

PROJECT BATIZELE

HEADS OF TERMS FOR TERM SHEET FOR MASTER DEVELOPMENT FRAMEWORK AGREEMENT WITH BATIŽELE D.O.O. (THE “CONTRACTING AUTHORITY” or “BATIŽELE”)¹

Introductory notes:

- (1) The Contracting Authority, of which the majority shareholder is the City of Šibenik (the “**CoŠ**”), will select a Development Partner for the Project: "Urban Land Regeneration in Šibenik - Batizele Project" through an international public tender procedure.² The relevant land lies adjacent to the centre of Šibenik, Croatia (the “**Site**”).
- (2) The Contracting Authority is issuing a tender for investment in the Site (the “**Project**”).
- (3) These heads of terms (the “**Heads of Terms**”) set out essential terms for the master development framework agreement (the “**MDFA**”) to be entered into between the Contracting Authority and the successful bidder and which will regulate their contractual relationship in respect of the Project and set out each of their rights and obligations in respect of it.
- (4) The Site was formerly owned by the company TEF jsc. in liquidation, Šibenik, Prilaz Tvornici 39, OIB: 35064117764 (“**TEF**”). The real estate assets of TEF were transferred to the Contracting Authority in 2018 for the purpose of bringing the Site forward for development.
- (5) Under the terms of the MDFA, the Contracting Authority will commit to transfer rights in connection with the Site (excluding the land required for certain public facilities) to the Investor either by sale of the freehold interest in a part of the Site or by establishing a right of construction.

The land to be developed for residential use, which is to be sold to the Investor, and the land on which the right of construction will be established in favour of the Investor together comprise the “**Development Area**”. The Development Area shall be of an open type.

- (6) The Investor will acquire the Development Area as follows:
 - (i) by way of a transfer of ownership, in accordance with the real estate sale and purchase agreement, of the parts of the Development Area predominantly intended for residential development, which will also include a small portion of retail, other commercial facilities and related infrastructure (the “**Residential Zone**”), and
 - (ii) pursuant to a right of construction agreement (“**Right of Construction Agreement**”) for each part of the Development Area designated for

¹ **Note** – Unless otherwise defined in these Heads of Terms, words defined in the Invitation for Expression of Interest shall have the same meaning in these Heads of Terms.

² **Note** – Batižele is 100% publicly owned. The majority (66%) shareholder of Batižele is the CoŠ. The other shareholders are the Republic of Croatia, the Environmental Protection and Energy Efficiency Fund and the Croatian waters company.

standalone commercial development, including the multipurpose hall, hotels and car park garages, and the related infrastructure.

- (7) The concession for the maritime domain adjacent to the Site is outside the scope of these Heads of Terms.
- (8) If the Investor intends to finance the development of the Project through a bank loan, it is required to submit a binding letter of intent from a top-tier bank to the Contracting Authority either prior to or at the latest simultaneously with the signing of the MDFA (a “**Letter of Intent**”). The Letter of Intent will confirm the bank’s readiness to finance the development and construction of the Project.

PART I: PRELIMINARY TERMS

*This Part I will deal with who the parties to the MDFA will be, the conditions precedent which are required for the MDFA as a whole (the “**Conditions Precedent**”) and the anticipated term of the MDFA and extensions to it. It will also set out the overarching governance (including information sharing and reporting) regime which will apply throughout the term of the MDFA.*

1. Parties

- (1) The Contracting Authority
- (2) SPV (the “**Investor**”) which will be established by the Development Partner (being the winner of the international public tender),

(a “**Party**” and together “the **Parties**”)

The Parties agree that the tender documentation together with and the Binding Bid submitted by the Development Partner to the Contracting Authority during the tender process, represents the basis for regulating mutual relations prior to entry into the MDFA. The Development Partner will co-sign the MDFA together with the Investor and be jointly responsible for all the Investor's obligations towards the Contracting Authority. In the case of a Consortium, each member of the Consortium will be responsible to the Contracting Authority in proportion to its share in the Investor's share capital.

