

DRAFT - Tender Version (dated 17 November 2004)

Dated [●] 2005

The Government of Republic of Montenegro

and

The Employment Bureau of Montenegro

(Sellers)

and

[●]

(Purchaser)

SHARE SALE-PURCHASE AGREEMENT

in respect of certain shares of

Telekom Crne Gore AD, Podgorica

Linklaters Miculiți & Asociații scpa

8 Nicolae Iorga
Sector 1, 010434 Bucharest Romania

Telephone (40-21) 307 1500
Facsimile (40-21) 307 1555

Ref L-090181

Janković, Popović & Mitić

37 Carli Caplina
11000 Belgrade Serbia and Montenegro

Telephone (381-11) 208 3099, 768 050
Facsimile (381-11) 208 3801

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Share Sale-Purchase Agreement

This Share Sale-Purchase Agreement (this "**Agreement**") is made on [●] 2005 between:

(1) **The Government of the Republic of Montenegro** (the "**Government**"), herein represented by [●], its authorised representative pursuant to a Decision of the Government dated [●], a copy of which is annexed at **Schedule 1**;

(2) **The Employment Bureau of Montenegro** (the "**Employment Bureau**"), herein represented by [●], its authorised representative pursuant to a Decision of [●] dated [●], a copy of which is annexed at **Schedule 2**; and

(The Government and the Employment Bureau are hereinafter referred to collectively as the "**Sellers**" and individually as the "**Seller**.")

(3) **[Purchaser]**, a [●] company organised and existing under the laws of [●], registered with the [●] under number [●], with its registered office located at [●], herein represented by [●], its authorised representative pursuant to a [power of attorney or similar instrument] dated [●] (the "**Purchaser**"), a copy of which is annexed at **Schedule 3**.

(The Government, the Employment Bureau and the Purchaser are hereinafter referred to collectively as the "**Parties**" and individually as a "**Party**.")

WHEREAS:

(A) Telekom Crne Gore AD, Podgorica (the "**Company**"), a joint stock company organised and existing under the Laws of the Republic of Montenegro, registered with the Commercial Registry, with the current date of registration of 2 August 2004, under registration number 4-0000618/005, with a total nominal registered capital amounting to approximately €140,999,253.44 (one hundred forty million nine hundred ninety-nine thousand two hundred fifty-three Euro and forty four cents) divided into 47,273,940 (forty seven million two hundred seventy-three thousand nine hundred forty) ordinary shares.

(B) The Government owns 23,953,548 (twenty-three million nine hundred fifty-three thousand five hundred and forty-eight) ordinary shares of the Company, and the Employment Bureau owns 213,080 (two hundred thirteen thousand and eighty) ordinary shares of the Company, which together constitute a total of 24,166,628 (twenty-four million one hundred sixty-six thousand six hundred and twenty-eight) ordinary shares, representing approximately 51.1204% (fifty-one point one two zero four per cent) of the issued shares (the "**Subject Shares**") of the Company.

(C) In accordance with the public tender announcement placed in domestic and foreign publications on or about 19 October 2004 (the "**Public Invitation**"), the Sellers expressed their intent to consider offers from qualified tender participants made by way of public tender in respect of the purchase of the Subject Shares.

(D) It is the desire of the Parties: (i) to ensure the development, improvement, and more efficient performance of the Company; (ii) to increase the competitiveness of the Company on the domestic and regional telecommunications market; (iii) to encourage the application of new technological, managerial, and marketing methods; (iv) to ensure a successful privatisation that will attract international investors and raise the level of confidence for direct foreign investments in the Republic of Montenegro; (v) to ensure the introduction of a managerial system and the transfer of know-how, aiming to strengthen and expand the

Company's services; and, (vii) to increase the efficiency and profitability of the Company to an international level.

- (E) Pursuant to a public tender duly held, the Purchaser was determined by the Tender Commission to be the preferred bidder, and, following negotiations, the Privatisation Council adopted the Report of the Tender Commission on [●]. Pursuant to the Instructions For Bidders, the tender rules and specifications governing such tender, the Sellers and the Purchaser hereby agree to the sale and purchase of the Subject Shares on the terms and subject to the conditions set out in this Agreement.
- (F) The Sellers, the Purchaser, the Adviser, and the Escrow Agent have executed the Escrow Agreement on the date hereof in connection with the sale and purchase of the Subject Shares.

NOW, THEREFORE, it is agreed as follows:

1 Interpretation and Definitions

1.1 Interpretation

In this Agreement, unless the context otherwise requires or is otherwise provided, it is agreed that:

- (a) singular, etc.: words in the singular include the plural, words in the plural include the singular, words importing the masculine gender include the feminine, and words importing the feminine gender include the masculine;
- (b) headings, etc.: headings and paragraphs are for the purpose of organisation only and shall not be used to interpret this Agreement;
- (c) incorporation by reference, amendments: references to "this Agreement" include its Preamble, Recitals and Schedules (which are incorporated herein by reference) and this Agreement as from time to time amended, unless otherwise stated;
- (d) sections, articles, clauses, etc.: references in this Agreement to Preamble, Recitals, Sections, Articles, Clauses, Sub-Clauses and Schedules are to the preamble, recitals, sections, articles, clauses and sub-clauses of, and schedules to, this Agreement, unless otherwise stated;
- (e) modification or amendment of statutes: references to a law, statute or statutory provision include that law, statute or provision as from time to time modified, completed or republished, whether before or after the date of this Agreement; provided, however, that nothing in this paragraph (e) shall operate to increase the liability of any Party beyond that which would have existed had this paragraph (e) been omitted;
- (f) several liability: any provision in this Agreement which is expressed to bind more than one Person shall, save where expressly provided to the contrary, bind each of them severally and not jointly and severally; provided, however, that the Sellers shall be severally liable under this Agreement only in proportion to their relative shareholding in the Company;
- (g) time of day: references to time of day are to the time of day in Podgorica, Montenegro, unless otherwise stated; and

- (h) persons: references to Persons include their universal successors and their universal title successors.

1.2 Definitions

In this Agreement, unless the context otherwise requires or it is otherwise provided, the following capitalised terms shall have the following corresponding meanings set forth in this Article 1.2 (*Definitions*):

“Affiliates”	means, in respect to any Person, any other Person, directly or indirectly, controlling, controlled by, or under common control with, such Person.
“Adviser”	means Raiffeisen Investment AG, an Austrian investment advisory firm with its registered office at Tegetthoffstrasse 1, A-1015 Vienna, Austria.
“Adviser’s Bank Account”	means [●].
“Adviser’s Fee”	means [●].
“Agency”	means the Agency of Montenegro for Economic Restructuring and Foreign Investments, as referred to in the Privatisation of Economy Act of the Republic of Montenegro, published in the Official Gazette of the Republic of Montenegro, issue No. 23/96, 6/99, 59/00, and 42/04.
“Agreement”	means this Share Sale-Purchase Agreement.
“Associates”	means: <ul style="list-style-type: none">(i) in respect of the Sellers: the Agency, the Privatisation Council and the Tender Commission, as well as any of their present and former Representatives, and the Affiliates of any of the foregoing; and(ii) in respect of the Purchaser: any of its Representatives, and the Affiliates of any of the foregoing.
“Authorisations”	means, for the Sellers, Governmental Authorisations, and, for the Purchaser, any authorisation, consent, approval, concession right, resolution, license, permit, filing, registration or similar act.
“Bid Bond”	means the bank guarantee for an amount of €350,000 (three hundred fifty thousand Euro), delivered by the Purchaser to the Agency as part of its final bid submitted in connection with the Tender.
“Business Day”	means any day (except a Saturday or Sunday) on which banks are open for business in the Republic of Montenegro and in [●].
“Business Plan”	has the meaning ascribed to such term in Article 5.4 (<i>Business Plan; Key Performance Indicators</i>), at Clause 5.4.1.
“CDA”	means the Central Depository Agency AD, Podgorica, an independent joint-stock company that, <i>inter alia</i> , maintains data

	concerning the registered shares of the Company and the owners of such shares, including the Registry of Shareholders.
“Closing”	means the moment in time when each of the obligations contemplated by Article 3.2 (<i>Obligations at Closing</i>) have been fulfilled and the Purchaser is registered in the CDA as the owner of the Subject Shares, and each of the Sellers have received their respective portions of the Purchase Price, less the Privatisation Counsel’s Fee and the Adviser’s Fee as described in Clause 2.3.3.
“Closing Date”	means the date on which Closing is scheduled to occur pursuant to Clause 3.1.1.
“Commercial Registry”	means the central commercial registry of the Commercial Court in Podgorica, Montenegro.
“Company”	has the meaning given to such term in the Recital (A).
“Confidentiality Agreement”	means the confidentiality agreement between the Company and the Purchaser dated [●].
“Constitutive Documents”	means the Company’s founding documents and Statute, including any amendments thereto, as registered with the Commercial Registry as of the date of this Agreement.
“Contemplated Transactions”	means the transactions contemplated by this Agreement.
“Contract”	means any agreement, contract, obligation, promise, commitment, or undertaking (whether written or oral and whether express or implied) that is legally binding.
“Core Assets”	means [●].
“Damages”	means any Loss actually suffered or incurred; provided, however, that for purposes of computing the amount of Losses suffered or incurred by any Person, there shall be deducted: <ul style="list-style-type: none">(i) an amount equal to the amount of any Tax benefit directly or indirectly received or receivable by such Person or any Affiliate of such Person in connection with such Losses or the circumstances giving rise thereto; and(ii) an amount equal to the amount of any insurance proceeds, indemnification payments, contribution payments or similar reimbursements directly or indirectly received or receivable by such Person or any Affiliate of such Person in connection with such Losses or the circumstances giving rise thereto.
“Data Room”	means the data room maintained in physical form at the Company’s headquarters where the Purchaser and its Representatives (defined below) had the right of access to documents and information in respect of the Company and its subsidiaries.
“Data Room	means any and all of:

Disclosures	(i) the documents and information (written or verbal) made available to the Purchaser in the Data Room, or on site visits or otherwise obtained from the Associates of the Sellers; and (ii) the information memorandum on the Company issued by the Tender Commission.
“Employment Bureau”	has the meaning ascribed to such term in Preamble (2).
“Employment Bureau’s Bank Account”	means [●].
“Encumbrance”	means any claim, charge, mortgage, pledge, security, lien, option, equitable interest, power of sale, easement, lease, condition, hypothecation or third party rights, retention of title, right of pre-emption, right of first refusal or security interest of any kind.
“Escrow Agent”	means [●].
“Escrow Agreement”	means the Escrow and Paying Agency Agreement executed on the date of this Agreement between and among the Government, the Employment Bureau, the Purchaser, and the Adviser.
“Euro” or “€”	means Euro, the single currency introduced in the member states of the European Communities that adopted such single currency at the start of the third stage of the European Economic and Monetary Union pursuant to the Treaty establishing the European Community, as amended.
“Governing Law”	means the Law of the Republic of Montenegro.
“Government”	has the meaning given to such term in the Preamble (1).
“Government’s Bank Account”	means [●].
“Governmental Approvals”	means all approvals, consents, permits and licences required to be obtained from any Governmental Authority for the consummation of the transactions contemplated hereunder.
“Governmental Authorisation”	means any approval, consent, licence, permit, waiver, or other authorisation issued, granted, given, or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Legal Requirement.
“Governmental Authority”	means any domestic or foreign court or other judicial authority or governmental, administrative or regulatory body, department, agency, commission, authority or instrumentality.
“Group”	means, in relation to a Person, that person and its holding companies and subsidiaries and any subsidiaries of any such holding companies.
“IFRS”	means International Financial Reporting Standards, the accounting standards formulated by the International Accounting Standards

