

**DRAFT no. 2 dated 25 November 2019
Subject to modifications and approval by EIB
management**

BY COURIER

Statutární město Plzeň

Nám. Republiky 1
306 32 Plzeň
Czech Republic

For the attention of: Head of Finance Department

Luxembourg, [] 2019

JU/OPS1/CE/[]/[]/[]
EIB – Corporate use

Reference: **PLZEN URBAN INFRASTRUCTURE III (SERAPIS 2013-0144; FI 82.651)**

Finance contract between the European Investment Bank (the "**Bank**") and Statutární město Plzeň (the "**Borrower**") dated 19 June 2014, as amended by the amendment letter n° 1 dated 7 September 2017 (the "**Finance Contract**")

Subject: **Amendment Letter N° 2**

Dear Sirs,

Unless the context otherwise requires or unless otherwise defined in this amendment letter (the "**Amendment Letter**"), terms defined in the Finance Contract and expressions used in the Finance Contract have the same meaning when used in this Amendment Letter.

We agree to amend the Finance Contract subject to the terms and conditions set out herein.

1 AMENDMENTS TO THE FINANCE CONTRACT

The Finance Contract is hereby amended, with effect from the Effective Date, as set out below:

- 1.1** the definition of **Interest Revision/Conversion** set out in the Definitions section of the Finance Contract shall be amended so that it reads as follows:

*"**Interest Revision/Conversion**" means the determination of new financial conditions relative to the interest rate, specifically the same interest rate basis ("revision") or a different interest rate basis ("conversion") which can be offered for the remaining term of a Tranche or until a next Interest Revision/Conversion Date, if any, for an amount which, at the proposed Interest Revision/Conversion Date, is not less than EUR 5,000,000 (five million euros) or the equivalent thereof."*

- 1.2** **Article 12.01 (Notices to either party)** of the Finance Contract shall be amended so that it reads as follows:

"12.01. Form of Notice

- (a) Any notice or other communication given under this Contract must be in writing and, unless otherwise stated, may be made by letter, electronic mail and facsimile.
- (b) Notices and other communications for which fixed periods are laid down in this Contract or which themselves fix periods binding on the addressee, may be made by hand delivery, registered letter, facsimile or by electronic mail. Such notices and communications shall be deemed to have been received by the other party:
 - (i) on the date of delivery in relation to a hand-delivered or registered letter;
 - (ii) on receipt of transmission in relation to a facsimile; or
 - (iii) in the case of any electronic mail, only when actually received in readable form and only if it is addressed in such a manner as the Bank and the Borrower shall specify for this purpose;
- (c) Any notice provided by the Borrower to the Bank by electronic mail shall:
 - (i) mention the contract number ("FI N°") mentioned on the cover page of this Contract in the subject line; and
 - (ii) be in the form of a non-editable electronic image (pdf, tif or other common non editable file format agreed between the parties) of the notice signed by an authorised signatory with individual representation right or by two or more authorised signatories with joint representation right of the Borrower, attached to the electronic mail.
- (d) Notices issued by the Borrower pursuant to any provision of this Contract shall, where required by the Bank, be delivered to the Bank together with satisfactory evidence of the authority of the person or persons authorised to sign such notice on behalf of the Borrower and the authenticated specimen signature of such person or persons.
- (e) Without affecting the validity of electronic mail or facsimile notices or communication made in accordance with this Article 12.01, the following notices, communications and documents shall also be sent by registered letter to the relevant party at the latest on the immediately following Business Day:
 - (i) Disbursement Acceptance;
 - (ii) any notices and communication in respect of the deferment, cancellation and suspension of a disbursement of any Tranche, interest revision or conversion of any Tranche, Market Disruption Event, Prepayment Request, Prepayment Notice, Event of Default, any demand for prepayment; and
 - (iii) any other notice, communication or document required by the Bank.
- (f) The parties agree that any above communication (including via electronic mail) is an accepted form of communication and shall constitute admissible evidence in court and shall have the same evidential value as an agreement under hand (sous seing privé)."

