

Z A K O N

O POTVRĐIVANJU SPORAZUMA O ZAJMU I PROGRAMU ZA PROGRAM „REHABILITACIJA SISTEMA DALJINSKOG GREJANJA U SRBIJI - FAZA IV” NA IZNOS OD 45.000.000 EVRA IZMEĐU KfW-a, FRANKFURT NA MAJNI I REPUBLIKE SRBIJE

Član 1.

Potvrđuje se Sporazum o zajmu i programu za Program „Rehabilitacija sistema daljinskog grejanja u Srbiji - Faza IV” na iznos od 45.000.000 evra između KfW-a, Frankfurt na Majni i Republike Srbije, zaključen 30. septembra 2011. godine, u Beogradu.

Član 2.

Tekst Sporazuma o zajmu i programu za Program „Rehabilitacija sistema daljinskog grejanja u Srbiji - Faza IV” na iznos od 45.000.000 evra između KfW-a, Frankfurt na Majni i Republike Srbije, u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

Loan and Program Agreement

dated **30.09.2011.**

between

KfW, Frankfurt am Main

(„KfW”)

and

Republic of Serbia

(„Borrower”)

represented by the Ministry of Finance

for

EUR 45,000,000.--

Rehabilitation of District Heating Systems in Serbia – Phase IV

Contents

Preamble

1. Loan
2. Channelling of the Loan to the PEA
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
13. Representation and statements
14. General provisions

Annexes

- | | |
|---------|--|
| Annex 1 | Disbursement schedule |
| Annex 2 | Specimen legal opinion for the loan agreement (government) |

Preamble

The basis for this Loan and Program Agreement are the agreements dated 16 October 2009 and 28 October 2010 between the Government of the Federal Republic of Germany and the Government of the Republic of Serbia on Financial Cooperation (FC) (collectively, the "**Government Agreement**").

Subject to the Federal Republic of Germany providing interest rate subsidies and subject to the Federal Republic of Germany providing a guarantee for the loan KfW will extend a loan subject to the terms and provisions of this Loan and Program Agreement for the purpose of the Rehabilitation of District Heating Systems in Serbia – Phase IV (the "**Program**"). The terms and conditions of the loan comply with the OECD requirements applicable on the date of signing of this Loan and Program Agreement for recognition as Official Development Assistance (ODA).

In addition to the loan to be provided under this Loan and Program Agreement KfW and the Borrower intend to enter into (i) a certain debt swap agreement pursuant to which the Borrower will contribute an amount of EUR 9,250,000 (the "**Borrower's Contribution**") to the Program and (ii) a certain financing agreement pursuant to which KfW will provide a financial contribution in the amount of up to EUR 4,000,000 (the "**Financial Contribution**") for the purpose of financing accompanying measures related to the Program (the loan to be provided under this Loan and Program Agreement, the Borrower's Contribution and the Financial Contribution are hereinafter collectively referred to as the "**Program Funds**").

1. Loan

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

EUR 45,000,000.--

(the "**Loan**").

1.2 *Loan purpose.* The Borrower shall use the Loan exclusively to finance the Program. The Borrower represented by the Ministry of Finance ("**MoF**") and the Ministry for Infrastructure and Energy ("**MIE**") and KfW will define the details of the Program as well as the goods and services to be financed from the Loan in a **separate agreement**.

1.3 *Channelling.* The Borrower shall channel the Loan in full to the selected district heating companies – which shall act as program-executing agencies – (the "**PEA**"), in accordance with the conditions set forth in Article 2 and shall ensure that each PEA uses the funds exclusively for the Program.

1.4 *Taxes, charges, customs duties.* Taxes and other public charges owed by the Borrower as well as customs duties may not be financed from the Loan.

1.5 Taxes, import duties and other levies cannot be financed out of the Program Funds. The goods and services imported into the Republic of Serbia for the Program shall be exempted from customs fees and the trade of goods, services and equipment for the Program shall be exempted from VAT.

2. Channelling of the Loan to the PEA

2.1 *Separate Loan Agreement.* The Borrower shall channel the Loan to the PEA under separate loan agreements at the terms and conditions set forth in Articles 4.1 (*Commitment Fee*), 5.1 (*Interest*) and 6.1 (*Repayment Schedule*) hereof. These separate loan agreements shall, inter alia:

a) oblige the PEA to use the funds exclusively for the Program,

- b) oblige the PEA to prepare, implement, operate and maintain the Program in accordance with the provisions set forth in Article 10 of this Loan and Program Agreement,
- c) provide for appropriate rights for the Borrower as well as for KfW to monitor the preparation, implementation, operation and maintenance of the Program by the PEA and

The Borrower represented by the MoF as well as the MIE and KfW shall agree on the form and substance of these separate loan agreements in the separate agreement (cf. Article 1.2 *Loan Purpose*).

2.2 *Certified Translation.* Prior to the first disbursement from the Loan, the Borrower shall send KfW certified English or German translations of all separate loan agreements specified in Article 2.1.

2.3 *No Liability of PEA.* The channelling of the Loan shall not constitute any liability of the PEA to KfW for payment obligations under this Loan and Program Agreement.

3. Disbursement

3.1 *Request for disbursement.* As soon as all conditions precedent to disbursement pursuant to Article 3.3 are fulfilled, KfW will disburse the Loan in accordance with the progress of the Program upon request of the Borrower represented by the MIE. Disbursement will be effected in accordance with the disbursement schedule contained in Annex 1 to this Loan and Program Agreement. KfW will make disbursements only up to the maximum amounts determined for each half-year. To the extent that the Borrower represented by the MIE 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 obligated to effect disbursements in an amount of less than EUR 250,000.--.

3.2 *Deadline for requesting disbursement.* KfW may deny disbursements after 30 December 2015.

3.3 *Conditions Precedent to Disbursement.* KfW is obligated to make disbursements of any amount under this Loan and Program 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 Loan and Program Agreement, and
 - bb) KfW is exempted from all taxes on income from interest, charges, fees and similar costs in the Republic of 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;
- d) the Borrower has paid the management fee mentioned in Article 4.2;
- e) KfW has received certified English or German translations of the separate loan agreements with the PEAs in accordance with Article 2.2;

- f) no reason for termination has occurred or is threatening; and
- g) no extraordinary circumstances have arisen that preclude or seriously jeopardise the implementation, the operation, or the purpose of the Program, or the performance of the payment obligations assumed by the Borrower under this Loan and Program Agreement.

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

- 3.4 *Separate Agreement.* In a separate agreement the Borrower represented by the MoF as well as the MIE and KfW will specify the disbursement procedure and in particular the evidence to be furnished by the Borrower represented by the MIE proving that the requested Loan amounts are used for the purpose stipulated in this Loan and Program Agreement.
- 3.5 *Waiver of disbursement.* Subject to the fulfilment of its obligations under Article 11. the Borrower may waive the disbursement of undisbursed Loan amounts with the consent of KfW in exchange for the payment of the non-acceptance compensation pursuant to Article 3.6.
- 3.6 *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 3.2 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.

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 at the date of the first disbursement but not later than 6 months after the signing of this Loan and Program Agreement, or if this Loan and Program Agreement has not entered into force within 6 months after the signing of this Loan and Program Agreement, beginning at the date this Loan and Program Agreement enters into force in accordance with Article 14.11 (*Entry into force*) hereof, and ending at the date when the final disbursement is debited. Notwithstanding the foregoing the commitment fee will in any event be computed for the period beginning on 30 June 2012.

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**").

- 4.2 The Borrower will pay KfW a non-refundable one-time lump-sum management fee of 0.5 % of the principal amount of the Loan stated in Clause 1.1.

The management fee becomes due at the earlier of (i) prior to the first disbursement under the Loan or (ii) after expiry of a three-month period after the signing of this Loan and Program Agreement by KfW, or (iii) if this Loan and Program Agreement has not entered into force within three months after signing, on the date on which this Loan and Program Agreement enters into force pursuant to Clause 14.11. Once this Loan and Program Agreement has been signed, the management fee will fully accrue regardless of whether the Loan will be disbursed in full, or at all.

5. Interest

The Borrower shall pay to KfW interest at a rate determined as follows:

- 5.1 *Interest (fixed interest rate set upon commitment of the Loan.)* The Borrower shall pay interest on the Loan at a rate of 2.5 % p. a. ("**Fixed Interest Rate**") until the last repayment instalment according to the Repayment Schedule as defined in Article 6.1 has been received.
- 5.2 *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. 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).