2. Conditions Precedent

Conditions precedent for the entry into force of the provisions of the MDFA requiring the sale and purchase of land and the establishment of the right of construction are as follows:

- (A) Adoption of the urbanistic plan of development (“**UPU**”) by Šibenik City Council
 - (i) The Investor and the Contracting Authority will work together to prepare the documentation necessary for development of the UPU in respect of the proposed development of the Site, in accordance with the Masterplan (defined below in paragraph 10).
 - (ii) The CoŠ will conduct a public procurement process to select the creator of the UPU and provide the necessary funding for its preparation. The UPU needs to be adopted by the agreed Long-stop Date.
- (B) Delivery of the bank guarantees specified in subparagraphs (A) and (B) of paragraph 31 of these Heads of Terms.

If the Conditions precedent are not met by the Longstop Date, the parties will have agreed rights to terminate the MDFA.

3. Pre draw down obligations

Prior to draw down of the Site, the Contracting Authority will satisfy the following obligations:

- (A) Land Division – The Contracting Authority will carry out the development of the geodetic study, by which the Site will be divided into new cadastral plots (each, a “**Plot**”) to reflect the division determined by the UPU. The Contracting Authority will ensure the implementation of such changes in the cadastre and land registry. There will be four categories of Plot formed: (i) Plots to be sold to the Investor for the Residential Zone; (ii) Plots for which the right of construction will be established; (iii) Plots for public facilities to be built by the “**Public Stakeholders**” (being the CoŠ and the County of Šibenik) and (iv) Plots for communal infrastructure which will be sold to the Investor and then immediately transferred by the Investor to the CoŠ at no cost to the CoŠ.
- (B) Approvals – The Contracting Authority will, at its own expense, obtain all necessary approvals for the disposal of the Site to the Investor. The Investor will provide the Contracting Authority with any information required in order to obtain those approvals.
- (C) Vacant Possession – The Contracting Authority will obtain vacant possession of the Site including terminating all existing leases.

4. Commencement

The MDFA will be binding on the Parties on entering into the MDFA (the “**Effective Date**”).

The provisions of the MDFA that are related to the Conditions Precedent, as provided for in paragraph 2 of these Heads of Terms, will not come into force and effect until the Conditions Precedent are satisfied.

5. Real estate

The Site comprises real estate held in five land registry excerpts, all in the cadastral municipality of Šibenik, as stipulated in Article 2.3. of the Invitation for expression of interest, with current registered area of 221,697 square metres. This surface shall be reduced by 858 m², pending successful conclusion of the process for determining the boundaries for the port open for public traffic and special purpose port.

6. Term

The MDFA will be concluded within a period of time (to be specified) set out in the Development Partner’s Binding Bid.

Certain specified standard contractual provisions, such as the protection of confidential information, will remain binding after termination of the MDFA.

- 7. Consideration**

The Investor will enter into sale and purchase agreement(s) with the Contracting Authority immediately upon satisfaction of the Conditions Precedent and will pay the purchase price in full to the Contracting Authority no later than 30 days after the conclusion of that agreement. The Contracting Authority will transfer the real estate ownership to the Investor upon receipt of the purchase price. The multipurpose hall, hotels, public car park garages and other facilities will be developed under the right of construction in accordance with the Masterplan (defined below in paragraph 10) and the fee for those buildings shall be paid during the term of the relevant Right of Construction Agreement.
- 8. Change of control**

The Investor cannot assign, transfer or charge the MDFA without the Contracting Authority's consent. The MDFA will contain detailed provisions regulating the change of control (ownership) of the Investor.

In the event of a change in the Investor's shareholders, the new shareholder will be jointly responsible to the Contracting Authority for all the former shareholders obligations, in proportion to their participation in the Investor's share capital.
- 9. Governance**

The Parties will set up a governance committee to remain in place throughout the term of the MDFA, with meetings of that committee to take place at least once per month. The purpose of that committee would be to provide a platform for each Party to report on their activities and to resolve any issues which arise in the Project.

PART II: PLANNING

This part will deal with the rights and obligations of each of the Investor and the Contracting Authority during the planning period, which will be the first phase of the MDFA. In broad terms, the Investor will be required to procure at its own cost the project and consents for the construction of the Development Area.

10. Masterplan The masterplan submitted by the Development Partner to the Contracting Authority during Phase B of the tender process (the “**Masterplan**”) will be attached and represent an integral part to the MDFA. The Masterplan will form the basis of the development of the UPU.

11. Project documentation The Investor will procure at its own cost the project documentation for the buildings and infrastructure for the Development Area in accordance with applicable regulations, standards and the Masterplan so that the Investor will have a direct liability for project documentataion to the Contracting Authority.

