

# **Z A K O N**

## **O POTVRĐIVANJU UGOVORA O ZAJMU I FINANSIRANJU IZMEĐU KfW, FRANKFURT NA MAJNI I REPUBLIKE SRBIJE, U IZNOSU DO 25.000.000 EVRA, ZA „PROGRAM VODOSNABDEVANJA I KANALIZACIJE U OPŠTINAMA SREDNJE VELIČINE U SRBIJI II – FAZA 2”**

### **Član 1.**

Potvrđuje se Ugovor o zajmu i finansiranju između KfW, Frankfurt na Majni i Republike Srbije, u iznosu do 25.000.000 evra, za „Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji II – faza 2”, zaključen 30. septembra 2011. godine, u Beogradu.

### **Član 2.**

Tekst Ugovora o zajmu i finansiranju između KfW, Frankfurt na Majni i Republike Srbije, u iznosu do 25.000.000 evra, za „Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji II – faza 2”, u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

**Loan and Financing Agreement**

dated 30<sup>th</sup> September 2011

between

**KfW, Frankfurt am Main**  
**("KfW")**

and

**The Republic of Serbia**  
**("Borrower")**

represented by the Minister of Finance  
for up to

**EUR 25,000,000.--**

- Water and Sewerage Programme in Medium-Sized Municipalities in Serbia II,  
Phase 2 -

## **Contents**

### **Preamble**

1. Loan and Financial Contribution
2. Channelling of Funds
3. Disbursement
4. Fees
5. Interest
6. Repayment and Prepayment
7. Calculations and Payments in General
8. Guarantee from the Federal Republic of Germany
9. Negative Pledge and Pari Passu
10. Costs and Public Charges
11. Special Obligations
12. Termination of the Loan and Suspension of the Financial Contribution
13. Representation and Statements
14. General Provisions

### **Annexes**

- |         |  |
|---------|--|
| Annex 1 | Disbursement Schedule  |
| Annex 2 | Form of Legal Opinion of the Legal Adviser to the Borrower   |
| Annex 3 | Confirmation letter from KfW that German Government Guarantee has been obtained (to be enclosed after signing of the Loan and Financing Agreement) |

## **Preamble**

The basis for this Loan and Financing Agreement are the commitments made for the programme "Water Supply and Waste Water Treatment in Medium-Sized Municipalities II", as per the protocol of the Negotiations on Development Cooperation between the Government of the Federal Republic of Germany and the Government of the Republic of Serbia dated October 16th 2009 on Financial Cooperation (FC). The title of the programme that is subject to this Agreement is herewith changed to "Water and Sewerage Programme in Medium-Sized Municipalities in Serbia II, Phase 2".

The reason for concluding this Agreement is therefore the programme "Water and Sewerage Programme in Medium-Sized Municipalities in Serbia II, Phase 2" ("Programme") being planned by the Borrower.

KfW affirms its willingness to finance the Programme by way of extending to the Borrower a combined financing consisting of a financial contribution granted by the Federal Republic of Germany represented by the Ministry of Economic Cooperation and Development ("Financial Contribution") and a Loan extended by KfW under the condition that the Federal Republic of Germany will provide interest rate subsidies as approved by the German Government at the time of signing of the Loan and Financing Agreement and under the condition that the Federal Republic of Germany will provide a guarantee for the loan in accordance with the following provisions and Annex 3 ("Loan").

The terms and conditions of the Loan comply with the OECD requirements applicable on the date of signing of this Loan and Financing Agreement for recognition as Official Development Assistance (ODA).

Along with the financing provided under this Agreement, KfW is prepared to finance expert services for the construction and rehabilitation of water supply and sewerage systems in selected medium-sized municipalities in the Republic of Serbia by way of extending an additional financial contribution granted by the Federal Republic of Germany represented by the Ministry of Economic Cooperation and Development to the Republic of Serbia on the terms and conditions set forth in a Financing Agreement between the Republic of Serbia and KfW, yet to be concluded.

## **Article 1**

### **Loan and Financial Contribution**

1.1 *Amount.* KfW will extend to the Borrower a development Loan not exceeding a total of

EUR 17,500,000 (the "Loan")

and a financial contribution not exceeding

EUR 7,500,000 (the "Financial Contribution")

The Loan and the Financial Contribution are hereinafter together referred to as the „Funds“. The Financial Contribution shall not be repayable unless otherwise stipulated in Article 12.5 (Repayment of the Financial Contribution).

1.2 *Channelling and purpose.* The Borrower will channel the Funds in full to each of the Programme Towns/Municipalities selected by the Borrower and KfW (each such Town/Municipality hereinafter referred to as "Municipality") in accordance with the conditions set forth in Article 2. The Borrower will ensure that each Municipality and their Water and Wastewater Utility will utilise the Funds exclusively for the Rehabilitation and Extension of Water Supply and Sewerage Systems to pay the costs incurred in connection with the Programme ("Programme Costs"), and primarily to pay the foreign exchange costs.

- 1.3 *Separate implementation agreement.* The Borrower, each Municipality, their Water and Wastewater Utility and KfW will determine by separate implementation agreements the details of the Programme (each a “**Separate Agreement**”).
- 1.4 *Taxes, charges, customs duties.* Taxes and other public charges owed by the Borrower or any of the Municipalities or their Water and Wastewater Utilities as well as customs duties may not be financed from the Funds.
- 1.5 The goods and services imported into the Republic of Serbia for the Programme shall be exempted from custom fees, while the trade of goods, services and equipment for the Programme shall be exempted from VAT.
- 1.6 The Borrower will ensure that each Municipality participating in the Programme will not be subject to possible transfer reduction from the Republican budget in case of adjustment of water and wastewater tariffs according to the requirements of the Programme.

## **Article 2**

### **Channeling of Funds**

- 2.1 *On-lending agreement.* The Borrower shall channel the Financial Contribution as a non-repayable grant and the Loan as a loan to each Municipality and their Water and Wastewater Utility respectively under a separate on-lending and financing agreement to be concluded between the Borrower and each Municipality and their Water and Wastewater Utility (hereinafter referred to as “**Trilateral Contract**”) at the terms and conditions set forth in Articles 4 (Fees), 5 (Interest) and 6 (Repayment and Prepayment) hereof.
- 2.2 *Certified translation.* Prior to the first disbursement from the Financial Contribution and the Loan, the Borrower shall send to KfW a certified translation in English language of each separate Trilateral Contract specified in Article 2.1.
- 2.3 *No liability of the municipalities and their water and wastewater utilities.* The channelling of the Financial Contribution and the Loan shall not constitute any liability of the Municipalities and their Water and Wastewater Utilities to KfW for the payment obligations under this Agreement.

## **Article 3**

### **Disbursement**

- 3.1 *Request for disbursement.* As soon as all conditions precedent to disbursement pursuant to Article 3.2 (Separate Agreement and disbursement procedure) and 3.5 (Conditions Precedent to Disbursement) are fulfilled, KfW will upon request of the Borrower:
  - a) disburse the Loan in accordance with the progress of the Programme;
  - b) disburse the Financial Contribution in accordance with the progress of the Programme.

Disbursement will be effected in accordance with the disbursement schedule contained in Annex 1 to this Agreement. KfW will make disbursements only up to the maximum amounts determined for each half-year. To the extent the Borrower requests disbursement of lower amounts within any half-year the undisbursed amounts may be requested in any subsequent half-year period. With the exception of the last disbursement, KfW is not obliged to effect disbursements more often than every 2 months for amounts less than EUR 1 million.

Each request for disbursement shall only be valid if it is made at the same time proportionately a ratio of 70 % of the drawdown request being requested from the Loan and 30 % of such amount from the Financial Contribution.

- 3.2 *Separate Agreement and disbursement procedure.* In a separate implementation agreement ("Separate Agreement"), the Borrower, each Municipality, their Water and Wastewater Utility and KfW will specify the disbursement procedure including specific conditions precedent to disbursement and in particular the evidence to be furnished by the Borrower proving that the requested Funds are used for the purpose stipulated in this Loan and Financing Agreement.
- 3.3 *Reduction of programme costs.* In the event that the Programme Costs or an individual investment measure will be reduced prior to full disbursement, KfW shall have the right to determine, at its sole discretion, but after prior consultation with the Borrower, whether and to what extent the Loan and/or the Financial Contribution will be reduced (subject to Article 3.6 b)) or utilised for another purpose in the framework of the Programme.
- 3.4 *Deadline for requesting disbursement.* KfW may deny disbursements after 30th December 2015. If the execution of the Programme is delayed, KfW will examine after prior consultation with the Borrower whether and under what conditions this deadline may be extended.
- 3.5 *Conditions precedent to disbursement.* KfW is obliged to make disbursements of any amount under this Agreement only upon fulfillment of the following conditions precedent in a form and content acceptable to KfW:
- a) the Borrower will have demonstrated by presenting a legal opinion substantially in the form set forth in Annex 2 and by presenting certified copies (each with a German or English translation) of all documents to which this legal opinion refers that
    - aa) the Borrower has fulfilled all requirements under its constitutional law and other legal provisions for the valid assumption of all its obligations under this Agreement, and
    - bb) KfW is exempted from all taxes on income from interest, charges, fees and similar costs in Serbia when granting the Loan;
  - b) the specimen signatures mentioned in Article 13.1 (Representation of the Borrower) have been submitted;
  - c) the Guarantee from the Federal Republic of Germany mentioned in Article 8 is in force and effect without any restriction; KfW will inform the Borrower once the Guarantee is in force and effect before the ratification process is initiated with the national assembly of the Republic of Serbia. This confirmation letter from KfW will be enclosed as Annex 3 to this Agreement.
  - d) the Borrower has paid the management fee mentioned in Article 4.2;
  - e) no reason for termination has occurred or is threatening; and
  - f) no extraordinary circumstances have arisen that preclude or seriously jeopardise the implementation, the operation, or the purpose of the Programme, or the performance of the payment obligations assumed by the Borrower under this Loan and Financing Agreement.

Prior to disbursement from the Funds KfW has the right to demand such further documents and evidence as it reasonably deems necessary.

- 3.6 *Waiver of disbursement.* The Borrower may
- a) renounce the disbursement of undisbursed amounts of the Financial Contribution provided the Borrower has fulfilled its obligations under Article 11 (Special Obligations) and;
  - b) renounce the disbursement of Loan amounts only with KfW's consent and only against payment of non-acceptance compensation as per Article 3.7 (Non- acceptance compensation).
- 3.7 *Non-acceptance compensation.* If the Borrower waives disbursement of a loan amount, or if a Loan amount is not disbursed at all or is not disbursed by the deadline stated in Article 3.4 (Deadline for requesting disbursements) for other reasons for which KfW cannot be held accountable, the Borrower will promptly pay to KfW upon its request such amount as is necessary to compensate KfW for any losses, expenses or costs incurred by KfW as a result of the non-acceptance of the Loan amount in question. KfW will calculate the amount of the non-acceptance compensation and communicate it to the Borrower.

#### **Article 4**

##### **Fees**

- 4.1 *Commitment fee.* The Borrower will pay a non-refundable commitment fee of 0.25 % p.a. on undisbursed Loan amounts. The commitment fee will be computed for the period beginning with the elapse of a three-months period following the ratification of this Agreement and lasting until such date the Loan has been disbursed in full, or fully cancelled, as the case may be.

The commitment fee is due for payment semi-annually and in arrears on 30 June and 30 December of each year (each a "**Payment Date**"). It is first due for payment on the first Payment Date three months after ratification of this Agreement.

- 4.2 *Management fee.* The Borrower will pay KfW a non-refundable, one-time lump-sum management fee equalling 0.5% of the principal amount of the Loan stated in Article 1.1 at the latest upon elapse of a three-months period after this Loan and Financing Agreement is ratified but in any case prior to the first disbursement under this Agreement.

#### **Article 5**

##### **Interest**

- 5.1 *Financial contribution.* The Borrower shall pay no interest on the Financial Contribution.

- 5.2 *Interest (fixed interest rate set upon commitment of the Loan).* The Borrower shall pay interest on the Loan at a rate of 3,49 % p. a.

