

Z A K O N

O POTVRĐIVANJU UGOVORA O ZAJMU I FINANSIRANJU IZMEĐU KfW, FRANKFURT NA MAJNI I REPUBLIKE SRBIJE - PROGRAM VODOSNABDEVANJA I KANALIZACIJE U OPŠTINAMA SREDNJE VELIČINE U SRBIJI I - FAZA 2

Član 1.

Potvrđuje se Ugovor o zajmu i finansiranju između KfW, Frankfurt na Majni i Republike Srbije - Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji I - Faza 2, potpisan 21. decembra 2009. godine u Beogradu.

Član 2.

Tekst Ugovora o zajmu i finansiranju između KfW, Frankfurt na Majni i Republike Srbije - Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji I - Faza 2, u originalu na engleskom jeziku i prevodu na srpski jezik glasi:

L o a n a n d F i n a n c i n g A g r e e m e n t

dated 21. December 2009

between

KfW, Frankfurt am Main
(„KfW”)

and

The Republic of Serbia
(„Borrower”)

represented by the Minister of Finance

for up to

EUR 42,482,500

**- Water and Sewerage Programme in Medium-Sized Municipalities in Serbia I
Phase 2**

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Preamble

The basis for this Agreement are the protocols on the Working Talks held between the Government of the Federal Republic of Germany and the Government of the Republic of Serbia dated April 14th 2005, 11th of October 2006 and the summary records of the Negotiations on Development Co-operation between the Government of Serbia and the Government of the Federal Republic of Germany dated 19th of November 2007 and 17th of October 2008 (referred to as „Water Supply and Waste Water Treatment in Medium-sized Municipalities, Phase II”) and the agreement between the European Commission, the Council of Europe Development Bank and KfW dated 11th of August 2009 („**Contribution Agreement**”) based on the European Commission Decision C (2008)8428 of 19/12/2008.

The reason for concluding this Agreement is the „Water and Sewerage Programme in Medium-Sized Towns/Municipalities in Serbia I” („**Programme**”) being planned by the Borrower.

The Programme is implemented in two phases, whereas this Agreement regulates only Phase 2 of the Programme as continuation of Phase 1 of the Programme. If not defined differently, any term in this Agreement with regard to the Programme shall have the same meaning as in the Financing and Programme Agreement regarding Phase 1 of the Programme, dated 18th of May 2007.

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 non-repayable grant of the European Commission („EU Contribution”) and a Loan extended by KfW in accordance with the following provisions.

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 and an additional non-repayable grant of the European Commission 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 loan not exceeding a total of

EUR 25,000,000 (the „**Loan**”)

and a financial contribution not exceeding

EUR 14,850,000 (the „**Financial Contribution**”)

and a non-repayable grant not exceeding

EUR 2,632,500 (the „**EU-Contribution**”)

The Loan, the Financial Contribution and the EU Contribution hereinafter together are referred to as the „**Funds**”. The Financial Contribution and the EU-Contribution shall not be repayable unless otherwise stipulated in Article 11.5.

- 1.2 *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 Agreement.* The Borrower, each Municipality, their Water and Wastewater Utility and KfW will determine by a separate implementation agreement the details of the Programme („**Separate Agreement/s**”).
- 1.4 *Taxes, Charges, Customs Duties.* Taxes and other public charges owed by the Borrower or any of the Municipalities and 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

Channelling of Funds

- 2.1 *On-lending Agreement.* The Borrower shall channel the Financial Contribution and the EU-Contribution as a non-repayable grant and the Loan as a loan to each Municipality and their Water and Wastewater Utility 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, 5 and 6 hereof.

- 2.2 *Certified Translation.* Prior to the first disbursement from the Financial Contribution, the EU-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, the EU-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 preconditions for disbursement pursuant to Articles 3.2 and 3.5 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.
 - c) disburse the EU Contribution in accordance with the progress of the Programme.

Each request for disbursement shall only be valid if it is made at the same time proportionately a ratio of up to 60 % of the drawdown request being requested from the Loan and at least 40 % of such amount from the Financial Contribution and/or the EU Contribution.

- 3.2 *Disbursement Procedure:* In a Separate Agreement, the Borrower, each Municipality, their Water and Wastewater Utility and KfW will specify the disbursement procedure, in particular the evidence to be furnished by the Borrower proving that the requested Funds are used for the purpose stipulated in this 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 3.6b) or utilised for another purpose in the framework of the Programme.
- 3.4 *Deadline for requesting disbursement.* KfW may deny disbursements after 30 June 2014. 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 under this Agreement only if:
- a) the Borrower has furnished to KfW evidence satisfactory to KfW proving that the Borrower has met all requirements under its

- constitutional law and other legal provisions for the valid assumption of all its obligations under this Agreement;
- b) the specimen signatures referred to in Article 12.1 (Representation of the Borrower) have been received;
 - c) the Borrower has paid the management fee mentioned in Article 4.2;
 - d) no reason for termination of this Agreement exists;
 - e) no extraordinary circumstances arise 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 Agreement; and
 - f) the evidence required pursuant to Article 9.4 (*Tax exemption*) has been received.

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

3.6 *Waiver of disbursement.* The Borrower may

- a) renounce the disbursement of undisbursed amounts of the Financial Contribution and the EU-Contribution provided the Borrower has fulfilled its obligations under Article 10 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.

