

## **ZAKON**

### **O POTVRĐIVANJU SPORAZUMA O ZAJMU IZMEĐU KFW, FRANKFURT NA MAJNI I REPUBLIKE SRBIJE, U IZNOSU DO 15.000.000 EVRA ZA PROJEKAT „ENERGETSKE EFIKASNOSTI U JAVNIM OBJEKTIMA”**

#### **Član 1.**

Potvrđuje se Sporazum o zajmu između KfW, Frankfurt na Majni i Republike Srbije, u iznosu do 15.000.000 evra za Projekat „Energetske efikasnosti u javnim objektima”, koji je potписан 14. novembra 2014. godine, u Beogradu, u originalu na engleskom jeziku.

#### **Član 2.**

Tekst Sporazuma o zajmu između KfW, Frankfurt na Majni i Republike Srbije, u iznosu do 15.000.000 evra za Projekat „Energetske efikasnosti u javnim objektima”, u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

#### **Loan Agreement**

dated November 14, 2014

between

**KfW, Frankfurt am Main**

(“**KfW**”)

and

**Republic of Serbia**

(“**Borrower**”)

for

**Euro 15,000,000.-**

**For the Project Energy Efficiency in Public Buildings  
(BMZ-ID 2011 66 081)**

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## Preamble

The basis for this Loan Agreement are the agreements dated June 30th, 2011 and October 18th, 2012 between the Government of the Federal Republic of Germany and the Government of the Republic of Serbia on Financial Cooperation (FC) ("Government Agreement").

Under the condition that the Federal Republic of Germany will provide interest rate subsidies and under the condition that the Federal Republic of Germany will provide a guarantee for the loan, KfW will extend a Loan subject to the terms and provisions of this Loan Agreement. The terms and conditions of the Loan comply with the OECD requirements applicable on the date of signing of this Loan Agreement for recognition as Official Development Assistance (ODA).

The Borrower has applied for a financial contribution of up to EUR 1.3 million from the European Union's Western Balkans Investment Framework (WBIF) for the purpose of financing consulting services for preparation and implementation of the programme "Energy Efficiency in Public Buildings". KfW has declared its willingness to act as the Lead International Financial Institution in the implementation of this WBIF grant. The application has been approved by WBIF's steering committee on December 6th, 2012 and the grant will be extended from the European Western Balkans Joint Fund (EWBF), which is part of the WBIF. Therefore, in addition to this Loan Agreement, the Borrower and KfW intend to conclude a Financing Agreement once an Implementation Agreement between EBRD as a Co-Manager of the EWBF and KfW has been signed. Should the EWBF grant not suffice to finance the required consulting services, the remainder of the costs shall be financed from this Loan Agreement.

### 1. Loan

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

**EUR 15,000,000.-**

(the "**Loan**").

1.2 *Loan purpose.* The Borrower shall use the Loan exclusively to finance the project "Energy Efficiency in Public Buildings" including the energy efficient retrofitting of public buildings ("**Project**") and consulting services for the implementation of the Project. The Borrower represented by the Ministry of Education, Science and Technological Development ("**MoES**") acting as project executing agency (the "**Project Executing Agency**"), the Ministry of

Finance ("MoF"), the Ministry of Mining and Energy ("MoME") and KfW will define the details of the Project as well as the goods and services to be financed from the Loan in a separate agreement to this Loan Agreement ("Separate Agreement").

- 1.3 *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. In addition to the foregoing, the goods and services imported into the Republic of Serbia for the Project shall be exempted from customs fees and the trade of goods, services and equipment for the Project shall be exempted from VAT.