("Fixed Interest Rate") until the last repayment instalment according to the Repayment Schedule as defined in Article 6.1 (Repayment schedule) has been received.

- 5.3 *Calculation of interest and interest payment dates.* The interest on a disbursed Loan amount will be charged from the date (exclusively), on which the respective Loan amount is paid out of the Loan account held with KfW for the Borrower until the date (inclusively) on which the respective repayments are credited to KfW's account stated in Article 7.3 (Account number, time of crediting). Interest will be calculated in accordance with Article 7.1 (*Calculation*). Interest will be paid in arrears on the Payment Dates (as defined in Article 4.1).

## **Article 6**

### **Repayment and Prepayment**

6.1 *Repayment schedule.* The Borrower will repay the Loan as follows:

<b>Instalment</b>	<b>Date</b>		<b>Amount</b>	
1	December 30,	2014	700.000,00	EUR
2	June 30,	2015	700.000,00	EUR
3	December 30,	2015	700.000,00	EUR
4	June 30,	2016	700.000,00	EUR
5	December 30,	2016	700.000,00	EUR
6	June 30,	2017	700.000,00	EUR
7	December 30,	2017	700.000,00	EUR
8	June 30,	2018	700.000,00	EUR
9	December 30,	2018	700.000,00	EUR
10	June 30,	2019	700.000,00	EUR
11	December 30,	2019	700.000,00	EUR
12	June 30,	2020	700.000,00	EUR
13	December 30,	2020	700.000,00	EUR
14	June 30,	2021	700.000,00	EUR
15	December 30,	2021	700.000,00	EUR
16	June 30,	2022	700.000,00	EUR
17	December 30,	2022	700.000,00	EUR
18	June 30,	2023	700.000,00	EUR
19	December 30,	2023	700.000,00	EUR
20	June 30,	2024	700.000,00	EUR
21	December 30,	2024	700.000,00	EUR
22	June 30,	2025	700.000,00	EUR
23	December 30,	2025	700.000,00	EUR
24	June 30,	2026	700.000,00	EUR
25	December 30,	2026	700.000,00	EUR

6.2 *Undisbursed loan amounts.* Undisbursed Loan amounts will be offset against the respective last repayment instalment due pursuant to the repayment schedule unless KfW after prior consultation with the Borrower, at its own discretion chooses another offsetting alternative in an individual case.

6.3 *Disbursements after the start of repayment.* If Loan amounts are disbursed after repayment has started, the repayment schedule as listed in Article 6.1 will remain unaffected as long as the respective repayment instalment due in accordance with the repayment schedule is less than the Loan amounts already disbursed. If the repayment instalment due for payment exceeds the outstanding loan amount, KfW will deduct the amount equal to the difference from the repayment instalment due, divide it by the remainder of the repayment instalments still outstanding, and add this sum to each outstanding repayment instalment. KfW reserves the right to postpone taking disbursements into consideration that are made within 45 days prior to the respective Payment Date for the determination of the outstanding Loan amount until the second Payment Date following the disbursement.



- 6.4 *Prepayment.* The following will apply to prepayments:
- a) *Right to make prepayments.* The Borrower may subject to the subparagraphs (b) to (e) below effect an early repayment with respect to a Loan amount provided that such early repayment shall be at least in the amount of one repayment instalment pursuant to Article 6.1.
  - b) *Notice.* A prepayment of a Loan amount pursuant to Article 6.4 a) is subject to notification of the prepayment by the Borrower to KfW not later than on the fifteenth Banking Day (as defined in Article 14.1) prior to the intended prepayment date. Such notice is irrevocable; it must specify the date on which the prepayment is to be made, the amount thereof, and it obliges the Borrower to pay to KfW the stated amount on the stated date.
  - c) *Amounts due.* Together with the prepayment the Borrower will also pay the following amounts together with the prepayment pursuant to Article 6.4 a), b) and d).
    - aa) any prepayment compensation due as a result of the prepayment pursuant to Article 6.4 d); and
    - bb) all interest accrued on the prepaid Loan amount up until the date of the prepayment.
  - d) *Prepayment compensation.* If the Borrower repays an amount of the Loan prior to the scheduled Payment Date the Borrower will pay to KfW a prepayment fee for this premature repayment. The prepayment fee will be computed on the basis of the difference between (i) the interest which KfW could have charged for the corresponding Loan amount until the end of the fixed interest rate period and (ii) the interest which KfW can earn by reinvesting the corresponding Loan amount in consideration of the agreed repayments performed up until the end of the fixed interest rate period, for which the difference will have to be discounted on the basis of the interest curve for reinvestments. KfW will determine the amount of the prepayment compensation and communicate it to the Borrower.
  - e) *Offsetting.* Article 6.2 (*Undisbursed loan amounts*) will apply mutatis mutandis to the offsetting of prepayments.
- 6.5 *Revised repayment schedule.* In the event that Article 6.2 (*Undisbursed loan amounts*), Article 6.3 (*Disbursements after the start of repayment*) or Article 6.4 (*Prepayment*) applies, KfW will send the Borrower a revised repayment schedule that will become an integral part of this Loan and Financing Agreement and will replace the repayment schedule valid until such time.

## **Article 7**

### **Calculations and Payments in General**

- 7.1 *Calculation.* Interest, the commitment fee, default interest pursuant to Article 7.5 (Default interest), lump-sum compensation for overdue amounts pursuant to Article 7.6 (Lump-sum compensation), non-acceptance compensation and prepayment compensation will be calculated on the basis of a 360-day year with 30-day months.
- 7.2 *Due date.* If a payment to be made in connection with this Agreement falls due on a date that is not a Banking Day (as defined in Article 14.1), the Borrower must make such payment on the following Banking Day. If the following Banking Day

falls within the next calendar month, the respective payment shall be effected on the last Banking Day of the then current calendar month.

- 7.3 *Account number, time of crediting.* The Borrower will be released from its payment obligations arising from this Agreement if and as soon as the respective amounts have been credited to KfW at its free disposal without any deductions in EUR and not later than at 16:00 a.m. in Frankfurt am Main to KfW's account IBAN DE92 5002 0400 3122 3012 32 held with KfW, Frankfurt am Main, with the additional indication of the due date "Ref. YYYYMMDD" or to another account specified in writing by KfW.
- 7.4 *Counterclaims of the Borrower.* The Borrower is not entitled to assert any rights of retention or set-off or comparable rights against payment obligations under this Agreement unless such rights are recognised by final judgment or have not been contested by KfW.
- 7.5 *Default interest.* If any repayment instalments or prepayments pursuant to Article 6.4 (*Prepayment*) are not at the disposal of KfW when due, KfW may without prior reminder charge default interest at a rate of 300 basis points p.a. above the Base Rate for the period beginning on the due date and ending on the date on which such payments are credited to the account of KfW specified in Article 7.3. This rate must at least equal the loan interest rate. The "**Base Rate**" is the interest rate announced by the German Central Bank (*Deutsche Bundesbank*) as base rate prevailing on the respective due date. Such default interest must be paid immediately upon KfW's first demand.
- 7.6 *Lump-sum compensation.* For overdue amounts (with the exception of such repayment instalments and prepayments as mentioned in Article 7.5 (Default interest)) KfW may, without prior reminder, request lump-sum compensation of a rate of 300 basis points p.a. above the Base Rate applicable on the respective due date for the period beginning on the due date and ending on the date of payment of such overdue amounts. The lump-sum compensation must be paid immediately upon KfW's first demand. The Borrower shall be free to prove that no damage was in fact incurred or that the damages were not incurred in the amount as stated.
- 7.7 *Calculations made by KfW.* Unless the Borrower proves that KfW has made a mistake, KfW's determinations and its calculation of amounts under this Agreement and in connection with this Agreement are binding.

## **Article 8**

### **Guarantee from the Federal Republic of Germany**

KfW will have payment claims under this Loan and Financing Agreement guaranteed by the Federal Republic of Germany prior to the first disbursement.

## **Article 9**

### **Negative Pledge and Pari Passu**

- 9.1 *Prohibition of pledge or mortgage.* The Borrower will do anything within its power to procure that the municipalities may neither pledge, nor mortgage nor alienate the Programme assets before repayment in full of the Loan nor conclude any other agreement or arrangement the effect of which is the creation of security or any right conferring a priority of payment in respect of any obligation of any person without the prior consent of KfW and the Borrower will do anything within its power to procure that neither the municipalities nor any of their Water and Wastewater Utilities pledge, mortgage or alienate any of the Programme assets before repayment in full of the Loan or conclude any other agreement or arrangement the effect of which is the creation of security or any right conferring a

priority of payment in respect of any obligation of any person without the prior consent of KfW.

- 9.2 *Pari passu.* To the extent permitted by law, the Borrower undertakes to perform the obligations under this Agreement *pari passu* with all its other existing or future unsecured and not subordinated payment obligations.

## **Article 10**

### **Costs and Public Charges**

- 10.1 *No deductions or withholdings.* The Borrower will make all payments under this Agreement without any deductions for taxes, other public charges or other costs. In the event that the Borrower is obliged by law or for other reasons to effect any such deductions or withholdings on payments, the Borrower shall pay any such necessary additional amounts to KfW so that the net amount remaining after any withholding or deduction corresponds to the amount which would have been payable under this Agreement had no such deduction or withholding been made.
- 10.2 *Costs.* The Borrower will bear all costs and expenses accruing in connection with the disbursement and repayment of the Funds, in particular remittance and transfer costs (including conversion fees), as well as all costs and expenses accruing in connection with the maintenance or enforcement of this Agreement.
- 10.3 *Taxes and other charges.* The Borrower will bear all taxes and other public charges accruing outside the Federal Republic of Germany in connection with the conclusion and execution of this Agreement. If KfW advances such taxes or charges, the Borrower will transfer them without delay upon request to KfW's account as specified in Article 7.3.

## **Article 11**

### **Special Obligations**

- 11.1 *Project implementation and special information.* The Borrower will ensure itself and ensure that each Municipality and their Water and Wastewater Utility
- a) will prepare, implement, operate and maintain the Programme in conformity with sound financial and technical practices and substantially in accordance with the Programme conception agreed upon between the Borrower and KfW;
  - b) will assign the preparation, implementation and supervision of the Programme to independent, qualified consulting engineers or consultants, and the implementation of the Programme to qualified firms;
  - c) will award the contracts for the goods and services to be financed from the Funds by way of international, national or limited national competitive bidding depending on the contract volume;
  - d) will ensure the full financing of the Programme and furnish to KfW upon its request evidence proving that the costs not paid from these Funds are covered;
  - e) will keep books and records or have books and records kept that unequivocally show all costs of goods and services required for the Programme and clearly identify the goods and services financed from the Funds;
  - f) will enable the representatives of KfW at any time to inspect such books and records and any and all other documentation relevant to the implementation and operation of the Programme, and to visit the Programme sites and all the installations related thereto;

- g) will furnish to KfW any and all such information and records on the Programme and its further progress as KfW may request;
  - h) will, immediately and of its own accord,
    - aa) forward to KfW any queries received by the Borrower or any Municipality and/or their Water and Wastewater Utility from the Organisation for Economic Co-operation and Development (OECD) or its members under the so-called "Agreement for Untied ODA Credits Transparency" following the award of the contracts for the supplies and services to be financed from the Funds and will coordinate the reply to any such queries with KfW, and
    - bb) notify KfW of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Programme.
- 11.2 *Separate Agreement.* The Borrower, each Municipality, their Water and Wastewater Utility and KfW will determine the details of Article 11.1 (Project implementation and special information) by a Separate Agreement.
- 11.3 *Compliance.* The Borrower will ensure that the persons whom it or any of the Municipalities and their Water and Wastewater Utilities entrusts with the preparation and implementation of the Programme, the award of any contract for the supplies and services to be financed, and with requesting amounts from the Funds do not demand, accept, make, grant, promise or accept the promise of unlawful payments or other advantages in connection with these tasks.
- 11.4 *Transport of goods.* With regard to the transport of the goods to be financed from the Funds, the free choice of transport enterprises for such transportation by sea, land or air of persons and goods as results from the granting of the contribution must generally be ensured and the Borrower and each Municipality and their Water and Wastewater Utility shall abstain from taking any measures that might exclude or impair the participation on equal terms of transport enterprises having their place of business in the Federal Republic of Germany.