The Contracting Authority shall be entitled to reasonable reliance on the representations of the Investor in relation to the project service providers.³

The Contracting Authority will receive reliance rights on the work of the building contractor and members of the professional team so that there is a direct relationship with them if the Contracting Authority exercises its buyback right.

12. UPU The CoŠ will initiate a public procurement process in order to choose the creator of the UPU and will procure the necessary foundations for preparation of the UPU. The UPU shall be prepared in accordance with (i) the Masterplan (which will be set out in a Schedule to the MDFA), (ii) the terms of the MDFA, (iii) valid spatial plans of higher order and (iv) applicable Republic of Croatia planning provisions.

13. Public realm The Contracting Authority will enter into special agreements with the Public Stakeholders for certain parts of the Site, namely the land surface of 31,500 m², intended for the construction of Public Facilities (in accordance with the Masterplan), which include a kindergarten, a school, a music and dance school and a fire station (“**Public facilities**”) which will separately regulate mutual relations regarding the disposition of that land. The plots of land required for the Public Facilities (the “**Publicly Owned Plots**”) will be excluded from the land available for the Investor, to draw down.

³ Batižele acquires the right to rely on the Investor's statements about certain facts and/or legal relationships and, relying on the truthfulness and completeness of such statements, acts, organizes, invests, etc. in accordance with the statements. If it turns out that the Investor's statements are incorrect or incomplete, Batižele, with regard to reliance rights, is entitled to compensation for damages.

Public Stakeholders will build the Public facilities, and communal infrastructure for the relevant Publicly Owned Plot, at its own cost, and develop the project documentation and specification for the Public Facilities.

14. Business Plan

In Phase B of the tender process, the Development Partner will share its Business Plan and the temporal phasing strategy, in respect of the facilities that it intends to develop in the Development Area. The Business Plan and the phasing strategy will be incorporated into the MDFA. The Contracting Authority will be given the opportunity to comment on changes made to the Business Plan, but the Investor will not be required to take into account such feedback.

PART III: PREPARATION AND CONSTRUCTION

This part will deal with the rights and obligations of each of the Investor and the Contracting Authority during the preparation and construction period, which will be the second phase of the MDFA. In broad terms, the Investor will be required to draw down and develop the Development Area.

- 15. Structure** The MDFA will be the overarching agreement for the Project. It will:
- (A) contain obligations in respect of the development of each Plot of the Development Area; and
 - (B) annex the forms of supplementary agreements to be entered into including the sale agreements and transfer for the Residential Zone and land intended for the construction of communal infrastructure and the Right of Construction Agreement for the Plots to be constructed under the right of construction.
- 16. Timescales** The Masterplan and the Business Plan will set out how the Investor anticipates it will complete the development of the Development Area. The Investor will also be required to comply with the sequencing for the development of each Plot specified in the UPU and, in case of conflict, the terms of the UPU will prevail.
- 17. Draw down** Upon the Conditions Precedent being satisfied (including the implementation of parcelisation and the formation of new cadastral Plots), the Parties will:
- (A) enter into the sale and purchase agreement and transfer of the Residential Zone and land for communal infrastructure for the price specified in the Binding Bid, and upon payment of the price, ownership will be transferred to the Investor; and
 - (B) enter into a Right of Construction Agreement for each relevant Plot in consideration for the agreed fixed fee payable during the 75-year term of the relevant Right of Construction Agreement, which begins from the date of entry into force of the Right of Construction Agreement. The payment of the right of construction fee will commence once a use permit for an individual building on a specific Plot has been obtained. If phased construction is planned, the payment will commence upon obtaining the use permit for a specified part of the phase.

The extent of each Plot will be agreed between the Parties and set out in a Schedule to the MDFA.

Subject to the terms of the MDFA and the UPU, the Investor will not be entitled to commence construction of a new Plot under the MDFA if there is a subsisting material default in relation to an existing Plot being constructed, including abandonment of the Plot, material default of contractual obligations (following an appropriate period granted to the Investor to remedy a breach) and the Investor being unable to pay its obligations as they fall due.