## **2. Disbursement**

- 2.1 *Request for disbursement.* As soon as all conditions precedent to disbursement pursuant to Article 2.3 are fulfilled, KfW will disburse the Loan in accordance with the progress of the Project upon request of the Borrower. Disbursement will be effected in accordance with the disbursement schedule contained in Annex 1 to this Loan Agreement. KfW will make disbursements only up to the maximum amounts determined for each half-year. To the extent the Borrower requests disbursement of lower amounts within any half-year the undisbursed amounts may be requested in any subsequent half-year period. With the exception of the last disbursement, KfW is not obligated to effect disbursements in an amount of less than EUR 150,000.-.
- 2.2 *Deadline for requesting disbursement.* KfW may deny disbursements after 30.12.2017.
- 2.3 *Conditions Precedent to Disbursement.* KfW is obligated to make disbursements of any amount under this Loan 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 3 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 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) KfW has received an executed original of this Agreement;
- c) the specimen signatures mentioned in Article 12.1 (Representation of the Borrower) have been submitted;
- d) the Guarantee from the Federal Republic of Germany mentioned in Article 7 is in force and effect without any restriction.
- e) the Borrower has paid the management fee mentioned in Article 3.2;
- 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 Project, or the performance of the payment obligations assumed by the Borrower under this Loan Agreement.

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

- 2.4 *Separate Agreement.* In a separate agreement the Borrower represented by the MoF, MoME and MoES and KfW will specify the disbursement procedure including specific conditions precedent to disbursement /and in particular the evidence to be furnished by the Borrower proving that the requested Loan amounts are used for the purpose stipulated in this Loan Agreement.
- 2.5 *Waiver of disbursement.* Subject to the fulfilment of its obligations under Article 10 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 2.6.
- 2.6 *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 2.2 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.

### **3. Fees**

- 3.1 *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 Agreement, or if this

Loan Agreement has not entered into force within 6 months after the signing of this Loan Agreement, beginning at the date this Loan Agreement enters into force in accordance with Article 13.11 (Entry into force) hereof, and lasting until such date the Loan has been disbursed in full, or fully cancelled, as the case may be.

The commitment fee is due for payment semi-annually and in arrears on 30 June and 30 December of each year (each a "Payment Date"). It is first due for payment on 30.12.2014.

- 3.2 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 Agreement by KfW, or (iii) if this Loan Agreement has not entered into force within three months after signing, on the date on which this Loan Agreement enters into force pursuant to Article 13.11. (Entry into force) hereof.

Once this Loan Agreement has been signed the management fee will fully accrue regardless of whether the Loan will be disbursed in full, or at all.

#### **4. Interest**

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

- 4.1 *Interest (fixed interest rate set upon commitment of the Loan.)* The Borrower shall pay interest on the Loan at a rate of 2.10 % p. a. ("Fixed Interest Rate") until the last repayment instalment according to the Repayment Schedule as defined in Article 5.1 has been received.
- 4.2 *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 6.3. Interest will be calculated in accordance with Article 6.1 (Calculation). Interest will be paid in arrears on the Payment Dates (as defined in Article 3.1).

## 5. Repayment and prepayment

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

Instalment	Repayment Date		Repayment instalment	
1	December 30,	2017	789,000.00	EUR
2	June 30,	2018	789,000.00	EUR
3	December 30,	2018	789,000.00	EUR
4	June 30,	2019	789,000.00	EUR
5	December 30,	2019	789,000.00	EUR
6	June 30,	2020	789,000.00	EUR
7	December 30,	2020	789,000.00	EUR
8	June 30,	2021	789,000.00	EUR
9	December 30,	2021	789,000.00	EUR
10	June 30,	2022	789,000.00	EUR
11	December 30,	2022	790,000.00	EUR
12	June 30,	2023	790,000.00	EUR
13	December 30,	2023	790,000.00	EUR
14	June 30,	2024	790,000.00	EUR
15	December 30,	2024	790,000.00	EUR
16	June 30,	2025	790,000.00	EUR
17	December 30,	2025	790,000.00	EUR
18	June 30,	2026	790,000.00	EUR
19	December 30,	2026	790,000.00	EUR
SUM			15,000,000.00	EUR

5.2 *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.

5.3 *Disbursements after the start of repayment.* If Loan amounts are disbursed after repayment has started, the repayment schedule as listed in Article 5.1 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.