## **Article 12**

### **Termination of the Loan and Suspension of the Financial Contribution**

- 12.1 Events of default. KfW may exercise the rights set forth under Article 12.2 (Legal consequences of an event of default for the Loan) if an event occurs which constitutes a material reason (*wichtiger Grund*). In particular, the following events shall each constitute a material reason:
- a) the Borrower fails to perform its obligations to KfW to make payments when due;
  - b) obligations under this Agreement or under any Separate Agreement pertinent to this Agreement have been violated;
  - c) this Loan and Financing Agreement or any parts thereof cease to have a binding effect upon the Borrower or ceases to be enforceable against the Borrower;
  - d) any declaration, confirmation, information or representation or warranty considered by KfW to be essential for the granting and maintaining of the Loan and/or the Financial Contribution proves to be false, misleading or incomplete;

- e) other extraordinary circumstances occur which delay or preclude the performance of obligations under this Loan and Financing Agreement;
  - f) the Borrower and/or any Municipality and/or its Water and Wastewater Utility is unable to prove that the amounts from the Funds have been used for the stipulated purpose;
  - g) any of the following events occurs with respect to the Borrower:
    - aa) the Borrower, is unable to pay its debts as and when due;
    - bb) commencement of negotiations with one or more of the Borrower's creditors (with the exception of KfW) on a waiver of debts outstanding or on a standstill agreement or settlement.
- 12.2 *Legal consequences of an event of default for the Loan.* If any of the events specified in Article 12.1 has occurred and has not been resolved within a period of five days (in the case of Article 12.1a) or, in all other cases specified in Article 12.1, has not been resolved (if possible to be resolved) within a period determined by KfW that may not, however, be less than 30 days in continuity, KfW may terminate the Loan in full or in part with the consequence that
- a) its obligations under this Agreement related to the Loan terminate, and
  - b) KfW may demand full or partial repayment of the outstanding Loan amount together with the interest accrued and any and all other amounts due under this Agreement, with Articles 7.5 (Default interest) and 7.6 (Lump-sum compensation) applying to accelerated amounts *mutatis mutandis*.
- 12.3 *Compensation for damages.* In the event that the Loan is terminated in full or in part, the Borrower will pay non-acceptance compensation in accordance with Clause 3.7 (*Non-acceptance compensation*) and/or prepayment compensation in accordance with Clause 6.4d (*Prepayment compensation*).
- 12.4 *Suspension of Disbursements from the Financial Contribution.* KfW may not suspend disbursements from the Financial Contribution unless
- a) the Borrower has failed to perform its obligations to KfW to make payments when due,
  - b) obligations under this Agreement or under any Separate Agreement pertaining to this Agreement have been violated,
  - c) the Borrower and/or any Municipality and/or its Water and Wastewater Utility is unable to prove that the amounts from the Funds have been used for the stipulated purpose, or
  - d) extraordinary circumstances arise that preclude or seriously jeopardise the implementation, the operation or the purpose of the Programme.
- 12.5 *Repayment of the Financial Contribution.* If any of the situations specified in Article 12.4b) or c) has occurred and has not been eliminated within a period determined by KfW, which shall however, be at least 30 days in continuity, KfW may, after prior consultation with the Borrower,
- a) in the case specified in Article 12.4 b), demand the immediate repayment of the Financial Contribution; and
  - b) in the case specified in Article 12.4 c), demand the immediate repayment of such amounts from the Financial Contribution as the Borrower and/or any Municipality and/or its Water and Wastewater Utility is unable to prove to have been used for the stipulated purpose.

### **Article 13**

#### **Representation and Statements**

- 13.1 *Representation of the Borrower.* The Minister of Finance of the Republic of Serbia and such persons as designated by him or her to KfW and authorised by specimen signatures authenticated by him or her shall represent the Borrower in the execution of this Agreement. The powers of representation will not expire until their express revocation by the representative authorised at such time has been received by KfW.
- 13.2 *Addresses.* Notices or statements in connection with this Agreement must be in writing. They must be sent as originals or – with the exception of requests for disbursement - via facsimile. Any and all notices or statements made in connection with this Agreement must be sent to the following addresses:

For KfW: KfW  
Postfach 11 11 41  
60046 Frankfurt am Main  
Germany  
Fax: +49 69 7431-2944

For the Borrower: Ministry of Finance  
Attn. Public Debt Administration  
Pop Lukina 7-9  
11000 Beograd  
Fax: +381-11-2629055

### **Article 14**

#### **General Provisions**

- 14.1 *Banking day.* Where reference is made in this Agreement to a "**Banking Day**", this means a day, other than a Saturday or Sunday, on which commercial banks are open for general business in Frankfurt am Main, Federal Republic of Germany.
- 14.2 *Place of performance.* The place of performance for all obligations under this Agreement is Frankfurt am Main, Federal Republic of Germany.
- 14.3 *Partial invalidity and gaps.* If any provision of this Agreement is or becomes invalid, or if there is a gap in any of the provisions of this Agreement, this will not affect the validity of the remaining provisions hereof. The parties to this Agreement will replace any invalid provision by a legally valid one which comes as close as possible to the spirit and purpose of the invalid provision. The parties will fill any gap in the provisions with a legally valid provision which comes as close as possible to the spirit and purpose of this Agreement.
- 14.4 *Written form.* Changes and supplements to this Agreement must be in writing. Any waiver of this requirement of written form must be declared by the parties in writing.
- 14.5 *Assignment.* The Borrower may not assign or transfer, pledge or mortgage any claims from this Agreement.
- 14.6 *Applicable law.* This Agreement is governed by the laws of the Federal Republic of Germany.

- 14.7 *Limitation period.* All claims of KfW under this Agreement expire after five years from the end of the year in which any such claim has accrued and in which KfW has become aware of the circumstances constituting such claim or could have become aware of them without gross negligence.
- 14.8 *Waiver of immunity:* To the extent that the Borrower may now or in future in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity, the Borrower, in relation to any and all obligations of the Borrower under this Agreement and the enforcement of such obligations, hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity. Foregoing waiver of immunity shall not apply to property which is (i) used by a diplomatic, consular, special missions and missions to international organizations or to international conferences of the Borrower's Country or (ii) of a military character and under the control of a military authority.
- 14.9 *Legal disputes.*
- Arbitration.* All disputes arising out of or in connection with this Agreement which cannot be settled amicably by the parties themselves, shall be settled exclusively and finally by an arbitration tribunal. In this regard, the following will apply:
- aa) The arbitration tribunal will consist of three arbitrators who will be appointed and will act in accordance with the Arbitration Rules of the International Chamber of Commerce (ICC) as amended from time to time.
  - bb) The arbitration proceedings will be conducted in Frankfurt am Main. The proceedings will be held in the English language.
- 14.10 *Transmission of information.* KfW is entitled to transmit to the issuer of the federal guarantee mentioned in Article 8 and to the Federal Republic of Germany information in connection with the conclusion and the execution of this Agreement. KfW, the issuer of the federal guarantee and the Federal Republic of Germany are entitled to pass on information related to the Loan, the Financial Contribution and to the Programme including the award of the contracts for the supplies and services to be financed from the Funds to international organisations engaged in the collection of statistical data, particularly in connection with matters related to debt service and/or the collection and publication of data related to the award of the contracts for the supplies and services to be financed from the Funds. The above right to forward information to international organisations also includes the right to directly pass on such information to members of such organisations.

This Agreement is executed in 3 originals in the English language.

Belgrade, this 30th day of September, 2011

KfW

Republic of Serbia

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(Juergen Welschhof )  
(Vibeke Christensen)

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(Mirko Cvetkovic)

Annex 1

**Disbursement Schedule**

By the end of each period indicated below, the Borrower may have requested disbursement of loan amounts not exceeding in total the amount indicated below for each period.

all figures in EUR	Disbursed in current period	Disbursed in previous periods	Total disbursements
30.06.2013-30.12.2013	EUR 2,5 million	-	EUR 2,5 million
1.1.2014-30.6.2014	EUR 6,25 million	EUR 2,5 million	EUR 8,75 million
1.7.2014-31.12.2014	EUR 6,25 million	EUR 8,75 million	EUR 15 million
1.1.2015-30.6.2015	EUR 1,25 million	EUR 15 million	EUR 16,25 million
1.7.2015-31.12.2015	EUR 1,25 million	EUR 16,25 million	EUR 17,5 million



**Note:** Please amend "Republic of Serbia" / "Serbia" appropriately.

### Form of Legal Opinion of the Legal Adviser to the Borrower

[Letterhead of Legal Adviser]

KfW  
Department [     ]  
Attn: [             ]  
Palmengartenstrasse 5 - 9  
Postfach 11 11 41  
60325 Frankfurt am Main  
Federal Republic of Germany

(date)

**Loan and Financing Agreement dated . . . . and made between KfW, [ . . . ] ("Borrower") and [ . . . ] for an amount not exceeding in aggregate EUR 25,000,000.--, consisting of a Loan in the amount of EUR 17,500,000 and a Financial Contribution in the amount of EUR 7,500,000.**

Dear Sirs,

I am [Minister of Justice of] [legal adviser to] [head of the legal department of the . . . . . (please specify ministry or other authority) of] The Republic of Serbia. I have acted in that capacity in connection with a Loan and Financing Agreement (the "**Loan and Financing Agreement**"), dated . . . , and made between the Borrower, [ . . . . ] and yourselves with respect to a Loan to be granted by yourselves to the Borrower in an amount not exceeding in aggregate EUR 25,000,000.--, consisting of a Loan in the amount of EUR 17,500,000 and a Financial Contribution in the amount of EUR 7,500,000.

#### 1. Documents examined

I have examined:

- 1.1 an authentic signed original of the Loan and Financing Agreement;
- 1.2 the constitutional documents of the Borrower, in particular:
  - (a) the Constitution of The Republic of Serbia, dated . . . . ., duly published in . . . . ., No. . . . ., page. . . . ., as amended;
  - (b) Law(s) No . . . . . dated . . . . ., duly published in . . . . ., No. . . . ., page. . . . ., as amended [please insert here, if existing, laws (e.g. budget laws) concerning the borrowing of money by The Republic of Serbia];
  - (c) . . . . . [please refer here to other documents, e.g. decrees or resolutions by governmental or administrative bodies of Serbia relating to the

*conclusion of Loan agreements by Serbia in general or with regard to the conclusion of the Loan and Financing Agreement*]; and

- (d) the Financial Co-operation Agreement between the Government of the Republic of Serbia and the Government of the Federal Republic of Germany dated . . . . . (the "Co-operation Agreement")

and such other laws, regulations, certificates, records, registrations and documents and have made such investigations as I have deemed necessary or desirable for the purpose of giving this opinion.

## 2. Opinion

For the purposes of Article 3.5 a) of the Loan and Financing Agreement, I am of the opinion that under the laws of The Republic of Serbia at the date hereof:

2.1 According to Article . . . . of the Constitution / Article . . . . of the law on . . . . *[please specify as appropriate]* the Borrower is entitled to enter into the and Financing Agreement and has taken all necessary action to authorize the execution, delivery and performance of the Loan and Financing Agreement, in particular by virtue of:

- (a) Law(s) No(s). . . . . dated . . . . . of the parliament of The Republic of Serbia, ratifying the Loan and Financing Agreement / approving the execution, delivery and performance of the Loan and Financing Agreement by the Borrower / . . . . . *[please insert as appropriate]*;
- (b) Resolution(s) No(s). . . . . dated . . . . . of the Cabinet of Ministers / of the state loan committee / . . . . . *[please insert governmental or administrative bodies of Serbia as appropriate]*;
- (c) . . . . . *[please refer to other resolutions, decisions etc.]*.

2.2 Ms./Mr. . . . . . (and Ms./Mr. . . . . .) is (are) duly authorized by . . . . . *[e.g. by law due to her/his position (as Minister of . . / as . . ), by government resolution . . . . , by power of attorney of . . . . dated . . . , etc.]* to sign solely / jointly the Loan and Financing Agreement on behalf of the Borrower. The Loan and Financing Agreement as signed by Ms./Mr. . . . . . (and Ms./Mr. . . . . .) has been duly executed on behalf of the Borrower and constitutes legally binding obligations of the Borrower enforceable against it at law in accordance with its terms.

