generate adverse environmental effects? And there have been no new ESIA studies, audits, or E&S action plans conducted by or on behalf of the City of Podgorica, with respect to any Environmental or Social standards/regulation/ applicable to the Project that IFC has not been notified of*

Signature

Date

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B

AMR SECTION III

SUMMARY OF KEY E&S ASPECTS DURING THE REPORTING PERIOD

Project Status

Summary of current operations: Describe any significant changes since the last report in the company or in day-to-day operations that may affect environmental and social performance.

Compliance evaluation: Was the EPC contracted by the City of Podgorica in material compliance with (i) Applicable S&E Laws, and (ii) E&S Performance Standards, (ii) Environmental and Social Action Plan?

If No, please summarize the non-compliance status and corrective actions that were taken or being taken.

Major environmental and social achievements: Please summarize notable environmental and social (E&S) achievements of the City of Podgorica during the reporting year (e.g. awards received, higher performance achieved or recognized, improved community relationship).

Major challenges and issues for the City of Podgorica and project EPC: Please summarize major environmental and social challenges that the Company faced with (e.g. major incidents, spills, fire, explosion or unplanned releases, failure of emissions or effluent treatment, legal / administrative notice of violation, penalties, complaints, litigation, protest, negative media attention, chance finds of cultural heritage, labor unrest or disputes, local community concerns) and actions taken during the reporting year.

PS1: Assessment and Management of Environmental and Social Risks and Impacts

- a) E&S Assessment and Management System / Policy: For the first year AMR, please provide the summary description of the environmental, health and safety (EHS) management systems of the City of Podgorica



established for this infrastructure project and ESNS EPC Contractor⁹ (or the main project contractors) (organizational chart, budget, reporting lines, responsibilities, policies, procedures). In each subsequent year, please provide an update and changes to the EHS management systems/EHS policy statement. If the EPC's EHS management system was internationally certified (e.g. ISO 14001, OHSAS 18001), please attach a copy of the certification.

- b) Identification of Risks and Impacts: Based on the actual phase of project implementation, (construction or operation phase during the reporting year, please provide a summary of the key E&S risks and impacts that the EHS project team was faced with and the actions taken.
- c) Organizational Capacity and Competency: Please provide a summary of the latest organizational project EHS structure and EPC Contractor (roles and responsibilities) and those of the EPC and O&M Companies where relevant, in charge of EHS and social issues.
- d) Emergency Preparedness and Response: Please provide the latest list of the project related emergency preparedness and response plans and their dates in effect.
- e) Has there been any fire incident in the reporting period? If yes, please provide fire incident report including the details of these incidents, the root cause along with corrective actions taken by your organization.
- f) Please indicate if any first aid training was provided to staff during the reporting period.
- g) Monitoring and Review: If the city of Podgorica is planning to publicly report on overall E&S performance (e.g. sustainability report, LEAP update etc), please describe how it was done and share a copy of the report (if available).
- h) Stakeholder Engagement: Please provide a summary of how the city of Podgorica continued to engage stakeholders in this reporting period,

⁹ EPC of contracted main contractors



including affected communities, to ensure that their concerns are properly monitored and addressed. Please also describe how the affected communities were informed about the progress of E&S management programs.

- i) Briefly describe the number and type of comments and/or grievances received by the City of Podgorica in respect to the project E&S issues? How many have been resolved and how many are pending? (Please attach a table with grievance redress registry)

PS2. Labor and Working Conditions

- a) Human Resources Policies and Procedures: Has the EPC contracted by the City of Podgorica changed Human Resources (HR) policies, procedures or working conditions during the reporting period? If yes, please provide details.

Provide the following information regarding your workforce:

	# of direct EPC employees	# female direct employees	# employees terminated	# employees hired
EPC				
EPC's subcontractor				
EPC's subcontractor				
Total				

- j) Has the Project been subject to any ongoing or, threatened, strikes, slowdowns or work stoppages by employees or any contractor or subcontractor? If yes, please provide details.
- k) If the City of Podgorica or the EPC received reasonable complaints through internal grievance mechanism for workers or through national



regulatory agency/courts, please provide a summary of those, particularly about issues of labor union membership, non – discrimination, involuntary retrenchment, local employment and occupational health and safety.