18. Investor's obligations

The Investor's key obligations include:

- (A) if, during the process of drafting and adopting the UPU, the competent administrative body of the CoŠ requests the Investor to submit relevant data/documents, the Investor shall submit them within 30 days;
- (B) remediating the Site in accordance with the remediation strategy defined in the Invitation for Expression of Interest. The Investor will procure duty of care letters and/or warranties for both the appointment of the contractor and the works for the Contracting Authority. The cost of remediation will be met by the Investor;
- (C) developing the Development Area in accordance with the UPU, the Masterplan and the Business Plan with typical audit, monitoring, data and information flow rights for the Contracting Authority. In case of discrepancies, the Investor is required to develop according to the UPU;
- (D) complying with applicable regulations, consents, standards, insurances and the reasonable directions of the Contracting Authority. These standards will apply throughout each stage of the MDFA;
- (E) entering into either (i) an agreement to finance construction of the communal infrastructure ("**Communal Infrastructure Financing Agreement**") or (ii) an agreement to construct communal infrastructure ("**Communal Infrastructure Construction Agreement**") with the CoŠ. The Investor may choose which option it prefers, details of which are explained in the legal dossier.⁴ The Investor will ensure that the Masterplan provides for all necessary communal infrastructure including the following as a minimum: roads, sewers, open space, pedestrian areas, parks, public lighting and public parking. If the Investor elects to enter into a Communal

⁴ **Note** – The CoŠ advise that if the Investor enters into a Communal Infrastructure Construction Agreement, the CoŠ will not waive the Investor's communal contribution costs, whereas those costs would be waived if the Investor enters into a Communal Infrastructure Financing Agreement.

Infrastructure Construction Agreement, the CoŠ will have the right to appoint its own engineer to supervise construction of the communal infrastructure. If the Investor opts to enter into a Communal Infrastructure Financing Agreement, the building contractor will be chosen via a public tender. The CoŠ will permit the Investor (if the Investor wishes) to appoint one member of the expert committee for public procurement. The appointed member will be required to sign a statement on the existence or absence of any conflict of interest;

- (F) construct all facilities on the Development Area in accordance with the UPU and the MDFA; and
- (G) transfer ownership of Plots designed for communal infrastructure to the CoŠ at no cost to the CoŠ.
- (H) The MDFA will also contain customary provisions regulating standards of performance and the engagement of / interactions with the professional team and contractors.

19. Security

In case of external financing:

- The Investor will be permitted to grant security only over the Plots intended for the Residential Zone on which construction has started.
- The Investor will be permitted to grant security over the Right of Construction Agreement but not the underlying freehold land.

20. Consequences of late delivery

The Investor will be required to build a Plot within the time period specified in the Masterplan. If this deadline is not achieved, then a contractual sum will be payable by way of liquidated and ascertained damages (“LADs”), which will amount to €1.5 per square meter of all Plots that have not been developed by the relevant deadline for each month of delay (subject to indexation so that the amount is increased by the total inflation rate in the Republic of Croatia for the period from the date of signing of the MDFA to the date on which the contractual penalty is calculated). This penalty does not apply to Plots that have been developed, nor to those that have not reached the deadline for construction according to the schedule.

In addition to the LADs (which will continue to be payable per month of delay), the Investor will be granted an extension of time of 12 months to complete the relevant Plot but if the Plot is not completed by the expiry of the additional 12 month period, the Contracting Authority can either elect to (i) continue to receive

LADs and grant a further extension of time or (ii) terminate the MDFA and exercise the step-in and buy back option (and register it in the land registry) for any Plot for which development has not been completed.

If the Contracting Authority buys back a Plot, then it will pay to the Investor:

- (A) unbuilt Plots – the proportion of the original price that was paid by the Investor to the Contracting Authority that is attributable to the relevant unbuilt Plot less:
 - (i) any liabilities secured by a charge of the relevant Plot;
 - (ii) any LADs for late payment imposed on the Investor that have not been collected through the bank guarantee;
 - (iii) a contractual penalty in the sum of 10% of the original purchase price for case of buy-back (if this has not been collected through the bank guarantee); and
 - (iv) any costs incurred by the Contracting Authority in respect of the relevant Plot (if these have not been collected through the bank guarantee).