- 5.4 *Prepayment.* The following will apply to early repayments:
- a) *Right to make prepayments.* The Borrower may subject to the subparagraphs (b) to (e) below effect an early repayment with respect to a Loan amount provided that such early repayment shall be at least in the amount of one repayment instalment pursuant to Article 5.1.
  - b) *Notice.* A prepayment of a Loan amount pursuant to Article 5.4 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 13.1) 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 5.4 a) to c):
    - aa) any prepayment compensation due as a result of the prepayment pursuant to Article 5.4 c); and
    - bb) all interest accrued on the prepaid Loan amount up until the date of the prepayment.
  - e) *Offsetting.* Article 5.2 (*Undisbursed loan amounts*) will apply mutatis mutandis to the offsetting of prepayments.
- 5.5 *Revised repayment schedule.* In the event that Article 5.3 (*Disbursements after the start of repayment*) or Article 5.4 (*Prepayment*) applies, KfW will send the Borrower a revised repayment schedule that will become an integral part of this Loan Agreement and will replace the repayment schedule valid until such time.
- 6. Calculations and payments in general**
- 6.1 *Calculation.* Interest, the commitment fee, default interest pursuant to Article 6.5, lump-sum compensation for overdue amounts pursuant to Article 6.6,

- non-acceptance compensation and prepayment compensation will all be calculated on the basis of a 360-day year with 30-day months.
- 6.2 *Due date.* If a payment to be made in connection with this Loan Agreement falls due on a date that is not a Banking Day (as defined in 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, the respective payment shall be effected on the last Banking Day of the then current calendar month.
- 6.3 *Account number, time of crediting.* The Borrower will be released from its payment obligations in connection with this Loan 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 (last digits stand for the GP number)/ held with KfW, Frankfurt am Main, with additional reference of the due date "Ref. YYYYMMDD").
- 6.4 *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 Agreement unless such rights are recognised by final judgment or are not being contested by KfW.
- 6.5 *Default interest.* If any repayment instalments or prepayments pursuant to Article 5.4 (*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 6.3. 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.
- 6.6 *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.

6.7 *Calculations made by KfW.* Absent manifest error KfW's determinations and its calculation of amounts under this Loan Agreement and in connection with this Loan Agreement shall constitute *prima-facie* evidence.

**7. Guarantee from the Federal Republic of Germany**

KfW will have payment claims under this Loan Agreement guaranteed by the Federal Republic of Germany prior to the first disbursement. KfW will inform the Borrower once the Guarantee is in force and effect.

**8. Negative pledge and pari passu**

8.1 *Prohibition of pledge or mortgage.* The Borrower may itself, and must ensure that the participating municipalities will, neither pledge, nor mortgage nor alienate the Project 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.

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

**9. Costs and public charges**

9.1 *Prohibition of deductions or withholdings.* The Borrower will make all payments under this Loan 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 Agreement had no such deduction or withholding been.

9.2 *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 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 Loan 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 6.3.

9.4 *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 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 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.

## 10. Special obligations

10.1 *Project implementation and special information.* The Borrower, represented by the MoES,

- a) will prepare, implement, operate and maintain the Project in conformity with sound financial and technical practices and substantially in accordance with the Project conception agreed upon between the Borrower and KfW;
- b) will assign the preparation and supervision of construction of the Project to independent, qualified consulting engineers or consultants, and the implementation of the Project to qualified firms;
- c) will award the contracts for the goods and services to be financed from the Loan upon prior international competitive bidding;

- d) will ensure the full financing of the Project and furnish to KfW upon its request evidence proving that the costs not paid from this Loan 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 Project and clearly identify the goods and services financed from this Loan;
  - 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 Project, and to visit the Project and all the installations related thereto;
  - g) will furnish to KfW any and all such information and records on the Project and its further progress as KfW may request;
  - h) will, immediately and of its own accord,
    - aa) forward to KfW any queries received by the Borrower 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 of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Project.
- 10.2 *Separate Agreement.* The Borrower, represented by the MoF, MoME and MoES, and KfW shall determine the details of Article 10.1 by a Separate Agreement.
- 10.3 *Compliance.* The Borrower will ensure that the persons whom it entrusts with the preparation and implementation of the Project, 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. **Termination**