	Board.
“IFRS Accounts”	means the IFRS accounts issued by Deloitte & Touche on 24 August 2004 in respect of the Company.
“Instructions For Bidders”	means the Instructions for Bidders dated October 2004 delivered to each of the prospective bidders in connection with the Tender, as modified, updated and clarified from time to time.
“Intellectual Property”	means trade marks, service marks, trade names, logos, licences, patents, inventions, innovations, registered and unregistered design rights, copyrights, semi-conductor topography rights, database rights and all other similar proprietary rights which may subsist in any part of the world (including Know-how) including, where such rights are obtained or enhanced by registration, any registration of such rights and applications and rights to apply for such registrations.
“Investment Programme”	has the meaning given to such term in Article 5.3 (<i>Investment Programme</i>), at Clause 5.3.1.
“Law”	means any applicable law, rule or regulation of any Governmental Authority or any Legal Requirement.
“Legal Requirement”	means any federal, state, local, municipal, foreign, international, multinational, or other administrative order, constitution, law, ordinance, principle of common law, regulation, statute, or treaty.
“Losses”	means all losses, liabilities, damages, indemnities, fees and costs (including without limitation reasonable legal fees and costs, arbitral costs, and court-related costs), charges, fines, penalties and expenses.
“Material Adverse Change”	means: <ul style="list-style-type: none">(i) any of the following:<ul style="list-style-type: none">(a) the opening of a proceeding in a court of law in relation to the insolvency of the Company;(b) the voluntary dissolution of the Company; or(c) the occurrence of any event relating to the Sellers or the Company (including, but not limited to, any Montenegrin legislative or administrative act or Montenegrin court ruling) that would prevent the Purchaser from obtaining the Subject Shares on the terms set forth herein; or(ii) any of the following:<ul style="list-style-type: none">(a) the loss of a material asset of the Company;(b) an adverse judgment or arbitral award issued against the Company;(c) any adverse change caused by the actions of the Sellers of a Montenegrin Public authority in the

assets or profitability of the Company;

if such loss, such adverse judgment or award, or such adverse change (as provided above) has resulted in a loss to the Company greater than €15,000,000 (fifteen million Euro).

“Notice”	has the meaning given to such term in Section 8 (<i>General Provisions</i>), at Article 8.1 (<i>Notices, Communications</i>), Clause 8.1.1.
“Optic Cable Agreement”	means the agreement for the use of optic cable, between the Government and the Company, dated 21 July 2003 and effective as of the 27 August 2003, No. 01–2475/1.
“Order”	means any award, decision, injunction, judgement, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any Governmental Authority or by any arbitrator.
“Ordinary Course of Business”	means an action taken by a Person: <ul style="list-style-type: none">(i) that is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person;(ii) that is not required to be authorised by the board of directors of such Person (or by any other body or Person or member of its Group exercising similar authority); and(iii) that is similar in nature and magnitude to actions customarily taken, without any authorisation by the board of directors (or by any other body or Person or member of its Group exercising similar authority), in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business as such Person.
“Parties”	has the meaning given to such term in the Preamble.
“Party”	has the meaning given to such term in the Preamble.
“Payment Date Notice”	means the notice defined in Clause 2.3.1.
“Per Share Price”	has the meaning given to such term in Article 2.2 (<i>Purchase Price</i>).
“Person”	means any natural person or legal person, including without limitation a corporation, a general or limited partnership, a joint-stock company, a limited liability company, a joint venture, a trust, an association, an organisation, or any other entity, whether incorporated or not, as well as any Public Authority (including agencies, departments, bureaus, boards, divisions and instrumentalities thereof), or any trustee, receiver, liquidator, and, unless specified otherwise, any successors and permitted assigns of any of the foregoing.
“Performance Bond”	means the bank guarantee for an amount of €[●] ([●] Euro), in the form set out in Schedule 7 (<i>Form of Performance Bond</i>), to be

	delivered by the Purchaser to the Sellers at Closing.
“Public Invitation”	has the meaning ascribed to such term in Recital (C).
“Privatisation Council”	means the Privatisation Council, Podgorica, appointed pursuant to the Privatisation of Economy Act of the Republic of Montenegro, published in the Official Gazette of the Republic of Montenegro, issue no. 23/96, 6/99, 59/00, and 42/04.
“Privatisation Council’s Bank Account”	means [●].
“Privatisation Council’s Fee”	means the amount in Euro obtained by multiplying 1% (one per cent) by the amount representing the Purchase Price.
“Proceeding”	means any action at law, arbitration, civil proceeding, administrative hearing, audit, other hearing, investigation, litigation, or civil, criminal, administrative, investigative, or informal suit commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority, arbitral tribunal, mediator, arbitrator or other similar forum of dispute resolution.
“Public Authority”	means any national, regional, local or other governmental body, agency, instrumentality, commission, department, court, arbitral tribunal, ministry, regulatory, self-regulatory, or similar authority or organisation, in any jurisdiction. For the avoidance of doubt, international financial institutions (including but not limited to the World Bank, the International Monetary Fund and the EBRD) shall not be considered Public Authorities for the purposes of this Agreement.
“Public Records”	means all laws, ordinances, decisions, orders, regulations or the like issued by, or documents or information maintained with, Public Authorities in the Republic of Montenegro.
“Purchase Price”	has the meaning given to such term in Article 2.2 (<i>Purchase Price</i>), at Clause 2.2.1.
“Purchase Price Escrow Account”	means the escrow account with the Escrow Agent into which the Purchase Price will be transferred as contemplated under the Escrow Agreement.
“Purchaser”	has the meaning given to such term in Preamble (3).
“Radio Diffusion Centre”	means the Radio difuzni centar DOO Podgorica.
“Radio Diffusion Centre Agreement”	means the agreement on the regulation of the mutual relationship concluded between the Company and the Radio Diffusion Centre on the 5 October 2004, No. 04–9809.
“Registry of Shareholders”	means the registry of shareholders of the Company maintained by the CDA.
“Representatives”	means, in respect of any Person, each of its officers, directors, employees, subsidiaries, associated companies, Affiliates,

	shareholders or professional advisers, including but not limited to financial, legal and technical advisers.
“Rules on the Settlement of Residential Issues”	means the rules on the settlement of residential issues of the Company as included in the Data Room.
“Seller”, “Sellers”	has the meaning given to such term in the Preamble.
“Separation Agreement”	means the separation agreement between Posta Crne Gore DOO and the Company for the regulation of the mutual relationship between the companies formed by the change of status by the division of JP PTT saobračaj Crne Gore into Posta Crne Gore DOO and the Company dated 14 July 1999, together with the annexes thereto, No. 04-2342.
“Share” or “Shares”	means any share or shares in the Company.
“Share Transfer Application Form”	means the application for the transfer of shares with the CDA, in the form set out in Schedule 9 (<i>Share Transfer Application Form</i>).
“Share Transfer Application Notice”	means the notice contemplated by Article 3.2 (<i>Obligations at Closing</i>), at Clause 3.2.2, to be executed in the form set out in Schedule 8 (<i>Form of Share Transfer Application Notice</i>).
“Signing Date”	means the date on which the Parties execute this Agreement, which is indicated by the date first written above.
“Social Programme”	has the meaning given to such term in Article 5.5 (<i>Employee Matters; Social Programme</i>) at Clause 5.5.2.
“Subject Shares”	has the meaning given to such term in Recital (B).
“Subsidiaries”	means Montenegro Card DOO Podgorica, MONET DOO Podgorica, INTERNET Crna Gora DOO, and the Radio Diffusion Centre.
“Tax”	means any tax (including any income tax, capital gains tax, value-added tax, sales tax, property tax, gift tax, or estate tax), levy, assessment, tariff, duty (including any customs duty), deficiency, or other fee, and any related charge or amount (including any fine, penalty, interest, or addition to tax), imposed, assessed, or collected by or under the authority of any Governmental Authority or payable pursuant to any tax-sharing agreement or any other Contract relating to the sharing or payment of any such tax, levy, assessment, tariff, duty, deficiency, or fee.
“Tender”	means the public tender process by which the Subject Shares are to be sold, as arranged by the Sellers and the Tender Commission in accordance with the Governing Law.
“Tender Commission”	means the commission in charge of the public tender procedure in respect of the Company pursuant to the Privatisation of Economy Act of the Republic of Montenegro, published in the Official Gazette of the Republic of Montenegro, issue Nos 23/96, 6/99, 59/00, and 42/04, and the Act on the Sale of Shares and Property by means of public tender (Official Gazette of the Republic of

	Montenegro, issues Nos. 8/99, 31/00, 14/03 and 59/03).
“Threatened”	means, in respect of a claim, Proceeding, dispute or other matter, any demand or statement that has been made (whether orally or in writing) or any notice that has been given (whether orally or in writing), or the occurrence of any event or the existence of any circumstance that would lead a prudent Person to conclude that a claim, Proceeding, dispute, or other matter is likely to be asserted, commenced, taken, or otherwise pursued in the future.
“Transaction Documents”	means this Agreement, the Escrow Agreement and any other document to be executed by the Purchaser under or in connection with any of those Agreements.
“Transfer”	shall have the meaning set out in Article 5.2 (<i>Share Transfer Restrictions</i>) at Clause 5.2.1.
“Transfer Notice”	shall have the meaning set out in Article 3.2 (<i>Obligations at Closing</i>), Clause 3.2.1, paragraph (d).
“Warranties”	means the warranties and representations as set out in Schedule 4 (<i>Warranties Given by the Sellers under Sub-Clause 4.1.1(i)</i>), Schedule 5 (<i>Warranties Given by the Sellers under Sub-Clause 4.1.1(ii)</i>), and Schedule 6 (<i>Warranties Given by the Purchaser under Sub-Clause 4.2.1</i>).

2 Agreement to Sell and Purchase the Subject Shares; Purchase Price

2.1 Sale and Purchase of the Subject Shares

On the terms and subject to the conditions of this Agreement, including the restriction on transferring the Subject Shares set forth in Article 5.2 (*Share Transfer Restrictions*), the Sellers respectively agree to sell and the Purchaser agrees to purchase the Subject Shares free from all Encumbrances and together with all rights attaching thereto under the Governing Law.

2.2 Purchase Price

2.2.1 The price to be paid for each of the Subject Shares shall be the cash sum of €[●] ([●] Euro) per share (the “**Per Share Price**”) and for all the Subject Shares shall be a total of €[●] ([●] Euro) (the “**Purchase Price**”).

2.2.2 The Purchase Price to be paid to the Sellers on the Closing Date, in accordance with the terms of the Escrow Agreement, shall be as follows:

- (a) €[●] ([●] Euro) to the Government in respect of the transfer of 23,953,548 (twenty-three million nine hundred fifty-three thousand five hundred forty-eight) Shares; and
- (b) €[●] ([●] Euro) to the Employment Bureau in respect of the transfer of 213,080 (two hundred thirteen thousand eighty) Shares,

subject to the prior deduction of the Privatisation Council's Fee and the Advisor's Fee .

2.3 Payment of Purchase Price; Transfer of the Subject Shares

- 2.3.1 The Purchaser shall transfer the Purchase Price through bank transfer to the Purchase Price Escrow Account on the date hereof. In accordance with the terms of the Escrow Agreement, the Escrow Agent shall send notice on the date that the Purchase Price has been received in readily available funds by the Escrow Agent in the Purchase Price Escrow Account (the “**Payment Date Notice**”).
- 2.3.2 The Sellers’ respective transfer of ownership of the Subject Shares to the Purchaser and the Purchaser’s payment to the Sellers of the Purchase Price shall be effected at Closing pursuant to and in accordance with Section 3 (*Closing*).
- 2.3.3 The obligation of the Purchaser to pay the Purchase Price shall be considered to have been satisfied only when the amounts provided in Clause 2.2.2, paragraph (a) and paragraph (b), less the amount representing the Privatisation Council’s Fee and the Adviser’s Fee, have been transferred from the Purchase Price Escrow Account and deposited in the Government’s Bank Account and in the Employment Bureau’s Bank Account.