3.7 *Non-acceptance compensation:* If the Borrower waives disbursement of a Loan amount for which an interest rate has already been determined or if such a Loan amount is not disbursed at all or is not disbursed by the deadline stated in Article 3.4 for other reasons for which KfW cannot be held accountable, the Borrower will promptly pay to KfW upon demand such amount as is necessary to compensate KfW for any losses, expenses or costs that may be incurred by KfW as a result of the non-acceptance of the respective Loan amount. KfW will calculate 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. It will be computed for a period beginning three months after the signing of this Agreement and shall be charged until the date of full disbursement of the Loan (subject to Article 3.4). It will be due semi-annually in arrears on the dates specified below in Article 6 (each a „**Payment Date**“):

- a) prior to the due date of the first repayment instalment of the Loan, on June 30 and December 30 of each year; for the first time on 30 June 2010;
- b) on the due date of the first repayment instalment of the Loan, together with such instalment;

- c) thereafter on the further due dates of the repayment instalments as per Article 6.1.

- 4.2 *Management fee.* At the earlier of three-month after the date of signing of this Agreement or prior to the first disbursement from the Loan, the Borrower will pay KfW a non-refundable one-time lump-sum management fee of 0.5% of the Loan amount as stated in Article 1.1.

Article 5

Interest

- 5.1 *Financial Contribution.* The Borrower shall pay no interest on the Financial Contribution and the EU-Contribution.
- 5.2 Interest due (fixed interest rate set upon commitment of the Loan). The Borrower shall pay interest on the Loan at a rate of 6.17 % p. a.
- 5.3 *Calculation of interest and interest payment dates.* Interest on the Loan amount disbursed 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).

Article 6

Repayment and Prepayment

- 6.1 *Repayment schedule.* The Borrower will repay the Loan as follows in 24 consecutive semi-annual instalments in accordance with the following schedule:

Instalment	Payment Date		Amount	
1	June 30,	2013	1,041,000.00	EUR
2	December 30,	2013	1,041,000.00	EUR
3	June 30,	2014	1,041,000.00	EUR
4	December 30,	2014	1,041,000.00	EUR
5	June 30,	2015	1,041,000.00	EUR
6	December 30,	2015	1,041,000.00	EUR
7	June 30,	2016	1,041,000.00	EUR
8	December 30,	2016	1,041,000.00	EUR
9	June 30,	2017	1,042,000.00	EUR
10	December 30,	2017	1,042,000.00	EUR
11	June 30,	2018	1,042,000.00	EUR
12	December 30,	2018	1,042,000.00	EUR
13	June 30,	2019	1,042,000.00	EUR
14	December 30,	2019	1,042,000.00	EUR
15	June 30,	2020	1,042,000.00	EUR
16	December 30,	2020	1,042,000.00	EUR
17	June 30,	2021	1,042,000.00	EUR

18	December 30,	2021	1,042,000.00	EUR
29	June 30,	2022	1,042,000.00	EUR
20	December 30,	2022	1,042,000.00	EUR
21	June 30,	2023	1,042,000.00	EUR
22	December 30,	2023	1,042,000.00	EUR
23	June 30,	2024	1,042,000.00	EUR
24	December	2024	1,042,000.00	EUR

- 6.2 *Undisbursed Loan amounts.* Undisbursed Loan amounts will be offset against the last repayment instalment due at any one time pursuant to the Repayment Schedule unless KfW after prior consultation with the Borrower, at its own discretion, chooses another offsetting mode in an individual case.
- 6.3 *Disbursements after the start of repayment.* If any Loan amounts are disbursed after their respective repayment period has started this will not affect the Repayment Schedule of the corresponding portion („**Portion**”) so long as the repayment instalment due under the Repayment Schedule at any one time is lower than the outstanding Loan amount. If the repayment instalment due for payment exceeds the Loan amount outstanding under the respective Portion, KfW will reduce the repayment instalment due by the amount representing the difference and increase every remaining repayment instalment still outstanding by the amount representing the difference divided by the number of repayment instalments still outstanding. KfW reserves the right to postpone taking disbursements that are made within 45 days prior to the respective Payment Date into consideration for the determination of the outstanding Loan amount until the next but one Payment Date.
- 6.4 *Prepayment.* The following will apply to prepayments:
- a) *Right of prepayment of the Loan.* The Borrower may repay the Loan in full or in part but at least in the amount of one repayment instalment as per Article 6.1 in advance of maturity against payment of a prepayment fee as per Article 6.4 d).
 - 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 13.1) 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 to be prepaid, and it obliges the Borrower to pay to KfW the stated amount on the specified date.
 - c) *Amounts due.* Together with the prepayment the Borrower will also pay the following amounts:
 - aa) any prepayment fee accruing as a result of the prepayment of Loan amounts; 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 interest 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 interest period, for which the difference will have to be discounted on the basis of the interest curve for reinvestments. KfW will in consultation with the Borrower 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 (*Disbursement after start of repayments*) or Article 6.4 (*Prepayment*) applies, KfW shall send the Borrower a revised repayment schedule that will become an integral part of this Agreement and will replace the repayment schedules applicable until such event.

Article 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 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 per Article 13.1, the Borrower must make such payment on the following Banking Day. If the following Banking Day falls within the next calendar month, such payment must be made on the preceding Banking Day.
- 7.3 *Account number, time of crediting.* The Borrower will be released from its payment obligations arising from this Agreement as soon as and to the extent that the corresponding amounts have been credited to KfW and are at KfW's free disposal without any deductions in Euro and not later than at 10:00 a.m. in Frankfurt am Main on KfW's account number 3122301232 with KfW, Frankfurt am Main (BLZ 500 204 00, BIC KFWIDEFF, 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 declaratory judgment or have not been contested in writing 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.