6. Repayment and prepayment

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

Payment Date			Repayment Instalment	
30	December	2015	EUR	2,647,000.--
30	June	2016	EUR	2,647,000.--
30	December	2016	EUR	2,647,000.--
30	June	2017	EUR	2,647,000.--
30	December	2017	EUR	2,647,000.--
30	June	2018	EUR	2,647,000.--
30	December	2018	EUR	2,647,000.--
30	June	2019	EUR	2,647,000.--
30	December	2019	EUR	2,647,000.--
30	June	2020	EUR	2,647,000.--
30	December	2020	EUR	2,647,000.--
30	June	2021	EUR	2,647,000.--
30	December	2021	EUR	2,647,000.--
30	June	2022	EUR	2,647,000.--
30	December	2022	EUR	2,647,000.--
30	June	2023	EUR	2,647,000.--
30	December	2023	EUR	2,648,000.--

- 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 at its own discretion chooses another offsetting alternative in individual cases.
- 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 early repayments:

- a) *Right to make prepayments.* The Borrower may subject to the sub-paragraphs (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 no later than on the fifteenth Banking Day (as defined in Article 14.1) in Frankfurt am Main prior to the intended prepayment date. Such notice is irrevocable; it must specify the date on which the prepayment is to be made and the amount thereof and obligates the Borrower to pay to KfW the stated amount on the stated date.
 - c) *Prepayment compensation.* If the Borrower prepays any Loan Amount bearing interest at a Fixed Interest Rate; the Borrower must immediately pay to KfW upon request such amount as is necessary to compensate for any losses, expenses or costs incurred by KfW as a result of the prepayment. KfW will determine the amount of the prepayment compensation and communicate it to the Borrower.
 - d) *Amounts due.* The Borrower will also pay the following amounts together with the prepayment pursuant to Article 6.4 a) to c):
 - aa) any prepayment compensation due as a result of the prepayment pursuant to Article 6.4 c); and
 - bb) all interest accrued on the prepaid Loan amount up until the date of the prepayment.
 - 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 6.3 (*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 Program Agreement and will replace the repayment schedule valid until such time.
- 7. Calculations and payments in general**
- 7.1 *Calculation.* Interest, the commitment fee, default interest pursuant to Article 7.5, lump-sum compensation for overdue amounts pursuant to Article 7.6, non-acceptance compensation and prepayment compensation will all 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 Loan and Program 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 in connection with this Loan and Program Agreement if and as soon as the respective amounts have been credited to KfW at its free disposal without any deductions in EUR and no later than 10:00 a.m. in Frankfurt am Main to KfW's account IBAN DE 92 50020400 3122301232 held with KfW, Frankfurt am Main, with additional reference of the due date "Ref. YYYYMMDD").
- 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

Loan and Program Agreement unless such rights are recognised by final judgment or are not being 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 6.5 (*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.* Absent manifest error KfW's determinations and its calculation of amounts under this Loan and Program Agreement and in connection with this Loan and Program Agreement shall constitute prima-facie evidence.

8. Guarantee from the Federal Republic of Germany

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

9. Negative pledge and pari passu

- 9.1 *Prohibition of pledge or mortgage.* The Borrower may itself and must ensure that the PEA will neither pledge, nor mortgage nor alienate the Program 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.
- 9.2 *Pari passu.* To the extent permitted by law, the Borrower undertakes to perform the obligations under this Loan and Program Agreement pari passu with all its other existing or future unsecured and not subordinated payment obligations.

10. Costs and public charges

- 10.1 *Prohibition of deductions or withholdings.* The Borrower will make all payments under this Loan and Program Agreement without any deductions for taxes, other public charges or other costs. In the event that the Borrower is obligated 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 Loan and Program 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 of the Loan, 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 Loan and Program Agreement and of all other documents related to this Loan and Program Agreement as well as all rights resulting from this Loan and Program 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 Loan and Program Agreement. If any such taxes and charges accrue within the Federal Republic of Germany, the Borrower will pay them only to the extent that they accrued at the Borrower's initiative. 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.
- 10.4 *Increased costs.* If by reason of
- a) compliance with requests or requirements issued by any central bank or other fiscal, monetary or other authority after the date of this Loan and Program Agreement,
 - or
 - b) any change in law or its interpretation and administration,
 - or
 - c) the entry into effect, termination or amendment of any applicable bilateral or multilateral treaty or agreement, in particular on double taxation,
- KfW incurs additional costs or losses or is unable to obtain the agreed margin over its refinancing costs as a result of its having entered into and funded this Loan and Program Agreement ("**Increased Costs**"), then KfW shall notify the Borrower thereupon. Any such demand by KfW shall be accompanied by a notice from KfW stating the basis for its demand and setting forth in reasonable detail the calculation of the amount thereof. The Borrower shall promptly on demand indemnify KfW against any and all such Increased Costs. Article 6 applies mutatis mutandis.
- 11. Special obligations**
- 11.1 *Program implementation and special information.* The Borrower
- a) represented by the MIE shall ensure that the PEA will prepare, implement, operate and maintain the Program in conformity with sound financial and technical practices and substantially in accordance with the Program conception agreed upon between the Borrower, the PEA and KfW;
 - b) represented by the MIE will assign the preparation and supervision of construction of the Program to independent, qualified consulting engineers or consultants, and the implementation of the Program to qualified firms;
 - c) represented by the MIE shall ensure that the PEA will award the contracts for the goods and services to be financed from the Loan upon prior international competitive bidding;
 - d) represented by MoF and MIE will ensure the full financing of the Program and furnish to KfW upon its request evidence proving that the costs not paid from this Loan are covered;
 - e) represented by the MIE will itself and will ensure that the PEA keep books and records or have books and records kept that unequivocally show all costs of

goods and services required for the Program and clearly identify the goods and services financed from this Loan;

- f) represented by the MIE will itself and will ensure that the PEA 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 Program, and to visit the Program and all the installations related thereto;
- g) represented by the MIE will itself and will ensure that the PEA furnish to KfW any and all such information and records on the Program and its further progress as KfW may request;
- h) represented by the MIE will itself and will ensure that the PEA will, immediately and of their own accord,
 - aa) forward to KfW any queries received by the Borrower or the PEA from the 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 Loan and will coordinate the reply to any such queries with KfW, and
 - bb) notify KfW (i) of the occurrence or potential occurrence of an Event of Default and (ii) of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Program;
- i) will assist the PEA in conformity with sound engineering and financial practices in the implementation of the Program and in the performance of the PEA's obligations under this Loan and Program Agreement and, in particular, shall ensure that the PEA will be granted any and all permissions necessary for the implementation of the Program.

11.2 *Separate Agreement.* The Borrower represented by the MoF as well as the MIE and KfW shall determine the details of Article 11.1 by a separate agreement.

11.3 *Compliance.* The Borrower will itself and will procure that the PEA will ensure that the persons whom they entrust with the preparation and implementation of the Program, the award of the contract for the supplies and services to be financed, and with requesting the Loan amounts 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.* The provisions set forth in the Government Agreement, which are known to the Borrower, will apply to the transport of the goods to be financed from the Loan.

12. Termination

12.1 *Events of Default.* KfW may exercise the rights set forth under Article 12.2 (*Legal consequences of an Event of Default*) if an event occurs which constitutes a material reason. 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 Loan and Program Agreement or under separate agreements pertinent to this Loan and Program Agreement have been violated;
- c) this Loan and Program 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 proves to be false, misleading or incomplete;
- e) other extraordinary circumstances occur which delay or preclude the performance of obligations under this Loan and Program Agreement;
- f) the Borrower is unable to prove that the loan amounts 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 or on a standstill agreement or settlement.

12.2 *Legal consequences of an Event of Default.* If one of the events referred to in Article 12.1 has occurred and has not been eliminated within a period of five days (in the case of Article 12.1 a) or, in all other cases specified in Article 12.1, has not been resolved within a period determined by KfW which may not, however, be less than 30 consecutive days, KfW may terminate this Loan and Program Agreement or any parts of it with the consequence that

- a) its obligations under this Loan and Program Agreement 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 Loan and Program Agreement. Articles 6.5 (*Default interest*) and 6.6 (*Lump-sum compensation*) apply to accelerated amounts mutatis mutandis.

12.3 *Compensation for damages.* In the event that this Loan and Program Agreement is terminated in full or in part the Borrower will pay non-acceptance compensation in accordance with Article 3.6 (*Non-acceptance compensation*) and/or prepayment compensation in accordance with Article 6.4 c) (*Prepayment compensation*).

13. Representation and statements

13.1 *Representation of the Borrower.* The Minister for Infrastructure and Energy and such persons as designated by him or her to KfW and authorised by specimen signatures authenticated by him or her will represent the Borrower in the implementation of this Loan and Program Agreement. The power of representation will not expire until its express revocation by the representative of the Borrower authorised at such time has been received by KfW.