3 Closing

3.1 Date and Place

- 3.1.1 The Sellers and the Purchaser shall mutually agree a Business Day for Closing to take place which is to be within five Business Days of, though not earlier than the second Business Day after, the day on which the Escrow Agent sends the Payment Date Notice as per Clause 2.3.1. Failure to agree on such date shall result in Closing taking place on the fifth Business Day following issuance of such notice.
- 3.1.2 The Closing shall take place at a location to be determined by the Sellers, and notified to the Purchaser in advance of the Closing Date, and at [●].

3.2 Obligations at Closing

- 3.2.1 At the Closing the following actions shall be taken in the following order:
- (a) each Party shall deliver a signed written statement confirming that each of its respective Warranties remain complete and accurate as of the Closing Date;
 - (b) the Purchaser shall provide the Sellers with the Performance Bond;
 - (c) the Sellers shall execute the Application Form to instruct the CDA to transfer the Subject Shares to the Purchaser together with any other documents which are necessary for the Purchaser to be registered in the CDA as the owner of the Subject Shares; and,
 - (d) the Purchaser and the Sellers shall direct the Escrow Agent to immediately transfer the respective portions of the Purchase Price to the Government’s Bank Account, the Employment Bureau’s Bank Account, the Privatisation Council’s Bank Account and the Adviser’s Bank Account, respectively, by executing the transfer notice in the form set out in Schedule [●] (the “**Transfer Notice**”) and sending this to the Escrow Agent by fax in accordance with the Escrow Agreement.

3.2.2 Upon completion of the acts set forth in Clause 3.2.1, the Parties shall promptly execute a written share transfer application notice in the form set out in **Schedule 8** (*Form of Share Transfer Application Notice*) (the “**Share Transfer Application Notice**”) confirming that all of the obligations at Closing set out in Clause 3.2.1 have been completed and instructing the CDA to transfer the Subject Shares to the Purchaser, and inscribe into the Registry of Shareholders the Purchaser as the owner of the Subject Shares, conditional upon the CDA receiving a confirmation letter from the Escrow Agent that the Purchase Price has been transferred from the Purchase Price Escrow Account to the Sellers’ respective bank accounts, as set forth in Clause 2.3.3, together with the bank transfer confirmation. The Purchaser and the Sellers shall deliver forthwith the Share Transfer Application Notice to the CDA together with a copy of this Agreement, executed by the Parties, and the executed Application Form.

3.3 Mutual Undertakings

3.3.1 The Parties shall refrain from taking any action, and shall notify each other immediately of any development, that may jeopardise or hinder Closing or the consummation of the transactions contemplated by this Agreement.

3.3.2 The Sellers and the Purchaser shall be obliged to provide each other with any and all information necessary for the consummation of transactions contemplated by this Agreement except those relating to military forces, police forces, national defence or security intelligence.

3.3.3 If after the signing of this Agreement and before the Closing any Party shall become aware of any event or matter or if any event or matter shall arise which results or may result in any of the Warranties being unfulfilled, untrue, misleading or incorrect in any material respect at the Closing, then that Party shall immediately notify the other Party in writing fully thereof prior to the Closing and the other Party (at its own cost) shall make any investigation concerning the event or matter which the first Party may require.

3.4 Appointment of Directors]

[Resignation of Current Directors, Appointment/Election of New Directors.]

3.5 Breach of Closing Obligations

If either Party fails to comply with any obligation in Article 3.2 (*Obligations at Closing*), the Purchaser, in the case of non-compliance by the Sellers, or the Sellers, in the case of non-compliance by the Purchaser, shall be entitled, by written notice to the Sellers or the Purchaser (as the case may be):

- (a) to terminate this Agreement in accordance with the provisions of Clause 6.1.3(i), paragraph (b), or Clause 6.1.4(i), paragraph (d);
- (b) to effect Closing so far as practicable having regard to the defaults which have occurred (in addition to and without prejudice to all other rights or remedies available, including the right to claim Damages); or
- (c) to fix a new date for Closing (not being more than 15 (fifteen) Business Days after the previously agreed Closing Date) in which case the provisions of Article 3.2

(Obligations at Closing) shall apply to Closing as so deferred (in addition to and without prejudice to all other rights or remedies available, including the right to claim Damages).

4 Representations and Warranties

4.1 Representations and Warranties of the Sellers

4.1.1 Sellers' Representations and Warranties

- (i) Each Seller hereby represents and warrants to the Purchaser that the statements set out in **Schedule 4** (*Warranties Given by the Sellers under Sub-Clause 4.1.1(i)*) are true and accurate as at the Signing Date.
- (ii) Each Seller hereby represents and warrants to the Purchaser that, to its knowledge and except as otherwise disclosed in the Data Room Disclosures or the Public Records as of the Signing Date, the statements set out in **Schedule 5** (*Warranties Given by the Sellers under Sub-Clause 4.1.1(ii)*) are true and accurate as at the Signing Date.

4.1.2 Repeating of Sellers' Representations and Warranties

- (i) Each Seller hereby warrants to the Purchaser that the statements set out in **Schedule 4** (*Warranties Given by the Sellers under Sub-Clause 4.1.1(i)*) will be true and accurate at Closing as if they had been repeated at Closing.
- (ii) Each Seller hereby warrants to the Purchaser that, to its knowledge and except as disclosed in the Data Room Disclosures and the Public Records as of the Signing Date, the statements set out in **Schedule 5** (*Warranties Given by the Sellers under Sub-Clause 4.1.1(ii)*) will be true and accurate at Closing as if they had been repeated at Closing.

4.1.3 No Implied or Other Representations and Warranties

- (i) The Sellers make no representations and warranties other than those expressly set forth in Clause 4.1.1 (*Sellers' Representations and Warranties*) and Clause 4.1.2 (*Repeating of Sellers' Representations and Warranties*).
- (ii) The Purchaser acknowledges that the Adviser, its Representatives and the Associates have made no representations or warranties (express or implied) related to this Agreement, the Company, or the Contemplated Transactions and that they have no duties (legal or otherwise) to the Purchaser in respect of the same.

4.1.4 Purchaser's Further Acknowledgements, Undertakings and Covenants

The Purchaser covenants that it shall rely only on the rights available to it in Section 6 (*Termination and Other Remedies*) in the event of a breach of a warranty or representation by the Sellers.

4.2 Representations and Warranties of the Purchaser

4.2.1 Purchaser's Representations and Warranties

The Purchaser hereby represents and warrants to the Sellers that the statements set out in **Schedule 6** (*Representations and Warranties Given by the Purchaser under Sub-Clause 4.2.1*) are true and accurate in all respects as at the Signing Date.

4.2.2 Repeating of Purchaser's Representations and Warranties

The Purchaser hereby warrants to the Sellers that the statements set out in **Schedule 6** (*Representations and Warranties Given by the Purchaser under Sub-Clause 4.2.1*) will be true and accurate in all respects at Closing as if they had been repeated at and upon Closing.

4.2.3 No Implied Representations and Warranties

- (i) The Purchaser makes no representations and warranties other than those expressly set forth in Clause 4.2.1 (*Purchaser's Representations and Warranties*) and Clause 4.2.2 (*Repeating of Purchaser's Representations and Warranties*).
- (ii) Each Seller acknowledges and confirms that the Purchaser has made no representations and warranties other than those expressly set forth in Clause 4.2.1 (*Purchaser's Representations and Warranties*) and Clause 4.2.2 (*Repeating of Purchaser's Representations and Warranties*).

4.2.4 Purchaser's Further Acknowledgements, Undertakings and Covenants

- (i) The Purchaser understands and acknowledges that the offer and sale of the Subject Shares to it depends upon the accuracy and truthfulness of the representations and warranties it has made in this Agreement and that each Seller is relying on the truth and accuracy of such representations and warranties in the offer and sale of the Subject Shares.
- (ii) In all cases referred to in Section 6 (*Termination and Other Remedies*), the Sellers shall not be held liable for any Damages resulting from any matters, act or events disclosed under this Agreement or which could have been known by the Purchaser following a reasonable investigation of the data and information in the Data Room and the Public Records.

5 Commitments of the Purchaser

5.1 National Interest Commitments

- 5.1.1 The Purchaser herein agrees and commits that it shall procure that the Company maintains the Optic Cable Agreement, in accordance with its terms, including, but not limited to, all of the agreement's annexes and schedules.
- 5.1.2 The Purchaser herein agrees and commits that, for a period of at least 20 (twenty) years after Closing, it shall procure that the Company refrains from transferring, disposing or otherwise creating an Encumbrance over any infrastructure, equipment or facility owned by the Company which represents a strategic interest of the Republic of Montenegro in the area of telecommunications, including but not limited to, the national fibre optic transmissional network together with the related telecommunication structure.

- 5.1.3 In respect to its obligations under Clause 5.1.1, the Purchaser shall, and shall procure that the Company shall, consult with the Government in relation to the actions which the Company takes or proposes to take to ensure the continued provision of telecommunication and related services under the aforementioned agreements.

5.2 Share Transfer Restrictions

- 5.2.1 Until the fifth anniversary of the Closing, the Purchaser shall not, without the prior written consent of the Sellers, transfer the ownership of, or create any Encumbrance over or in, any of the Subject Shares (collectively, "**Transfer**"), in favour of or to any third party other than a transfer to an Affiliate under the exclusive control of the Purchaser; provided that (i) such Affiliate has agreed in writing to be bound by the terms of this Agreement; (ii) such Affiliate's obligations under this Agreement shall be guaranteed by the Purchaser for the benefit of the Seller; and (iii) if the transferee ceases to be an Affiliate, the Purchaser shall promptly re-acquire the relevant Shares or cause them to be acquired by one or more Affiliates subject to subparagraphs (i) and (ii). The form of the documents set out in (i) and (ii) above must be first approved to the reasonable satisfaction of the Sellers.
- 5.2.2 The Parties undertake to register the restriction provided in Clause 5.2.1 with the Registry of Shareholders at the time of the transfer of the Subject Shares to the Purchaser in accordance with Clause 3.2 (*Obligations at Closing*).
- 5.2.3 For the avoidance of doubt, in the event that the Purchaser is involved in a merger, the provisions of this Article 5.2 (*Share Transfer Restrictions*), insofar as they relate to the Purchaser, will apply any successor entity of the Purchaser.

5.3 Investment Programme

- 5.3.1 The Purchaser herein agrees and covenants to implement the Investment Programme set forth in **Schedule 10** (*Investment Programme of the Purchaser*), under the terms and conditions provided therein (the "**Investment Programme**") in the aggregate minimum amount of €[●] ([●] Euro). Subject to Clause 5.3.3 the Investment Programme shall be funded from sources as set forth in the Investment Programme.
- 5.3.2 Only those investments fulfilled in the form of cash or in kind shall be considered investment commitments and shall be used for performing of the Company's main activities (fixed and mobile telephony and internet technology) exclusively.
- 5.3.3 Investments may not be financed by the Company's funds. The Company's property may not be used as security for loans granted to the Purchaser for the realisation of any investment commitments. The value of realised investments may not be subject to capital increase of the Company and the Company shall not issue new shares in respect of realised investments.

5.4 Business Plan; Key Performance Indicators

- 5.4.1 The Purchaser shall use its reasonable commercial efforts in ensuring that the Company's business will develop in line with the provisions of the Business Plan

set forth in **Schedule 11** (*[Business Plan of the Purchaser with Social Programme]*) (the "**Business Plan**").