Article 8

Negative Pledge and Pari Passu

- 8.1 *Programme assets.* The Borrower will not encumber or alienate the Programme assets, in particular the goods supplied and services performed under such Contract and the Programme facilities erected in connection with these until Loan repayment in full without KfW's prior consent.
- 8.2 *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 9

Costs and Public Charges

- 9.1 *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 deductions or withholdings on payments, the payments made by the Borrower will increase by such amount as is necessary in order for KfW to receive in full the amounts due under this Agreement after deduction of taxes and charges.
- 9.2 *Costs.* The Borrower will bear all costs and expenses accruing in connection with the disbursement and repayment 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 Agreement.
- 9.3 *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.
- 9.4 *Tax exemption.* Prior to the first disbursement from the Funds, the Borrower will furnish evidence to KfW proving that KfW is exempted from any and all taxes on income from interest, commissions and similar charges in the Republic of Serbia when extending the Funds.

Article 10

Special Obligations

- 10.1 *Project implementation and special information.* The Borrower will procure itself and procure 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 engineering 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 this 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 this 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. The Borrower acknowledges the right of the European Commission to use free of charge and as it sees fit all documents which have been financed from the EU-Contribution;
 - h) shall ensure that all publications or other promotional information on the Programme activities co-financed by the European Union include a reference to the fact that the Programme is co-financed by the European Union and display the European logo (twelve yellow stars on a blue background);
 - i) shall allow for evaluations and monitoring visits by the representatives of the European Commission and/or the Delegation of the European Commission to Serbia.
 - j) will 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.
 - k) ensure that, for a period of up to five years after Programme completion, the European Commission and the European Court of Auditors shall be able to carry out audits necessary to verify the use of the EU Contribution, on the basis of documents and on the spot, including all contracts and subcontracts which have been funded under this Agreement. The European Commission and the European Court of Auditors shall have the right to send their own agents to carry out on the spot checks and inspections as laid down in Regulation (EC, Euratom) No 2185/1996.
- 10.2 *Separate Implementation Agreement.* The Borrower, each Municipality, their Water and Wastewater Utility and KfW will determine the details of Article 10.1 by a separate implementation agreement.
- 10.3 *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.
- 10.4 *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 11

Reasons for Termination of the Loan and Suspension of the Financial Contribution and the EU Contribution

- 11.1 *Reasons for termination of the Loan.* KfW may terminate the Loan in whole or in part if
- a) the Borrower fails to perform payment obligations towards KfW as and when due;
 - b) obligations under this Agreement or under a separate agreement pertaining to this Agreement have been breached by the Borrower and/or by any Municipality and/or its Water and Wastewater Utility;
 - 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;
 - d) this Agreement or any agreements entered into separately to this Agreement are no longer enforceable against the Borrower and/or

in relation to a separate agreement(s) against any Municipality and/or its Water and Wastewater Utility;

- e) any declaration, confirmation, information or representation or warranty which is in the opinion of KfW essential for the extending and maintaining of the Funds proves to be incorrect, misleading or incomplete;
- f) as reasonably estimated by KfW, the financial situation of the Borrower has worsened considerably or other extraordinary circumstances occur which delay or preclude the fulfilment of obligations under this Agreement.

11.2 *Legal consequences of an event of default for the Loan.* If any of the events specified in Article 11.1 has occurred and has not been resolved within a period of five days (in the case of Article 11.1a) or, in all other cases specified in Article 11.1, 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 with respect 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*.

11.3 *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*).

11.4 *Suspension of Disbursements from the Financial Contribution and the EU Contribution.* KfW may not suspend disbursements from the Financial Contribution and the EU 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 separate agreements 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 Financial Contribution / the EU Contribution and/or amounts of the Loan 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.

11.5 *Repayment of the Financial Contribution and the EU Contribution.* If any of the situations specified in Article 11.4b) 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 11.4b), demand the immediate repayment of the Financial Contribution and the EU Contribution; and
- b) in the case specified in Article 11.4c), demand the immediate repayment of such amounts from the Financial Contribution and the EU 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 12

Representation and Statements

- 12.1 *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.
- 12.2 *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
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For the Borrower:	Ministry of Finance Attn. Public Debt Administration Pop Lukina 7-9 11000 Beograd Fax: +381-11-2629055
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Article 13

General Provisions

- 13.1 *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.
- 13.2 *Place of performance.* The place of performance for all obligations under this Agreement is Frankfurt am Main.
- 13.3 *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.

- 13.4 *Written form.* Amendments and supplements to this Agreement must be in writing to be effective. Any waiver of this requirement of written form must be declared by the parties in writing.
- 13.5 *Assignment.* The Borrower may not assign or transfer, pledge or mortgage any claims from this Agreement.
- 13.6 *Applicable law.* This Agreement is governed by German law.
- 13.7 *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.
- 13.8 *Arbitration.* All disputes arising out of or in connection with the present 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:
- a) 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) applicable from time to time.
 - b) The arbitration proceedings will be conducted in Frankfurt am Main. The proceedings will be held in the English language.

This Agreement is executed in 2 originals in the English language.

Belgrade,

this 21 day of december, 2009

KfW

Republic of Serbia

Elke Hellstern, s.r.

Diana Dragutinović, s.r.

Annex 1

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 42,482,500.--, consisting of a Loan in the amount of EUR 25,000,000 and a Financial Contribution in the amount of EUR 14,850,000.

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 and a Financial Contribution in the amount of EUR 14,850,000 and an EU-Contribution in the amount of EUR 2,632,500.

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 the Republic of Serbia relating to the conclusion of Loan agreements by The Republic of 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.