***[Alternative 1 for Section 2.3, to be used if in addition to the documents specified in Section 2.1 and 2.2 certain official authorizations etc. must be obtained under the laws of the Republic of Serbia:]***

2.3 For the execution and performance of the Loan and Financing Agreement by the Borrower (including without limitation the obtaining and transfer to KfW of all amounts due thereunder in the currencies specified therein), the following official approvals, authorizations, licenses, registrations and/or consents have been obtained and are in full force and effect:

- (a) Approval of the . . . . . *[Central Bank/National Bank/. . . . .]*, dated . . . . ., No. . . . .;
- (b) Consent of the . . . . . *[Minister / Ministry of . . . . .]*, dated . . . . ., No. . . . .; and
- (c) . . . . . *[please list any other official authorizations, licenses and/or consents]*.

No other official authorizations, consents, licenses, registrations and/or approvals of any governmental authority or agency (including the Central / National Bank of The Republic of Serbia) or court are required or advisable in connection with the

execution and performance of the Loan and Financing Agreement by the Borrower (including without limitation the obtaining and transfer to KfW of all amounts due thereunder in the currencies specified therein) and the validity and enforceability of the Borrower's obligations under the Loan and Financing Agreement.

*[Alternative 2 for Section 2.3, to be used only if in addition to the documents specified in Section 2.1 and 2.2 no official authorizations etc. must be obtained under the laws of the Republic of Serbia:]*

- 2.3 No official authorizations, consents, licenses, registrations and/or approvals of any governmental authority or agency (including the Central / National Bank of The Republic of Serbia) or court are required or advisable in connection with the execution and performance of the Loan and Financing Agreement by the Borrower (including without limitation the obtaining and transfer to KfW of all amounts due thereunder in the currencies specified therein) and the validity and enforceability of the Borrower's obligations under the Loan and Financing Agreement.
- 2.4 No stamp tax or similar tax or duty has to be paid in connection with the validity or enforceability of the Loan and Financing Agreement.
- 2.5 The choice of German law to govern the Loan and Financing Agreement and the submission to arbitration in accordance with Article 13 of the Loan and Financing Agreement are valid and binding. Arbitration awards against the Borrower will be recognized and enforceable in The Republic of Serbia according to the following rules: . . . . [please insert applicable treaty (if any), e.g. the 1958 New York Convention, and/or the basic principles regarding recognition and enforcement of arbitration awards in Serbia.
- 2.6 The courts of the Republic of Serbia are at liberty to give judgment denominated in the currency or currencies specified in the Loan and Financing Agreement.
- 2.7 The borrowing by the Borrower under the Loan and Financing Agreement and the execution and performance by the Borrower of the Loan and Financing Agreement constitute private and commercial acts and not governmental or public acts. Neither the Borrower nor any of its property has any right of immunity from arbitration, suit, execution, attachment or other legal process.
- 2.8 The Co-operation Agreement is in full force and effect under the constitution and laws of The Republic of Serbia. [Pursuant to Article 3 of the Co-operation Agreement] [Alternatively please specify treaty or applicable laws and regulations] the Borrower will not be required to make any deduction or withholding from any payment the Borrower has to make under the Loan and Financing Agreement.
- 2.9 KfW is not and will not be deemed to be resident, domiciled, carrying on business or be subject to taxation in Serbia by reason only of the execution, performance or enforcement of the Loan and Financing Agreement. It is not necessary or advisable that KfW be licensed, qualified or otherwise entitled to carry on business or that KfW appoints agents or representatives in The Republic of Serbia.

Consequently, the obligations of the Borrower under the Loan and Financing Agreement constitute direct and unconditional, legal, valid and binding obligations of the Borrower which are enforceable against the Borrower in accordance with their respective terms.

This legal opinion is limited to the laws of The Republic of Serbia.

.....,

(place)

(date)

[Signature]

Name:

Enclosures:

**Note:** Please attach certified photocopies of the documents and legal provisions referred to above under Section 0(a) through 1.2(c) and Sections 0 through 0 (with respect to lengthy laws or the Constitution of The Republic of Serbia, a copy of the relevant provisions would be sufficient) and also provide KfW with a certified English or German translation of each of the above documents if such document is not issued in English or German as an official language.



**Financial Cooperation between Serbia and Germany**

**Water and Sewerage Programme in Medium-Sized Municipalities in Serbia II,  
Phase 2, Guarantee of the Federal Republic of Germany for the loan**

Dear Sirs,

We herewith confirm that the Guarantee of the Federal Republic of Germany for the loan, as stipulated in the Preamble of the Loan and Financing contract dated ..... for the Water and Sewerage Programme in Medium-Sized Municipalities in Serbia II, Phase 2, is in force and effect.

Yours sincerely

KfW

.....

.....

**Ugovor o zajmu i finansiranju**

Od 30. septembra 2011. godine

između

**KfW, Frankfurt na Majni**

(„KfW“)

i

**Republike Srbije**

(„Zajmoprimac“)

koju predstavlja Ministar finansija

u iznosu do

**25.000.000. EUR**

**- Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji II -  
Faza 2**

## **Sadržaj**

### Preambula

1. Zajam i bespovratna sredstva
2. Usmeravanje sredstava
3. Isplata
4. Provizije
5. Kamata
6. Otplata i prevremena otplata
7. Obračuni i plaćanja uopšte
8. Garancija Savezne Republike Nemačke
9. Negativna zaloga i „pari pasu“
10. Troškovi i javne dažbine
11. Posebne obaveze
12. Razlozi za raskid Zajma i obustavu Finansijskog doprinosa
13. Zastupanje i izjave
14. Opšte odredbe

### Aneksi

- |         |  |
|---------|--|
| Aneks 1 | Plan isplate   |
| Aneks 2 | Obrazac pravnog mišljenja pravnog savetnika Zajmoprimca  |
| Aneks 3 | Pismo potvrde o dobijanju garancije nemačke Vlade (priložiti po potpisivanju Ugovora o zajmu i finansiranju) |

## **Preambula**

Osnova ovog Ugovora o zajmu i finansiranju sadržana je u obavezama koje su preuzete u okviru programa „Vodosnabdevanje i kanalizacija u opštinama srednje veličine u Srbiji II”, koji je zaključen na osnovu pregovora o razvojnoj saradnji između Vlade Republike Srbije i Vlade Savezne Republike Nemačke od 16. oktobra 2009. godine o Finansijskoj saradnji (FS). Naziv programa koji je predmet ovog Ugovora je ovim izmenjen u „Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji II, faza 2”.

Razlog za zaključivanje ovog Ugovora je „Program vodosnabdevanja i kanalizacije u gradovima/opštinama srednje veličine u Srbiji II, faza 2“ („**Program**”) koji Zajmoprimac planira da sprovede.

KfW potvrđuje svoju spremnost da finansira Program tako što će Zajmoprimcu omogućiti kombinovano finansiranje koje se sastoji od bespovratnih sredstava odobrenih od strane Savezne Republike Nemačke, koju predstavlja Ministarstvo za ekonomsku saradnju i razvoj („Finansijski doprinos”), i zajma koji odobrava KfW, pod uslovom da Savezna Republika Nemačka obezbedi subvencije za kamatnu stopu u skladu sa odobrenjem nemačke Vlade u trenutku potpisivanja Ugovora o zajmu i finansiranju i pod uslovom da Savezna Republika Nemačka obezbedi garanciju za zajam u skladu sa sledećim odredbama i aneksom 3 („Zajam”).

Uslovi izdavanja Zajma su u skladu sa zahtevima Organizacije za ekonomsku saradnju i razvoj (OECD) koji se primenjuju na dan potpisivanja ovog Ugovora o zajmu i finansiranju u cilju njegovog priznavanja kao Zvanične razvojne pomoći (ODA) u skladu sa tzv. „Sporazumom o jedinstvenoj transparentnosti ODA kredita”.

Pored sredstava obezbeđenih ovim Ugovorom, KfW je spreman da finansira usluge eksperata za izgradnju i obnovu vodovodnih i kanalizacionih sistema u odabranim opštinama srednje veličine u Republici Srbiji, tako što će obezbediti dodatna bespovratna sredstva koja su Republici Srbiji odobrena od strane Savezne Republike Nemačke koju predstavlja Ministarstvo za ekonomsku saradnju i razvoj, pod uslovima navedenim u Ugovoru o finansiranju između Republike Srbije i KfW-a koji treba da bude zaključen.

## **Član 1**

### **Zajam i bespovratna sredstva**

1.1 *Iznos.* KfW će Zajmoprimcu odobriti razvojni zajam u iznosu koji ne prelazi

17.500.000 EUR („Zajam”)

i bespovratna sredstva, u iznosu koji ne prelazi

7.500.000 EUR („Finansijski doprinos”)

Zajam i Finansijski doprinos će se u daljem tekstu pominjati kao „**Sredstva**”. Finansijski doprinos se ne otplaćuje, osim ukoliko drugačije nije navedeno u Članu 12.5 (Otplata Finansijskog doprinosa).

1.2 *Usmeravanje sredstava i svrha.* Zajmoprimac će usmeriti sredstva u njihovom punom iznosu svakom od gradova/opština koji su uključeni u Program, a koje su odabrali Zajmoprimac i KfW (u daljem tekstu, svaki takav grad/opština će se pominjati kao „**opština**”), u skladu sa uslovima navedenim u Članu 2. Zajmoprimac će se starati da svaka opština i njeno komunalno preduzeće za vodovod i kanalizaciju sredstva koristi namenski u svrhe obnavljanja i proširenja svojih vodovodnih i kanalizacionih sistema, odnosno za plaćanje troškova nastalih u vezi sa Programom („**troškovi Programa**”) i, prevashodno, da bi se pokrili troškovi zamene valute.



- 1.3 *Poseban ugovor o sprovođenju.* Zajmoprimac, svaka opština, njeno komunalno preduzeće za vodovod i kanalizaciju i KfW će posebnim ugovorom o sprovođenju utvrditi pojedinosti u vezi sa Programom („**Poseban Ugovor/i**“).
- 1.4 *Porezi, takse, carine.* Porezi i druge javne dažbine koje su obaveza Zajmoprimca ili neke od opština i njihovih komunalnih preduzeća za vodovod i kanalizaciju, kao i carinske dažbine, ne predstavljaju predmet finansiranja iz Sredstava.
- 1.5 Roba i usluge koje se uvoze u Republiku Srbiju za svrhe Programa su izuzeti od carinskih dažbina, a promet robom, uslugama i opremom za potrebe Programa se oslobađa od PDV-a.
- 1.6 Zajmoprimac će se starati da opštinama koje učestvuju u Programu ne bude smanjen transfer sredstava iz republičkog budžeta u slučaju da one u skladu sa zahtevima Programa izmene cene snabdevanja pijaćom vodom i odvođenja otpadnih voda.

## **Član 2**

### **Usmeravanje sredstava**

- 2.1 *Ugovor o zajmu.* Zajmoprimac će proslediti sredstva Finansijskog doprinosa u vidu bespovratnih sredstava i Zajma u vidu kredita svakoj od opština i njihovim komunalnim preduzećima za vodovod i kanalizaciju u skladu sa Posebnim ugovorom o zajmu i finansiranju, koji treba da bude zaključen između Zajmoprimca i svake od opština i njihovih komunalnih preduzeća za vodovod i kanalizaciju (u daljem tekstu: „**Trilateralni ugovor**“), pod uslovima navedenim u Članovima 4 („Provizije“), 5 („Kamata“) i 6 („Otplata i prevremena otplata“) ovog Ugovora.
- 2.2 *Overeni prevod.* Pre prve isplate Finansijskog doprinosa i Zajma, Zajmoprimac će dostaviti KfW-u overen prevod na engleski jezik svakog trilateralnog ugovora definisanog u Članu 2.1.
- 2.3 *Ne preuzimanje obaveza od strane opština i njihovih komunalnih preduzeća za vodovod i kanalizaciju.* Usmeravanje sredstava iz Finansijskog doprinosa i Zajma neće podrazumevati bilo kakvo preuzimanje obaveza od strane opština i njihovih komunalnih preduzeća za vodovod i kanalizaciju u pogledu obaveze plaćanja prema KfW-u prema ovom Ugovoru.