5.4.2 Without limiting the generality of the foregoing, the Purchaser shall use its reasonable commercial efforts to procure that the Company and its Subsidiaries to achieve the following key performance indicators by the 31 December 2007:

- (i) the increase of the internet penetration in the Republic of Montenegro to at least 25% (twenty-five per cent);
- (ii) the installation of a minimum ADSL/broadband capacity household connection penetration of 6% (six per cent) of the total number of households in the Republic of Montenegro or more than 11,000 (eleven thousand) household connections; and,
- (iii) the realisation of the following investments:
 - (a) broadening the net optical cables in Podgorica by installing optical rings for telecommunication traffic protection for all capabilities of EAR technology;
 - (b) installing an optical connecting line from Rozaje to Kula to achieve a telecommunication connection with Kosovo; and,
 - (c) obtaining a SDH traffic protection for communications to Serbia and Albania by installing optical connected lines from Pljevlja to Prijepolje and from Tuzi to Bozaj.

5.4.3 The Purchaser will maintain the Company's headquarters in the Republic of Montenegro.

5.4.4 The Purchaser undertakes to procure that at least 50% (fifty per cent) of services used, equipment and materials purchased by the Company will be from service providers and suppliers from the Republic of Montenegro, provided that such services and supplies are in accordance with the scope of international trading standards.

5.5 Employee Matters; Social Programme

5.5.1 The Purchaser herein agrees and commits that, for a period of at least five years after Closing, it shall procure that the Company maintains the following contracts:

- (a) the Individual Collective Bargaining Agreement of the Company;
- (b) the Individual Collective Bargaining Agreements of each of the Subsidiaries;

and that there will not be any forced redundancy that would contravene the provisions of any of the Individual Collective Bargaining Agreements set out above in this Clause 5.1.1.

5.5.2 The Purchaser herein agrees and commits to fully implement the Social Programme as a part of the Business Plan set forth in **Schedule 11** (*[Business Plan of the Purchaser with Social Programme]*), under the terms and conditions provided therein (the "**Social Programme**").

- 5.5.3 The Purchaser herein agrees and commits that for the period of at least five years after Closing it will procure that the Company only engages the specialised personnel of the Company and will only engage other personnel who are not employees of either of the Company or its Subsidiaries to a limited extent, and only up to the amount of €10 million (ten million Euro) in total for the five year period and not more than €4 million (four million Euro) for the first year after Closing and not more than €2 million (two million Euro) in any of the subsequent four years.
- 5.5.4 The Purchaser herein agrees and commits that it shall, and shall procure that the Company shall, fully observe the Rules on the Settlement of Residential Issues and by-laws of the Company which provide for a certain plan and programme for the settlement of the residential requirements of the Company's employees.

5.6 Maintenance of Company's Identity, Status, Business

- 5.6.1 The Purchaser hereby commits that, for a period of at least five years after Closing, it shall:
- (a) maintain the main fields of the Company's objects of activity in which the Company is involved at the Closing Date;
 - (b) refrain from initiating or supporting, directly or indirectly, a voluntary dissolution, liquidation, merger or de-merger of the Company, a withdrawal of any Shares, or a reduction in the share capital of the Company, except as contemplated by this Agreement;
 - (c) refrain from disposing of in any manner or shutting down (other than as reasonably necessary for the performance of maintenance, repairs or technological upgrades) any Core Assets (or any portion thereof) and shall procure that the Company refrains from taking such actions; however, a Core Asset shall not be deemed to have been disposed of if replaced by an asset of similar nature or function, provided that, if the replaced asset was located in the Republic of Montenegro, the new asset must also be located in the Republic of Montenegro.
- 5.6.2 The Purchaser commits and agrees that for a period of five years from the Closing Date, it will not carry out, allow or permit the Company to carry out any of the following actions, without the prior written consent of the Sellers:
- (a) the sales, transfer or other disposal of any significant assets of the Company, whether in one transaction or several over the five year period, which amount to a disposal of more than 5% (five per cent) of the value of the total assets of the Company according to the latest balance sheet at the date of the transaction;
 - (b) the creation of any Encumbrance over the assets of the Company which are necessary for conducting the business of the Company, except if this kind of Encumbrance is necessary in the Ordinary Course of Business;
 - (c) the sale, transfer or disposal of any Subsidiary or any Affiliate of the Company; or
 - (d) the reorganisation, restructure, or spin-off of any part of the Company or changing of the Company's legal status in any similar manner; the Sellers

shall not, without reasonable cause, withhold their written consent to the Purchaser's request to merge any other company from its group in the Republic of Montenegro with the Company, or to reorganise, restructure, or spin-off any part of the Company or change the Company's legal status in any similar manner.

- 5.6.3 The Purchaser commits and agrees to procure that the Company fulfils its obligations under the Separation Agreement including, but not limited to, the annexes to the agreement.
- 5.6.4 The Purchaser commits and agrees to procure that the Company fulfils its obligations under the Radio Diffusion Centre Agreement, including the regulation of the mutual relations between the Company and the Radio Diffusion Centre.
- 5.6.5 The Purchaser commits and agrees to procure that, until at least the 31 December 2007, the Company maintains and continues the practice of collecting radio-diffusion subscription fees from the residents of the Republic of Montenegro, in accordance with the practice of the Company prior to the date hereof and for the benefit of the Agency for Radio Diffusion. From the 1 January 2007 the Purchaser can cause the Company to issue a separate bill for the radio-diffusion subscription fee, which should be issued and delivered to the subscribers at the same time as their bill for telecommunication services.

5.7 Related Party Transactions

- 5.7.1 The execution of any Contract by the Company or any Subsidiary, or the delivery of any order, or a series of related Contracts, related deliveries or related orders, with or to the Purchaser or an Affiliate of the Purchaser shall be permitted only to the extent that such transaction is carried out in good faith in compliance with the Company's interests and on arm's length terms.
- 5.7.2 The execution of any Contract by the Company or any Subsidiary, or the delivery of any order, or a series of related Contracts, related deliveries or related orders, the value of which exceeds €250,000 (two hundred and fifty thousand Euro) individually or €2,000,000 (two million Euro) in the aggregate in the course of a year, or their equivalent in any other currency, with the Purchaser or an Affiliate of the Purchaser shall be approved by the Government.
- 5.7.3 For the purposes of this Article 5.7 (*Related Party Transactions*), the term "control" as applied to any Person means legal control or control in fact, including, but not limited to the right or the possibility to exercise a detrimental influence, directly or indirectly, through one or more intermediaries.

5.8 Commitment Certificate

- 5.8.1 Within 90 (ninety) days of each of the first five anniversaries of the Closing, the Purchaser shall submit to the Sellers a certificate, signed by the Purchaser, counter-signed by the Company and certified by independent auditors or other independent experts, acceptable to the Sellers, prepared at the expense of the Purchaser, confirming compliance (or otherwise) with the Purchaser's commitments in Section 5 (*Commitments of the Purchaser*) and stating in sufficient detail the measures taken for the fulfilment of these commitments.

5.8.2 The certificate, which shall contain the information and documentation set out in the Investment Programme and Social Programme, shall state the nature and amount of investments made pursuant to the Investment Programme and Social Programme during the preceding year as well as the cumulative investment made by the Purchaser from the date of Closing until the date covered by that certificate. In the case of non-compliance with the Investment Programme and the Social Programme, the Purchaser shall give reasons in writing for such non-compliance.

5.8.3 As soon as the Sellers have received a certificate under this Clause, they shall have a period of 30 (thirty) days to notify the Purchaser of any penalty for non-compliance determined in Section 6 (*Termination and Other Remedies*) or any waiver of penalty (such waiver not to prevent the Sellers from bringing any future claim available and in accordance with this Agreement for the same). The Sellers shall in any case have the right to inspect the books and records of the Company to insure compliance with the commitments from Articles 5.1 (*National Interest Commitments*) to 5.7 (*Related Party Transactions*) and the Purchaser and the Company shall give access and make available to the Sellers such books and records at any time at the request of the Sellers, giving at least three days notice of such request.

5.9 Performance Bond

As security for the commitments of the Purchaser under Article 5.3 (*Investment Programme*), and for the other warranties, commitments and obligations of the Purchaser in this Agreement related to such commitments, the Purchaser shall deliver to the Sellers a Performance Bond, in form and substance substantially similar to that set forth in **Schedule 7** (*Form of Performance Bond*). This Performance Bond shall serve as an independent and unconditional security for all of the Purchaser's obligations in Article 5.3 (*Investment Programme*), Sub-Clause 6.2.3(i)(a), and **Schedule 10** (*Investment Programme of the Purchaser*).

5.10 Purchaser's Representatives Compliance with Purchaser Commitments

The Purchaser, as the majority shareholder of the Company, undertakes to procure that its representatives, on the corporate bodies of the Company and the Company's employees nominated by such representatives, do not initiate, vote for, order, sign and/or implement any decision, statement, order or contract to prevent the Company from fully satisfying all of its commitments under this Section 5 (*Commitments of the Purchaser*).

6 Termination and Other Remedies

6.1 Termination Prior to Closing; Procedure; Consequences

6.1.1 Right of Termination Prior to Closing

This Agreement may be terminated prior to Closing only as provided in Clause 6.1.2 (*Pre-Closing Termination By Mutual Consent*), Clause 6.1.3 (*Pre-Closing Rescission / Termination by the Purchaser*), and Clause 6.1.4 (*Pre-Closing Rescission / Termination by the Sellers*).

6.1.2 Pre-Closing Termination By Mutual Consent

- (i) This Agreement may be terminated prior to Closing by mutual agreement of the Sellers and the Purchaser pursuant to and in accordance with Article 8.5 (*Amendments (Variations); Waiver*).
- (ii) The effect of termination made pursuant to Clause 6.1.2 (*Pre-Closing Termination By Mutual Consent*) shall be governed by the terms of any such agreement. In case of termination by mutual consent, the Purchaser will be released *de jure* from its Bid Bond and Performance Bond and the Sellers will be obliged to procure the delivery to the Purchaser of the original of such Bid Bond and Performance Bond within seven Business Days of the agreement to terminate this Agreement.

6.1.3 Pre-Closing Rescission / Termination by the Purchaser

- (i) The Purchaser shall be entitled to rescind / terminate this Agreement prior to Closing without court intervention and without any other formality by giving written notice to the Sellers prior to or at Closing pursuant to and in accordance with Article 8.1 (*Notices, Communications*), in any of the following cases:
 - (a) if Closing has not occurred (other than through the failure of the Purchaser to comply fully with its obligations under this Agreement) on the Closing Date or such later date as the Parties may agree upon pursuant to and in accordance with Article 8.5 (*Amendments (Variations); Waiver*);
 - (b) if the Sellers fail or refuse to sign the Share Transfer Application Notice or refuse to proceed with Closing when obliged to do so or otherwise fail or refuse to comply with its obligations at Closing, as set forth in Section 3 (*Closing*);
 - (c) in the event the Sellers breaches its obligations under Sub-Clause 4.1.1(i) and Sub-Clause 4.1.2(i); and,
 - (d) in the event that a Material Adverse Change has occurred.
- (ii) The consequences of termination under Sub-Clause 6.1.3(i) are as follows:
 - (a) in the case envisaged by paragraph (a) of such Sub-Clause, the termination of this Agreement with no Damages by the Sellers;
 - (b) in the case envisaged by paragraph (b) of such Sub-Clause, rescission of this Agreement with Damages of €250,000 (two hundred fifty thousand Euro) to be paid by the Sellers to the Purchaser; and
 - (c) in all cases envisaged by Clause 6.1.3(i), the release of the Purchaser from its Bid Bond and Performance Bond and the delivery to the Purchaser of the original of such Bid Bond and Performance Bond within seven Business Days of the Sellers having received the Purchaser's notice under Sub-Clause 6.1.3(i).