- (B) partially built Plots – the fair market value (determined by an authorised court expert) that is attributable to the relevant partially built Plot less:
 - (i) any liabilities secured by a charge of the relevant Plot;
 - (ii) any LADs for late payment imposed on the Investor that have not been collected through the bank guarantee;
 - (iii) a contractual penalty in the sum of 20% of the market value (if this has not been collected through the bank guarantee); and
 - (iv) any costs incurred by the Contracting Authority in respect of the relevant Plot (if these have not been collected through the bank guarantee).

In each case, the Contracting Authority will have the right to collect 10% or 20% (as applicable) of the relevant value (calculated by

reference to either the original purchase price or the fair market value of the partially built Plot) via the bank guarantee or by deduction from the price to be paid in case of buyback. The Contracting Authority also reserves the right to sue for damages.

21. Termination for default

The MDFA will grant the Contracting Authority the right to terminate the MDFA at various stages and on various grounds. The consequences of any such termination will depend upon the reasons for the termination.

Investor events of default will include failure to achieve certain agreed milestones in the Masterplan, the Investor being in breach of the MDFA (which is not cured within a reasonable period or is incapable of remedy), if an insolvency event arises in respect of the Investor, and if the Developer and/or the Investor becomes ineligible due to reasons described under clause 37. of this document.

22. Construction Period

The “**Construction Period**” will be the period between the date of Draw down and the grant of use permits for all buildings within the relevant Plots.

23. Construction

Following the Draw down, the Investor will proceed with the construction of each Plot in accordance with the Masterplan.

The Investor will be required to comply with all applicable regulations and with Prudent Development Practice.

“**Prudent Development Practice**” for this purpose will mean the practice of a person seeking in good faith to perform its contractual obligations in a timely manner and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, care, diligence, prudence and foresight reasonably expected of a skilled and experienced developer of projects of a similar nature, scope and complexity to the Project and taking into account applicable regulations and any relevant international standards.

The Investor will also be subject to customary development obligations including to carry out works in a good and workmanlike manner, without using deleterious materials and in accordance with the provisions of the Invitation for Expression of Interest.

24. Environment

The Parties will discuss the scope of environmental-related matters which will need to be addressed in the MDFA. This may include matters relating to ecology, communication with external

stakeholders and general good governance to ensure environmental protection.

In addition, the Investor is required to undertake all measures resulting from the procedures for assessing the impact of the UPU on the environment, which procedures are carried out in accordance with the Law on Environmental Protection.

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| 25. | Local employment | The Investor will seek to employ local and / or Croatian workers to the extent reasonably practicable for the purposes of the Project. |
| 26. | Local procurement | During the Construction Period, the Investor will procure goods and materials from Croatian suppliers to the extent reasonably practicable and available in Croatia, subject to both affordability and the appropriate standards being met, for the purposes of the Project. |
| 27. | Immigration | Notwithstanding the Investor's commitments, the Investor and its contractors will be entitled to employ non-Croatians to the extent required for the purposes of the Project, and to procure goods and materials from international suppliers to the extent required for the purposes of the Project. |

PART V: MISCELLANEOUS

Finally, this part will address the general terms of the MDFA, which will include important matters such as the warranties to be given by the Parties, the confidentiality provisions, provisions governing ownership of intellectual property, governing law and jurisdiction, force majeure etc.

28. Investor Warranties

The Investor will represent and warrant to the Contracting Authority that, as at the Effective Date:

- (A) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation;
- (B) it has the power to own assets and carry on its business as it is currently being conducted and as contemplated by the MDFA;
- (C) the entry into and performance by it of, and the transactions contemplated by, the MDFA do not and will not conflict with:
 - (i) applicable law;
 - (ii) its constitutional documents; or
 - (iii) any material agreement or instrument binding upon it or any of its assets;
- (D) it has (and its signatories to this agreement have) the power, authority and legal right to enter into and perform the MDFA and has obtained all necessary authorisations and resolutions, approvals, consents and actions whether executive, legislative, administrative or otherwise, which are required under Croatian law for the execution, delivery and performance by it of the MDFA; and
- (E) the MDFA constitutes legal, valid and binding obligations of the Investor, enforceable in accordance with its terms.