13.2 *Addresses.* Notices or statements in connection with this Loan and Program 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 Loan and Program Agreement must be sent to the following addresses:

For KfW:	KfW L 3 a 3, attn.: Dr. Matthias Trefs Postfach 11 11 41 60046 Frankfurt am Main / Germany Germany Fax: +49 69 7431-2944
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For the Borrower:	Ministry of Finance
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Attn. Public Debt Administration
Pop Lukina 7-9
11000 Beograd
Republic of Serbia
Fax: +381-11-2629055

14. General provisions

- 14.1 *Banking day.* Where reference is made in this Loan and Program Agreement to a "Banking Day" this means a day other than a Saturday or Sunday on which commercial banks in Frankfurt am Main, are open for general business.
- 14.2 *Place of performance.* The place of performance of all obligations under this Loan and Program Agreement is Frankfurt am Main, Federal Republic of Germany.
- 14.3 *Partial invalidity and gaps.* If any provision of this Loan and Program Agreement is or becomes invalid, or if there is a gap in any of the provisions of this Loan and Program Agreement, this will not affect the validity of the remaining provisions hereof. The parties to this Loan and Program 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 Loan and Program Agreement.
- 14.4 *Written form.* Changes and supplements to this contract must be made 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 Loan and Program Agreement.
- 14.6 *Applicable law.* This Loan and Program Agreement is governed by the laws of the Federal Republic of Germany.
- 14.7 *Limitation period.* All claims of KfW under this Loan and Program Agreement expire after five years from the end of the year in which 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 (i) any and all obligations of the Borrower under this Loan and Program Agreement and (ii) any and all obligations with respect to other Program Funds, 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.*
- a) *Arbitration.* All disputes arising out of or in connection with this Loan and Program Agreement will be settled exclusively and finally by an arbitration tribunal. In this regard, the following will apply:

aa) The arbitration tribunal will consist of one or 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 Federal Republic of Germany information in connection with the conclusion and the execution of this Loan and Program Agreement or the issuance of the guarantee mentioned in Article 8. KfW, and the Federal Republic of Germany are entitled to pass on information related to the Loan and to the Program including the award of the contracts for the supplies and services to be financed from the Loan to international organisations engaged in the collection of statistical data, particularly in connection with matters related to debt service or the collection and publication of data related to the award of the contracts for the supplies and services to be financed from the Loan. The above right to forward information to international organisations also includes the right to directly pass on such information to members of such organisations.

14.11 *Entry into Force.* This Loan and Program Agreement shall not enter into force until it has been ratified by the National Assembly of the Republic of Serbia.

This Loan and Program Agreement is executed in three originals.

Belgrade, 30.09.2011.

for KfW

for the Republic of Serbia

Juergen Welschhof
Vibeke Christensen

Mirko Cvetkovic

Disbursement Schedule

By the end of each disbursement period indicated below, the disbursed loan amounts shall not exceed the amount indicated below for the respective disbursement period. If in any period the maximum possible amount is not fully disbursed the difference between the maximum possible amount and the disbursed amount will be added to the maximum possible amount of the following period.

Period	Maximum amount that may be disbursed in respective period (in EUR)	Maximum total (accumulated) amount that may be disbursed until end of respective period (in EUR)
2012 / I	2,000,000	2,000,000
2012 / II	2,000,000	4,000,000
2013 / I	5,000,000	9,000,000
2013 / II	10,000,000	19,000,000
2014 / I	4,000,000	23,000,000
2014 / II	9,000,000	32,000,000
2015 / I	4,000,000	36,000,000
2015 / II	9,000,000	45,000,000

Form of Legal Opinion of the Legal Adviser to the Borrower (State)

[Letterhead of Legal Adviser]

KfW

(date)

Department L 3 a 3
Attn: Dr. Matthias Trefs
Palmengartenstrasse 5 - 9
Postfach 11 11 41
60325 Frankfurt am Main / Germany
Federal Republic of Germany

Loan and Program Agreement dated and made between KfW and the Republic of Serbia ("Borrower") for an amount not exceeding in aggregate EUR 45.000.000,--.

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 Program Agreement (the "**Loan 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 45.000.000,--.

1. Documents examined

I have examined:

- 1.1 an authentic signed original of the Loan 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 Agreement*]; and
 - (d) the Financial Cooperation Agreement between the Government of the Republic of Serbia and the Government of the Federal Republic of Germany dated (the "Cooperation 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 of the Loan 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 Loan Agreement and has taken all necessary action to authorise the execution, delivery and performance of the Loan Agreement, in particular by virtue of:
- (a) Law(s) No(s). dated of the National Assembly of The Republic of Serbia, ratifying the Loan Agreement / approving the execution, delivery and performance of the Loan 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 authorised 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 Agreement on behalf of the Borrower. The Loan 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 authorisations etc. must be obtained under the laws of the Republic of Serbia:]

- 2.3 For the execution and performance of the Loan 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, authorisations, 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 authorisations, licenses and/or consents]*.

No other official authorisations, 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 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 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 authorisations etc. must be obtained under the laws of the Republic of Serbia:]

- 2.3 No official authorisations, 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 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 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 Agreement.
- 2.5 The choice of German law to govern the Loan Agreement and the submission to arbitration in accordance with Article 14.9 of the Loan Agreement are valid and binding. Arbitration awards against the Borrower will be recognised 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 Agreement.
- 2.7 The borrowing by the Borrower under the Loan Agreement and the execution and performance by the Borrower of the Loan 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 Cooperation Agreement is in full force and effect under the constitution and laws of The Republic of Serbia. [Pursuant to Article 3 of the Cooperation Agreement] [If the Cooperation Agreement has not entered into force but a double-taxation agreement does exist] Pursuant to the [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 Agreement and should any such deduction or withholding be subsequently imposed, the provisions of Article 10.1 of the Loan Agreement shall operate so as to require the Borrower to indemnify KfW accordingly.
- 2.9 KfW is not and will not be deemed to be resident, domiciled, carrying on business or be subject to taxation in The Republic of Serbia by reason only of the execution, performance or enforcement of the Loan 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 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 1.2 (a) through 1.2 (c) and Sections 2.1 through 2.3 and 2.8 (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.

Sporazum o zajmu i programu

dana

30. septembra 2011. godine
između

**KfW, Frankfurt na Majni
(„KfW”)**

i

**Republike Srbije
(„Zajmoprimac”)**

koju zastupa ministar finansija

na iznos od
45.000.000,00 evra

Rehabilitacija sistema daljinskog grejanja u Srbiji – Faza IV

Sadržaj

Preambula

1. Zajam
2. Prenosanje zajma na PEA
3. Isplata – Povlačenje sredstava
4. Provizije
5. Kamata
6. Otplata i prevremena otplata
7. Obračuni i plaćanja
8. Garancija Savezne Republike Nemačke
9. Negativna zaloga i „pari passu” klauzula
10. Troškovi i javne dažbine
11. Posebne obaveze
12. Raskid Sporazuma
13. Zastupanje i izjave
14. Opšte odredbe

Aneksi

- | | |
|---------|--|
| Aneks 1 | Plan povlačenja sredstava |
| Aneks 2 | Primer pravnog mišljenja o Sporazumu o zajmu (Vlada) |

Preambula

Osnov za ovaj sporazum o zajmu i programu čine sporazumi postignuti 16. oktobra 2009. godine i 28. oktobra 2010. godine između Vlade Savezne Republike Nemačke i Vlade Republike Srbije o Finansijskoj saradnji (FS) (u daljem tekstu se pominju zajedničkim nazivom „**Međudržavni sporazum**”).

Pod uslovom da Savezna Republika Nemačka obezbedi subvencionisanu kamatnu stopu i pod uslovom da Savezna Republika Nemačka izda garanciju za zajam, KfW će odobriti zajam namenjen programu „Rehabilitacija sistema daljinskog grejanja u Srbiji - Faza IV” („**Program**”), u skladu sa uslovima ovog Sporazuma o zajmu i programu. Uslovi zajma su usklađeni za zahtevima Organizacije za ekonomsku saradnju i razvoj (OECD) koji se primenjuju na dan potpisivanja ovog Sporazuma o zajmu i programu kako bi bio priznat kao Zvanična razvojna pomoć (ODA).

Uz zajam koji će biti obezbeđen u skladu sa ovim Sporazumom o zajmu i Programu, KfW i Zajmoprimac nameravaju da zaključe (i) poseban sporazum o zameni duga prema kome će Zajmoprimac dati doprinos u iznosu od 9.250.000,00 evra („**Doprinos Zajmoprimca**”) za Program i (ii) sporazum o finansiranju prema kome će KfW obezbediti finansijski doprinos u iznosu do 4.000.000,00 evra („**Finansijski doprinos**”) u svrhu finansiranja pratećih programskih mera (zajam koji će biti obezbeđen u skladu sa ovim Sporazumom o zajmu i Programu. Doprinos Zajmoprimca i Finansijski doprinos će se u daljem tekstu zajedničkim imenom nazivati „**Programska sredstva**”).

1. Zajam

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

45.000.000,00 evra

(u daljem tekstu: „**Zajam**”).

1.2 *Svrha zajma.* Zajmoprimac će Zajam koristiti isključivo za finansiranje Programa. Zajmoprimac, koga zastupaju Ministarstvo finansija („**MF**”) i Ministarstvo za infrastrukturu i energetiku („**MIE**”), i KfW će **posebnim sporazumom** definisati detalje Programa kao i robu i usluge koji će se finansirati iz Zajma.

1.3 *Prenošenje Zajma.* Zajmoprimac će u celosti preneti Zajam odabranim preduzećima za proizvodnju i distribuciju toplotne energije - koje će delovati kao agencije za sprovođenje Programa („Program Executing Agencies”, u daljem tekstu: „PEA”) u skladu sa uslovima definisanim u članu 2. i obezbediće da svaka PEA sredstva koristi isključivo za Program.