- l) Workers Organization: Please provide a summary of whether the EPC and O&M Companies complied with national law in allowing workers to form and join workers' organizations without retaliation or discrimination. Please provide a summary of workers' organizations with numbers in member workers relative to total employees.
 - Total number of direct workers who are members of the workers' organization(s)
 - Name(s) of the workers' organization(s)
- m) Training: Please provide a list of the E&S related training conducted during the reporting period if any.
- n) Retrenchment: If the EPC and O&M Companies undertook any involuntary retrenchment¹⁰ during the reporting year, please provide retrenchment data including a copy of the retrenchment plan.
- o) Grievance Mechanism: Please provide a summary of the latest grievance mechanism in effect for workers of the EPC Company to raise reasonable workplace concerns.
- p) Child Labor / Forced Labor: Please state whether the EPC remained compliant with the Child Labor and Forced Labor requirements of the Performance Standards. Please also provide a description of how it is being enforced and checked.

¹⁰ Collective dismissals which cover all multiple dismissals that are a result of an economic, technical, or organizational reason; or other reasons that are not related to performance or other personal reasons)



- q) Please describe the public consultation and disclosure activities in accordance with the project SEP to date and planned. For general informal meetings, political/technical group informal meetings and formal public hearings please include
 - r) the meeting date or planned meeting date,
 - s) meeting subject,
 - t) affected influence area, and
 - u) attendees.
 - v) Please also include information on grievances and resolutions activities.

Occupational Health and Safety

Occupational Health and Safety: Please provide occupational health and safety performance data of the EPC and its subcontractors using the table below and analyze the effectiveness of the actions being taken for improvement. Please attach short descriptions of accidents (including fatalities), dates, results of investigation, preventive measures taken.

Occupational Health and Safety Indicators

Item	Number			Total
	Employees	Contractors	Total	Previous year
A: Fatalities: ¹¹				
B: Total Lost Time Accidents (including vehicular): ¹²				
C: Total number of lost workdays resulting from incidents: ¹³				

¹¹ Please attach separate reports detailing the circumstances of each fatality.

¹² In capacity to work for at least one full workday beyond the day on which the accident or illness occurred.

¹³ Lost workdays are the number of workdays (consecutive or not) beyond the date of injury or onset of illness that the employee was away from work or limited to restricted work activity because of an occupational injury or illness.

D: Total man-hours worked this reporting period:				
E: Incidence during this reporting period: (Note: Incidence = total lost workdays / total hours worked)				
F: Lost Time Injury Frequency Rate (Number of lost time accidents x 1,000,000 hours / total man-hours worked = injuries per million hours worked)				
G: Lost Time Severity Rate (Total Lost workdays x 1,000,000 hours / total man-hours worked = lost workdays per million hours worked)				

Provide details for the non-fatal injuries during this reporting period

Company or contractor employee?	Total workdays lost	Description of injury ¹⁴	Cause of accident	Corrective measures to prevent reoccurrence

Describe in detail fatalities and vehicle accidents, including corrective measures (provide copies of OHS investigation and respective corrective plan).

Significant Incidents

Date of Incident	Type of Incident (drop down list)	Brief Description of Incident	Fatalities? (Y/N)	# of Fatalities	Preventive measures taken after the incident

¹⁴ Injury: Incapacity to work for at least one full workday beyond the day on which the accident or illness occurred.

Lost workdays are the number of workdays (consecutive or not) beyond the date of injury or onset of illness that the employee was away from work or limited to restricted work activity because of an occupational injury or illness.

PS3. Resource Efficiency and Pollution Prevention

Provide the following environmental monitoring data for this reporting period. If you already have all the data requested available in another format, this can be submitted instead. Please provide a scaled facility map showing the precise locations of all monitoring points.