Ugovor o zajmu i finansiranju

od 21. decembra 2009. godine

između

KfW, Frankfurt na Majni
(„KfW”)

i

Republike Srbije
(„Zajmoprimac”)
koju predstavlja ministar finansija

u iznosu do
42.482.500 EUR

- Program vodosnabdevanja i kanalizacije u opštinama srednje veličine u Srbiji

I -

Faza 2

Sadržaj

Preambula

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Prilozi

Prilog 1: Oblik pravnog mišljenja pravnog savetnika Zajmoprimca

Preambula

Osnova ovog Ugovora sadržana je u protokolima radnih razgovora između Vlade Savezne Republike Nemačke i Vlade Republike Srbije održanih 14. aprila 2005. godine, 11. oktobra 2006. godine, rezimeu zapisnika sa pregovora o razvojnoj saradnji između Vlade Republike Srbije i Vlade Savezne Republike Nemačke od 19. novembra 2007. godine i 17. oktobra 2008. godine (pod naznakom „Vodosnabdevanje i kanalizacija u opštinama srednje veličine, faza 2”), i Ugovora između Evropske Komisije, Razvojne Banke Saveta Evrope i KfW-a od 11. avgusta 2009. godine („**Ugovor o doprinosu**”), zasnovanog na odluci Evropske Komisije S(2008)8428 od 19. decembra 2008. godine.

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

Program se sprovodi u dve faze, a ovim Ugovorom se reguliše samo druga faza Programa, kao nastavka prve faze ovog Programa. Ukoliko drugačije nije definisano, svi termini navedeni u ovom Ugovoru koji se odnose na Program moraju imati isto značenje kao i termini navedeni u Ugovoru o finansiranju i programu za prvu fazu Programa od 18. maja 2007. godine.

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”), bespovratnih sredstava Evropske Komisije („Doprinos EU”) i zajma koga odobrava KfW, u skladu sa sledećim odredbama.

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 omogućiti dodatna bespovratna sredstva koja su Republici Srbiji odobrena od strane Savezne Republike Nemačke, koju predstavlja Ministarstvo za ekonomsku saradnju i razvoj, kao i dodatna bespovratna sredstva Evropske Komisije 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 zajam u iznosu koji ne prelazi

25.000.000 EUR („**Zajam**”)

i bespovratna sredstva, u iznosu koji ne prelazi

14.850.000 EUR („**Finansijski doprinos**”)

kao i bespovratna sredstva u iznosu koji ne prelazi

2.632.500 EUR („**Doprinos EU**”)

Zajam, Finansijski doprinos i Doprinos EU će se u daljem tekstu pominjati kao „**Sredstva**”. Finansijski doprinos i Doprinos EU su bespovratni, osim ukoliko drugačije nije navedeno u članu 11.5.

1.2 *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.* 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 drugi javne dažbine koje su obaveza Zajmoprimca ili neke od opština i njihovih komunalnih preduzeća za vodovod i kanalizaciju, kao i carine nisu predmet finansiranja iz Sredstava.

1.5 Roba i usluge koji se uvoze u Republiku Srbiju u 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 pijaće vode i otpadne vode.

Član 2.

Usmeravanje sredstava

2.1 *Ugovor o zajmu.* Zajmoprimac će proslediti sredstva Finansijskog doprinosa i Doprinosa EU 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 čl. 4, 5. i 6. ovog Ugovora.

2.2 *Overeni prevod.* Pre prve isplate Finansijskog doprinosa, Doprinosa EU 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, Doprinosa EU 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 po ovom Ugovoru.

Član 3.

Isplata

3.1 *Zahtev za isplatu.* Čim se ispune svi uslovi za isplatu navedeni u skladu sa čl. 3.2 i 3.5 KfW će na zahtev Zajmoprimca:

- a) isplatiti Zajam u skladu sa napredovanjem Programa;
- b) isplatiti Finansijski doprinos u skladu sa napredovanjem Programa;
- c) isplatiti Doprinos EU u skladu sa napredovanjem Programa.

Zahtev za isplatu je važeći samo ukoliko je traženi iznos zasnovan na odnosu sa najviše 60% sredstava iz Zajma i najmanje 40% sredstava iz Finansijskog doprinosa i/ili Doprinosa EU.

3.2 *Procedura isplate.* U Posebnom ugovoru, Zajmoprimac, svaka opština, njeno komunalno preduzeće za vodovod i kanalizaciju i KfW će utvrditi pojedinosti procedure isplate, a posebno dokaze koje treba da dostavi Zajmoprimac da su tražena sredstva upotrebljena za svrhe navedene u ovom Ugovoru.

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 smanjen (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 juna 2014. godine. Ukoliko sprovođenje Programa kasni, KfW će, nakon konsultacija sa Zajmoprimcem, ispitati da li i pod kojim uslovima taj rok može biti produžen.

3.5 *Uslovi koji prethode isplati.* KfW je u obavezi da izvrši isplatu u skladu sa ovim Ugovorom samo ukoliko:

a) Zajmoprimac dostavi KfW-u dokaze koje KfW zahteva i kojima se dokazuje da Zajmoprimac, u skladu sa zakonom i drugim pravnim odredbama, ispunjava sve uslove u pogledu preuzimanja obaveza iz ovog Ugovora;

b) su dostavljeni deponovani potpisi navedeni u članu 12.1 (Zastupanje Zajmoprimca);

c) je Zajmoprimac platio Proviziju za organizovanje posla navedenu u članu 4.2;

d) ne postoji nikakav razlog za raskid ovog Ugovora;

e) ne postoje nikakve vanredne okolnosti koje bi mogle da spreče ili ozbiljno ugroze sprovođenje, rad ili svrhu Programa, ili izvršavanje obaveza plaćanja koju Zajmoprimac preuzima u skladu sa ovim Ugovorom; i

f) su dostavljeni dokazi u skladu sa članom 9.4 (*Oslobađanje od poreza*).