6.1.4 Pre-Closing Rescission / Termination by the Sellers

(i) The Sellers shall be entitled to rescind / terminate this Agreement prior to Closing without court intervention and without any other formality by giving written notice to the Purchaser prior to Closing pursuant to and in accordance with Article 8.1 (*Notices, Communications*), in any of the following cases:

(a) if the Purchaser fails or refuses to comply with its payment obligations under and in accordance with Article 2.3 (*Payment of Purchase Price; Transfer of the Subject Shares*);

(b) if any fact or event arising before the Closing Date causes or could cause the Purchaser to be in breach or violation of any of the representations and warranties in Article 4.2 (*Representations and Warranties of the Purchaser*), and such breach or violation:

(i) would or could have caused the Purchaser to have been excluded from the tender or otherwise not to have been selected as the first ranked bidder; or

(ii) causes this Agreement to be in any way invalid; or

(iii) causes the Purchaser to be substantially unable to fulfil its obligations under this Agreement, then

the Purchaser should give notice to the Sellers within two Business Days of becoming aware of the same, and, prior to the Closing Date, or the Sellers becoming aware of the same, shall give notice to the Purchaser (failure to give such notice shall not constitute a waiver of the Sellers' rights) and if such breach or violation cannot be or has not been cured or remedied by the Purchaser, to the reasonable satisfaction of the Sellers, within a period of 20 (twenty) Business Days of any such notice.

(c) if the Purchaser fails or refuses to sign the Share Transfer Application Notice or refuses to proceed with Closing when obliged to do so or fails or refuses to comply with its obligations at Closing, as set forth in Section 3 (*Closing*);

(d) if the Purchaser breaches any representation, warranty, undertaking or obligation in this Agreement in any respect prior to Closing or would be in such breach if Closing were to take place; and,

(e) if Closing has not occurred (other than through the failure of the Sellers to comply with its obligations under this Agreement) on the Closing Date or such later date as the Parties may agree upon pursuant to and in accordance with Article 8.5 (*Amendments (Variations); Waiver*).

(ii) The consequences of termination under Sub-Clause 6.1.4(i) are as follows:

(a) in the cases envisaged by paragraphs (a), (b), (c), and (d) of such Sub-Clause, rescission of this Agreement with Damages to be paid by the Purchaser to the Sellers, such damages consisting of the right of the Sellers to enforce the Bid Bond and to claim a penalty of €250,000 (two hundred fifty thousand Euro) (if the Escrow Account

has been funded the penalty shall be paid to the Sellers by the Escrow Agent, in accordance with the Escrow Agreement); and

- (b) in the case envisaged by paragraph (e) of such Sub-Clause, the termination of this Agreement with no Damages by the Purchaser, as well as the Sellers procuring the release by the Agency of the Purchaser from its Bid Bond and Performance Bond and the delivery to the Purchaser of the original of such Bid Bond and Performance Bond, within seven Business Days of the Sellers having sent the notice under Sub-Clause 6.1.4(i).

6.2 Breach of Contract: Damages, Right of Reimbursement

6.2.1 Breach of Purchaser's Representations and Warranties and/or Other Obligations

Assuming that Closing has occurred, in the event the Purchaser breaches this Agreement (including without limitation by breaching any representation and warranty or any other obligation, undertaking, covenant, *etc.*), and, if capable of remedy, such breach has continued for a period of 30 (thirty) days after a written notice from the Sellers to the Purchaser thereof, the Purchaser shall be liable to pay the Sellers the full amount of any Damages incurred by the Sellers as a result of such breach, subject to the limitations set forth in Article 6.3 (*Limitation of Liability*).

6.2.2 Breach of the Purchaser's National Interest and Share Transfer Commitments

In the event the Purchaser breaches its obligations provided in Article 5.1 (*National Interest Commitments*) or Article 5.2 (*Share Transfer Restrictions*) the Sellers shall be entitled to the return of the Subject Shares and/or to receive a penalty payment of 50% (fifty per cent) of the Purchase Price from the Purchaser. On the return of the Subject Shares to the Sellers and the registration of the transfer with the CDA, the Sellers shall pay to the Purchaser an amount corresponding to the market value of the Subject Shares, less a 15% (fifteen per cent) discount, within 30 (thirty) Business Days of the market value being established. The market value to be established as at the date of the breach or of the date of the transfer of the shares to the Sellers, whichever is the lower.

6.2.3 Breach of Purchaser's Post Privatisation Obligations

- (i) In the event the Purchaser breaches its obligations provided in Articles 5.3 (*Investment Programme*) to Article 5.8 (*Commitment Certificate*) (inclusive), and, if capable of remedy, such breach has continued unremedied for a period of 30 (thirty) days after a notice from the Sellers to the Purchaser thereof, the Purchaser shall be liable to pay the Sellers as follows:
 - (a) for violation of Article 5.3 (*Investment Programme*), 100% (one hundred per cent) of the amount of the specific Investment Commitment not made.
 - (b) for violation of any commitment from Article 5.4 (*Business Plan; Key Performance Indicators*), 10% of the Purchase Price.
 - (c) for violation of Article 5.5 (*Employee Matters; Social Programme*), a sum equal to 100% (one hundred per cent) of the cost, effect or loss

(to the Company or employees) as a result of the deviation from the Social Programme or, for any unauthorised redundancy an amount equal to the relevant employee's gross annual salary multiplied by five;

- (d) for violation of Article 5.6 (*Maintenance of Company's Identity, Status, Business*) as follows
 - (i) Clause 5.6.1 paragraph (a) 50% (fifty per cent) of the Purchase Price;
 - (ii) Clause 5.6.1 paragraph (b) 50% (fifty per cent) of the Purchase Price;
 - (iii) Clause 5.6.1 paragraph (c) the greater of 50% (fifty per cent) of the Purchase Price or the value of the relevant Core Asset;
 - (iv) Clause 5.6.2 paragraph (a) the greater of 50% (fifty per cent) of the Purchase Price or the value of the relevant significant asset;
 - (v) Clause 5.6.2 paragraph (b) 25% (twenty-five per cent) of the Purchase Price;
 - (vi) Clause 5.6.2 paragraph (c) the greater of 50% (fifty per cent) of the Purchase Price or the value of the relevant Subsidiary or relevant Affiliate of the Company;
 - (vii) Clause 5.6.2 paragraph (d) 50% (fifty per cent) of the Purchase Price; and
 - (viii) Clause 5.6.2 the amount of the financial obligation or other obligation not fulfilled under the separation agreement.
- (e) for violation of Article 5.7 (*Related Party Transactions*), 100% (one hundred per cent) of the subject Contract;
- (f) for violation of Article 5.8 (*Commitment Certificate*), 200% (two hundred per cent) of the cost of determining whether the commitments have been complied with;
- (ii) For the avoidance of doubt, the payment of penalties under this Clause 6.2.3 shall not, in any way, relieve the Purchaser from the obligations the breach of which caused the relevant penalty.
- (iii) The Purchaser shall not be penalised more than once if, by the same action or omission, it breaches two or more provisions for the breach of which penalties are provided. In such a case, if the amounts of the penalties that would otherwise be applicable are different, then the higher penalty shall be applied.

6.2.4 Breach of Sellers' Representations and Warranties and/or Other Obligations

- (i) Assuming that Closing has occurred, in the event the Sellers breach this Agreement (including without limitation by breaching any representation and warranty or any other obligation, undertaking, covenant, etc.), and, if capable of remedy, such breach has continued for a period of 30 (thirty)

days after a written notice from the Purchaser to the Sellers thereof, the Sellers shall be liable to pay the Purchaser the full amount of any Damages incurred by the Purchaser in its capacity as shareholder as a result of such breach, subject to the limitations set forth in Article 6.3 (*Limitation of Liability*).

- (ii) In respect of any amounts owing under Clause 6.2.4(i), the Purchaser shall be under the obligation to mitigate the subject Losses.

6.3 Limitation of Liability

6.3.1 Time Limit for Claims

The Sellers shall not be liable for a breach of a representation and warranty under Article 4.1 (*Representations and Warranties of the Sellers*) in respect of any claim unless a notice of the claim is given by the Purchaser to the Sellers, specifying the factual basis of its claim in reasonable detail, within six months following Closing.

6.3.2 Minimum Claims

- (i) A Party shall not be liable under this Agreement in respect of any individual claim (or a series of claims arising from substantially identical facts or circumstances) where the liability agreed or determined (disregarding the provisions of this Clause 6.3.2 (*Minimum Claims*)) in respect of any such claim or series of claims does not exceed the equivalent in any currency of €100,000 (one hundred thousand Euro) (subject as provided elsewhere in this Article 6.3 (*Limitation of Liability*)).
- (ii) Where the liability agreed or determined in respect of a claim exceeds the equivalent in any currency of €100,000 (one hundred thousand Euro) (excluding interest, costs and expenses), subject as provided elsewhere in this Article 6.3 (*Limitation of Liability*), the liability of the Party in question shall be the amount of the excess.

6.3.3 Aggregate Minimum Claims

- (i) A Party shall not be liable under this Agreement in respect of any claims unless the aggregate amount of all claims for which the Seller would otherwise be liable under this Agreement (disregarding the provisions of this Clause 6.3.3 (*Aggregate Minimum Claims*)) exceeds the equivalent in any currency of €1,000,000 (one million Euro).
- (ii) Where an amount agreed or determined in respect of all claims referred to in Sub-Clause 6.3.3(i) exceeds the equivalent in any currency of €1,000,000 (one million Euro), the liability of the Party in question shall be limited to the amount of the excess (subject as provided elsewhere in this Article 6.3 (*Limitation of Liability*)).

6.3.4 Third Party Claims and Conduct of Proceedings

The Purchaser shall notify the Sellers of any third party notice or claim against the Purchaser in its capacity as a shareholder or against the Company that has caused or might cause a breach of the representations and warranties in [Schedule 4](#) (*Representations and Warranties Given by the Sellers under Sub-Clause 4.1.1(i)*) or [Schedule 5](#) (*Representations and Warranties Given by the Sellers under Sub-*

Clause 4.1.1(ii)) in reasonable detail within 21 (twenty-one) Business Days of the Purchaser becoming aware of such claim. Failure to so notify the Sellers shall result in the Purchaser losing all rights to compensation in respect of such claim under this Agreement. The Parties shall cooperate in the defence, negotiation or settlement of any action, Proceeding, claim or demand that relates to such third party claim. The Purchaser shall cause the Company to give the Sellers and their advisers' access to all documents and information relating to the matter. If the Sellers decide not to defend or otherwise participate in the Proceedings of such claim, the Purchaser shall not settle or pay any such claim without the prior written consent of the Sellers. Failure to do so shall result in the Purchaser losing all rights to compensation in respect of such claim under this Agreement.

6.3.5 Maximum Liability

The total amount of damages paid by the Sellers for claims related to a breach of any of the representations and warranties contained in **Schedule 4** (*Representations and Warranties Given by the Sellers under Sub-Clause 4.1.1(i)*) and **Schedule 5** (*Representations and Warranties Given by the Sellers under Sub-Clause 4.1.1(ii)*) hereto shall not exceed 25% (twenty five per cent) of the Purchase Price.

6.3.6 Miscellaneous

(i) Contingent Liabilities

A Party shall not be liable under this Agreement in respect of any liability that is contingent, unless and until such contingent liability becomes an actual liability and is due and payable.

(ii) Insurance

The Sellers shall not be liable under this Agreement in respect of any claim to the extent that the Losses in respect of such claim are covered by a policy of insurance held by the Company or the Purchaser.