Ambient noise:

Ambient Noise refers to noise levels outside of Podgorica Bypass’s boundaries. The EHS team of the project is required to collect representative samples of ambient noise at a minimum of AGREED NUMBER of locations, perform measurements and report the results to IFC. Individual samples and individual reports will be required for each ambient noise monitoring point.

Please provide maximum levels in Montenegrin units in the table below.

Ambient Noise Residential, Institutional or Educational Monitoring Point Location¹⁵:
Ambient Noise Industrial or Commercial Monitoring Point Location⁸:

Ambient Noise Parameters	Collection Frequency	WBG/IFC Maximum Levels (dB(A))	Podgorica SW Bypass Performance (dB(A))	The City of Podgorica Maximum Levels (dB(A))	Podgorica SW Bypass Performance (dB(A))
Nearest Residential, Institutional or Educational Receptors Daytime (07:00-22:00 hours)	Quarterly	55 dB(A)	dB(A)	dB(A)	
Nearest Residential, Institutional or Educational Receptors Nighttime (22:00-07:00 hours)	Quarterly	45 dB(A)	dB(A)	dB(A)	
Nearest Industrial or Commercial Receptors	Quarterly	70 dB(A)	dB(A)	dB(A)	

¹⁵ Provide latitude, longitude of ambient noise monitoring points. Alternatively provide a scaled map showing the precise location of the monitoring points.

Ambient Noise Parameters	Collection Frequency	WBG/IFC Maximum Levels (dB(A))	Podgorica SW Bypass Performance (dB(A))	The City of Podgorica Maximum Levels (dB(A))	Podgorica SW Bypass Performance (dB(A))
Daytime (07:00-22:00 hours)					
Nearest Industrial or Commercial Receptors Nighttime (22:00-07:00 hours)	Quarterly	70 dB(A)	dB(A)	dB(A)	
Nearest Receptors Outside Property Boundary Daytime (07:00-22:00 hours)	Quarterly	75 dB(A)	dB(A)	dB(A)	
Nearest Receptors Outside Property Boundary Nighttime (22:00-07:00 hours)	Quarterly	70 dB(A)	dB(A)	dB(A)	
Nearest Noise-Sensitive Receptor Nighttime (22:00-07:00 hours)	Quarterly	60 dB(A)	dB(A)		

Noise mitigation measures: Please provide a status report of the implementation of noise abatement measures/structures in accordance with the project Noise Management plan prepared as part of the EIA.

Ambient air quality:

Podgorica Bypass is required to collect representative samples of ambient air at a minimum of AGREED NUMBER of locations (e.g. northbound, southbound, eastbound and/or westbound), submit these samples for laboratory analysis and report the results to IFC. Individual samples and individual reports will be required for each ambient air monitoring point. Monitoring should take place while facility is operating

Ambient Air Parameters	Collection Frequency	WBG/IFC Maximum Levels ¹⁶ (WBG/IFC Units)	Podgorica Bypass Performance (WBG/IFC Units) Annual average of quarterly samples	Montenegrin Maximum Levels ¹⁷ (Montenegrin Units)	Podgorica Bypass Performance (Montenegrin Units)
Nitrogen dioxide (NO ₂) Guideline MNE L.V. Annual Arithmetic Mean MNE L.V. 1- hour average (not to be exceeded more than 18 times/Year)	2 weeks per season/ during the year	40 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	40 $\mu\text{g}/\text{m}^3$ 200 $\mu\text{g}/\text{m}^3$	
Particulate Matter (PM ₁₀) Guideline MNE L.V. Maximum 24- hour Average	2 weeks per season/ during the year	75- $\mu\text{g}/\text{m}^3$ 150 $\mu\text{g}/\text{m}^3$ 50	$\mu\text{g}/\text{m}^3$	50 $\mu\text{g}/\text{m}^3$	
Particulate Matter (PM ₁₀) Guideline MNE L.V. Annual Arithmetic Mean	2 weeks per season/ during the year	30-70 $\mu\text{g}/\text{m}^3$ 20 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	40 $\mu\text{g}/\text{m}^3$	
Sulfur Dioxide (SO ₂) Guideline	2 weeks per season/ during the year	50- $\mu\text{g}/\text{m}^3$ 125 $\mu\text{g}/\text{m}^3$ 20 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	125 $\mu\text{g}/\text{m}^3$ 350 $\mu\text{g}/\text{m}^3$	

¹⁶Some of the maximum levels values were taken from the following source: Online NIOSH Pocket Guide to Chemical Hazards, National Institute for Occupational Safety and Health, 2002.