KfW ima pravo da pre početka isplate sredstava zahteva dodatne dokumente i dokaze za koje s pravom smatra da su neophodni.

3.6 *Odricanje od isplate.* Zajmoprimac ima pravo:

a) da se odrekne isplate nekog neisplaćenog iznosa Finansijskog doprinosa i Doprinosu EU ukoliko je Zajmoprimac ispunio svoje obaveze u skladu sa članom 10. 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.

3.7 *Nadoknada za odricanje od isplate.* Ukoliko se Zajmoprimac odrekne nekog iznosa Zajma za koji je već utvrđena kamatna stopa, ili ukoliko takav iznos uopšte nije isplaćen, ili ukoliko nije isplaćen do roka navedenog u članu 3.4, 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 ili troškovi koje snosi KfW kao posledicu odricanja od isplate takvog iznosa. 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 potpisivanja ovog Ugovora i naplaćivaće se do trenutka potpune isplate Zajma (u skladu sa članom 3.4). Provizija će dospevati na naplatu u vidu šestomesečnih dugovanja po osnovu provizije, na dan kao što je dole navedeno i definisano, u članu 6. („**Dan uplate**“):

- a) pre dana dospeća otplate prve rate Zajma, 30. juna i 30. decembra svake godine; prvi put 30. juna 2010. godine;
- b) na dan dospeća otplate prve rate rate Zajma, zajedno sa ratom;
- c) nakon toga, svaki put na dan dospeća otplate rate zajma, u skladu sa članom 6.1.

4.2 *Provizija za organizovanje posla.* Najranije tri meseca od dana potpisivanja Ugovora, ili pre prve isplate iznosa Zajma, Zajmoprimac će platiti KfW-u bespovratni jednokratni paušalni iznos provizije za organizovanje posla u iznosu od 0,5% iznosa Zajma, kao što je navedeno u članu 1.1.

Član 5.

Kamata

5.1 *Finansijski doprinos.* Zajmoprimac neće plaćati kamatu na iznos Finansijskog doprinosa i Doprinosa EU.

5.2 *Dospela kamata* (fiksna kamatna stopa koja se utvrđuje na dan potpisivanja Ugovora). Zajmoprimac plaća kamatu za Zajam po stopi od 6.17% godišnje.

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. Kamata će se obračunavati u skladu sa članom 7.1 (*Obračun*). Kamata će se plaćati 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 vidu 24 uzastopne šestomesečne rate u skladu sa sledećim rasporedom:

Rata	Dan uplate		Iznos	
1.	30. jun	2013.	1.041.000	EUR
2.	30. decembar	2013.	1.041.000	EUR
3.	30. jun	2014.	1.041.000	EUR
4.	30. decembar	2014.	1.041.000	EUR
5.	30. jun	2015.	1.041.000	EUR
6.	30. decembar	2015.	1.041.000	EUR
7.	30. jun	2016.	1.041.000	EUR
8.	30. decembar	2016.	1.041.000	EUR
9.	30. jun	2017.	1.042.000	EUR
10.	30. decembar	2017.	1.042.000	EUR
11.	30. jun	2018.	1.042.000	EUR
12.	30. decembar	2018.	1.042.000	EUR
13.	30. jun	2019.	1.042.000	EUR
14.	30. decembar	2019.	1.042.000	EUR
15.	30. jun	2020.	1.042.000	EUR
16.	30. decembar	2020.	1.042.000	EUR
17.	30. jun	2021.	1.042.000	EUR
18.	30. decembar	2021.	1.042.000	EUR
19.	30. jun	2022.	1.042.000	EUR
20.	30. decembar	2022.	1.042.000	EUR
21.	30. jun	2023.	1.042.000	EUR
22.	30. decembar	2023.	1.042.000	EUR
23.	30. jun	2024.	1.042.000	EUR
24.	30. decembar	2024.	1.042.000	EUR

6.2 *Neisplaćeni iznosi Zajma.* Neisplaćeni iznosi Zajma se prelamaju 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 prelamanja 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 odgovarajućeg dela („Deo”) sve dok je rata otplate koja dospeva u bilo koje vreme u skladu sa rasporedom 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 smanjiti 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 uzme u razmatranje 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 pre dospeća izvrši otplatu Zajma, u celosti ili delimično, ali u iznosu ne manjem od iznosa jedne rate otplate u skladu sa članom 6.1, po uplati naknade za prevremenu otplatu u skladu sa odredbama člana 6.4 d).

b) *Obaveštenje.* U skladu sa članom 6.4a), 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 13.1) pre nameravanog dana prevremene otplate. Ovakvo obaveštenje je neopozivo; ono mora da sadrži dan

na koji će prevremena otplata biti izvršena, iznos prevremene otplate i ovo pismo predstavlja obavezu Zajmoprimca da naznačenog dana plati KfW-u navedeni iznos.

c) *Dospeli iznosi.* Zajedno sa prevremenom otplatom, Zajmoprimac takođe plaća sledeće iznose:

aa) sve takse za prevremenu otplatu koje mogu nastati kao posledica prevremene otplate dela Zajma i

bb) svu kamatu na prevremeno otplaćeni deo Zajma nastalu do dana prevremene otplate.

d) *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 (i) kamate koju je KfW mogao da naplati na odgovarajući iznos Zajma do kraja kamatnog perioda i (ii) 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. U konsultacijama sa Zajmoprimcem, KfW će odlučiti o visini iznosa nadoknade za prevremenu otplatu i obavestiti o tome Zajmoprimca.

e) *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 umesto plana otplate koji se primenjivao do 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, paušalna nadoknada za zakasnele iznose u skladu sa članom 7.6, nadoknada za odricanje od isplate i nadoknada za prevremenu otplatu se obračunavaju 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 pod ovim Ugovorom dospeva na dan koji nije radni dan u skladu sa članom 13.1, Zajmoprimac će takvo plaćanje izvršiti sledećeg radnog dana. Ukoliko sledeći radni dan pada narednog kalendarskog meseca, takvo plaćanje mora biti izvršeno prethodnog radnog dana.