1.4 *Porezi, takse, carinske dažbine.* Porezi i druge javne dažbine koje predstavljaju obavezu Zajmoprimca, kao i carinske dažbine, ne mogu biti finansirane iz Zajma.

1.5 *Plaćanje obaveza po osnovu poreza, uvoznih dažbina i drugih nameta* ne može se vršiti iz Programskih sredstava. Roba i usluge koji se uvoze u Republiku Srbiju za potrebe Programa su oslobođeni plaćanja carinskih dažbina, a promet robom, uslugama i opremom za potrebe Programa se oslobađa od plaćanja PDV-a.

2. Prenošnje Zajma na PEA

- 2.1 *Poseban sporazum o zajmu.* Zajmoprimac će preneti Zajam na PEA u skladu sa posebnim sporazumima o zajmu prema uslovima navedenim u članovima 4.1 (*Provizija na nepovučeni deo Zajma*), 5.1 (*Kamata*) i 6.1 (*Plan otplate*) ovog sporazuma.

Pomenuti posebni sporazumi o zajmu će, između ostalog:

- a) obavezati PEA da sredstva koriste isključivo u svrhu Programa,
- b) obavezati PEA da pripreme, sprovedu, upravljaju i održavaju Program u skladu sa odredbama člana 10. ovog sporazuma o zajmu i Programu,
- v) obezbediti odgovarajuća prava Zajmoprimcu kao i KfW-u da prate pripremu, sprovođenje, upravljanje i održavanje Programa od strane PEA, i

Zajmoprimac, koga zastupaju MF i MIE, i KfW će se, kroz poseban sporazum (v. član 1.2 *Svrha zajma*), saglasiti o formi i sadržaju pomenutih posebnih sporazuma o zajmu.

- 2.2 *Overeni prevod.* Pre prve isplate iz Zajma, Zajmoprimac će dostaviti KfW-u overene prevode na engleski ili nemački jezik svih posebnih sporazuma o zajmu navedenih u članu 2.1.
- 2.3 *Nema prenošenja obaveza na PEA.* Prenošnje Zajma neće imati za posledicu preuzimanje bilo kakvih obaveza od strane PEA prema KfW-u u pogledu plaćanja obaveza prema ovom Sporazumu o zajmu i Programu.

3. Isplata – povlačenje sredstava

- 3.1 *Zahtev za povlačenje sredstava.* Čim budu ispunjeni svi uslovi koji prethode isplati u skladu sa članom 3.3 KfW će, na zahtev Zajmoprimca koga zastupa MIE, isplatiti Zajam u skladu sa napredovanjem Programa. Isplata će biti izvršena u skladu sa Planom povlačenja sredstava navedenim u Aneksu 1 ovog sporazuma o zajmu i Programu. KfW će vršiti isplate samo do visine maksimalnih iznosa utvrđenih za svaki polugodišnji period. U meri u kojoj Zajmoprimac koga zastupa MIE bude zahtevao povlačenje nižih iznosa u bilo kom polugodišnjem periodu, Zajmoprimac će moći da zahteva povlačenje pomenutih nepovučenih iznosa u svakom narednom polugodišnjem periodu. Izuzimajući poslednju isplatu, KfW nije u obavezi da vrši isplate u iznosu nižem od 250.000,00 evra.

- 3.2 *Rok za podnošenje zahteva za povlačenje sredstava.* KfW može odbiti zahteve za povlačenje sredstava posle 30. decembra 2015. godine.

- 3.3 *Uslovi koji prethode isplati.* KfW je u obavezi da izvrši isplate bilo kog iznosa prema ovom sporazumu o zajmu i Programu isključivo pošto sledeći preduslovi budu ispunjeni u obliku i sadržaju koji je prihvatljiv za KfW:

- a) Ukoliko, dostavljanjem pravnog mišljenja koje je u najvećoj mogućoj meri sastavljeno u obliku navedenom u Prilogu 2 i dostavljanjem overenih primeraka (svaki preveden na nemački ili engleski jezik) svih dokumenata na koje se dato pravno mišljenje odnosi, Zajmoprimac, dokaže da:

- aa) je Zajmoprimac ispunio sve zahteve u skladu sa sopstvenim Ustavom i drugim zakonskim odredbama za pravosnažno preuzimanje svih svojih obaveza iz ovog Sporazuma o zajmu i Programu, i

- bb) je KfW oslobođen plaćanja svih poreza na prihod od kamate, dažbina, naknada i sličnih troškova u Republici Srbiji po odobravanju Zajma;

- b) su dostavljeni deponovani potpisi navedeni u članu 13.1 (Zastupanje Zajmoprimca);

- v) je garancija Savezne Republike Nemačke pomenuta u članu 8. na snazi i u primeni bez ikakvih ograničenja;
- g) je Zajmoprimac platio Naknadu za poslovanje navedenu u članu 4.2;
- d) je KfW primio overene prevode na engleski ili nemački jezik posebnih sporazuma o zajmu sa PEA u skladu sa članom 2.2;
- đ) ne postoji i ne prei nikakav razlog za raskid ovog Sporazuma; i
- e) ne postoje nikakve vanredne okolnosti koje bi mogle da spreče ili ozbiljno ugroze sprovođenje, upravljanje ili svrhu Programa, ili izvršavanje obaveza plaćanja koje Zajmoprimac preuzima u skladu sa ovim sporazumom o zajmu i Programu.

KfW ima pravo da pre početka isplate sredstava iz Zajma zahteva dodatna dokumenta i dokaze za koje s pravom smatra da su neophodni.

- 3.4 *Poseban sporazum.* Zajmoprimac, koga zastupaju MF i MIE, i KfW će Posebnim sporazumom definisati proceduru isplate, a posebno dokaze koje Zajmoprimac, koga zastupa MIE, treba da dostavi, a kojima se dokazuje da su zahtevani iznosi iz Zajma iskorišćeni u svrhu predviđenu ovim sporazumom o zajmu i Programu.
- 3.5 *Odustajanje od povlačenja sredstava.* Pod uslovom da je ispunio svoje obaveze prema članu 11, Zajmoprimac može odustati od isplate nepovučenih iznosa Zajma, uz saglasnost KfW-a, u zamenu za plaćanje naknade za odustajanje od povlačenja sredstava u skladu sa članom 3.6.
- 3.6 *Naknada za odustajanje od povlačenja sredstava.* Ukoliko Zajmoprimac odustane od povlačenja nekog iznosa Zajma, ili ukoliko iznos Zajma uopšte nije isplaćen, ili ukoliko nije isplaćen do roka navedenog u članu 3.2 iz nekog razloga za koji se KfW ne može smatrati odgovornim, Zajmoprimac će, na zahtev, bez odlaganja, platiti KfW-u iznos koji je neophodan da bi se KfW-u nadoknadili svi gubici, izdaci ili troškovi koje KfW snosi kao posledicu odustajanja od povlačenja predmetnog dela Zajma. KfW će obračunati iznos naknade za odustajanje od povlačenja sredstava i o tome obavestiti Zajmoprimca.

4. **Provizije**

- 4.1 *Provizija na nepovučeni deo Zajma.* Zajmoprimac će platiti bespovratnu proviziju na nepovučeni deo Zajma u iznosu od 0,25% godišnje na nepovučeni iznos Zajma. Provizija na nepovučeni deo Zajma će se obračunavati za period od datuma prve isplate, ali najkasnije šest (6) meseci po potpisivanju ovog sporazuma o zajmu i Programu ili, ukoliko ovaj sporazum o zajmu i Programu ne stupi na snagu u roku od šest (6) meseci po njegovom potpisivanju, počevši od datuma stupanja na snagu ovog sporazuma o zajmu i Programu, u skladu sa članom 14.11 (*Stupanje na snagu*), zaključno sa datumom poslednje isplate. Uprkos navedenom, provizija na nepovučeni deo Zajma će se u bilo kom slučaju obračunavati za period koji počinje na dan 30. jun 2012. godine.

Provizija na nepovučeni deo Zajma dospeva na plaćanje polugodišnje u neizmirenim iznosima na dan 30. jun i 30. decembar svake godine (od kojih se svaki smatra „Datumom dospeća”).

- 4.2 Zajmoprimac će isplatiti KfW-u bespovratni jednokratni paušalni iznos Naknade za poslovanje u iznosu od 0,5% od iznosa glavnice Zajma navedenog u članu 1.1.

Naknada za poslovanje dospeva na plaćanje najranije (i) pre prve isplate Zajma ili (ii) po isteku tromesečnog perioda po potpisivanju ovog Sporazuma o zajmu i Programu od strane KfW-a ili (iii) ukoliko ovaj sporazum o zajmu i Programu ne

stupi na snagu u roku od tri meseca nakon potpisivanja, na dan stupanja na snagu ovog sporazuma o zajmu i Programu u skladu sa članom 14.11. Kada Sporazum o zajmu i Programu bude potpisan, Naknada za poslovanje postaje u celosti naplativa bez obzira na to da li je Zajam isplaćen u celosti ili uopšte.