¹⁷ Please enter national maximal levels

Ambient Air Parameters	Collection Frequency	WBG/IFC Maximum Levels ⁶ (WBG/IFC Units)	Podgorica Bypass Performance (WBG/IFC Units) Annual average of quarterly samples	Montenegrin Maximum Levels ¹⁷ (Montenegrin Units)	Podgorica Bypass Performance (Montenegrin Units)
MNE L.V. Maximum 24-hour Average MNE L.V. 1-hour average (not to be exceeded more than 24 times/Year)					
Ozone Guideline MNE T.V. Maximum 8-hour Average	2 weeks per season/ during the year	160 $\mu\text{g}/\text{m}^3$ 100 $\mu\text{g}/\text{m}^3$		120 $\mu\text{g}/\text{m}^3$	
Total Suspended Particles (TSP) Annual Arithmetic Mean		80 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$		
Total Suspended Particles (TSP) Maximum 24-hour Average		230 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$		
Arsenic, Total Annual Arithmetic Mean MNE T.V. Annual Arithmetic Mean	weekly (8 total)	2 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	0.006 $\mu\text{g}/\text{m}^3$	
Cadmium, Total Rural area		5 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$		
Cadmium, Total Urban area	weekly (8 total)	20 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	0.005 $\mu\text{g}/\text{m}^3$	

Ambient Air Parameters	Collection Frequency	WBG/IFC Maximum Levels ¹⁶ (WBG/IFC Units)	Podgorica Bypass Performance (WBG/IFC Units) Annual average of quarterly samples	Montenegrin Maximum Levels ¹⁷ (Montenegrin Units)	Podgorica Bypass Performance (Montenegrin Units)
MNE T.V. Annual Arithmetic Mean					
Lead, Total Annual Arithmetic Mean MNE L.V. Annual Arithmetic Mean	weekly (8 total)	1 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	0.5 $\mu\text{g}/\text{m}^3$	
Mercury, Total		10 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$		
Nickel, Total MNE T.V. Annual Arithmetic Mean	weekly (8 total)	15 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	0.02 $\mu\text{g}/\text{m}^3$	
2,3,7,8-TCDD (Dioxin Equivalent)		0.001 $\mu\text{g}/\text{Nm}^3$	$\mu\text{g}/\text{Nm}^3$		
Black Smoke Annual Arithmetic Mean		60 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$		
Black Smoke Maximum 24-hour Average		150 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$		
Carbon Monoxide MNE L.V. Maximum 8-hour mean	2 weeks per season/ during the year	40250 $\mu\text{g}/\text{m}^3$	$\mu\text{g}/\text{m}^3$	10000 $\mu\text{g}/\text{m}^3$	
Benzene MNE L.V. Annual Arithmetic Mean	2 weeks per season/ during the year		$\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$	
Benzo(a)pyrene MNE T.V. Annual Arithmetic Mean	2 weeks per season/		$\mu\text{g}/\text{m}^3$	0.001 $\mu\text{g}/\text{m}^3$	

Ambient Air Parameters	Collection Frequency	WBG/IFC Maximum Levels ¹⁶ (WBG/IFC Units)	Podgorica Bypass Performance (WBG/IFC Units) Annual average of quarterly samples	Montenegrin Maximum Levels ¹⁷ (Montenegrin Units)	Podgorica Bypass Performance (Montenegrin Units)
	during the year				

Liquid effluent discharges:

Please provide to IFC quantitative data on the projects' liquid effluent. Provide data for the quality of liquid effluent before treatment (Raw Liquid Effluent) and after treatment (Treated Liquid Effluent). Please provide Montenegrin maximum levels in Montenegro units in the table below. This section is mostly focused on management of storm waters.