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 se nalaze na raspolaganju KfW-a bez ikakvih umanjeća u iznosu u evrima, da je uplata izvršena do 10 sati pre podne u Frankfurtu na Majni, na račun KfW-a br. 3122301232, KfW, Frankfurt na Majni (BLZ500 204 00, BIC KFWIDEFF, uz dodatnu naznaku dospelog iznosa „Ref. YYYYMMDD”) ili na drugi račun koji je KfW naveo u pisanom vidu.

7.4 *Protivpotraživanja Zajmoprimca.* Zajmoprimac nema pravo da zahteva zadržavanje ili saldiranje iznosa ili neka druga slična prava u odnosu na obavezu plaćanja pod ovim Ugovorom, osim ukoliko je takvo pravo priznato deklarativnim sudom 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 preovladava 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 primenljiva 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.

Član 8.

Negativna zaloga i „pari pasu” klauzula

8.1 *Imovina Programa.* Zajmoprimac neće, bez prethodnog odobrenja KfW-a, da stavi pod hipoteku ili otuđi imovinu Programa, naročito robu i usluge dostavljene pod ovim Ugovorom i s tim u vezi izgrađene objekte u okviru Programa, sve do trenutka potpune otplate Zajma.

8.2 *„Pari pasu”.* U meri u kojoj je to dozvoljeno zakonom, Zajmoprimac preuzima na sebe obaveze pod ovim Ugovorom „pari pasu” u odnosu na sve ostale postojeće ili buduće neobezbeđene i nepodređene obaveze plaćanja.

Član 9.

Troškovi i javne dažbine

9.1 *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 KfW primio pun iznos uplate u skladu sa ovim Ugovorom po odbijanju poreza i troškova.

9.2 *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.

9.3 *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 plati iznos takvih poreza ili dažbina, Zajmoprimac mora da bez odlaganja, odmah po zahtevu KfW-a, uplati na račun KfW-a iznos kao što je navedeno u članu 7.3.

9.4 *Oslobađanje od poreza.* Pre prve isplate sredstava, Zajmoprimac će dostaviti KfW-u dokaze da je KfW oslobođen plaćanja od svakog i svih poreza na prihod od kamate, provizija i sličnih dažbina u Republici Srbiji, za odobrena Sredstava.

Član 10.
Posebne obaveze

10.1 *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 nadgledanje sprovođenja Programa nezavisnim, kompetentnim inženjerima-konsultantima i povere sprovođenje Programa kompetentnim firmama;

c) 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;

d) obezbede potpuno finansiranje Programa i dostave KfW-u, po zahtevu, dokaz da su troškovi koji nisu plaćeni iz ovih Sredstava takođe pokriveni;

e) vode knjige i evidencije ili čuvaju knjige i evidencije koje nedvosmisleno prikazuju sve troškove robe i usluga potrebnih u svrhe Programa i u kojima su jasno naznačene robe i usluge koji su finansirani iz ovih Sredstava;

f) 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;

g) dostave KfW-u bilo koju i sve informacije i evidencije o Programu i njegovom napredovanju koje KfW može da zahteva. Zajmoprimac prihvata pravo Evropske Komisije da bez naknade i po sopstvenom nahođenju koristi sve dokumente koji su predmet finansiranja iz Doprinosa EU;

h) obezbede da sve publikacije ili druge promotivne informacije u vezi sa aktivnostima Programa koje sufinansira Evropska Unija uključe i činjenicu da Program sufinansira Evropska Unija i prikažu logotip Evropske Unije (12 žutih zvezda na plavoj pozadini);

i) dozvole posete predstavnika Evropske Komisije i/ili delegacija Evropske Komisije u Srbiji u cilju praćenja i evaluacije;

j) samoinicijativno:

aa) dostave KfW-u sve upite koje Zajmoprimac ili neka od opština i/ili njihova komunalna preduzeća za vodovod i kanalizaciju primi od Organizacije za ekonomsku saradnju i razvoj (OECD) ili njenih članica pod tzv. „Sporazumom o jedinstvenoj transparentnosti ODA kredita” posle dodeljivanja ugovora za dostavljanje 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;

k) Obezbede da tokom perioda od pet godina po okončanju Programa Evropska Komisija i Evropski Revizorski Sud mogu da sprovedu revizije neophodne da bi se proverilo korišćenje Doprinosa EU, na osnovu dokumenata i na licu mesta, uključujući sve ugovore i podugovore koji su finansirani pod ovim Ugovorom. Evropska Komisija i Evropski Revizorski Sud imaju pravo da pošalju svoje

predstavnik koji će na licu mesta sprovesti preglede i provere kao što je navedeno u Propisu (EC, Euratom) br. 2185/1996.

10.2 *Poseban Ugovor o sprovođenju.* Zajmoprimac, sve opštine, njihova komunalna preduzeća za vodovod i kanalizaciju će utvrditi pojedinosti člana 10.1 u okviru posebnog ugovora o sprovođenju.