5. Kamata

Zajmoprimac će KfW-u platiti kamatu prema stopi koja je utvrđena na sledeći način:

- 5.1 *Kamata (fiksna kamatna stopa koja se utvrđuje po opredeljenju Zajma).* Zajmoprimac će plaćati kamatu na Zajam prema stopi od 2,5% godišnje („**Fiksna kamatna stopa**“) dok ne bude primljena poslednja rata otplate u skladu sa Planom otplate kako je definisano u članu 6.1.
- 5.2 *Obračun kamate i datumi dospeća kamate.* Kamata na povučeni deo Zajma će se obračunavati od dana (ne uključujući taj dan) na koji je takav iznos isplaćen sa računa koji je KfW otvorio za Zajmoprimca do dana (uključujući i taj dan) kada su pojedinačne rate otplate Zajma uplaćene na račun KfW-a kao što je navedeno u članu 7.3. Kamata će se obračunavati u skladu sa članom 7.1 (*Obračun*). Kamata će se plaćati u iznosu neizmirenih obaveza na Dan dospeća (kao što je definisano u članu 4.1).

6. Otplata i prevremena otplata

- 6.1 *Plan otplate.* Zajmoprimac će otplaćivati Zajam na sledeći način:

Datum dospeća			Rata otplate
30.	decembar	2015.	2.647.000,00 evra
30.	jun	2016.	2.647.000,00 evra
30.	decembar	2016.	2.647.000,00 evra
30.	jun	2017.	2.647.000,00 evra
30.	decembar	2017.	2.647.000,00 evra
30.	jun	2018.	2.647.000,00 evra
30.	decembar	2018.	2.647.000,00 evra
30.	jun	2019.	2.647.000,00 evra
30.	decembar	2019.	2.647.000,00 evra
30.	jun	2020.	2.647.000,00 evra
30.	decembar	2020.	2.647.000,00 evra
30.	jun	2021.	2.647.000,00 evra
30.	decembar	2021.	2.647.000,00 evra
30.	jun	2022.	2.647.000,00 evra
30.	decembar	2022.	2.647.000,00 evra
30.	jun	2023.	2.647.000,00 evra
30.	decembar	2023.	2.648.000,00 evra

- 6.2 *Nepovučeni iznosi Zajma.* Nepovučeni iznosi Zajma će biti prebijeni preko odgovarajuće poslednje Rate otplate dospеле u skladu sa Planom otplate, osim ukoliko KfW po sopstvenom nahođenju ne odabere neki drugi način prelamanja za taj konkretan slučaj.
- 6.3 *Povlačenje sredstava po započinjanju otplate.* Ukoliko određeni iznos Zajma treba da bude povučen nakon što je period otplate počeo, to neće uticati na Plan otplate naveden u članu 6.1 sve dok odgovarajuća rata otplate dospela prema Planu otplate bude manja od ukupno povučenog iznosa Zajma. Ukoliko dospela rata otplate premaši povučeni iznos Zajma, KfW će izmeniti preostale rate otplate tako što će ovu razliku podeliti brojem preostalih rata i taj iznos ravnomerno dodati svakoj od preostalih rata otplate. KfW zadržava pravo da izuzme iz

obračuna u tekućem periodu povlačenja koja se dešavaju 45 dana pre Dana dospeća odgovarajuće rate otplate i uračuna ih u obaveze za naredni period.

6.4 *Prevrmena otplata.* Sledeće odredbe će se primenjivati u slučaju prevremene otplate:

- a) *Pravo na prevremenu otplatu.* Zajmoprimac može, u skladu sa dole navedenim postavovima (b) do (d), da izvrši prevremenu otplatu iznosa Zajma pod uslovom da prevremeno otplaćeni iznos bude najmanje jednak iznosu jedne rate otplate prema članu 6.1.
- b) *Obaveštenje.* U skladu sa članom 6.4 a), prevremena otplata nekog iznosa Zajma od strane Zajmoprimca mora biti predmet Obaveštenja o prevremenoj otplati koje će Zajmoprimac poslati KfW-u najkasnije 15. radnog dana (kao što je definisano u članu 14.1) u Frankfurtu na Majni pre nameravanog datuma za izvršenje prevremene otplate. Ovakvo obaveštenje je neopozivo; ono mora da sadrži datum kada će biti izvršena prevremena otplata i njen iznos i obavezuje Zajmoprimca da naznačenog dana KfW-u isplati navedeni iznos.
- v) *Naknada za prevremenu otplatu.* Ukoliko Zajmoprimac prevremeno otplati bilo koji iznos Zajma na koji se zaračunava fiksna kamatna stopa, Zajmoprimac mora, na zahtev, odmah platiti KfW-u iznos koji je neophodan za pokrivanje bilo kakvih gubitaka, izdataka i troškova koji padaju na teret KfW-a kao posledica prevremene otplate. KfW će utvrditi iznos naknade za prevremenu otplatu i o tome obavestiti Zajmoprimca.
- g) *Dospeli iznosi.* Zajedno sa prevremenom otplatom, Zajmoprimac takođe plaća sledeće iznose u skladu sa članom 6.4 a) do v):
 - aa) sve naknade za prevremenu otplatu koje mogu nastati kao posledica prevremene otplate dela Zajma u skladu sa članom 6.4 v); i
 - bb) sve kamate na prevremeno otplaćeni deo Zajma nastale do datuma prevremene otplate.
- d) *Prebijanje.* Član 6.2 (*Nepovućeni iznosi Zajma*) će se primenjivati „mutatis mutandis” i na prebijanje prevremenih otplata.

6.5 *Revidirani Plan otplate.* U slučaju primene člana 6.3 (*Povlačenje sredstava po započinjanju otplate*) ili člana 6.4 (*Prevrmena otplata*), KfW će Zajmoprimcu dostaviti revidirani Plan otplate koji će postati sastavni deo ovog sporazuma o zajmu i Programu i zameniti Plan otplate koji se primenjivao do tada.

7. **Obračuni i plaćanja**

7.1 *Obračun.* Kamata, provizija na nepovućeni deo Zajma, zatezna kamata u skladu sa članom 7.5, paušalna naknada za zakasnele iznose prema članu 7.6, naknada za odustajanje od povlačenja sredstava i naknada za prevremenu otplatu, obračunavaju se na osnovu godine od 360 dana, sa mesecima koji traju po 30 dana.

7.2 *Dan dospeća.* Ukoliko neko plaćanje koje treba da bude izvršeno prema ovom sporazumu o zajmu i Programu dospeva na dan koji nije Radni dan banaka (kako je definisano u članu 14.1), Zajmoprimac će takvo plaćanje izvršiti narednog radnog dana. Ukoliko sledeći Radni dan banaka pada narednog kalendarskog meseca, takvo plaćanje mora biti izvršeno poslednjeg Radnog dana banaka tekućeg kalendarskog meseca.

7.3 *Broj računa, vreme uplate.* Zajmoprimac će biti oslobođen obaveza plaćanja koje proizilaze iz ovog sporazuma o zajmu i Programu ukoliko i čim se utvrdi da su odgovarajući iznosi u evrima uplaćeni KfW-u i da su na raspolaganju KfW-u bez

ikakvih umanjena i da je uplata izvršena do 10 sati pre podne po vremenu u Frankfurtu na Majni, na račun KfW-a: IBAN DE 92 50020400 3122301232 kod KfW-a, Frankfurt na Majni, uz dodatnu naznaku datuma dospeća „Ref. YYYYMMDD“).

- 7.4 *Protivpotraživanja Zajmoprimca.* Zajmoprimac nema prava da zahteva zadržavanje ili prebijanje ili neka druga slična prava u vezi sa svojom obavezom plaćanja prema ovom sporazumu o zajmu i Programu, osim u slučaju da su takva prava priznata krajnjom presudom ili su neosporena od strane KfW-a.
- 7.5 *Zatezna kamata.* Ukoliko bilo koja rata otplate ili prevremene otplate u skladu sa članom 6.4 (*Prevremena otplata*) ne bude 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 datumom dospeća i završava se 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 Savezne Republike Nemačke (Deutsche Bundesbank) kao važeću bazičnu stopu na dan dospeća. Takva zatezna kamata mora biti plaćena odmah, na prvi zahtev KfW-a.
- 7.6 *Paušalna naknada.* 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 naknade po stopi od 300 bazičnih poena godišnje iznad Bazične stope koja se primenjuje na odgovarajući dan dospeća za period koji počinje danom dospeća i koji se završava na dan uplate takvog dospelog, a neuplaćenog iznosa. Paušalna naknada mora biti plaćena bez odlaganja, na prvi zahtev KfW. Zajmoprimac je slobodan da dokaže da zapravo nije pretrpljena nikakva šteta ili da iznos štete nije onaj koji je naveden.
- 7.7 *Obračuni od strane KfW-a.* Osim u slučaju očigledne greške, iznosi koje je KfW utvrdio i obračunao prema ovom sporazumu o zajmu i Programu i u vezi sa njim, će sačinjavati „prima-facie“ dokaze.