Monitoring Point Location (Provide latitude, longitude of the liquid effluent discharge point, and a scaled facility map showing the precise location of all discharge points.):

Parameters	Sample Collection and Analysis Frequency	WBG/IFC Maximum Levels (WBG/IFC Units)	Projects Performance (WBG/IFC Units) Annual average of monthly samples	Montenegro Maximum Levels (Montenegro Units)	Projects Performance (Montenegro Units) Annual average of monthly samples
pH	Daily	6-9			
Biochemical oxygen demand (BOD ₅)	Weekly	50 mg/l	mg/l		
Chemical oxygen demand (COD)	Weekly	250 mg/l	mg/l		
Oil and grease	Weekly	10 mg/l	mg/l		

Parameters	Sample Collection and Analysis Frequency	WBG/IFC Maximum Levels (WBG/IFC Units)	Projects Performance (WBG/IFC Units) Annual average of monthly samples	Montenegro Maximum Levels (Montenegro Units)	Projects Performance (Montenegro Units) Annual average of monthly samples
Total suspended solids (TSS)	Weekly	50 mg/l	mg/l		
Lead		0.1 mg/l	mg/l		
Zinc		2.0 mg/l	mg/l		
Copper		0.5 mg/l	mg/l		
Chromium		0.5 mg/l	mg/l		
Nickel		0.5 mg/l	mg/l		
Cadmium		0.1 mg/l	mg/l		
Sodium chloride					
Magnesium chloride					
Active pesticide ingredients (each)		0.05 mg/l			
Please add relevant parameters					

Waste and Hazardous Materials (mostly focused on construction phase)

Item	Non-hazardous waste				Hazardous waste			
	Generated (ton)	Recycled (ton)	Disposed (ton)	Recycling ratio (%)	Generated (ton)	Recycled (ton)	Disposed (ton)	Recycling ratio (%)
	A	B	C=A-B	D=B/A	E	F	G=E-F	H=F/E

- a) Please provide results of the Environmental monitoring plan (ESAP action 2) for the Project construction phase.

PS4 - Community Health, Safety and Security

Using the table below list and briefly describe any new initiatives implemented in relation to community health and safety during the reporting period. Include risk assessments, new infrastructure and equipment; hazardous materials and safety management, transportation and exposure to disease.

Mitigation Measure	Expected or actual date of Implementation	Planned future mitigation efforts?

During the reporting period, any emergency drills have been conducted with community participation? Are the communities aware of the emergency response plans?

Please describe any changes in the Company's engagement with private/public security forces during the reporting period and any corresponding agreements.

PS5 - Land Acquisition and Involuntary Resettlement

Provide the following information regarding land acquisition process in accordance with land Acquisition Plan that has taken place during the reporting period. If none, write N/A and skip this section.

	# Plots	Hectares	Status of Acquisition % total area
Total area acquired during the reporting period			
Total area of agricultural lands affected			

Displacement Indicators

	Total land (Ha)	Total Families/ Business	Total Individuals	Resettled/ Restored To-Date	Pending	Comments
1. Physically displaced						
Legal title holders						
Without title Squatters						
Renters						
Total						
2. Economically displaced						
3. Physically and Economically Displaced (Both)						
TOTAL						

Note: Please provide the following information regarding families/individuals/business directly affected by land acquisition (If any)

Briefly describe any measures to avoid impacts on livelihoods and residences during the reporting period.

Briefly describe the type of solutions provided for new physically displacement and economic displacement not included in the RAP).

Briefly describe any special measures for particularly vulnerable cases (elderly, female-headed household, etc) (new displacement)

Please attach detailed information/report of the resettlement process as per the Resettlement Action Plan monitoring arrangement.



Using the Table provided below list any grievance or dispute (include court action) regarding land acquisition or resettlement received during the reporting period, describe how it was addressed and its current status.