10.3 *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 dostavljanje robe ili usluga koje su predmet finansiranja, zahtevaju isplatu određenih iznosa iz Sredstava, ne zahtevaju, prihvataju, odobravaju, obećavaju ili prihvataju obećanja nezakonitih plaćanja ili nekih drugih pogodnosti u vezi sa tim zadacima.

10.4 *Prevoz robe.* U pogledu prevoza robe koja je predmet finansiranja iz Sredstava, mora biti osiguran slobodan izbor transportnog preduzeća koje 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, transportnih preduzeća koja posluju u Saveznoj Republici Nemačkoj.

Član 11.

Razlozi za raskid Zajma i obustavu Finansijskog doprinosa i Doprinosa EU

11.1 *Razlozi za raskid Zajma.* KfW ima pravo da prekine isplatu Zajma u punom ili delimičnom iznosu ukoliko:

- 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 po ovom Ugovoru ili obaveze po Posebnom ugovoru koji proističe iz ovog Ugovora;
- c) Zajmoprimac i/ili neka od opština i/ili njeno komunalno preduzeće za vodovod i kanalizaciju nije u mogućnosti da dokaže da je neki iznos Sredstava upotrebljen u namenske svrhe;
- d) ovaj Ugovor ili bilo koji drugi ugovori koji su sklopljeni posebno od ovog Ugovora nisu više obavezujući za Zajmoprimca i/ili u odnosu na posebne ugovore bilo koje opštine i/ili njenog komunalnog preduzeća za vodovod i kanalizaciju;
- e) se ispostavi da je neka izjava, potvrda, informacija ili predstavljanje ili garancija koja po mišljenju KfW-a ima ključni značaj za odobravanje i održavanje sredstava netačna ili nepotpuna;
- f) ukoliko KfW sa pravom proceni da se finansijska situacija Zajmoprimca znatno pogoršala ili da je došlo do nekih drugih nepredviđenih okolnosti koje sprečavaju ili odlažu ispunjavanje obaveza u skladu sa ovim Ugovorom.

11.2 *Pravne posledice u slučaju neizvršenja obaveza po osnovu Zajma.* Ukoliko se pojavio bilo koji od slučajeva navedenih u članu 11.1 i ukoliko nije rešen u roku od 5 dana (u slučaju člana 11.1 a) ili ukoliko neki drugi slučaj naveden u članu 11.1 nije rešen (ukoliko je moguće da se takav slučaj reši) u roku koji određuje KfW, a koji, međutim, ne može da iznosi manje od 30 dana u kontinuitetu, KfW može da prekine isplatu Zajma, u punom ili delimičnom iznosu, sa sledećim posledicama:

- a) obaveze KfW-a po ovom Ugovoru u pogledu Zajma 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 Ugovorom, čl. 7.5 (*Zatezna kamata*) i 7.6 (*Paušalna nadoknada*) koji se primenjuju na iznose čija je naplata ubrzana mutatis mutandis.

11.3 *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 6.4 d) (*Nadoknada za prevremenu otplatu*).

11.4 *Obustava isplate iz Finansijskog doprinosa i Doprinosa EU*. KfW ne može da obustavi isplate iz sredstava Finansijskog doprinosa i Doprinosa EU osim ukoliko:

a) Zajmoprimac nije ispunio svoje obaveze prema KfW-u u smislu plaćanja po dospeću;

b) su prekršene obaveze po ovom Ugovoru ili pod Posebnim ugovorima koji proističu iz ovog Ugovora;

c) 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/Doprinosa EU i/ili nekog iznosa Zajma upotrebljavaju u naznačene svrhe, ili

d) je došlo do nekih vanrednih okolnosti koje sprečavaju ili ozbiljno ugrožavaju sprovođenje, upravljanje Programom ili svrhu Programa.

11.5 *Otplata Finansijskog doprinosa i Doprinosa EU*. Ukoliko je došlo do neke od situacija navedenih u članu 11.4 b) ili c) koja nije otklonjena u periodu koga određuje 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 11.4 b), da zahteva da se odmah izvrši otplata iznosa Finansijskog doprinosa i/ili Doprinosa EU i

b) u slučaju navedenom u članu 11.4 c), da zahteva da se odmah izvrši otplata iznosa Finansijskog doprinosa i Doprinosa EU 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 12.

Zastupanje i izjave

12.1 *Zastupanje Zajmoprimca*. Prilikom sprovođenja ovog Ugovora, Zajmoprimca predstavlja Ministar finansija Republike Srbije i lica koja Ministar imenuje KfW-u i koja su ovlašćena deponovanim potpisom uz potvrdu Ministra. Ovlašćenje u pogledu zastupanja ne prestaje sve dok KfW ne primi izričiti opoziv od predstavnika ovlašćenog u tom trenutku.

12.2 *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:

Postfach 11 11 41
60046 Frankfurt am Main
Germany
Faks: +49 69 7431-2944

Za Zajmoprimca:

Ministarstvo finansija
Prima: Uprava za javni dug
Pop Lukina 7-9
11000 Beograd
Faks: +381 11 2629055; 3022765

Član 13.

Opšte odredbe

13.1 *Radni dan banaka.* Kada se u ovom ugovoru pominje „**radni dan banaka**”, to označava dan koji nije subota ili nedelja, na koji komercijalne banke rade u Frankfurtu na Majni radi obavljanja opštih poslova.

13.2 *Mesto izvršenja.* Mesto izvršenja svih obaveza po ovom Ugovoru je Frankfurt na Majni.

13.3 *Delimično nevaženje i neslaganje.* Ukoliko bilo koja odredba ovog Ugovora postane nevažeća, ili ukoliko postoji neslaganje između bilo kojih odredbi 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 pravno valjanim odredbama koje su najbliže duhu i svrsi ovog Ugovora.