8. Garancija Savezne Republike Nemačke

Savezna Republika Nemačka će KfW-u izdati garanciju za potraživanja prema ovom sporazumu o zajmu i Programu pre prve isplate.

9. Negativna zaloga i „pari passu“ klauzula

- 9.1 *Zabrana zaloge ili hipoteke.* Zajmoprimac mora obezbediti da on sam kao ni PEA neće bilo založiti ili staviti pod hipoteku ili otuđiti imovinu Programa pre celokupne otplate Zajma, niti zaključiti bilo kakav drugi sporazum ili aranžman koji bi za posledicu imao stvaranje obezbeđenja ili bilo kog prava kojim se daje prvenstvo plaćanja bilo koje obaveze prema bilo kom licu bez prethodne saglasnosti KfW-a.
- 9.2 *„Pari passu“.* U meri u kojoj je to dozvoljeno zakonom, Zajmoprimac preuzima na sebe obaveze prema ovom sporazumu o zajmu i Programu „Pari passu“ u odnosu na sve ostale postojeće ili buduće neobezbeđene i nepodređene obaveze plaćanja.

10. Troškovi i javne dažbine

- 10.1 *Zabrana umanjena i odbitaka.* Zajmoprimac će izvršiti sva plaćanja u skladu sa ovim Sporazumom o zajmu i Programu bez odbijanja na ime poreza, drugih javnih dažbina ili drugih troškova. U slučaju da Zajmoprimac ima zakonsku ili drugačiju obavezu da izvrši odbijanje ili umanjene iznosa uplate, Zajmoprimac će KfW-u uplatiti neophodne dodatne iznose tako da preostali neto iznos po

izvršenju takvog umanjenja ili odbijanja odgovara iznosu koji treba da bude uplaćen u skladu sa ovim Sporazumom o zajmu i Programu kao da do pomenutih umanjenja ili odbitaka nije ni došlo.

- 10.2 *Troškovi.* Zajmoprimac će snositi sve troškove nastale u vezi sa isplatom Zajma, naročito troškove doznaka i prenosa sredstava (uključujući provizije prilikom zamene valute), kao i sve troškove i izdatke nastale u vezi sa održavanjem ili izvršenjem ovog Sporazuma o zajmu i Programu i svih ostalih dokumenata u vezi sa ovim Sporazumom o zajmu i Programu kao i svim pravima koja proističu uz ovog Sporazuma o zajmu i Programu.
- 10.3 *Porezi i druge dažbine.* Zajmoprimac će snositi sve poreze i druge javne dažbine nastale van Savezne Republike Nemačke u vezi sa zaključivanjem i izvršenjem ovog Sporazuma o zajmu i Programu. Ukoliko su pomenuti porezi i dažbine nastali u Saveznoj Republici Nemačkoj, Zajmoprimac će ih platiti samo u meri u kojoj su nastali na inicijativu Zajmoprimca. Ukoliko KfW avansno plati iznos takvih poreza ili dažbina, Zajmoprimac mora bez odlaganja, odmah po zahtevu KfW-a, da uplati plaćeni iznos na račun KfW-a koji je naveden u članu 7.3.
- 10.4 *Uvećanje troškova.* Ukoliko usled
- a) poštovanja zahteva ili uslova koje je izdala bilo koja centralna banka ili drugi fiskalni, monetarni ili drugi organ posle dana potpisivanja ovog sporazuma o zajmu i Programu,
 - ili
 - b) bilo koje izmene zakona ili njegovog tumačenja i sprovođenja,
 - ili
 - v) stupanja na snagu, okončanja ili izmene bilo kog važećeg bilateralnog ili multilateralnog sporazuma ili ugovora, naročito o dvostrukom oporezivanju,

KfW ostvari dodatne troškove ili gubitke ili ne bude u mogućnosti da ostvari dogovorenu maržu na sopstvene troškove refinansiranja kao posledicu zaključivanja i finansiranja ovog sporazuma o zajmu i Programu („**Uvećani troškovi**”), KfW će o tome obavestiti Zajmoprimca. Bilo koji zahtev te vrste od strane KfW-a će biti praćen obaveštenjem od strane KfW-a koje će sadržati osnov za izdavanje zahteva i razumno detaljan obračun pomenutog iznosa. Zajmoprimac će bez odlaganja na zahtev KfW-a obešteti KfW u pogledu svih i bilo kojih Uvećanih troškova te vrste. Član 6 se primenjuje „mutatis mutandis”.

11. Posebne obaveze

11.1 Sprovođenje Programa i posebne informacije. Zajmoprimac

- a) koga zastupa MIE će obezbediti da PEA pripreme, sprovedu, upravljaju i održavaju Program u skladu sa dobrim poslovnim običajima i u svim pojedinostima u skladu sa konceptom Programa koji je dogovoren između Zajmoprimca, PEA i KfW-a;
- b) koga zastupa MIE će poveriti pripremu i nadzor nad građevinskim radovima u okviru Programa nezavisnim, kvalifikovanim inženjerima-konsultantima ili konsultantima, a sprovođenje Programa kompetentnim firmama;
- v) koga zastupa MIE, će osigurati da PEA dodeljuju ugovore za robu i usluge koji treba da se finansiraju iz Zajma na osnovu prethodno sprovedenih međunarodnih tendera;
- g) koga zastupaju MF i MIE, će u celosti obezbediti finansiranje Programa i dostaviti, na zahtev, KfW-u dokaze kojima se potvrđuje da su troškovi koji se ne finansiraju iz Zajma takođe pokriveni;

- d) koga zastupa MIE, će obezbediti da on sam i PEA ili neko u njihovo ime vode knjigovodstvenu i drugu evidenciju, koje nedvosmisleno prikazuju sve troškove robe i usluga neophodnih za Program i u kojima su jasno naznačeni roba i usluge koji su finansirani iz ovog zajma;
 - đ) koga zastupa MIE, će obezbediti da će MIE i PEA omogućiti predstavnicima KfW-a da u bilo koje vreme pregledaju navedenu knjigovodstvenu i drugu evidenciju, bilo koje i sve dokumente od značaja za sprovođenje i upravljanje Programom, kao i da posete lokacije na kojima se izvode radovi u vezi sa Programom;
 - e) koga zastupa MIE, će obezbediti da MIE i PEA dostavljaju KfW-u bilo koju i sve informacije i evidencije o Programu i njegovom daljem napredovanju ukoliko KfW to bude zatražio;
 - ž) koga zastupa MIE, će obezbediti da MIE i PEA bez odlaganja i samoinicijativno:
 - aa) dostavljaju KfW-u bilo kakve upite koje Zajmoprimac ili PEA prime od Organizacije za ekonomsku saradnju i razvoj (OECD) ili njenih članica prema tzv. „Sporazumu o jedinstvenoj transparentnosti ODA kredita” nakon dodele ugovora za robu i usluge koji treba da budu finansirani iz Zajma, i koordiniraju davanje odgovora na takve upite sa KfW-om, i
 - bb) obavestiti KfW (i) o nastanku ili potencijalnom nastanku Slučaja neispunjavanja obaveza i (ii) o bilo kojim i svim okolnostima koje mogu sprečiti ili ozbiljno ugroziti sprovođenje, upravljanje ili svrhu Programa;
 - z) u skladu sa dobrim poslovnim običajima, pružiti pomoć PEA u sprovođenju Programa i izvršavanju obaveza PEA prema ovom Sporazumu o zajmu i Programu, i naročito, obezbediti da PEA dobiju bilo koje i sve dozvole koje su neophodne za sprovođenje Programa.
- 11.2 *Poseban sporazum.* Zajmoprimac, koga zastupaju MF i MIE, i KfW će utvrditi detalje člana 11.1 putem posebnog sporazuma.
- 11.3 *Pridržavanje propisa.* Zajmoprimac će obezbediti da lica kojima on ili PEA povere pripremu i sprovođenje Programa, dodelu ugovora za robu ili usluge koji su predmet finansiranja, podnošenje zahteva za povlačenje sredstava Zajma, ne zahtevaju, ne prihvataju, ne dodeljuju, ne daju ili primaju obećanja vezana za nezakonita plaćanja ili neke druge koristi u vezi sa pomenutim zadacima.
- 11.4 *Prevoz robe.* Odredbe Međudržavnog sporazuma, sa kojima je Zajmoprimac upoznat, će se primenjivati na prevoz robe koja treba da se finansira iz Zajma.
- 12. Raskid Sporazuma**
- 12.1 *Slučaj neispunjavanja obaveza.* KfW može iskoristiti pravo definisano u članu 12.2 (*Pravne posledice neispunjavanja obaveza*) ukoliko nastane događaj koji se smatra materijalnim razlogom. Materijalnim razlogom će se posebno smatrati sledeći događaji:
- a) ukoliko Zajmoprimac ne izvrši obaveze plaćanja prema KfW-u po dospeću;
 - b) ukoliko dođe do kršenja obaveza prema ovom sporazumu o zajmu i Programu ili obaveza prema Posebnim sporazumima koji proističu iz ovog sporazuma o zajmu i Programu;
 - v) ukoliko ovaj sporazum o zajmu i Programu ili bilo koji njegov deo prestane da bude obavezujući za Zajmoprimca ili prestane da se primenjuje na Zajmoprimca;