Grievance/ Dispute date	Complainant	Issue	Resolved (Y/N)	Action taken	Date closed

Action Plan Status and Update

Please update us in the current status of the action plan, define the dates when pending actions will be implemented. Please refer to the initial ESAP for the indicators and deliverables.

#	Actions	Indicators of Completion	Milestone	Status
1.	The Borrower will require the project EPC contractor to identify and appoint an environmental, health and safety (EHS) manager with experience in the application of the E&S standards of international financial institutions to ensure implementation of the project's EHS management system in the construction phase, according to IFC's E&S standards.	EHS organizational structure agreed with IFC.	60 days prior to construction commencement	
2.	The Borrower will require the project EPC contractor to develop a Construction EHS Management Plan (CEHSMP) comprising all environmental, social, health and safety performance requirements and detailed timelines for implementation of specific mitigation measures and monitoring activities. The Borrower will monitor and assure that the management plan is implemented and complies with Borrower's policies and IFC Performance Standards.	Submission of CEHSMP with all listed EHS management plans approved by the EPC contractor to IFC for review and comments.	30 days prior /construction commencement	

	<p>Construction EHS management plan will define responsibilities, include subcontractor managements, and will comprise the following:</p> <ul style="list-style-type: none"> • Air emissions and dust management; • Waste management (covering hazardous and non-hazardous waste streams); • Emissions control plan for the concrete batch plant (air and liquid effluents) • Oil and chemical spill management; • Traffic and transport management; • Occupational health and safety management • Emergency preparedness and response; • Community health and safety management; • Security management; • Grievance procedure (external for affected parties); • Noise and vibration management; • Chance find procedure • Environmental monitoring 			
3.	<p>In accordance with the stakeholder engagement plan (SEP) the Borrower will provide early notice to villages and residents prior to the Project construction phase commence, including details on mitigation and management measures for project activities in the area (traffic management, route diversions, noise/vibration management, etc.).</p>	<p>Submit report to IFC on engagement with the affected stakeholders.</p>	<p>30 days prior to construction work commence</p>	

4.	The Borrower shall require the EPC contractor to develop and implement a grievance procedure for all workers, including subcontractor employees. The procedure will be included in the contractor HR policy, and the Borrower and contractor will ensure that all workers are aware of the mechanism.	Adoption and implementation of employee grievance procedure.	30 days prior to construction works commence	
5.	<p>(i) The Borrower will develop an Operational EHS management plan (OEHSMP) for the project including the following:</p> <ul style="list-style-type: none"> • Emergency preparedness and response plan; • Community health and safety management plan; • Grievance procedure (external for affected parties); • Noise and vibration management plan. <p>(ii) The Borrower will engage a consultant to assess the effectiveness of the noise barriers that were constructed along the southwest bypass.</p>	<p>Submission of OESHMP to IFC for review and comment, including all listed E&S management plans approved by the City of Podgorica</p> <p>Consultant acceptable to IFC. Noise assessment reports reviewed and accepted by IFC</p>	<p>30 days prior to operational phase commence</p> <p>12 months after south west bypass is opened</p>	
6.	<p>(i) The Borrower will prepare the land acquisition management plan in accordance with local legal requirements and PS5;</p> <p>(ii) The Borrower will develop a grievance redress mechanism to receive and address the affected land owners' concerns regarding the expropriation plans and process.</p>	<p>Present the land acquisition management plan to IFC for review and comments</p> <p>Present the grievance mechanism to IFC for review and comments.</p>	<p>30 days before launching of the tender for EPC</p> <p>30 days before launching of the</p>	

	<p>(iii) The Borrower will actively cooperate with IFC to undertake a third-party review of the land acquisition process against PS5 requirements and report outcomes. The Borrower will implement the agreed corrective measures, as needed.</p>	<p>Submission of report to IFC for review and comments. Completion audit submitted to IFC</p>	<p>tender for EPC 1 year after completion of the land acquisition process, including implementation of any agreed corrective actions, as needed</p>	
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Handwritten initials or signatures in blue ink, located at the bottom right of the page.