- 11.1 *Events of Default.* KfW may exercise the rights set forth under Article 11.2 (*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 Agreement or under separate agreements pertinent to this Loan Agreement have been violated;
  - c) this Loan 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 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 on a standstill agreement or settlement.
- 11.2 *Legal consequences of an Event of Default.* If one of the events referred to in Article 11.1 has occurred and has not been eliminated within a period of five days (in the case of Article 11.1 a) or, in all other cases specified in Article 11.1, has not been resolved within a period determined by KfW which may not, however, be less than 30 days, KfW may terminate this Loan Agreement or any parts of it with the consequence that
- a) its obligations under this Loan 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 Agreement. Articles 6.5 (Default interest) and 6.6 (Lump-sum compensation) apply to accelerated amounts mutatis mutandis.
- 11.3 *Compensation for damages.* In the event that this Loan Agreement is terminated in full or in part the Borrower will pay non-acceptance compensation in accordance with Article 2.6 (*Non-acceptance compensation*)

and/or prepayment compensation in accordance with Article 5.4 c)  
(*Prepayment compensation*).

## **12. Representation and statements**

- 12.1 *Representation of the Borrower.* The Ministers of the MoF, MoME and MoES and such persons as designated by the respective Minister to KfW and authorised by specimen signatures authenticated by the respective Minister will represent the Borrower in the execution and implementation of this Loan Agreement. The Minister of Finance or such persons as designated by him or her shall sign this Loan Agreement for the Republic of Serbia. The MoES shall act as the Project Executing Agency responsible for the implementation of the Project. The MoME shall be closely involved in the implementation of the Project, in particular through its membership in the Programme Coordination Board. 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.
- 12.2 *Addresses.* Notices or statements in connection with this Loan 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 Agreement must be sent to the following addresses:

For KfW:	KfW Department LEa3 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 Kneza Milosa 20, 11000 Belgrade Republic of Serbia Fax: +381 11 3618 961
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### **13. General provisions**

- 13.1 *Banking day.* Where reference is made in this Loan 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.
- 13.2 *Place of performance.* The place of performance of all obligations under this Loan Agreement is Frankfurt am Main, Federal Republic of Germany.
- 13.3 *Partial invalidity and gaps.* If any provision of this Loan Agreement is or becomes invalid, or if there is a gap in any of the provisions of this Loan Agreement, this will not affect the validity of the remaining provisions hereof. The parties to this Loan 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 Agreement.
- 13.4 *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.
- 13.5 *Assignment.* The Borrower may not assign or transfer, pledge or mortgage any claims from this Loan Agreement.
- 13.6 *Applicable law.* This Loan Agreement is governed by the laws of the Federal Republic of Germany.
- 13.7 *Limitation period.* All claims of KfW under this Loan 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.
- 13.8 *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 Agreement and (ii) any and all obligations with respect to any other funds received by the Borrower in relation to the Project, 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.

13.9 *Legal disputes.*

- a) *Arbitration.* All disputes arising out of or in connection with this Loan 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.

13.10 *Transmission of information.* KfW is entitled to transmit to the issuer of the federal guarantee mentioned in Article 7 and to the Federal Republic of Germany information in connection with the conclusion and the execution of this Loan Agreement. KfW, the issuer of the federal guarantee and the Federal Republic of Germany are entitled to pass on information related to the Loan and to the Project 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 and/or the collection and publication of data related to the award of the contracts for the supplies and services to be financed from the 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.

13.11 *Entry into Force.* This Loan Agreement shall not enter into force until the Borrower has informed KfW in writing that the Loan Agreement has been ratified by the National Assembly of the Republic of Serbia (the "Ratification"). If KfW does not receive a notice of Ratification until 28.02.2015, KfW may at any time cancel unilaterally the Loan Agreement, however provided that KfW may not cancel the Loan Agreement after receiving a notice of Ratification.

This Loan Agreement is executed in four originals in the English language.

Belgrade,  
this November 14, 2014

For KfW:

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Dr. Jürgen Welschof,s.r.  
Director  
KfW Office Belgrade

For the Republic of Serbia:

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Dušan Vujović,s.r.  
Minister of Finance

**Disbursement Schedule**

Annex 1

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

<b>Period</b>	<b>until...</b>	<b>Maximum total amount that may be disbursed until end of each disbursement period (accumulated)</b> (all figures in EUR)
1	30.12.2014	1,000,000.00
2	30.06.2015	4,000,000.00
3	30.12.2015	9,000,000.00
4	30.06.2016	12,000,000.00
5	30.12.2016	15,000,000.00