1.3 Article 12.02 (Form of notice) of the Finance Contract shall be amended so that it reads as follows:

"12.02. Addresses

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

For the Bank

Attention: Ops A - Lending Operations in Central Europe

98-100 boulevard Konrad Adenauer

L-2950 Luxembourg

E-mail address: contactline-82651@eib.org

Facsimile no: + 352 43 79 6 71 96

For the Borrower

Attention: Head of Finance Department

Nám. Republiky 1

306 32 Plzeň

Czech Republic

E-mail address: posta@plzen.eu

Facsimile no.: +420 378 034 502

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

- 1.4 Article 6.11 (*General Representations and Warranties*) letter (c) of the Finance Contract shall read as follows:

"the acceptance of the Credit and the execution of this Contract was approved by the Assembly (in Czech: zastupitelstvo) of the Statutární město Plzeň on 12 June 2014 and on 7. September 2017, in accordance with Section 85 of the Municipalities Act;"

2 REPRESENTATIONS

The representations and warranties that are repeated under and pursuant to Article 6.11 (*General Representations and Warranties*) of the Finance Contract are deemed repeated (by reference to the facts and circumstances then existing) by the Borrower (i) on the date the Borrower countersigns this Amendment Letter and (ii) on the Effective Date.

3 MISCELLANEOUS

- 3.1 Other than in accordance with Article 1 (*Amendments to the Finance Contract*) of this Amendment Letter, no provision of this Amendment Letter shall restrict, waive, limit, or in any other way amend any rights of the Bank under the Finance Contract.
- 3.2 This Amendment Letter is not (and shall not be deemed to be) a consent, agreement, amendment or waiver in respect of any terms, provisions or conditions of the Finance Contract, except as expressly agreed herein. The Bank reserves any other right or remedy it may have now or subsequently.
- 3.3 The terms and conditions in the Finance Contract are hereby confirmed and shall remain in full force and effect and the terms of this Amendment Letter shall be strictly interpreted and construed without prejudice to the Bank's rights and powers under the Finance Contract, including all of its rights and remedies in respect of any other non-compliance which (i) have not been disclosed prior to the date of this Amendment Letter to the Bank, (ii) are continuing and have not been waived prior to the date of this Amendment Letter by the Bank, or (iii) which arise on or after the date of this Amendment Letter.
- 3.4 The Bank issues this Amendment Letter acting in reliance upon the information supplied to the Bank by the Borrower by the date hereof in relation to such information being true, complete and accurate. It shall be without prejudice to any rights which the Bank may have at any time in relation to any other circumstance or matter other than as specifically referred to in this Amendment Letter or in relation to any such information not being true, complete and accurate, which rights shall remain in full force and effect.
- 3.5 The Borrower shall, at the request of the Bank and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments effected or to be effected pursuant to this Amendment Letter.

3.6 Article 11.03 (*Place of performance*), Article 11.07 (*Amendments*), Article 11.08 (*Counterparts*), Article 11.09 (*Compliance with the Municipalities Act*), Article 12.01 (*Notices to either party*), Article 12.02 (*Form of notice*) and Article 12.03 (*Changes to Parties*) of the Finance Contract shall apply to this Amendment Letter *mutatis mutandis*.

3.7 This Amendment Letter and all matters, whether contractual or non-contractual, arising out of or in connection with it shall be governed by and construed in accordance with the laws of Luxembourg and any dispute relating to it shall be submitted to the exclusive jurisdiction of the courts of Luxembourg. A decision of such courts given pursuant to this Article 3.7 shall be binding on the parties. The Borrower hereby waives any immunity it may enjoy from the execution of such decision.

4 EFFECTIVE DATE

This Amendment Letter shall take effect on the date (the "**Effective Date**") as notified by the Bank in writing to the Borrower, confirming that it has received in a form and substance satisfactory to it:

- a) 2 (two) originals of this Amendment Letter duly signed by the Borrower together with evidence that the execution of this Amendment Letter by the Borrower has been duly authorised and that the person or persons signing this Amendment Letter on behalf of the Borrower is/are duly authorised to do so. The Borrower hereby confirms that no change has occurred in relation to the authority of the person or persons authorised to sign this Amendment Letter on behalf of the Borrower.
- b) the evidence that the Borrower has duly published this Amendment Letter in the Registry of Contracts (in Czech: *Registr smluv*), as required by the applicable Czech law, within 30 (thirty) calendar days after the Borrower received this Amendment Letter signed by all parties hereto.

From such Effective Date the references in the Finance Contract to "this Contract", and similar references shall be read and construed as references to the Finance Contract as amended by the provisions of the amendment letter n° 1 dated 7 September 2017 and by this Amendment Letter. However, any references in the Finance Contract and in this Amendment Letter to the "date of this Contract" shall refer to the date of execution of the Finance Contract, i.e. 19 June 2014. The parties hereby acknowledge the amendments to the Finance Contract incorporated by the amendment letter n° 1 dated 7 September 2017 and by this Amendment Letter