- g) ukoliko se ispostavi da je bilo koja izjava, potvrda, informacija ili predstavljanje ili garancija koja je po mišljenju KfW-a od ključnog značaja za odobravanje i održavanje Zajma netačna, dovodi u zabludu ili je nepotpuna;
 - d) ukoliko dođe do drugih vanrednih okolnosti usled kojih se odlaže ili sprečava izvršenje obaveza prema ovom sporazumu o zajmu i Programu;
 - đ) ukoliko Zajmoprimac ne bude u mogućnosti da dokaže da su iznosi Zajma iskorišćeni u dogovorene svrhe;
 - e) ukoliko nastane bilo koji od sledećih događaja vezano za Zajmoprimca:
 - aa) ukoliko Zajmoprimac ne bude u mogućnosti da izmiri svoja dospeluga dugovanja na adekvatan način i u roku dospeća;
 - bb) ukoliko Zajmoprimac počne pregovore sa jednim ili više poverilaca (uz izuzetak KfW-a) o otpisu neizmirenih dugovanja, odlaganju plaćanja, moratorijumu ili poravnanju.
- 12.2 *Pravne posledice u Slučaju neizvršenja obaveza po osnovu Zajma.* Ukoliko je nastao bilo koji od slučajeva koji su navedeni u članu 12.1 a nije rešen u roku od pet (5) dana (u slučaju člana 12.1 a) ili ako, u svim drugim slučajevima navedenim u članu 12.1, nije rešen u roku koji određuje KfW a koji ne može biti kraći od 30 uzastopnih dana, KfW može da raskine ovaj sporazum o zajmu i Programu ili bilo koji njegov deo uz sledeće posledice:
- a) obaveze KfW-a prema ovom sporazumu o zajmu i Programu se raskidaju, 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 sporazumom o zajmu i Programu. Član 6.5 (*Zatezna kamata*) i član 6.6 (*Paušalna naknada*) se primenjuju na ubrzanu naplatu iznosa „mutatis mutandis”.
- 12.3 *Odšteta.* U slučaju da ovaj sporazum o Zajmu i Programu bude u celosti ili delimično raskinut, Zajmoprimac će platiti naknadu za odustajanje od povlačenja sredstava u skladu sa članom 3.6 (*Naknada za odustajanje od povlačenja sredstava*) i/ili naknadu za prevremenu otplatu u skladu sa članom 6.4 v) (*Naknada za prevremenu otplatu*).
- 13. Zastupanje i izjave**
- 13.1 *Zastupanje Zajmoprimca.* Prilikom sprovođenja ovog Sporazuma o zajmu i Programu, Zajmoprimca će predstavljati ministar za infrastrukturu i energetiku 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 Zajmoprimca ovlašćenog u tom trenutku.
- 13.2 *Adrese.* Obaveštenja ili izjave u vezi sa ovim sporazumom o zajmu i Programu moraju biti u pisanom obliku. Ona se šalju u originalu ili - sa izuzetkom zahteva za povlačenje sredstava - faksom. Sva obaveštenja i izjave date u vezi sa ovim sporazumom o zajmu i Programu moraju biti poslate na sledeće adrese:

Za KfW:

KfW
L 3 a 3, attn.: Dr. Matthias Trefs
Postfach 11 11 41
60046 Frankfurt am Main/ Germany
Germany
Faks: +49 69 7431-2944

Za Zajmoprimca:

Ministarstvo finansija
Prima: Uprava za javni dug
Pop Lukina 7-9
11000 Beograd
Republika Srbija
Faks: +381-11-2629055

14. Opšte odredbe

- 14.1 *Radni dan banaka.* Kada se u ovom sporazumu o zajmu i Programu pominje „**Radni dan banaka**”, to označava svaki dan osim subote i nedelje, kada su komercijalne banke u Frankfurtu na Majni otvorene radi obavljanja opštih poslova.
- 14.2 *Mesto izvršenja.* Mesto izvršenja svih obaveza po ovom Sporazumu o zajmu i Programu je Frankfurt na Majni, Savezna Republika Nemačka.
- 14.3 *Nevažeće odredbe i praznine.* Ukoliko bilo koja od odredaba ovog Sporazuma o zajmu i Programu jeste ili postane nevažeća, ili ukoliko postoji praznina u bilo kojoj odredbi ovog sporazuma o zajmu i Programu, to neće imati uticaja na pravnu valjanost ostalih odredaba Sporazuma. Potpisnice ovog sporazuma o zajmu i Programu će zameniti sve nevažeće odredbe pravno važećim odredbama koje su sačinjene najbliže duhu i svrsi nevažećih odredaba. Ugovorne strane će popuniti svaku prazninu pravno valjanim odredbama koje su najbliže duhu i svrsi ovog sporazuma o zajmu i Programu.
- 14.4 *Pisani oblik.* Izmene i dopune ovog sporazuma o zajmu i Programu moraju biti u pisanom obliku. 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 sporazuma o zajmu i Programu.
- 14.6 *Merodavno pravo.* Za ovaj sporazum o zajmu i Programu merodavni su zakoni Savezne Republike Nemačke.
- 14.7 *Rok zastarevanja.* Svi zahtevi KfW-a po ovom sporazumu o zajmu i Programu 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 nehata.
- 14.8 *Odricanje od imuniteta.* U meri u kojoj Zajmoprimac može trenutno ili u budućnosti u bilo kojoj nadležnosti tražiti za sebe ili za svoju imovinu imunitet od tužbe, izvršenja, zaplene ili drugog pravnog postupka i u meri u kojoj u bilo kojoj nadležnosti takav imunitet može pribaviti za sebe ili svoju imovinu, Zajmoprimac se, u pogledu (i) svih i bilo koje obaveze Zajmoprimca prema ovom Sporazumu o zajmu i Programu i (ii) svih i bilo koje obaveze u vezi sa drugim Programskim sredstvima, i izvršenjem takvih obaveza, ovim neopozivo saglašava da neće imati takve zahteve i ovim se odriče takvog imuniteta. Ovo odricanje od imuniteta se neće odnositi na imovinu koja (i) se koristi u okviru diplomatskih, konzularnih, specijalnih i misija pri međunarodnim organizacijama ili međunarodnim konferencijama države Zajmodavca ili (ii) je vojnog karaktera ili pod kontrolom vojnih organa.
- 14.9 *Pravni sporovi.*
- a) *Arbitraža.* Sve sporove nastale na osnovu ili u vezi sa ovim sporazumom o zajmu i Programu koje ugovorne strane ne mogu da reše sporazumno,

rešavaće isključivo i konačno Arbitražni sud. U tom slučaju, primenjuju se sledeće odredbe:

aa) Arbitražni sud će se sastojati od jednog ili 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 se vodi na engleskom jeziku.

14.10 *Prenos informacija.* KfW ima pravo da Saveznoj Republici Nemačkoj prenese informacije u vezi sa zaključivanjem i izvršenjem ovog sporazuma o zajmu i Programu ili izdavanjem garancije koja je pomenuta u članu 8, KfW i Savezna Republika Nemačka imaju pravo da proslede informacije povezane sa Sporazumom o zajmu i Programu, uključujući dodelu ugovora za robu i usluge koji treba da se finansiraju iz Zajma, međunarodnim organizacijama koje se bave prikupljanjem statističkih podataka naročito u vezi sa servisiranjem duga, ili prikupljanjem i objavljivanjem podataka u pogledu dodeljivanja ugovora za robu i usluge koji treba da budu finansirani iz Zajma. Navedeno pravo za prosleđivanje informacija međunarodnim organizacijama takođe obuhvata i pravo za direktno prenošenje takvih informacija članicama pomenutih organizacija.

14.11 *Stupanje na snagu.* Ovaj Sporazum o zajmu i Programu neće stupiti na snagu sve dok ne bude ratifikovan od strane Narodne skupštine Republike Srbije.

Ovaj sporazum o zajmu i Programu je sačinjen u tri originalna primerka na engleskom jeziku.

Beograd, 29. 09.2011. godine

za KfW

za Republiku Srbiju

Juergen Welschof; s.r.
Vibeke Christensen

Mirko Cvetković, s r.

Plan povlačenja sredstava

Na kraju svakog dole navedenog perioda isplate, povučeni iznosi Zajma ne smeju preći iznos koji je dole naveden za predmetni period isplate. Ukoliko u bilo kom periodu maksimalni mogući iznos ne bude povučen u celosti, razlika između maksimalnog mogućeg iznosa i povučenog iznosa će biti dodata maksimalnom mogućem iznosu za naredni period.