## **Član 3**

### **Isplata**

- 3.1 *Zahtev za isplatu.* Čim se ispune svi uslovi za isplatu navedeni u Članu 3.2 (Posebni ugovor i procedura isplate) i 3.5 (Uslovi za isplatu), KfW će, na zahtev Zajmoprimca:

- a) isplatiti Zajam u skladu sa napredovanjem Programa;
- b) isplatiti Finansijski doprinos u skladu sa napredovanjem Programa;

Isplata će biti izvršena u skladu sa Planom isplate koji je priložen u aneksu 1 uz ovaj Ugovor. KfW će izvršiti isplate samo do utvrđenih maksimalnih iznosa za svaki šestomesečni period. U tom smislu, ukoliko je zahtevana isplata manjeg iznosa u okviru šestomesečnog perioda, Zajmoprimac može zahtevati isplatu preostalih neisplaćenih iznosa u okviru narednog šestomesečnog perioda. Uz izuzetak poslednje isplate, KfW nije u obavezi da izvrši isplate češće nego na svaka 2 meseca za iznose vrednosti ispod 1 milion EUR.

Zahtev za isplatu je važeći samo ukoliko je traženi iznos istovremeno zasnovan na odnosu od 70% sredstava iz Zajma i 30% sredstava iz Finansijskog doprinosa.

- 3.2 *Posebni ugovor i procedura isplate.* U Posebnom ugovoru o sprovođenju, Zajmoprimac, svaka opština, njeno komunalno preduzeće za vodovod i kanalizaciju i KfW će utvrditi pojedinosti procedure isplate, uključujući i uslove koji treba da budu ispunjeni pre same isplate i naročito dokaze koje Zajmoprimac treba da dostavi a kojima se potvrđuje da su tražena sredstva upotrebljena za svrhe predviđene ovim Ugovorom o zajmu i finansiranju.
- 3.3 *Smanjenje troškova Programa.* U slučaju da troškovi Programa ili pojedinačnih investicionih mera budu smanjeni pre isplate punog iznosa, KfW ima diskreciono pravo da odredi, nakon konsultacija sa Zajmoprimcem, da li i u kojoj će meri iznos Zajma i/ili Finansijskog doprinosa biti umanjen (u skladu sa Članom 3.6 b) ili upotrebljen za druge svrhe u okviru Programa.
- 3.4 *Rokovi za dostavljanje zahteva za isplatu.* KfW može da odbije zahteve za isplatu posle 30. decembra 2015. godine. Ukoliko sprovođenje Programa kasni, KfW će, nakon konsultacija sa Zajmoprimcem, razmotriti da li i pod kojim uslovima taj rok može biti produžen.
- 3.5 *Uslovi koji prethode isplati.* KfW je u obavezi da izvrši isplatu bilo kog iznosa u skladu sa ovim Ugovorom isključivo ukoliko su ispunjeni sledeći uslovi koji prethode isplati, i to u obliku i sadržaju koji su prihvatljivi za KfW:
- a) Zajmoprimac je prikazao podnošenjem pravnog mišljenja u obliku koji je naveden u aneksu 2 i overenih primeraka (svaki preveden na nemački ili engleski jezik) svih dokumenata na koje se ovo pravno mišljenje odnosi da je:
    - aa) Zajmoprimac ispunio sve zahteve prema svom ustavnom pravu i drugim zakonskim odredbama za pravosnažno preuzimanje svih svojih obaveza prema ovom Ugovoru, i
    - bb) KfW, po odobravanju Zajma, izuzet od plaćanja svih poreza na prihod, kao i troškova kamata, naknada, provizija i sličnih troškova u Republici Srbiji;
  - b) Deponovani potpisi navedeni u Članu 13.1 (Zastupanje Zajmoprimca) su dostavljeni;
  - v) Garancija Savezne Republike Nemačke iz Člana 8 je stupila na snagu i da je pravosnažna bez ikakvih ograničenja; KfW će obavestiti Zajmoprimca o stupanju na snagu i pravosnažnosti Garancije pre pokretanja procesa ratifikacije u Narodnoj skupštini Republike Srbije. Ovo pismo potvrde od strane KfW-a će biti priloženo u aneksu 3 uz ovaj Ugovor.
  - g) Zajmoprimac platio Proviziju za organizovanje posla navedenu u Članu 4.2;
  - d) nije ustanovljen nikakav razlog ili pretnja za raskid ovog Ugovora; i
  - đ) ne postoje nikakve vanredne okolnosti koje bi mogle da spreče ili ozbiljno ugroze sprovođenje, rad ili svrhu Programa, ili izvršavanje obaveza plaćanja koje Zajmoprimac preuzima u skladu sa ovim Ugovorom o zajmu i finansiranju.

Pre isplate iz Sredstava, KfW ima pravo da zahteva sva dodatna dokumenta i dokaze koje osnovano bude smatrao neophodnim.

- 3.6 *Odricanje od isplate.* Zajmoprimac ima pravo
- a) da se odrekne isplate nekog neisplaćenog iznosa Finansijskog doprinosa ukoliko je Zajmoprimac ispunio svoje obaveze u skladu sa Članom 11 (Posebne obaveze), i;
  - b) da se odrekne isplate nekog iznosa Zajma samo uz pristanak KfW-a i samo na osnovu uplate nadoknade za odricanje od isplate kao što je navedeno u Članu 3.7 (Nadoknada za odricanje od isplate).

- 3.7 *Nadoknada za odricanje od isplate.* Ukoliko se Zajmoprimac odrekne nekog iznosa Zajma ili ukoliko takav iznos uopšte nije isplaćen, ili ukoliko nije isplaćen do roka navedenog u Članu 3.4 (Rok za podnošenje zahteva za isplatu) iz nekog razloga za koji KfW nije odgovoran, Zajmoprimac bez odlaganja plaća KfW-u, po zahtevu KfW-a, iznos koji je neophodan da bi se KfW-u nadoknadili svi gubici, izdaci ili troškovi koje KfW snosi kao posledicu usled odricanja od isplate takvog iznosa Zajma. KfW će obračunati iznos nadoknade za odricanje od isplate i obavestiti o tome Zajmoprimca.

#### **Član 4**

##### **Provizije**

- 4.1 *Provizija za neisplaćeni Zajam.* Zajmoprimac će platiti bespovratnu proviziju za neisplaćeni deo Zajma u iznosu od 0,25% godišnje na neisplaćeni iznos Zajma. Provizija će se obračunavati za period koji počinje tri meseca po datumu ratifikacije ovog Ugovora, i naplaćivaće se do trenutka potpune otplate Zajma ili, kao što može biti slučaj, njegovog otkazivanja u celosti.

Provizija će dospevati na naplatu u vidu šestomesečnih dugovanja po osnovu provizije na dan 30. juna i 30. decembra svake godine („**Dani uplate**”). Prvo plaćanje dospeva za naplatu prvog Dana uplate tri meseca po ratifikaciji ovog Ugovora.

- 4.2 *Provizija za organizovanje posla.* Najkasnije nakon isteka tri meseca od dana ratifikacije ovog Ugovora o zajmu i finansiranju, ali u svakom slučaju pre prve isplate prema ovom Ugovoru, Zajmoprimac će platiti KfW-u bespovratni jednokratni paušalni iznos na ime provizije za organizovanje posla u iznosu od 0,5% iznosa glavnice Zajma, kao što je navedeno u Članu 1.1.

#### **Član 5**

##### **Kamata**

- 5.1 *Finansijski doprinos.* Zajmoprimac neće plaćati kamatu na iznos Finansijskog doprinosa.

- 5.2 *Dospela kamata* (fiksna kamatna stopa koja se utvrđuje na dan potpisivanja Ugovora). Zajmoprimac plaća kamatu za Zajam po stopi od 3,49% godišnje.

(„**Fiksna kamatna stopa**”) sve dok ne bude primljena i poslednja rata otplate u skladu sa Planom otplate definisanim u Članu 6.1 (Plan otplate).

- 5.3 *Obračun kamate i datum plaćanja kamate.* Kamata na isplaćen iznos Zajma će se obračunavati od dana (ne uključujući taj dan) na koji je takav iznos isplaćen sa kreditnog računa koji je KfW otvorio za Zajmoprimca do dana (uključujući i taj dan) na koji su pojedinačne rate za otplatu Zajma uplaćene na račun KfW-a kao što je navedeno u Članu 7.3 (Broj računa, vreme uplate). Kamata se obračunava u skladu sa Članom 7.1 (*Obračun*). Kamata se plaća u obračunatom iznosu na Dan uplate (kao što je definisano u Članu 4.1).

#### **Član 6**

### **Otplata i prevremena otplata**

6.1 *Plan otplate.* Zajmoprimac otplaćuje Zajam u skladu sa sledećim rasporedom:

<b>Rata</b>	<b>Datum</b>		<b>Iznos</b>	
1	30. decembar	2014	700.000,00	EUR
2	30. jun	2015	700.000,00	EUR
3	30. decembar	2015	700.000,00	EUR
4	30. jun	2016	700.000,00	EUR
5	30. decembar	2016	700.000,00	EUR
6	30. jun	2017	700.000,00	EUR
7	30. decembar	2017	700.000,00	EUR
8	30. jun	2018	700.000,00	EUR
9	30. decembar	2018	700.000,00	EUR
10	30. jun	2019	700.000,00	EUR
11	30. decembar	2019	700.000,00	EUR
12	30. jun	2020	700.000,00	EUR
13	30. decembar	2020	700.000,00	EUR
14	30. jun	2021	700.000,00	EUR
15	30. decembar	2021	700.000,00	EUR
16	30. jun	2022	700.000,00	EUR
17	30. decembar	2022	700.000,00	EUR
18	30. jun	2023	700.000,00	EUR
19	30. decembar	2023	700.000,00	EUR
20	30. jun	2024	700.000,00	EUR
21	30. decembar	2024	700.000,00	EUR
22	30. jun	2025	700.000,00	EUR
23	30. decembar	2025	700.000,00	EUR
24	30. jun	2026	700.000,00	EUR
25	30. decembar	2026	700.000,00	EUR

6.2 *Neisplaćeni iznosi Zajma.* Neisplaćeni iznosi Zajma se saldiraju u iznosu poslednje dospele rate za otplatu u bilo koje vreme u skladu sa Planom otplate, osim ukoliko nakon konsultacija sa Zajmoprimcem KfW po sopstvenom nahođenju ne odabere neki drugi način saldiranja za taj konkretan slučaj.

6.3 *Isplata po početku otplate.* Ukoliko neki iznos Zajma treba da bude isplaćen nakon što je period otplate počeo, to neće imati uticaja na Plan otplate, koji je naveden u Članu 6.1, odgovarajućeg dela („Deo”) sve dok je rata otplate koja dospeva u bilo koje vreme u skladu sa Planom otplate manja od preostalog iznosa Zajma. Ukoliko je iznos dospele rate otplate veći od iznosa Zajma koji je preostao za isplatu u okviru takvog Dela, KfW će umanjiti iznos dospele rate otplate za iznos koji predstavlja razliku i povećaće svaku preostalu ratu otplate za iznos koji predstavlja razliku podeljenu sa brojem preostalih rata otplate. KfW zadržava pravo da razmotri odlaganje isplate koja je prispela u roku kraćem od 45 dana pre Dana uplate kako bi se utvrdio iznos preostalog Zajma do drugog narednog datuma uplate.