29. Contracting Authority Warranties

The Contracting Authority will represent and warrant to the Investor that, as at the Effective Date:

- (A) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation;
- (B) it has the power to own and dispose of assets and carry on its business as it is currently being conducted and as contemplated by the MDFA;

(C) the entry into and performance by it of, and the transactions contemplated by, the MDFA do not and will not conflict with:

- (i) applicable law;
- (ii) its constitutional documents; or
- (iii) any material agreement or instrument binding upon it or any of its assets;

(D) it has (and its signatories to this agreement have) the power, authority and legal right to enter into and perform the MDFA and has obtained all necessary authorisations and resolutions, approvals, consents and actions whether executive, legislative, administrative or otherwise, which are required under Croatian law for the execution, delivery and performance by it of the MDFA; and

(E) the MDFA constitutes legal, valid and binding obligations of the Contracting Authority, enforceable in accordance with its terms.

30. Statements and guarantees

Required statements and guarantees in accordance with Articles 28 and 29. herein, will be provided by each Party on the Effective Date.

31. Bank guarantees

The Investor and/or Development Partner is required to provide to the Contracting Authority bank guarantees in the circumstances specified in this paragraph. All bank guarantees must be irrevocable, unconditional, payable upon demand without the guarantor making any objection and payable on first call. The guarantees must be issued in accordance with the "Uniform Rules for Demand Guarantees of the International Chamber of Commerce (URDG), Revision 2010, ICC Publication No. 758." They must be issued by a first-class bank (being a bank which, in 2022, has a credit rating of at least BBB according to the Standard and Poor's Bank Rating Guide, or a bank operating in the Republic of Croatia that, based on audited financial statements on December 31, 2022, stated the value of the total assets greater than 2,000,000,000 Euros), in such a way that any dispute between the Development Partner and/or Investor and the Contracting Authority arising from the underlying agreement does not affect the bank's obligation to pay as guarantor, if the bank as guarantor determines that the Contracting Authority's payment request meets the guarantee conditions. If the bank guarantee is utilised, the Investor will be required to provide a replacement guarantee of the same quality within an appropriate period of time. If the replacement guarantee is not provided within the time period

specified in the MDFA, the Contracting Authority will be entitled to terminate the MDFA.

In accordance with the above conditions, the Investor is required to provide the following bank guarantees:

- (A) A bank guarantee for the proper fulfillment of obligations based on the MDFA, which will be issued for 10% of the value of the purchase price for the Residential Zone. The guarantee will cover LADs for late delivery of the construction of the Development Area, the contractual penalty payable where the Contracting Authority exercises its right to buy back any part of the Development Area and any other obligations owed by the Investor to the Contracting Authority as specified in the MDFA. The Investor is required to submit the relevant guarantee to the Contracting Authority prior to the transfer of real estate ownership rights and it should apply for the duration of the Project. If the bank guarantee expires before the end of the Project, the Investor is required to replace/renew it in a timely manner, in the following way:
 - (i) If the bank guarantee expires, the Investor is required to deliver a new one no later than 30 days before the expiration of the existing one. If the replacement guarantee is not provided by this deadline, the Contracting Authority will be entitled to terminate the MDFA and all related contracts;
 - (ii) If the Contracting Authority utilises the bank guarantee, the Investor is required to replace it with a new one within 30 days from the day of utilisation. If the replacement guarantee is not provided by this deadline, the Contracting Authority will be entitled to terminate the MDFA and all related contracts.
- (B) A bank guarantee for payments based on the Right of Construction Agreement, which will be issued in the amount corresponding to the yearly amount of monthly installments of the right of construction fee. If the Investor does not pay the due monthly instalment of the Right of construction fee, the Contracting Authority will have the right to terminate the Right of Construction Agreement and enforce this guarantee for payment. The Investor is required to submit the relevant guarantee to the Contracting Authority at the same time as signing the Right of Construction Agreement and it should apply for the duration of the Right of Construction Agreement. If the bank guarantee expires before the end of the Right of

Construction Agreement, the Investor is required to replace/renew it in a timely manner as follows:

- (i) Should the bank guarantee expire, the Investor is required to deliver a new one no later than 30 days before the expiration of the existing one. If the replacement guarantee is not provided by this deadline, the Contracting Authority will be entitled to terminate the MDFA and all related contracts.
 - (ii) If the Contracting Authority utilises the bank guarantee, and does not terminate the MDFA and/or the Right of Construction Agreement, the Investor is required to replace it with a new one within 30 days from the day of utilisation. If the replacement guarantee is not provided by this deadline, the Contracting Authority will be entitled to terminate the MDFA and all related contracts.
- (C) A bank guarantee in respect of the Investor's obligation to properly maintain the facilities and equipment located in the facilities built on the land on which the right of construction is established, to be issued for a sum equivalent to the cost of five years of maintenance of the facilities and equipment. The Investor is required to deliver a guarantee to the Contracting Authority no later than 30 days before the expiration of the 70TH year of the Right of Construction Agreement and which shall apply for a period of 63 months. The amount of the five-year maintenance costs will be calculated by multiplying the amount of the total investment with the annual depreciation rate for construction facilities (5%) and the total inflation rate in the Republic of Croatia for the period from the date of signing of the MDFA until the end of the 70TH year of the Right of Construction Agreement. The Investor will facilitate the Contracting Authority to perform an annual inspection of the condition and maintenance of the facilities that are the subject of the Right of Construction Agreement 5 years before the expiration of the Right of Construction Agreement.

32. Confidential Information

The Contracting Authority and the Investor will hold in confidence all documents and other information relating to the MDFA or the Project and will not publish, disclose or use the same for their own purposes, otherwise than as may be required to perform their respective obligations under the MDFA, or as may be required by Croatian law or requested by any competent authorities. Such documents may be disclosed by the Investor to any financiers, shareholders, contractors, subcontractors, consultants, employees and agents on the condition that they agree to keep

the information confidential on the same terms and conditions as contained in the MDFA.

Given that the Contracting Authority is a publicly owned legal entity, it is, in accordance with the provisions of the Law on the Right to Access to Information (Official Gazette 25/13, 85/15, 69/22), required to provide access to the MDFA and related contracts to domestic and foreign legal and physical persons in accordance with the provisions of the aforementioned law.

The confidentiality provisions will survive termination of the MDFA. Confidential information provided by the Investor to the Contracting Authority will promptly be returned or destroyed at the Investor's request.

33. Intellectual Property

Documentation created by or on behalf of the Investor in connection with the Project and all intellectual property rights owned by or licensed to the Investor will remain the exclusive property of the Investor save in respect of the parts of the Site to be developed under a Right of Construction Agreement. On expiry or sooner termination of the relevant Right of Construction Agreement, all intellectual property rights will be transferred to the Contracting Authority.

The Investor will grant to the Contracting Authority the non-exclusive, transferable right (with a right to grant sub-licences) to use such documentation and rights for agreed permitted purposes, including if the Contracting Authority exercises its step-in rights. Typical protections in respect of third party infringement will be included.

34. Governing Regulations

The MDFA will be governed by the laws of the Republic of Croatia.

35. Jurisdiction

All disputes arising under this document, the MDFA, and in connection with it, including disputes related to the validity of its creation, violation or termination, as well as the legal effects arising from it, will be finally resolved by arbitration in accordance with the applicable Arbitration Rules at the Permanent Arbitration Court of the Croatian Chamber of Commerce (Zagreb Rules).

The number of arbitrators will be three. Each Party shall appoint one member of the arbitration panel, and the members of the panel so appointed shall appoint the chairman of the arbitration panel within 30 days from the date of appointment of the latter. The applicable law will be the substantive law of the Republic of Croatia. The place of arbitration will be Zagreb.

36. Force Majeure

If a force majeure event arises which materially affects the performance by the Contracting Authority or the Investor of their

obligations under or pursuant to the MDFA, they will be entitled to relief from their obligations for the duration of the force majeure and its consequences. Force majeure refers to external, extraordinary, and unforeseeable circumstances occurring after the conclusion of the MDFA, which could not have been prevented, remedied, or avoided, and whose occurrence renders the proper fulfillment of obligations by any Party impossible.

The Party affected by force majeure is required to notify the other Party in writing within 15 days from the date of occurrence of the circumstances constituting force majeure.

37. Anti-bribery and corruption

The Parties will agree standard obligations and restrictions regarding anti-bribery and corruption and the prevention of modern slavery.

In particular, the Development Partner must not:

- (A) have its registered or de facto seat or office in a country identified in the EU list of non-cooperative jurisdictions from time to time; or
- (B) be ineligible pursuant to the integrity sanctions, as set out on the website <https://mvep.gov.hr/vanjska-politika/medjunarodne-mjere-ogranicavanja/22955>.