(iii) Tax

The amount of any claims made shall be reduced to reflect the value of any tax benefit realised, directly or indirectly, by the Purchaser or any of its Affiliates (including the Company);

(iv) Matters Arising After the Signing Date

The Sellers shall not be liable under this Agreement in respect of any matter, act, omission or circumstance (or any combination thereof), including the aggravation of a matter or circumstance, to the extent that the same would not have occurred but for:

- (a) any matter or thing done or omitted to be done pursuant to and in compliance with this Agreement or otherwise at the request in writing or with the approval in writing of the Purchaser; or
- (b) any act, omission or transaction the Purchaser or the Company, or their respective directors, officers, employees or agents or successors in title, after Closing did, committed or effected outside the Ordinary Course of Business.

(v) Double Recovery

A Party shall not be entitled to claim more than once for the same loss or damage, on its own account and on the account of any of its Affiliates (including the Company). Where any loss or damage is suffered or incurred by the Company as a result of a breach of any of the representations and warranties in Article 4.1 (*Representations and Warranties of the Sellers*), and subject to the limitations of the Sellers' liability hereto, the Purchaser shall be entitled to claim compensation and the proceeds received as a result of such claim shall be disbursed to the Company.

(vi) Duty to Mitigate Damages

The Purchaser or the Sellers, as the case may be, shall take all reasonable steps to mitigate any loss or damage suffered by it or any of its Affiliates (including the Company) and a Party shall be under no liability with respect to the increase in the loss or damage suffered by the other Party or any of its Affiliates due (in whole or in part) to the default, misconduct or negligence of such latter Party or any of its Affiliates.

(vii) Loss

The Sellers shall not be liable for the amount of any lost profits or consequential or indirect losses for the Purchaser or any of its Affiliates (including the Company).

6.3.7 The Purchaser herewith explicitly waives its right to terminate this Agreement due to the breach or violation of any representation and warranties of the Sellers from Article 4.1 (*Representations and Warranties of the Sellers*).

7 Dispute Resolution

7.1 Settlement of Disputes

7.1.1 Any dispute or difference arising out of or in connection with this Agreement, including without limitation any disputes regarding its valid conclusion, existence, nullity, breach, termination or invalidity (each a "**Dispute**" for purposes of this Section 7 (*Dispute Resolution*)), that cannot be resolved by amicable negotiations within 60 (sixty) calendar days from the notice served by any of the Parties relating to the potential Dispute shall be finally resolved by the London Court of International Court of Arbitration under the UNCITRAL Rules of Arbitration. The Party requesting the initiation of the arbitration proceedings shall serve the other Party with a written notice that such proceedings will be initiated.

7.1.2 The place of the arbitration shall be London, United Kingdom, the language of the arbitration shall be English, and the tribunal shall consist of three arbitrators appointed in accordance with the UNCITRAL Rules.

7.2 Award Final and Binding

7.2.1 Any award of the arbitral tribunal rendered in accordance with this Section 7 (*Dispute Resolution*) shall be final and binding on the Parties.

7.2.2 Judgment upon any such award made may be entered in any jurisdiction, or application may be made to any court of competent jurisdiction for confirmation of such award, judicial acceptance of such award, or for any order of enforcement or other legal remedy, as the case may be.

7.3 Cost of Dispute

In the event of a Dispute, the Party prevailing in such dispute shall be entitled to recover all expenses, including without limitation reasonable attorneys' fees and expenses and arbitral and court-related costs, incurred in ascertaining such Party's rights and in preparing to enforce, and in enforcing, such Party's rights under this Agreement, as determined by the arbitration tribunal, whether or not it was necessary for such Party to institute any enforcement proceedings.

8 General Provisions

8.1 Notices, Communications

8.1.1 Any notice, request, letter, instruction, authorisation, claim, demand, consent, waiver or any other communication that is to be made, given or delivered (or that is permitted to be made, given or delivered) under this Agreement (each a "Notice" for purposes of this Article 8.1 (*Notices, Communications*)) shall be in writing in the English language or, if in another language, accompanied by an English translation thereof.

8.1.2 Any Notice shall be considered to be validly made, given or delivered to the recipient only if delivered by hand at the address as set out below, or sent by facsimile at the fax number as set out below, or sent by prepaid overnight courier services (by an internationally reputable carrier in the case of international service) at the address as set out below:

(i) in the case of the Sellers to:

The Government of the Republic of Montenegro

Address: [•]
81000 Podgorica, Montenegro

Fax: +381.81.[•]

Attention:

and The Employment Bureau of Montenegro

Address: [•]
81000 Podgorica, Montenegro

Fax: +381.81.[•]

Attention:

(ii) in the case of the Purchaser to:

[•]

Address: [•]

Fax: [•]

Attention: [•]

(iii) or (in either case) to such other address or fax number as the relevant Party may have notified to the other Party in accordance with this Article 8.1 (*Notices, Communications*).

8.1.3 Any Notice shall conclusively be deemed to have been received by the recipient:

- (a) at the time of delivery, if delivered by hand;
- (b) on the next Business Day in the place to which it is sent, if sent by facsimile (provided the sender retains an acknowledgement or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number); or
- (c) on the fourth Business Day following the date of posting, if sent by overnight courier.

8.2 Transaction Fees, Costs and Expenses

8.2.1 Except as provided in Clause 8.2.2, Clause 8.2.3 and Clause 8.2.4, and except as otherwise expressly provided in this Agreement or in an agreement entered into as part of the Contemplated Transactions, each Party shall bear all fees, costs and expenses incurred by it in connection with the preparation, negotiation, entry into and performance of this Agreement and the Contemplated Transactions, including but not limited to all fees and expenses of any agents, representatives, attorneys, accountants, finders, investment bankers and other advisers.

8.2.2 The Parties shall procure that the Company shall pay any registration fees incurred by the Company in connection with the changes to the register of directors of the Company with the Commercial Registry.

8.2.3 The Purchaser shall be obligated to pay all bank fees, costs and charges in respect of the payment of the Purchase Price, including, without limitation, any fees owing to the Escrow Agent in connection with the Escrow Agreement.

8.2.4 The Purchaser shall be obligated to pay and responsible for the discharge of any transfer fees, costs charges and taxes (including the transfer tax) due or incurred in relation to the transfer and registration of the Subject Shares, including without limitation, the CDA and the Commercial Registry.

8.3 Further Assurances

8.3.1 At any time after the Closing, each Party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, execute such documents and do such acts and things as the other Party may reasonably require

for the purpose of giving to such other Party the full benefit of all the provisions of this Agreement.

- 8.3.2 In the absence of an express written agreement to the contrary, each of the Parties shall be responsible for all fees, costs and expenses incurred by it in giving effect to the provisions of this Article 8.3 (*Further Assurances*).

8.4 Entire Agreement

- 8.4.1 With the exception of the Confidentiality Agreement, this Agreement supersedes and cancels all prior agreements, negotiations, correspondence, undertakings, and communications (whether written or oral, or express or implied, as the case may be) between the Parties with respect to the subject matter contained herein and constitutes a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter to the exclusion of any terms implied by law that may be excluded by contract.
- 8.4.2 The Parties acknowledge and agree that there are no restrictions, promises, representations, warranties, agreements or undertakings concerning the Contemplated Transactions other than those expressly set forth herein or expressly made hereunder. For the avoidance of doubt, the Purchaser acknowledges that neither the Advisers nor any of either of their Representatives has made any representation or warranty (express or implied) related to this Agreement or the Contemplated Transactions.

8.5 Amendments (Variations); Waiver

- 8.5.1 This Agreement may not be varied, modified, amended or changed in any respect unless evidenced in a written instrument that is duly signed by all of the Parties.
- 8.5.2 The rights and remedies of the Parties under this Agreement are cumulative and not alternative and may be exercised as often as the relevant Party considers appropriate. Neither the failure nor any delay by either Party in exercising any right, power, or privilege under this Agreement or the Contemplated Transactions shall operate as a waiver of such right, power, or privilege (or be construed as a waiver or variation of it) or preclude its exercise at any subsequent time, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power or privilege.
- 8.5.3 Subject to the mandatory provisions of the Governing Law:
- (a) no claim or right arising out of this Agreement or the Contemplated Transactions can be discharged by one Party, in whole or in part, by a waiver or renunciation of the subject claim or right unless in writing signed by the other Party;
 - (b) no waiver that may be given by either Party will be applicable except in the specific instance for which it is given; and
 - (c) no notice to or demand on one Party will be deemed to be a waiver of any obligation of such Party or of the right of the Party giving such notice or

demand to take further action without notice or demand as provided in this Agreement or in the Contemplated Transactions.

8.6 Assignment, Successors, and no Third-Party Rights

- 8.6.1 Neither Party may assign any of its rights under this Agreement without the prior consent of the other Party.
- 8.6.2 This Agreement shall apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the Parties.
- 8.6.3 Except as provided in Clause 8.6.2, nothing expressed or referred to in this Agreement shall be construed to give any Person other than the Parties any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement; for the avoidance of doubt, this Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the Parties and their authorised successors and permitted assigns.

8.7 Invalidity; Severability

Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid and enforceable under the Governing Law, but if any provision of this Agreement shall be held by a court of competent jurisdiction to be unenforceable or invalid, in whole or in part, under the Governing Law, such provision or part shall to that extent (and that extent only) be deemed not to form part of this Agreement but the legality, validity and enforceability of the remainder of this Agreement shall not be affected. In such event, the Parties shall negotiate in good faith to agree within a reasonable time on changes or amendments of this Agreement to replace the provision held to be illegal, invalid or unenforceable with a provision towards the same purpose that shall be legal, valid and enforceable.

8.8 Confidentiality; Public Announcements

- 8.8.1 The following obligations shall apply in addition to any obligations surviving under the Confidentiality Agreement:
 - (a) Subject to Sub-Clause 8.8.1(c) and Clause 8.8.2 Sellers shall treat as confidential and shall not disclose or use any information received or obtained as a result of entering into this Agreement (or any agreement entered into pursuant to this Agreement) which relates to:
 - (i) the provisions of this Agreement and any agreement entered into pursuant to this Agreement; or
 - (ii) the negotiations relating to this Agreement and related agreements; or
 - (iii) the Purchaser's business, financial or other affairs (including the business, financial or other affairs of the Affiliates of the Purchaser).
 - (b) Subject to Sub-Clause 8.8.1(c) and Clause 8.8.2, the Purchaser shall treat as confidential and shall not disclose or use any information received or obtained as a result of entering into this Agreement (or any agreement entered into pursuant to this Agreement) which relates to:

- (i) the provisions of this Agreement and any agreement entered into pursuant to this Agreement; or
 - (ii) the negotiations relating to this Agreement and related agreements; or
 - (iii) the Sellers' organisation, or other affairs.
- (c) Neither Sub-Clause 8.8.1(a) nor Sub-Clause 8.8.1(b) shall prohibit disclosure or use of any information to the extent:
- (i) the disclosure or use is required by law, any regulatory body or the rules and regulations of any recognised stock exchange; or
 - (ii) the disclosure or use is required to vest the full benefit of this Agreement in the Sellers or the Purchaser, as the case may be; or
 - (iii) the disclosure or use is required for the purpose of any judicial Proceedings arising out of this Agreement or any other agreement entered into under or pursuant to this Agreement; or
 - (iv) the disclosure is reasonably required to be made to a Taxation authority in connection with the Taxation affairs of the disclosing Party; or
 - (v) the disclosure is made to professional advisers of the Purchaser or the Sellers on terms that such professional advisers undertake to comply with the provisions of Sub-Clause 8.8.1(a) or Sub-Clause 8.8.1(b), as the case may be, in respect of such information as if they were a party to this Agreement; or
 - (vi) the information becomes publicly available (other than by breach of the Confidentiality Agreement or of this Agreement); or
 - (vii) disclosure is made to the Minority Shareholders, but only if such prove a legal interest; or
 - (viii) the information is independently developed after Closing,

provided that prior to disclosure or use of any information pursuant to Sub-Clause 8.8.1(c), paragraphs (i), (ii), or (iii) the Party concerned shall promptly notify the other Party of such requirement with a view to providing the other Party with the opportunity to contest such disclosure or use or otherwise to agree the timing and content of such disclosure or use.