6.4 *Prevremena otplata.* Sledeće odredbe se primenjuju u slučaju prevremene uplate:

- a) *Pravo na prevremenu otplatu Zajma.* Zajmoprimac može da, u skladu sa osnovnim odredbama (b) do (d) ispod, izvrši otplatu Zajma pre dospeća, u celosti ili delimično, ali u iznosu ne manjem od iznosa jedne rate otplate u skladu sa Članom 6.1.
  - b) *Obaveštenje.* U skladu sa Članom 6.4 a), prevremena otplata nekog iznosa Zajma mora biti predmet Obaveštenja o prevremenoj otplati koje Zajmoprimac šalje KfW-u najkasnije 15. radnog dana (kao što je definisano u Članu 14.1) pre nameravanog dana prevremene otplate. Ovakvo obaveštenje je neopozivo; ono mora da sadrži datum kada će prevremena otplata biti izvršena, iznos prevremene otplate, i ovo pismo obavezuje Zajmoprimca da naznačenog datuma uplati KfW-u navedeni iznos.
  - v) *Dospeli iznosi.* Zajedno sa prevremenom otplatom, Zajmoprimac takođe plaća sledeće iznose u skladu sa Članom 6.4 a), b) i d).
    - aa) Sve takse za prevremenu otplatu koje mogu nastati kao posledica prevremene otplate dela Zajma u skladu sa Članom 6.4 d); i
    - bb) Celokupnu kamatu na prevremeno otplaćeni deo Zajma nastalu do dana prevremene otplate.
  - g) *Nadoknada za prevremenu otplatu.* Ukoliko Zajmoprimac otplati iznos Zajma pre planiranog Dana uplate, Zajmoprimac će platiti KfW-u za ovakvu prevremenu otplatu taksu za prevremenu otplatu. Taksa za prevremenu otplatu će se obračunavati na osnovu razlike između (1) kamate koju je KfW mogao da naplati na odgovarajući iznos Zajma do kraja kamatnog perioda, i (2) kamate koju bi KfW mogao da zaradi tako što bi ponovno investirao odgovarajući iznos Zajma imajući u vidu dogovorenu otplatu do kraja kamatnog perioda, čija će razlika biti eskontovana na osnovu kamatne krivulje za reinvestiranje. KfW će utvrditi visinu iznosa nadoknade za prevremenu otplatu i o tome obavestiti Zajmoprimca.
  - d) *Saldiranje.* Odredbe Člana 6.2 (*Neisplaćeni iznosi Zajma*) će se primenjivati mutatis mutandis na saldiranje prevremenih otplata.
- 6.5 *Revidirani plan otplate.* U slučaju da se primenjuje Član 6.2 (*Neisplaćeni iznos Zajma*), Član 6.3 (*Isplata po početku otplate*), ili Član 6.4 (*Prevremena otplata*), KfW će Zajmoprimcu dostaviti revidirani plan otplate koji će postati sastavni deo ovog Ugovora o zajmu i finansiranju i koji će se primenjivati umesto Plana otplate koji se primenjivao do nastanka takvog događaja.

## **Član 7**

### **Obračuni i plaćanja uopšte**

- 7.1 *Obračun.* Kamate, provizije za neisplaćeni deo zajma, zatezne kamate u skladu sa Članom 7.5 (Zatezna kamata), paušalna nadoknada za zaostale iznose u skladu sa Članom 7.6 (Paušalna nadoknada), nadoknada za odricanje od isplate i nadoknada za prevremenu otplatu se obračunavaju na osnovu trajanja godine od 360 dana i meseca od 30 dana.
- 7.2 *Dan dospeća.* Ukoliko neko plaćanje koje treba da bude izvršeno prema ovom Ugovoru dospeva na dan koji nije radni dan u skladu sa Članom 14.1, Zajmoprimac će takvo plaćanje izvršiti sledećeg radnog dana. Ukoliko sledeći radni dan pada narednog kalendarskog meseca, takvo plaćanje mora biti izvršeno prethodnog radnog dana tekućeg kalendarskog meseca.

- 7.3 *Broj računa, vreme uplate.* Zajmoprimac će biti oslobođen obaveze plaćanja koje proizilaze iz ovog Ugovora čim se utvrdi da su odgovarajući iznosi uplaćeni KfW-u i da su na raspolaganju KfW-a bez ikakvih umanjenja iznosa u evrima, da je uplata izvršena do 16 sati posle podne u Frankfurtu na Majni, na račun KfW-a IBAN DE92 5002 0400 3122 3012 32, KfW, Frankfurt na Majni, uz dodatnu naznaku dospelog iznosa „Ref. YYYYMMDD”) ili na drugi račun koji je KfW naveo u pisanom obliku.
- 7.4 *Protivpotraživanja Zajmoprimca.* Zajmoprimac nema pravo da zahteva zadržavanje ili saldiranje iznosa ili neka druga slična prava u odnosu na obavezu plaćanja prema ovom Ugovoru, osim ukoliko je takvo pravo priznato krajnjom presudom ili ukoliko nije osporeno u pisanom vidu od strane KfW-a.
- 7.5 *Zatezna kamata.* Ukoliko rata otplate ili prevremene otplate u skladu sa Članom 6.4 (*Prevremena otplata*) nije na raspolaganju KfW-u na dan dospeća, KfW može, bez prethodnog upozorenja, da naplati zateznu kamatu po stopi od 300 bazičnih poena godišnje iznad bazične stope, za period koji počinje danom dospeća i koji se završava danom izvršenja takve uplate na račun KfW-a koji je naveden u Članu 7.3. Ova stopa mora biti najmanje jednaka kamatnoj stopi Zajma. „**Bazična stopa**” je kamatna stopa koju objavljuje Centralna Banka Nemačke (Deutsche Bundesbank) kao bazičnu stopu koja se primenjuje na dan dospeća. Takva zatezna kamata mora biti plaćena odmah, po prvom zahtevu KfW-a.
- 7.6 *Paušalna nadoknada.* Za neuplaćene dospele iznose (sa izuzetkom rata otplate i prevremene otplate kao što je navedeno u Članu 7.5 (*Zatezna kamata*)) KfW može, bez prethodnog upozorenja, da zahteva uplatu paušalne nadoknade po stopi od 300 bazičnih poena godišnje iznad bazične stope koja je primenjiva na odgovarajući dan dospeća za period koji počinje danom dospeća i koji se završava na dan uplate takvog dospelog a neuplaćenog iznosa. Paušalna nadoknada mora biti plaćena bez odlaganja, čim KfW to zatraži. Zajmoprimac je slobodan da dokaže da zapravo nije pričinjena nikakva šteta ili da šteta nije nastala u navedenom iznosu.
- 7.7 *Obračuni od strane KfW-a.* Utvrđivanje i obračun iznosa prema ovom Ugovoru i sa njim u vezi, smatraće se obavezujućim osim u slučaju da Zajmoprimac dokaže da je KfW napravio grešku.

## **Član 8**

### **Garancija Savezne Republike Nemačke**

KfW će za isplatu iznosa prema ovom Ugovoru o zajmu i finansiranju pribaviti garanciju Savezne Republike Nemačke pre prve isplate.

## **Član 9**

### **Negativna zaloga i „pari pasu” klauzula**

- 9.1 *Zabrana zaloga/hipoteke na Imovinu Programa.* Zajmoprimac će uraditi sve što je u njegovoj moći da osigura da opštine i njihova preduzeća za vodovod i kanalizaciju ne založe ili stave pod hipoteku ili otuđe imovinu Programa sve dok Zajam ne bude otplaćen u celosti, niti zaključuju bilo kakve ugovore ili aranžmane koji za rezultat imaju ustanovljavanje obezbeđenja ili prava na prioritet u pogledu plaćanja bilo kakvih obaveza bilo kojih lica, bez prethodnog odobrenja KfW-a.
- 9.2 *„Pari pasu”.* U meri u kojoj je to dozvoljeno zakonom, Zajmoprimac preuzima na sebe obaveze prema ovom Ugovoru „pari pasu” u odnosu na sve ostale postojeće ili buduće neobezbeđene i nepodređene obaveze plaćanja.

## **Član 10**

### **Troškovi i javne dažbine**

- 10.1 *Bez odbitaka i umanjenja.* Zajmoprimac će vršiti sva plaćanja u skladu sa ovim Ugovorom bez odbijanja poreza, drugih javnih dažbina ili drugih troškova. U slučaju da Zajmoprimac ima zakonsku ili drugačiju obavezu da izvrši odbijanje ili umanjenje iznosa uplate, uplate koje vrši Zajmoprimac će biti uvećane za iznos koji KfW smatra neophodnim da bi primio pun iznos uplate koji je predviđen ovim Ugovorom kao da do odbijanja ili zadržavanja poreza i troškova nije došlo.
- 10.2 *Troškovi.* Zajmoprimac snosi sve troškove nastale u vezi sa isplatom i otplatom Zajma, naročito troškove doznačavanja i prenosa sredstava (uključujući provizije prilikom zamene valute), kao i sve troškove nastale u vezi sa održavanjem ili sprovođenjem ovog Ugovora.
- 10.3 *Porezi i druge dažbine.* Zajmoprimac snosi sve poreze i druge javne dažbine nastale van Savezne Republike Nemačke u vezi sa zaključivanjem i sprovođenjem ovog Ugovora. Ukoliko KfW avansno plati iznos takvih poreza ili dažbina, Zajmoprimac mora da bez odlaganja, odmah po zahtevu KfW-a, uplati na račun KfW-a pomenuti iznos kao što je navedeno u Članu 7.3.

### **Član 11**

#### **Posebne obaveze**

- 11.1 *Sprovođenje Projekta i posebne informacije.* Zajmoprimac će obezbediti da on sam i da svaka od opština i njihovih komunalnih preduzeća za vodovod i kanalizaciju
- a) pripreme, sprovedu, upravljaju Programom i održavaju Program u skladu sa dobrom finansijskom i tehničkom praksom, i u svim pojedinostima u skladu sa konceptom Programa u vezi sa kojim su se sporazumeli KfW i Zajmoprimac;
  - b) povere pripremu, sprovođenje i nadzor nad sprovođenjem Programa nezavisnim, kompetentnim inženjerima- konsultantima, i povere sprovođenje Programa kompetentnim firmama;
  - v) dodele ugovore za robu i usluge koji treba da se finansiraju iz Sredstava putem međunarodnog, nacionalnog ili ograničenog nacionalnog postupka javne nabavke, u zavisnosti od obima ugovora;
  - g) obezbede potpuno finansiranje Programa i dostave KfW-u, po zahtevu, dokaz da su troškovi koji nisu plaćeni iz ovih Sredstava takođe pokriveni;
  - d) vode knjige i evidencije ili čuvaju knjige i evidencije koje nedvosmisleno prikazuju sve troškove robe i usluga potrebnih za svrhe Programa i u kojima su jasno naznačene robe i usluge koji su finansirani iz ovih Sredstava;
  - đ) omoguće predstavnicima KfW-a da u bilo koje vreme pregledaju takve knjige i evidencije i bilo koju i celokupnu dokumentaciju koji su važni za sprovođenje i upravljanje Programom, i da posete gradilišta Programa i sve instalacije koje se na njih odnose;
  - e) dostave KfW-u bilo koju i sve informacije i evidencije o Programu i njegovom napredovanju koje KfW može da zahteva;
  - ž) odmah i svojevrijno,
    - aa) dostave KfW-u sve upite koje Zajmoprimac ili neka od opština i/ili njihova komunalna preduzeća za vodovod i kanalizaciju prime od Organizacije za ekonomsku saradnju i razvoj (OECD) ili njenih članica u skladu sa tzv. „Sporazumom o jedinstvenoj

transparentnosti ODA kredita" posle dodeljivanja ugovora za nabavku robe i usluga koji treba da budu finansirani iz Sredstava i koordinira slanje odgovora na svaki takav upit KfW-u, i

- bb) obaveste KfW o svim okolnostima koje sprečavaju ili ozbiljno ugrožavaju sprovođenje, upravljanje ili svrhu Programa.
- 11.2 *Poseban Ugovor o sprovođenju.* Zajmoprimac, sve opštine, njihova komunalna preduzeća za vodovod i kanalizaciju će utvrditi pojedinosti Člana 11.1 (Sprovođenje Programa i posebne informacije) u okviru Posebnog ugovora o sprovođenju.
- 11.3 *Pridržavanje propisa.* Zajmoprimac će obezbediti da lica kojima on ili bilo koja od opština i njihovih komunalnih preduzeća za vodovod i kanalizaciju kojima poveri pripremu i sprovođenje Programa, dodelu ugovora za nabavku robe ili usluga koje su predmet finansiranja, a koja zahtevaju isplatu određenih iznosa iz Sredstava ne zahtevaju, prihvataju, odobravaju, obećavaju ili prihvataju obećanja nezakonitih plaćanja ili nekih drugih pogodnosti.
- 11.4 *Prevoz robe.* U pogledu prevoza robe koja je predmet finansiranja iz Sredstava, mora biti osiguran slobodan izbor prevoznika koji obavlja prevoz lica i robe morem, kopnom ili vazduhom kao rezultat dodele sredstava doprinosa, i Zajmoprimac, kao i svaka opština i njihova komunalna preduzeća za vodovod i kanalizaciju se uzdržavaju od svih mera koje mogu da isključe ili ugroze učešće, pod jednakim uslovima, prevoznika čije se poslovno sedište nalazi u Saveznoj Republici Nemačkoj.