Period	Maksimalni iznos koji može biti isplaćen u odgovarajućem periodu (u evrima)	Kumulativ maksimalnog iznosa koji može biti isplaćen do kraja odgovarajućeg perioda (u evrima)
2012 / I	2.000.000,00	2.000.000,00
2012 / II	2.000.000,00	4.000.000,00
2013 / I	5.000.000,00	9.000.000,00
2013 / II	10.000.000,00	19.000.000,00
2014 / I	4.000.000,00	23.000.000,00
2014 / II	9.000.000,00	32.000.000,00
2015 / I	4.000.000,00	36.000.000,00
2015 / II	9.000.000,00	45.000.000,00

Oblik pravnog mišljenja pravnog savetnika Zajmoprimca (države)

[Zaglavlje pravnog savetnika]

KfW

(datum)

Department L 3 a 3
Attn: Dr. Matthias Trefs
Palmengartenstrasse 5 - 9
Postfach 11 11 41
60325 Frankfurt am Main / Germany

Federal Republic of Germany

Sporazum o zajmu i Programu od (datum) sačinjen između KfW-a i Republike Srbije („Zajmoprimac”) na iznos koji ukupno ne prevazilazi 45.000.000,00 evra.

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 Sporazumom o zajmu i Programu („**Sporazum o zajmu**”) 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 45.000.000,00 evra.

1. Pregledana dokumenta

Pregledao/la sam:

- 1.1 potpisani originalni primerak Sporazuma o zajmu;
- 1.2 ustavna dokumenta Zajmoprimca, posebno:
 - (a) Ustav Republike Srbije, od (datum), objavljen u ..., br. ..., str. ..., i njegove izmene;
 - (b) Zakon/e br. ..., od (datum), pravovremeno objavljene u ... br. ..., str. ..., i njihove izmene (*molimo ovde navedite zakone (npr. budžetske zakone) koji se odnose na novčane pozajmice Republike Srbije, ukoliko ih ima*);
 - (v) [*molimo da navedete druga dokumenta, npr. Uredbe ili Odluke Vladinih ili administrativnih tela Republike Srbije koje se odnose na zaključivanje sporazuma o zajmu od strane Republike Srbije uopšte, ili koje se odnose na zaključivanje Sporazuma o zajmu i Programu*]; i
 - (g) Sporazum o finansijskoj saradnji između Vlade Republike Srbije i Vlade Savezne Republike Nemačke od (datum) („Sporazum 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

U svrhe člana Sporazuma o zajmu, mišljenja sam da u skladu sa zakonima Republike Srbije na ovaj dan:

- 2.1 U skladu sa članom ... Ustava Republike Srbije/članom ... Zakona... (*molimo navedite odgovarajući dokument*) Zajmoprimac ima pravo da sklopi Sporazum o zajmu i da je preduzeo sve neophodne mere da dozvoli sprovođenje, izvršavanje i izvođenje Sporazuma o zajmu, a posebno na osnovu:
- (a) Zakona br. od (datum) Narodne skupštine Republike Srbije, kojima se ratifikuje Sporazum o zajmu /odobrava sprovođenje, izvršavanje i izvođenje Sporazuma o zajmu 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 zahvaljujući svom položaju (npr. ministra., ...), Vladinom odukom..., ovlašćenjem... od (datum), itd.*) da samostalno/ zajednički potpiše/u Sporazum o zajmu u ime Zajmoprimca. Potpisivanjem g-đe/g-dina... (i g-đe/g-dina...) Sporazum o zajmu se propisno izvršava u ime Zajmoprimca i predstavlja pravno obavezujuću obavezu Zajmoprimca čije neispunjavanje podleže zakonu u skladu sa njegovim uslovima.

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

- 2.3 Za izvršenje i izvođenje Sporazuma o zajmu od strane Zajmoprimca (uključujući, bez ikakvih ograničenja, pribavljanje i slanje KfW-u svih iznosa dospelih u skladu sa Sporazumom u valutama navedenim u Sporazumu), pribavljena su sledeća validna i punovažna zvanična odobrenja, dozvole, registracije i/ili pristanci:
- (a) odobrenje ... (*Centralne banke/ Narodne banke/...*), od (datum), br.;
 - (b) saglasnost ... (*ministra/ ministarstva...*), od (datum), br.; i
 - (v) [*molimo navedite sva druga zvanična ovlašćenja, dozvole i/ili odobrenja*].

U vezi sa izvršenjem i izvođenjem Sporazuma o zajmu od strane Zajmoprimca, kao i u pogledu validnosti i primenjivosti obaveza Zajmoprimca prema ovom Sporazumu o zajmu, nisu potrebna niti su preporučljiva nikakva dodatna zvanična odobrenja, saglasnosti, dozvole, i/ ili registracije koje izdaje bilo koja Vladina institucija (uključujući i Centralnu/ Narodnu banku Republike Srbije) ili sud (uključujući, bez ograničenja, pribavljanje i prosleđivanje KfW-u svih iznosa koji dospevaju u skladu sa ovim Sporazumom u navedenim valutama.

[Alternativa 2 za Poglavlje 2.3, koje se primenjuje samo uz dokumenta navedena u Poglavlju 2.1 i 2.2, **nisu potrebna nikakva zvanična ovlašćenja, itd. u skladu sa zakonima Republike Srbije:]**

- 2.3 U vezi sa izvršavanjem i sprovođenjem Sporazuma o zajmu (uključujući, bez ograničenja, pribavljanje i prosleđivanje KfW-u svih iznosa dospelih u skladu sa Sporazumom u navedenim valutama) i validnost i primenjivost obaveza Zajmoprimca pod ovim Sporazumom o zajmu, nisu potrebna niti su preporučljiva nikakva zvanična ovlašćenja, saglasnosti, dozvole, registracije i/ili odobrenja vladinih ustanova ili agencija (uključujući Centralnu/ Narodnu banku Republike Srbije) ili suda.

- 2.4 U vezi sa valjanošću i/ili primenjivošću Sporazuma o zajmu nije potrebno plaćanje nikakve takse ili sličnog nameta.
- 2.5 Izbor zakona Republike Nemačke kao merodavnog za Sporazum o zajmu i podleganje arbitraži u skladu sa članom 14.9 Sporazuma o zajmu su validni i obavezujući. Odluka arbitražnog suda protiv Zajmoprimca se priznaje i primenjuje u Republici Srbiji u skladu sa sledećim pravilima: ... *(molimo navedite odgovarajući dokument (ukoliko ga ima) npr. Njujorška Konvencija iz 1958. godine, i/ili osnovna načela za priznavanje i sprovođenje odluka arbitražnog suda u Republici Srbiji).*
- 2.6 Sudovi Republike Srbije imaju slobodu da presudu donesu u valuti ili valutama navedenim u Sporazumu o zajmu.
- 2.7 Zaduživanje Zajmoprimca u skladu sa Sporazumom o zajmu i sprovođenje Sporazuma o zajmu od strane Zajmoprimca čine 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 Sporazum o saradnji je punosnažan i sprovodi se u skladu sa Ustavom i zakonima Republike Srbije. (u skladu sa članom 3 Sporazuma o saradnji) (ukoliko Sporazum o saradnji nije stupio na snagu ali postoji sporazum o dvostrukom oporezivanju) U skladu sa.....(*molimo navedite ugovore ili primenjive zakone i propise*) od Zajmoprimca se ne traži da umanjuje ili na drugi način zadrži bilo koji iznos koji Zajmoprimac treba da izvrši prema ovom sporazumu o zajmu, a ukoliko takva umanjenja ili zadržavanja budu naknadno nametnuta, primenjivaće se odredbe člana 10.1 Sporazuma o zajmu prema kome se Zajmoprimcu nalaže da u skladu sa tim obešteti KfW.
- 2.9 KfW nije i ne može se smatrati domaćim pravnim licem koje vodi poslove u Republici Srbiji niti pravnim licem koje je predmet oporezivanja u Republici Srbiji isključivo na osnovu sprovođenja, izvođenja ili izvršavanja Sporazuma o zajmu. Nije neophodno niti preporučljivo da KfW ima dozolu, kvalifikaciju ili da na neki drugi način ima pravo da obavlja poslove ili da KfW postavlja svoje zastupnike ili predstavnike u Republici Srbiji.

Shodno tome, obaveze Zajmoprimca prema ovom Sporazumu o zajmu čine direktne i bezuslovne pravno valjane i obavezujuće obaveze Zajmoprimca koje predstavljaju zakonsku obavezu Zajmoprimca u skladu sa uslovima Sporazuma.

Ovo pravno mišljenje je ograničeno na zakone Republike Srbije.

.....
(mesto) (datum)

[Potpis]

Ime:

Prilozi:

Napomena: Molimo priložite overene kopije dokumenata i pravnih propisa navedenih u gornjem tekstu od Poglavlja 1.2(a) do 1.2(c) i Poglavlja 2.1 do 2.3 i 2.8 (imajući u vidu obiman Ustav i zakone Republike Srbije, kopije relevantnih odredaba

bi bile dovoljne). 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.

Član 3.

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