- 8.8.2** Any public announcement or similar publicity with respect to this Agreement or the Contemplated Transactions will be issued, if at all, at such time and in such manner as the Parties agree. For the avoidance of doubt, neither the Sellers shall be precluded from making general public statements with respect to the privatisation of the Company (including, subject to the agreement of the Parties, statements in relation to the agreed Purchase Price and any other details as may be reasonably agreed by the Parties) or responding to questions in the Montenegrin Parliament relating to this Agreement or the Contemplated Transactions.

8.8.3 Until Closing, the Parties shall consult with each other concerning the means by which the Company's employees, customers and suppliers, and others having dealings with the Company, will be informed of this Agreement and the Contemplated Transactions.

8.9 Governing Law; Governing Language

8.9.1 This Agreement and the Contemplated Transactions shall be governed by and construed in accordance with the Governing Law.

8.9.2 This Agreement shall be executed in 16 (sixteen) originals, eight in the English language and eight in the Serbian language. In the event of any discrepancy between the English and Serbian language versions of this Agreement, the English version shall prevail.

8.10 Rights and Remedies

In the event of a breach or threatened breach by any Party of its obligations under this Agreement, the other Party will, in addition to all other rights and remedies available to them, be entitled to remedies of specific performance, it being agreed that other remedies may be inadequate compensation for breach of obligations under this Agreement.

8.11 Time of Essence

Time shall be of the essence in this Agreement, both as regards to any dates, times and periods mentioned herein.

8.12 Force Majeure

Parties may suspend the performance of any obligation under this Agreement during any period in which they are prevented from performing such obligation as a direct result of an event of Force Majeure. The time period for completing the performance of such obligation shall be extended by the length of the period in which the event of Force Majeure rendering implementation of such obligation impossible persists. For the purpose of this Article, "Force Majeure" means an unforeseen and unavoidable event arising after execution of this Agreement which is beyond the control of the Parties and which prevents execution of the Parties' obligations under this Agreement; such events include, but are not limited to, war, riots, civil disorder, earthquake, fire, storm, flood, other similar natural calamities and strikes which impede the implementation of any obligation.

IN WITNESS WHEREOF, EACH OF THE PARTIES BY ITS DULY AUTHORISED REPRESENTATIVE HAS CAUSED THIS AGREEMENT TO BE EXECUTED ON THE SIGNING DATE:

GOVERNMENT OF THE REPUBLIC OF
MONTENEGRO

Stamp affixed

By: _____

Name: [●]

Title: Authorised Representative

}

EMPLOYMENT BUREAU OF MONTENEGRO

Stamp affixed

By: _____

Name: [●]

Title: Authorised Representative

}

[PURCHASER]

Stamp affixed

By: _____

Name: [●]

Title: Authorised Representative

}

**- Schedule 1 -
Government's Representative's Authorisation**

**- Schedule 2 -
Employment Bureau's Authorisation**

**- Schedule 3 -
Purchaser's Representative's Authorisation**

– Schedule 4 –
Warranties Given by the Sellers under Sub-Clause 4.1.1(i)

1 Authority; No Conflict

The Sellers have the legal right and full power and authority to enter into and perform this Agreement and to execute any other documents to be executed by the Sellers pursuant to or in connection with this Agreement. The execution of, and the performance by the Sellers of their obligations under, this Agreement and any other documents to be executed by the Sellers pursuant to or in connection with this Agreement will not and are not likely to result in a breach of any provision of the Governing Law or the constitutional documents of the Company. All Authorisations required to be made by the Sellers with Governmental Authorities or other third parties for the execution and performance by the Sellers of this Agreement and any other documents to be executed by the Sellers pursuant to or in connection with this Agreement or for the validity or enforceability thereof have been duly obtained or made and are in full force and effect or will be obtained or made prior to the Closing Date and will be in full force and effect on or before the Closing Date.

2 Status of the Company

The Company is a joint stock company duly organised and validly existing under the laws of the Republic of Montenegro.

3 Shares and Share Capital of the Company / Capitalisation

- 3.1** As at the Signing Date, the Company has a share capital of €140,999,253.44 (one hundred forty million nine hundred ninety-nine thousand two hundred and fifty-three Euro and forty four cents) divided into 47,273,940 (forty seven million two hundred seventy three nine hundred forty) ordinary shares issued in a dematerialised form, registered with the CDA. There are no other shares or securities of the Company authorised, issued or outstanding.
- 3.2** The Sellers hold respectively, exclusive, full and valid title to the Subject Shares, free and clear of any Encumbrances.
- 3.3** There are no options, warrants or instruments convertible into Shares or other agreements relating to the existing Shares.

4 Binding Effect

This Agreement constitutes, and any other documents to be executed by the Sellers pursuant to or in connection with this Agreement will when executed constitute, valid and binding obligations of the Sellers in accordance with the Governing Law, enforceable in accordance with their respective terms.

5 Commercial Agreement

This Agreement and the actions taken by the Sellers in furtherance of this Agreement are commercial rather than public or governmental acts and the Sellers are not entitled to claim immunity from legal proceedings or liability with respect to themselves or any of their assets on the grounds of state sovereignty or otherwise under any law or in any jurisdiction

where an action may be brought for the enforcement of any of the obligations arising under or relating to this Agreement.

– Schedule 5 –
Warranties Given by the Sellers under Sub-Clause 4.1.1(ii)

1 Governmental Approvals, Consents etc.

All Authorisations required to be obtained by the Company from any Governmental Authority or other third parties for the execution and performance by the Sellers of this Agreement and any other documents to be executed by the Sellers or the Company pursuant to or in connection with this Agreement or for the validity or enforceability thereof have been duly obtained or made and are in full force and effect or will be obtained or made prior to the Closing Date and will be in full force and effect on or before the Closing Date.

2 Contracts; No Defaults

Neither the execution of this Agreement by the Sellers nor the consummation or performance of any of the Contemplated Transactions herein by the Sellers will:

- (i) contravene, conflict with or result in a violation of or default under any resolution of the corporate bodies of the Company or the internal regulations of the Company and any of the orders or decisions of its management bodies;
- (ii) result in the Company losing the benefit of any material Authorisation; or
- (iii) conflict with, or result in a breach of, or give rise to an event of default under, or require the consent of any Person under any agreement, arrangement or obligation to which the Company is a party.

3 Accounts

- 3.1** The Sellers have delivered to the Purchaser a true and complete copy of the Last IFRS Accounts.
- 3.2** The Last IFRS Accounts present a true and fair view of the financial condition and state of affairs of the Company as of the dates shown and of its results, total recognised gains and losses and cash flows for the periods shown, subject to the qualifications and notes set forth in the Auditors' review report accompanying the Last IFRS Accounts.
- 3.3** All statements and other documents required to be filed with and/or delivered to any Governmental Authority with respect to the Company's financial statements have been filed or delivered.
- 3.4** All the books of accounts as well as other records required to be maintained by the Company (i) are being maintained in accordance with Governing Law and standard industry practices, (ii) are complete, true and accurate as at the Signing Date, and (iii) are in the possession of the Company, and (iv) show a true and fair view of the financial position of the Company.

4 No Undisclosed Liabilities

The Company has no liabilities or obligations (absolute, accrued or otherwise) of a nature required by the Governing Law to be provided for or accrued in a balance sheet whose

purpose is to give a true and fair view of financial position or disclosed in the notes thereto, that are not accrued or reserved against or disclosed in the Last IFRS Accounts (including the notes thereto), other than liabilities or obligations incurred in the ordinary course of business after the Last IFRS Accounts Date and that would not cause a Material Adverse Change.

5 Title to Property; Encumbrances; Assets

5.1 The Company owns or has a valid right to use the real properties attributable to its businesses as presently conducted. The Company has good and marketable title or right to use the real properties that it uses, free and clear of Encumbrances in favour of third parties. Consummation of the transactions contemplated herein will not give rise to any right of termination or loss of any rights of use currently enjoyed by the Company in respect of the material real properties currently used by the Company in the conduct of its respective businesses.

5.2 The Company owns or has a valid right to use the tangible and intangible movable properties attributable to the conduct of its business, as presently conducted. The Company has good and marketable title or a valid right to use such tangible and intangible movable properties used by it, free and clear of Encumbrances in favour of third parties. Consummation of the transactions contemplated herein will not give rise to any right of termination or loss of any rights of use currently enjoyed by the Company in respect of the material tangible and intangible movable properties currently used by the Company in the conduct of its respective businesses.

6 Taxes

6.1 The Company has filed all tax returns required to be filed by it and has timely and duly paid all Taxes and other charges (including any deficiencies, penalties, delay penalties or interests) shown as due in the tax returns or in the minutes of fiscal controls to which the Company was subjected. The Company is current in all its Tax and other obligations owed to any Governmental Authorities in the Republic of Montenegro.

6.2 The Company is not involved in any audit, examination or other administrative Proceeding with any taxation Public Authority and has not received notice that any audits, examinations or other administrative Proceedings have been commenced or are pending, and no deficiencies for any Tax or assessment have been proposed, asserted or assessed (tentatively or definitively) and there are no pending requests for waivers to assess such Tax.

6.3 All Tax liabilities of the Company in respect of any financial year ended on or prior to 31 December 2003 were duly and properly recorded in the accounts of the Company. The Sellers are not aware of any Tax in respect of any financial year ended prior to 31 December 2003 that has not been duly and properly recorded into the accounts of the Company. Except if otherwise paid by the Company, all overdue Taxes of the Company in respect of any financial year up to and including 31 December 2003 and all penalties of any kind relating thereto which have been incurred up to 31 December 2003 have been cancelled and the Company shall no longer be liable in their respect.

6.4 The Company has complied and complies with all Tax provisions of the relevant legislation in each country where such activities are conducted.

6.5 There are no Encumbrances relating to any Tax upon any material property or material assets of the Company.

6.6 The Company has recorded provisions for all liabilities that might arise in relation to any Tax litigation to which the Company is a party, up to the Signing Date, as required by the applicable accounting standards.

7 Subsidiaries

7.1 The Company holds exclusive, full and valid title to the stakes it owns in its Subsidiaries, free and clear of any Encumbrances, and all such stakes have been fully paid in.

7.2 There are no options, warrants or instruments convertible into stakes, restrictions to sale or other agreements relating to the existing stakes of each such Subsidiary held by the Company or for the issuance of additional stakes of such Subsidiaries.

7.3 The Subsidiaries of the Company have all authorisations and corporate powers required in order to carry on their business and activities and no insolvency or similar proceedings have been applied for.

8 Legal Proceedings; Orders

There are no actions, suits, claims, Proceedings or investigations against the Company pending or notified in writing to the Company, whether civil or criminal in nature, in, before or by, any court, arbitrator or Public Authority, and there are no outstanding judgments, decrees or orders of any such court, arbitrator or Public Authority that, individually, could, if determined adversely to the Company, reasonably be expected to result in a loss to the Company in excess of €200,000 (two hundred thousand Euro) or that seek to prevent, restrict or delay consummation of the transactions contemplated by this Agreement and there are no circumstances reasonably likely to give rise to any such actions, suits or Proceedings.

9 Absence of Certain Changes and Events

Since the last IFRS Accounts Date:

9.1 The Company has not entered into any material agreement, commitment or transaction or assumed or incurred any material liabilities (including contingent liabilities), or waived or released any rights of value or modified any agreement otherwise than in the ordinary course of business (for the purposes of this Section 9, "**material**" means having a value or involving a liability or potential liability in excess of €1,000,000 (one million Euro) for a single such agreement, commitment, transaction, liability or waiver or €5,000,000 (five million Euro) in the aggregate.