## **Član 12**

### **Razlozi za raskid Zajma i obustavu Finansijskog doprinosa**

- 12.1 *Razlozi za raskid Zajma.* KfW može ostvariti prava navedena u Članu 12.2 (Pravne posledice u slučaju neispunjavanja obaveza u pogledu Zajma) u slučaju nastanka događaja koji sačinjava materijalni razlog (*wichtiger Grund*).

Materijalnim razlogom se smatraju naročito sledeći pojedinačni događaji:

- a) Zajmoprimac ne izvrši obaveze plaćanja prema KfW-u po dospeću;
- b) Zajmoprimac i/ili neka opština i/ili njeno komunalno preduzeće za vodovod i kanalizaciju prekrši obaveze prema ovom Ugovoru ili obaveze prema Posebnom ugovoru koji proističe iz ovog Ugovora;
- v) ovaj Ugovor o zajmu i finansiranju ili bilo koji njegov deo prestanu da budu obavezujući za Zajmoprimca i stoga se ne mogu primenjivati na Zajmoprimca;
- g) se ispostavi da je neka izjava, potvrda, informacija ili predstavljanje ili garancija koja po mišljenju KfW-a ima ključni značaj za odobravanje i održavanje Zajma i/ili Finansijskog doprinosa, netačna, zavaravajuća ili nepotpuna;
- d) nastanu druge vanredne okolnosti koje mogu prouzrokovati odlaganje ili sprečiti izvršenje obaveza u skladu sa ovim Ugovorom o zajmu i finansiranju;
- đ) Zajmoprimac i/ili neka od opština i/ili njeno komunalno preduzeće za vodovod i kanalizaciju nije u mogućnosti da dokaže da je određeni iznos Sredstava upotrebljen u namenske svrhe;
- e) dođe do bilo kog od sledećih događaja u pogledu Zajmoprimca:



- aa) Zajmoprimac ne bude u mogućnosti da blagovremeno izmiri svoja dospela dugovanja;
  - bb) budu započeti pregovori sa jednim ili više poverenika Zajmoprimca (uz izuzetak KfW-a) o odricanju od neizmirenih dugovanja ili o dogovoru o zastoju ili prebijanju.
- 12.2 *Pravne posledice u slučaju neizvršenja obaveza po osnovu Zajma.* Ukoliko je nastao bilo koji od slučajeva navedenih u Članu 12.1 i ukoliko takav slučaj nije rešen u roku od 5 dana (u slučaju Člana 12.1 a) ili ukoliko neki drugi slučaj naveden u Članu 12.1 nije rešen (ukoliko je moguće da se takav slučaj reši) u roku koji odredi KfW a koji, međutim, ne može da iznosi manje od 30 dana u kontinuitetu, KfW može da prekine isplatu celog ili dela Zajma, što će dovesti do sledećih posledica:
- a) prestanka obaveza KfW-a po ovom Ugovoru u pogledu Zajma, i
  - b) KfW može da zahteva punu ili delimičnu otplatu neotplaćenog iznosa Zajma, zajedno sa dospelom kamatom i svim ostalim iznosima dospelim u skladu sa ovim Ugovorom, Član 7.5 (*Zatezna kamata*) i 7.6 (*Paušalna nadoknada*) koji se primenjuju na iznose čija je naplata ubrzana mutatis mutandis.
- 12.3 *Odšteta.* U slučaju da je isplata Zajma u punom ili delimičnom iznosu prekinuta, Zajmoprimac plaća nadoknadu za odricanje od isplate u skladu sa Članom 3.7 (*Nadoknada za odricanje od isplate*) i/ili nadoknadu za prevremenu otplatu u skladu sa Članom 6.4d (*Nadoknada za prevremenu otplatu*).
- 12.4 *Obustava isplate iz Finansijskog doprinosa.* KfW ne može da obustavi isplate iz sredstava Finansijskog doprinosa osim ukoliko
- a) Zajmoprimac nije ispunio svoje obaveze prema KfW - u smislu uplate po dospeću,
  - b) su prekršene obaveze prema ovom Ugovoru ili prema Posebnim ugovorima koji proističu iz ovog Ugovora,
  - v) Zajmoprimac i/ili neka od opština i/ili njeno komunalno preduzeće za vodovod i kanalizaciju nije u mogućnosti da dokaže da se sredstva iz Finansijskog doprinosa i/ili nekog iznosa Zajma upotrebljavaju u naznačene svrhe, ili
  - g) je došlo do nekih vanrednih okolnosti koje sprečavaju ili ozbiljno ugrožavaju sprovođenje, upravljanje Programom ili svrhu Programa.
- 12.5 *Otplata Finansijskog doprinosa.* Ukoliko je došlo do neke od situacija navedenih u Članu 12.4b) ili v) koja nije otklonjena u periodu koji je odredio KfW, a koji, međutim, ne sme da iznosi manje od 30 dana u kontinuitetu, KfW može, nakon konsultacija sa Zajmoprimcem,
- a) u slučaju navedenom u Članu 12.4 b), da zahteva da se odmah izvrši otplata iznosa Finansijskog doprinosa; i
  - b) u slučaju navedenom u Članu 12.4 v), da zahteva da se odmah izvrši otplata iznosa Finansijskog doprinosa za koji Zajmoprimac i/ili neka od opština i/ili njeno komunalno preduzeće za vodovod i kanalizaciju ne može da dokaže da je upotrebljen u naznačene svrhe.

### **Član 13**

#### **Zastupanje i izjave**

- 13.1 *Zastupanje Zajmoprimca.* Prilikom sprovođenja ovog Ugovora, Zajmoprimca predstavlja Ministar finansija Republike Srbije i lica koja Ministar imenuje KfW-u i koja su ovlašćena deponovanjem potpisom uz potvrdu Ministra. Ovlašćenje u pogledu zastupanja ne prestaje sve dok KfW ne primi izričiti opoziv od predstavnika ovlašćenog u tom trenutku.
- 13.2 *Adrese.* Obaveštenja ili izjave u vezi sa ovim Ugovorom moraju biti u pisanom obliku. Ona se šalju u vidu originala ili – sa izuzetkom zahteva za isplatu – u vidu kopije. Sva obaveštenja i izjave date u vezi sa ovim Ugovorom se šalju na sledeće adrese:
- Za KfW: KfW  
Postfach 11 11 41  
60046 Frankfurt am Main  
Germany  
Fax: +49 69 7431-2944
- Za Zajmoprimca: Ministarstvo finansija  
Prima: Uprava za javni dug  
Pop Lukina 7-9  
11000 Beograd  
Faks: +381 11 2629055

#### **Član 14**

##### **Opšte odredbe**

- 14.1 *Radni dan banaka.* Kada se u ovom ugovoru pominje „**radni dan banaka**”, to označava dan koji nije subota ili nedelja, kojim komercijalne banke u Frankfurtu na Majni, Savezna Republika Nemačka, rade radi obavljanja opštih poslova.
- 14.2 *Mesto izvršenja.* Mesto izvršenja svih obaveza po ovom Ugovoru je Frankfurt na Majni, Savezna Republika Nemačka.
- 14.3 *Delimično nevaženje i neslaganje.* Ukoliko bilo koja odredba ovog Ugovora postane nevažeća, ili ukoliko postoji neslaganje između bilo kojih odredaba ovog Ugovora, to neće imati uticaja na valjanost ostalih odredbi Ugovora. Ugovorne strane će zameniti sve nevažeće odredbe pravno važećim odredbama koje su sačinjene najbliže duhu i svrsi nevažećih odredbi. Ugovorne strane će ispraviti svako neslaganje među odredbama sa pravno valjanim odredbama koje su najbliže duhu i svrsi ovog Ugovora.
- 14.4 *Pisani oblik.* Izmene i dopune ovog Ugovora moraju biti u pisanom obliku da bi bile punovažne. Ugovorne strane moraju da u pisanom obliku najave svako odstupanje u odnosu na ovaj zahtev.
- 14.5 *Ustupanje.* Zajmoprimac ne sme da ustupi ili prenese, založi ili stavi pod hipoteku sredstva iz ovog Ugovora.
- 14.6 *Merodavno pravo.* Za ovaj Ugovor merodavni su zakoni Savezne Republike Nemačke.
- 14.7 *Rok zastarevanja.* Svi zahtevi KfW-a prema ovom Ugovoru ističu nakon pet godina od kraja godine u kojoj je takav zahtev nastao i u kojoj su KfW-u postale poznate okolnosti iz kojih proističe takav zahtev ili bi mu mogle postati poznate da nije bilo velikog zanemarivanja.
- 14.8 *Odricanje od imuniteta:* U obimu u kom Zajmoprimac može trenutno ili u budućnosti u bilo kojoj nadležnosti zatražiti za sebe ili svoju imovinu imunitet od

pokretanja sudskog postupka, izvršenja, zaplene ili bilo koje druge pravne radnje i u meri u kojoj, u okviru bilo koje takve nadležnosti takav imunitet može biti odobren Zajmoprimcu ili njegovoj imovini, Zajmoprimac se, u pogledu bilo koje i svih obaveza prema ovom Ugovoru i izvršavanja takvih obaveza, ovim neopozivo saglašava da takav imunitet neće tražiti i ovim se neopozivo takvog imuniteta odriče. Pomenuto odricanje od imuniteta se ne odnosi na imovinu koja (i) se koristi u okviru diplomatskih, konzularnih, specijalnih misija i misija u međunarodnim organizacijama ili međunarodnim konferencijama države Zajmoprimca ili (ii) koja je vojne prirode ili pod kontrolom vojnih organa.

14.9 *Pravni sporovi.*

*Arbitraža.* Za sve sporove nastale na osnovu ili u vezi sa ovim Ugovorom koji ne mogu da se reše sporazumno među ugovornim stranama isključivo i finalno nadležan je Arbitražni sud. U tom slučaju, primenjuju se sledeće odredbe:

- aa) Arbitražni sud će se sastojati od tri arbitra koji su postavljeni i koji deluju u skladu sa Pravilima arbitraže Međunarodne privredne komore (ICC) koja s vremena na vreme mogu biti izmenjena.
- bb) Arbitražni postupak se vodi u Frankfurtu na Majni. Postupak će se voditi na engleskom jeziku.

14.10 *Prenos informacija.* KfW ima pravo da prenese izdavaocu savezne garancije iz Člana 8 i Saveznoj Republici Nemačkoj informacije povezane sa zaključivanjem i sprovođenjem ovog Ugovora. KfW, izdavalac savezne garancije i Savezna Republika Nemačka imaju pravo da proslede informacije u pogledu Zajma, Finansijskog doprinosa i Programa, uključujući dodelu ugovora za nabavku robe i usluga koji se finansiraju iz Sredstava, međunarodnim organizacijama koje rade na prikupljanju statističkih podataka, naročito u vezi sa pitanjima koja se odnose na servisiranje duga i/ili prikupljanje i objavljivanje podataka u vezi sa dodelom ugovora za nabavku robe i usluga koji se finansiraju iz Sredstava. Navedeno pravo za prosleđivanje informacija međunarodnim organizacijama obuhvata i pravo direktnog prenošenja takvih informacija predstavnicima takvih organizacija.

Ovaj Ugovor je sačinjen u 3 originalna primerka na engleskom jeziku.