13.4 *Pisani oblik.* Izmene i dopune ovog Ugovora moraju biti u pisanom obliku da bi bile važeće. Ugovorne strane moraju da u pisanom obliku najave svako odstupanje u odnosu na ovaj zahtev.

13.5 *Ustupanje.* Zajmoprimac ne sme da ustupi ili prenese, založi ili stavi pod hipoteku sredstva iz ovog Ugovora.

13.6 *Merodavno pravo.* Za ovaj Ugovor merodavni su zakoni Savezne Republike Nemačke.

13.7 *Rok zastarevanja.* Svi zahtevi KfW-a po ovom Ugovoru ističu nakon pet godina od kraja godine u kojoj je takav zahtev dospeo 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.

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

a) Arbitražni sud će se sastojati od tri arbitra koji su postavljeni i koji deluju u skladu sa Pravilima arbitraže Međunarodne privredne komore (ICC).

b) Arbitražni postupak se vodi u Frankfurtu na Majni. Postupak će se voditi na engleskom jeziku.

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

Beograd,

Dana 21. decembra 2009. godine

KfW

Republika Srbija

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Oblik pravnog mišljenja pravnog savetnika Zajmoprimca

[Zaglavlje pravnog savetnika]

KfW
Odeljenje ()
Prima ()
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60325 Frankfurt am Main
Savezna Republika Nemačka

Datum

Ugovor o zajmu i finansiranju od (datum) i sačinjen između KfW-a, (...) („Zajmoprimac”) i (...) na iznos koji ukupno ne prevazilazi 42.482.500 EUR, i koji se sastoji od zajma u iznosu od 25.000.000 EUR i Finansijskog doprinosa u iznosu od 14.850.000 EUR i Doprinos EU od 2.632.500 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 i Finansijski doprinos u iznosu od 14.850.000 EUR, kao i Doprinos EU u iznosu od 2.632.500 EUR.

1. Pregledani dokumenti

Pregledao sam:

Potpisani original Ugovora o zajmu i finansiranju;

Ustavne dokumente Zajmoprimca, posebno:

(a) Ustav Republike Srbije, od (datum), objavljen u ..., br. ..., str. ..., i njegove izmene;

(b) Zakon/e br. ..., od (datum), objavljene u ... br. ..., str. ..., i njihove izmene (molimo navedite zakone (npr. Zakon o budžetu) koji se odnose na novčane pozajmice Republike Srbije, ukoliko ih ima);

(c) ... (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

(d) 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

U svrhe Člana 3.5a) 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) Narodna 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);*

(c) ... *(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 (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 zakonu.

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

(a) odobrenje ... *(Centralna banka/Narodna banka/...),* od (datum), br.;

(b) pristanak ... *(Ministar/Ministarstvo...),* od (datum), br.; i

c) ... *(Molimo navedite sva druga zvanična ovlašćenja, dozvole i/ili odobrenja).*

U vezi sa izvršenjem i izvođenjem Ugovora o zajmu i pozajmici od strane Zajmoprimca, kao i u pogledu validnosti i primenljivosti obaveza Zajmoprimca pod 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 transfer KfW-u svih iznosa koji dospevaju 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 transfer KfW-u svih iznosa dospelih u skladu sa Ugovorom u navedenim valutama) i validnost i primenljivost obaveza Zajmoprimca pod ovim Ugovorom 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 valjanošću i/ili primenljivošću Ugovora o zajmu i finansiranju nije potrebno plaćanje nikakve takse ili sličnog nameta.

2.5 Izbor zakona Republike Nemačke koji je merodavan za Ugovor o zajmu i finansiranju i podleganje arbitraži u skladu sa Članom 13 Ugovora o zajmu i

finansiranju su validni i obavezujući. Odluka arbitražnog suda protiv Zajmoprimca se priznaje i primenljiva je u Republici Srbiji u skladu sa sledećim pravilima: ... *(molimo navedite odgovarajući dokument (ukoliko ga ima) npr. Njujorška Konvencija iz 1958. godine, i/ili osnovni principi u pogledu priznavanja i sprovođenja 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 sprovođenje Ugovora o zajmu i finansiranju od strane Zajmoprimca čine privatne i poslovne radnje, a ne vladine ili javne poslove. Ni Zajmoprimac niti bilo koje njegovo vlasništvo 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 primenljive zakone i propise)*, od Zajmoprimca se ne traži da umanjuje ili na drugi način zadrži bilo koji iznos plaćen u okviru ovog Ugovora o zajmu i finansiranju.

2.9 KfW nije i ne može se smatrati domaćim licem koje vodi poslove u Republici Srbiji niti licem koje je predmet oporezivanja u Republici Srbiji isključivo na osnovu sprovođenja, izvođenja ili izvršavanja Ugovora o zajmu i finansiranju. Nije neophodno niti preporučljivo da KfW ima dozvolu, kvalifikaciju ili da na neki drugi način ima pravo da obavlja poslove ili da KfW postavlja svoje agente ili predstavnike u Republici Srbiji.

Shodno tome, obaveze Zajmoprimca pod ovim Ugovorom o zajmu i finansiranju čine direktne i безусловne pravno valjane i obavezujuće obaveze Zajmoprimca koje su zakonska obaveza 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 pravnih 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, kopija relevantnih propisa bi bila dovoljna). Takođe molimo da dostavite KfW-u overeni prevod na engleski ili nemački jezik svakog od gore navedenih dokumenata ukoliko takav dokument već nije objavljen na engleskom ili nemačkom jeziku kao na zvaničnom jeziku.

Član 3.

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