9.2 The business of the Company has not been materially and adversely affected by the loss of any important customer or source of supply. For these purposes, an important customer or source of supply in relation to the Company means one which in either of the two financial periods immediately preceding the Last IFRS Accounts Date accounted for 5% (five per cent) or more (in the case of a customer) of the turnover of the Company or (in the case of a source of supply) of the goods, services or equipment supplied to the Company.

- 9.3 The Company has not redeemed or purchased or agreed to redeem or purchase any of its share capital.
- 9.4 The Company has not incurred any additional borrowings or incurred any other indebtedness in each case in excess of €5,000,000 (five million Euro).
- 9.5 The working capital position of the Company has been managed as appropriate in the ordinary course of customary telecom business.

10 Insurance

The Company has paid all premiums due with respect to the insurance policies existing at the Signing Date and such policies are in full force and effect. The Company has not failed to give any notice or to present any claim in respect of a material insured event under any such insurance policies in a due and timely fashion. The Company has not received notice of cancellation or non-renewal under any such insurance policy.

11 Environmental Matters

- 11.1 The Company obtained all material environmental authorisations and permits.
- 11.2 No Proceeding has been initiated and the Company has not been notified of any Proceeding related to a breach of environmental obligations by the Company that would amount, if determined adversely to the Company, in losses that would exceed the equivalent in any currency of €500,000 (five hundred thousand Euro).

12 Finance

- 12.1 The Company has not breached any undertakings, covenants or other provisions under any of its finance agreements and arrangements, and has not defaulted or cross-defaulted under any such agreements or arrangements and has complied with all requirements related to its privatisation (*i.e.* obtained all necessary approvals or filed all required notifications with creditors).
- 12.2 The Company has not received any notice (formal or informal) from a lender requiring early repayment or intimating the enforcement of security which it holds over the assets (including real or personal property, receivables *etc.*) of the Company and the Sellers are not aware of any circumstances likely to give rise to any such notice other than in circumstances where an appropriate waiver of default has been obtained or is expected to be obtained.

13 Agreements and Trading

All material agreements are valid, binding and enforceable against the co-contractors of the Company and, as at the Signing Date, no notice of termination has been served in respect of such agreements. For the purpose of this [Schedule 5](#), "material agreements" shall mean all agreements enabling the Company to carry out its main activities, as well as any agreements having a value in excess of €2,000,000 (two million Euro).

14 Intellectual Property

14.1 All Intellectual Property (whether registered or not) and all pending applications therefore which have been, are, or are capable of being used in or in relation to the business of the Company are (or, where appropriate in the case of pending applications, will be):

- (a) legally and beneficially owned by the Company or lawfully used with the consent of the owner under a licence;
- (b) valid and enforceable;
- (c) not being attacked or opposed by any Person;
- (d) not subject to any Encumbrance or any licence or authority in favour of another; and
- (e) the relevant registrations have been maintained as required under the relevant law.

14.2 All royalties in relation to the material Intellectual Property rights licensed from third parties have been timely and duly paid.

– Schedule 6 –

Warranties Given by the Purchaser under Sub-Clause 4.2.1

1 Organisation and Standing

The Purchaser is a [●] company, duly organised, validly existing and in good standing under the laws and regulations of [●]. No order has been made, petition presented, resolution passed or meeting convened for the winding up of the Purchaser.

2 Authority; Binding Effect

2.1 The Purchaser has full power and authority to enter into and perform its obligations under this Agreement and any other documents to be executed by the Purchaser pursuant to or in connection with this Agreement, including, without limitation, the purchase of the Shares, and this Agreement and the other documents to be executed by the Purchaser pursuant to or in connection with this Agreement have been lawfully authorised and executed by it and constitute legal, valid and binding obligations of it, enforceable against it in accordance with the terms hereof.

2.2 The Person or Persons signing this Agreement on behalf of the Purchaser are duly authorised to do so.

3 Financial Ability

The Purchaser has and believes that it will continue to have available to it sufficient funds to pay and perform all of its obligations hereunder.

4 No Conflicting Instruments

Neither the execution nor delivery of this Agreement nor the consummation or performance of any of the obligations and/or transactions contemplated herein will: (i) contravene, conflict with, or result in a violation of any provision of its constitutional documents; (ii) contravene, conflict with, or result in a violation of any applicable law.

5 Litigation

No acts have been taken and no Proceedings have been filed, commenced or are pending before any court, arbitration court or arbitrator, or any Public Authority (or any similar authority governing the Purchaser in any other jurisdiction) in respect of the Purchaser or its business, which might affect the legality, validity or enforceability of this Agreement or with respect to the Purchaser or its ability to satisfy its obligations hereunder, or which could have the effect of preventing, delaying, or otherwise interfering with the Contemplated Transactions.

6 Governmental Approvals, Consents etc.

All authorisations and consents of, and filings with, national or international competent bodies that are required to be obtained or made in order that the Purchaser be authorised to enter into and perform its obligations under this Agreement and to acquire and own the Subject Shares have been obtained or made.

7 Strategic Investor

It is a company with experience in operating telecommunication companies, and with proven financial and managerial resources and technical capabilities necessary to ensure the continuous development of the Company.

8 Prequalification Criteria

All information and documents provided to the Sellers in order to prove the Purchaser's fulfilment of the pre-qualification criteria established by the Sellers in the Public Invitation were, when provided, and remain true, complete and accurate and the Purchaser has not failed to disclose any information and/or document which, if it had been disclosed to the Sellers, would have led to the Purchaser not being qualified.

9 Acknowledgement Regarding the Tender

The Purchaser has complied in all material respects with the Instructions for Bidders and it acknowledges and confirms that the Tender has been conducted fairly and in accordance with the Governing Law.

10 Bid Bond

The Bid Bond is and will remain a valid bank guarantee, in full force and effect until the date required by this Agreement.

11 Compliance with Money Laundering Legislation

The Purchaser hereby represents and warrants that its funds do not originate from illicit activities or from other illicit activities banned by the Montenegrin or international legislation to which Serbia and Montenegro is a party.

12 Due Diligence

12.1 The Purchaser has conducted its own independent review and analysis of the business, assets, financial condition and prospects of the Company and acknowledges that the Company and the Agency have provided the Purchaser with full access to the Company's properties, premises, records and personnel for this purpose.

12.2 In entering into this Agreement, the Purchaser has relied solely upon its own investigation and analysis, and the representations and warranties set forth in this Agreement, and

- (i) acknowledges that none of the Sellers, the Privatisation Council, the Agency, the Tender Commission and the Adviser, nor any of their respective agents, representatives, advisers (including but not limited to legal and financial advisors), employees or Affiliates, makes any representation or warranty, either express or implied, as to the accuracy or completeness of any of the information provided or made available to the Purchaser or its agents or representatives, except as and only to the extent expressly set out in this Agreement; and
- (ii) agrees, to the fullest extent permitted by the Governing Law, that none of the Sellers, the Privatisation Council, the Agency, the Tender Commission, and the

Adviser, nor any of their agents, representatives, advisers (including but not limited to legal and financial advisers), employees or Affiliates, shall have any liability or responsibility whatsoever to the Purchaser or any of its agents or representatives on any basis, based upon any information provided or made available, or statements made, to the Purchaser or its agents or representatives except as, and only to the extent, expressly set out in this Agreement.

- 12.3** The Purchaser is not aware, and none of the Purchaser's directors, officers, employees or advisors are aware, of any facts, matters or circumstances which result in or may result in a breach of Warranty by the Sellers pursuant to **Schedule 4** (*Representations and Warranties Given by the Sellers under Sub-Clause 4.1.1(i)*) and **Schedule 5** (*Representations and Warranties Given by the Sellers under Sub-Clause 4.1.1(ii)*).

**- Schedule 7 -
Form of Performance Bond**

**- Schedule 8 -
Form of Share Transfer Application Notice**

**– Schedule 9 –
Share Transfer Application Form**

See Form 302 (*Transfer Instruction*) attached hereto.

Form 302

Transfer Instruction

TRANSFEROR																							
Account Number:																							
Last and first name or official name of the company:																							
Document:	<u>type</u>	<u>issued</u>	<u>by</u> <u>number</u>																				
TRANSFEEE																							
Account Number (if account does not exist the filled Form 101 or 102 must be attached):																							
Registered person is <input type="checkbox"/> beneficial owner		<input type="checkbox"/> nominee holder																					
Last and first name or official name of the company:																							
Document:	<u>type</u>	<u>issued</u>	<u>by</u> <u>number</u>																				
PLEASE TRANSFER FOLLOWING SECURITIES FROM ACCOUNT OF <u>TRANSFEROR</u> TO ACCOUNT OF <u>TRANSFEEE</u>																							
Registration number (e.g. ISIN)	<table border="1" style="width:100%; height: 20px;"> <tr> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table>																						
Trade Symbol	<table border="1" style="width:100%; height: 20px;"> <tr> <td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table>																						
Issuer																							
Number of securities	<table border="1" style="width:100%; height: 20px;"> <tr> <td style="width: 50%; text-align: center;"><i>in figures</i></td> <td style="width: 50%; text-align: center;"><i>in words</i></td> </tr> </table>			<i>in figures</i>	<i>in words</i>																		
<i>in figures</i>	<i>in words</i>																						
Reason for the transfer	<input type="checkbox"/> purchase / sale contract (disclose details below)		Amount of the contract: _____																				
	Type of transaction <input type="checkbox"/> - exchange <input type="checkbox"/> - OTC																						
	<input type="checkbox"/> donation	<input type="checkbox"/> inheritance	<input type="checkbox"/> conversion <input type="checkbox"/> reorganization																				
	<input type="checkbox"/> transfer to nominee account	<input type="checkbox"/> transfer from nominee account																					
	<input type="checkbox"/> barter	<input type="checkbox"/> decision of court	<input type="checkbox"/> other (specify) _____																				
Reference to the document justifying transfer																							
Above-mentioned securities	<input type="checkbox"/> do not bear legal obligations (not blocked) <input type="checkbox"/> are subject of the collateral obligations (approval of the collateral holder is required)																						
Collateral holder approved the transfer of above-mentioned securities (completed if securities are under collateral obligation)																							
Organization Name			Corporate seal																				
Name and Position																							
Signature																							
Transfer instruction is signed by	Signature		Corporate seal (for legal entities)																				
<input type="checkbox"/> - transferor																							
<input type="checkbox"/> - inheritor																							
<input type="checkbox"/> - authorised representative of one of the above																							

Inheritor <i>(completed if instruction signed by him/her)</i>	<i>Last and first name</i>			
	<i>Document type</i>	<i>issued</i>	<i>by</i>	<i>number</i>
Authorized Representative <i>(filled in case of its signature)</i>	<i>Last and first name or official name of the company:</i>			
	<i>Document type</i>	<i>issued</i>	<i>by</i>	<i>number</i>
	<i>Name and position of person signed this Request (for legal entities only)</i>			
The signature is verified by (filled in case the form signed not in the CDA office):				
<input type="checkbox"/> issuer <input type="checkbox"/> professional market participant <input type="checkbox"/> commercial court <input type="checkbox"/> other(?)				
Name of the organization			(corporate seal)	
Organization's representative				
Position				
Signature				
<i>do not write below this line</i>				
To be completed by the registrar	Incoming Number	Date Request was received	Signature	
	Internal number	Registration date	Signature	
	<input type="checkbox"/> REQUEST WAS PROCESSED			
	<input type="checkbox"/> REQUEST WAS REJECTED.			
	REASON:			
	ACTION TAKEN			
	Date	Signature		

**- Schedule 10 -
[Investment Programme of the Purchaser]**

**– Schedule 11 –
[Business Plan of the Purchaser with Social Programme]**