Beograd,

Dana 30. septembra 2011. godine

KfW

Republika Srbija

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(Juergen Welschhof )  
(Vibeke Christensen)

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(Mirko Cvetković)

Aneks 1

**Plan isplate**

Do isteka svakog pojedinačnog perioda koji je naveden ispod, Zajmoprimac može podneti zahtev za isplatu iznosa Zajma koji ne prelazi ukupan iznos koji je u nastavku naveden za svaki od perioda.

Svi iznosi su u EUR	Isplaćeno tokom tekućeg perioda	Isplaćeno tokom prethodnih perioda	Ukupne isplate
30.6.2013-30.12.2013.	2,5 miliona EUR	-	2,5 miliona EUR
1.1.2014-30.6.2014.	6,25 miliona EUR	2,5 miliona EUR	8,75 miliona EUR
1.7.2014-31.12.2014.	6,25 miliona EUR	8,75 miliona EUR	15 miliona EUR
1.1.2015-30.6.2015.	1,25 miliona EUR	15 miliona EUR	16,25 miliona EUR
1.7.2015-31.12.2015.	1,25 miliona EUR	16,25 miliona EUR	17,5 miliona EUR

Aneks 2

**Napomena:** Molimo izmenite „Republika Srbija / „Srbija” kako je adekvatno.

**Oblik pravnog mišljenja pravnog savetnika Zajmoprimca**

[Zaglavlje pravnog savetnika]

KfW  
Odeljenje [     ]  
Prima: [                     ]  
Palmengartenstrasse 5 - 9  
Postfach 11 11 41  
60325 Frankfurt am Main

(Datum)

Savezna Republika Nemačka

**Ugovor o zajmu i finansiranju od (datum) i sačinjen između KfW-a, (...) („Zajmoprimac”) i (...) na iznos koji ukupno ne prevazilazi 25.000.000 EUR, i koji se sastoji od zajma u iznosu od 17.500.000 EUR i Finansijskog doprinosa u iznosu od 7.500.000 EUR.**

Poštovana gospodo,

Ja sam (Ministar pravde) (pravni savetnik) (načelnik pravne službe) (*molimo navedite Ministarstvo ili drugi organ*) Republike Srbije. U tom svojstvu nastupam u vezi sa Ugovorom o zajmu i finansiranju („**Ugovor o zajmu i finansiranju**“) od (datum) koji je sačinjen između Zajmoprimca, (...) i Vas, a čiji je predmet Zajam koji Vi treba da odobrite Zajmoprimcu, u iznosu koji ne prelazi ukupan iznos od 25.000.000 EUR, a koji se sastoji od Zajma u iznosu od 17.500.000 EUR i Finansijskog doprinosa u iznosu od 7.500.000 EUR.

1. **Pregledana dokumenta**

Pregledao sam:

**1.1 Potpisani original Ugovora o zajmu i finansiranju;**

**1.2 Ustavne dokumente Zajmoprimca, posebno:**

- (a) Ustav Republike Srbije, od (datum), propisno objavljen u ..., br. ..., str. ..., i njegove izmene;
- (b) Zakon/e br. ..., od (datum), propisno objavljen/e u ... br. ..., str. ..., i njihove izmene (molimo navedite zakone (npr. Zakon o budžetu) koji se odnose na novčane pozajmice Republike Srbije, ukoliko ih ima);
- (v) ...*(molimo da navedete druge dokumente, npr. Uredbe ili Odluke Vladinih ili administrativnih tela Republike Srbije koje se odnose na zaključivanje ugovora o zajmu od strane Republike Srbije uopšte, ili koje se odnose na zaključivanje Ugovora o zajmu i finansiranju); i . . . . .*
- (g) Ugovor o finansijskoj saradnji između Vlade Republike Srbije i Vlade Savezne Republike Nemačke od (datum) („Ugovor o saradnji”)

i druge zakone, propise, sertifikate, zapise, upise i dokumente i sproveo sam istragu koju sam smatrao neophodnom ili poželjnom u svrhe davanja ovog mišljenja.

**2. Mišljenje**

Za svrhe Člana 3.5(a) Ugovora o zajmu i finansiranju, mišljenja sam da u skladu sa zakonima Republike Srbije na dan:

2.1 U skladu sa Članom ... Ustava Republike Srbije/Članom ... Zakona... *(molimo navedite odgovarajući dokument)* Zajmoprimac ima pravo da sklopi Ugovor o finansiranju i preduzeo je sve neophodne mere da ovlasti sprovođenje, izvršavanje i izvođenje Ugovora, a posebno na osnovu:

- (a) Zakona br. .... od (datum) Skupštine Republike Srbije, kojima se ratifikuje Ugovor o zajmu i finansiranju/ odobrava sprovođenje, izvršavanje i izvođenje Ugovora o zajmu i finansiranju od strane Zajmoprimca/... *(molimo unesite odgovarajuću informaciju);*
- (b) Odluke/a br. .... od (datum) Saveta ministara/ Državnog kreditnog odbora/... *(molimo unesite odgovarajuća vladina ili administrativna tela Republike Srbije);*
- (v) ... *(molimo unesite druge Odluke, itd.) . . . . .*

2.2 G-din/G-đa .... (i g-din/g-đa ..... ) je(su) ovlašćen/i od strane ... *(npr. Zakonom na osnovu svog položaja (kao Ministar..., kao ...), Vladinom odukom..., ovlašćenjem... od (datum), itd )* da samostalno/ zajednički potpiše/u Ugovor o zajmu i finansiranju u ime Zajmoprimca. Potpisivanjem g-đe/g-dina... (i g-đe/g-dina...) Ugovor o zajmu i finansiranju se propisno izvršava u ime Zajmoprimca i predstavlja pravno obavezujuću obavezu Zajmoprimca čije neispunjavanje podleže primeni zakona u skladu sa uslovima Ugovora.

**[Alternativa 1 Za Poglavlje 2.3, koje treba da se primenjuje ukoliko, osim dokumenata navedenih u Poglavlju 2.1 i 2.2 moraju biti pribavljena neka zvanična ovlašćenja itd. u skladu sa zakonima Republike Srbije]**

2.3 Za izvršenje i izvođenje Ugovora o zajmu i finansiranju od strane Zajmoprimca (uključujući, bez ikakvih ograničenja, pribavljanje i prenos KfW-u svih iznosa dospelim u skladu sa Ugovorom u valutama navedenim u Ugovoru), pribavljena su sledeća pravosnažna zvanična odobrenja, dozvole, licence, registracije i/ili pristanci:

- (a) odobrenje ... (*Centralna banka/Narodna banka/...*), od (datum), br.;
- (b) pristanak ... (*ministar/Ministarstvo...*), od (datum), br. ...; i
- (v) ..... (*molimo navedite sva druga zvanična ovlašćenja, dozvole i/ili odobrenja*).

U vezi sa izvršenjem i izvođenjem Ugovora o zajmu i finansiranju od strane Zajmoprimca, kao i u pogledu punovažnosti i primenjivosti obaveza Zajmoprimca u skladu sa ovim Ugovorom o zajmu i finansiranju, nisu potrebna niti su preporučljiva nikakva dodatna zvanična odobrenja, pristanci, dozvole, i/ili registracije koje izdaje bilo koja Vladina agencija (uključujući i Centralnu/Narodnu banku Republike Srbije) ili sud (uključujući, bez ograničenja, pribavljanje i prenos KfW-u svih dospelih iznosa u skladu sa ovim Ugovorom u navedenim valutama).

**[Alternativa 2 za Poglavlje 2.3, koje se primenjuje samo uz dokumente navedene u Poglavlju 2.1 i 2.2, nije potrebno nikakvo zvanično ovlašćenje, itd. u skladu sa zakonima Republike Srbije]**

- 2.3 U vezi sa izvršavanjem i sprovođenjem Ugovora o zajmu i finansiranju (uključujući, bez ograničenja, pribavljanje i prenos KfW-u svih iznosa dospelih u skladu sa Ugovorom u navedenim valutama) i pravosnažnosti i izvršenja obaveza Zajmoprimca prema ovom Ugovoru o zajmu i finansiranju, nisu potrebna niti su preporučljiva nikakva zvanična ovlašćenja, pristanci, dozvole, registracije i/ili odobrenja vladinih ustanova ili agencija (uključujući Centralnu/Narodnu banku Republike Srbije) ili suda.
- 2.4 U vezi sa pravosnažnošću i/ili sprovođenjem Ugovora o zajmu i finansiranju nije potrebno plaćanje nikakvih taksi ili sličnih nameta.
- 2.5 Izbor zakona Republike Nemačke koji je merodavan za Ugovor o zajmu i finansiranju i podlezanje arbitraži u skladu sa Članom 13 Ugovora o zajmu i finansiranju je pravosnažan i obavezujući. Odluka Arbitražnog suda protiv Zajmoprimca se priznaje i primenjiva je u Republici Srbiji u skladu sa sledećim pravilima: ... (*molimo navedite odgovarajući dokument (ukoliko postoji) npr. Njujorška Konvencija iz 1958. godine, i/ili osnovni principi za priznavanje i izvršavanje odluka Arbitražnog suda u Republici Srbiji*).
- 2.6 Sudovi Republike Srbije imaju slobodu da presudu donesu u valuti ili valutama navedenim u Ugovoru o zajmu i finansiranju.
- 2.7 Zaduživanje Zajmoprimca u skladu sa Ugovorom o zajmu i finansiranju i izvršenje Ugovora o zajmu i finansiranju od strane Zajmoprimca sačinjava privatne i poslovne radnje, a ne vladine ili javne poslove. Ni Zajmoprimac niti bilo koji deo njegove imovine nemaju pravo na imunitet od arbitraže, sudskog postupka, izvršenja, zaplene ili drugih pravnih radnji.
- 2.8 Ugovor o saradnji je punosnažan i sprovodi se u skladu sa Ustavom i zakonima Republike Srbije. (U skladu sa Članom 3 Ugovora o saradnji) (*alternativno, molimo navedite ugovore ili primenjive zakone i propise*), i od Zajmoprimca se ne zahteva da umanjuje ili na drugi način zadrži bilo koji iznos od bilo kog plaćanja koje Zajmoprimac mora da izvrši u skladu sa ovim Ugovorom o zajmu i finansiranju.
- 2.9 KfW nije i ne može se smatrati domaćim licem koje ima boravak ili sedište ili posluje i podleže oporezivanju u Republici Srbiji isključivo na osnovu sprovođenja,

izvođenja ili izvršavanja Ugovora o zajmu i finansiranju. Nije neophodno niti preporučljivo da KfW ima dozolu, kvalifikaciju ili da na neki drugi način ostvaruje pravo da posluje ili da imenuje svoje zastupnike ili predstavnike u Republici Srbiji.

Shodno tome, obaveze Zajmoprimca prema ovom Ugovoru o zajmu i finansiranju čine direktne i bezuslovne, pravosnažne i obavezujuće obaveze Zajmoprimca koje predstavljaju zakonsku obavezu Zajmoprimca u skladu sa uslovima Ugovora.

Ovo pravno mišljenje je ograničeno na zakone Republike Srbije.

.....,

(Mesto)

(Datum)

[Potpis]

Ime:

Prilozi:

**Napomena:** Molimo priložite overene kopije dokumenata i zakonskih propisa navedenih u gornjem tekstu od Poglavlja 0(a) do 1.2(c) i Poglavlja 0 do 0 (imajući u vidu obiman Ustav i zakone Republike Srbije, dovoljna je kopija relevantnih propisa). Takođe molimo da dostavite KfW-u overeni prevod na engleski ili nemački jezik svakog od gorenavedenih dokumenata ukoliko takav dokument već nije objavljen na engleskom ili nemačkom jeziku kao zvaničnom jeziku



Aneks 3

**Finansijska saradnja između Srbije i Nemačke**

**Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji II - Faza 2, garancije Savezne Republike Nemačke za kredit**

**Poštovani,**

**Sa ovim potvrđujemo da garancije Savezne Republike Nemačke za kredit, kako je predviđeno Preambulom Ugovora o zajmu i finansiranju od.. ... za vodosnabdevanje i kanalizacije u opštinama srednje veličine u Srbiji II - Faza 2, je na snazi.**

**Srdačno**

**KfW**

**Član 3.**

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u „Službenom glasniku Republike Srbije – Međunarodni ugovori”.