## Annex 2

**Note:** Please amend “Republic of LAND” / “LAND” appropriately.

## **Form of Legal Opinion of the [Minister of Justice and Public Administration] to the Borrower (State)**

*[Letterhead of Legal Adviser]*

KfW

(date)

Department [ ]

Attn: [ ]

Palmengartenstrasse 5 - 9

Postfach 11 11 41

60325 Frankfurt am Main / Germany

Federal Republic of Germany

**Loan Agreement dated . . . and made between KfW, [ . . . ] ("Borrower") and [ . . . ] for an amount not exceeding in aggregate EUR \_\_\_\_\_.000.000,-.**

Dear Sirs,

I am [Minister of Justice and Public Administration 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 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 \_\_.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 Republic of Serbia relating to the conclusion of loan agreements by Republic of 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 parliament 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 Republic 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, except property described in last sentence of the Art. 13.8 of the loan agreement, 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**

zaključen dana 14. novembra 2014. godine

između

**KfW, Frankfurt na Majni**

(u daljem tekstu: „KfW”)

i

**Republike Srbije**

(u daljem tekstu: „Zajmoprimec”)

u iznosu do

**15.000.000 EUR**

za

**-Projekat Energetske efikasnosti u javnim objektima-**  
**(BMZ-ID 2011 66 081)**

## Sadržaj

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## Preambula

Osnov za ovaj sporazum o zajmu čine sporazumi zaključeni 30. juna 2011. godine i 18. oktobra 2012. godine između Vlade Savezne Republike Nemačke i Vlade Republike Srbije o Finansijskoj saradnji (FS) (u daljem tekstu pod zajedničkim nazivom: „**Međudržavni sporazumi**”).

Ukoliko Savezna Republika Nemačka obezbedi subvencionisanje kamatne stope i pod uslovom da Savezna Republika Nemačka izda garanciju za zajam, KfW će odobriti zajam u skladu sa uslovima ovog sporazuma o zajmu. Uslovi zajma su usklađeni sa zahtevima Organizacije za ekonomsku saradnju i razvoj (OECD) koji se primenjuju na dan potpisivanja ovog ugovora o zajmu u cilju njegovog priznavanja kao Zvanične razvojne pomoći (ODA).

Zajmoprimac je podneo zahtev za finansijski doprinos u iznosu do 1,3 miliona evra Investicionom okviru Evropske unije za Zapadni Balkan (WBIF) za svrhu finansiranja konsultantskih usluga za pripremu i sprovođenje projekta „Energetska efikasnost u javnim objektima”. KfW je izneo spremnost da deluje u svojstvu Vodeće međunarodne finansijske institucije u realizaciji bespovratnih sredstava WBIF-a. Nadzorni odbor WBIF-a odobrio je pomenuti zahtev 6. decembra 2012. godine, a bespovratna sredstva će biti isplaćena iz Zajedničkog fonda za Zapadni Balkan (EWBFJ), u okviru WBIF. Stoga, pored ovog sporazuma o zajmu, Zajmoprimac i KfW nameravaju da zaključe Sporazum o finansiranju čim bude potписан Sporazum o sprovođenju programa između EBRD-a kao su-menadžera EWBFJ-a i KfW-a. Ukoliko bespovratna sredstva EWBFJ-a ne budu dovoljna za finansiranje pomenutih konsultantskih usluga, nedostajući iznos će biti finansiran iz ovog sporazuma o zajmu.

### 1. **Zajam**

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

**15.000.000 evra**

(u daljem tekstu: „**Zajam**”).

1.2 *Svrha zajma.* Zajmoprimac će Zajam koristiti isključivo za finansiranje projekta „Energetska efikasnost u javnim objektima” uključujući i sanaciju javnih zgrada radi unapređenja energetske efikasnosti (u daljem tekstu: „**Projekat**”) i konsultantske usluge za sprovođenje Projekta. Zajmoprimac, koga zastupaju Ministarstvo prosvete, nauke i tehnološkog razvoja (u daljem tekstu: „**MPNTR**”) u svojstvu agencije za sprovođenje projekta (u daljem

tekstu: „Agencija za sprovođenje projekta”), Ministarstvo finansija (u daljem tekstu: „**MF**”), Ministarstvo rudarstva i energetike (u daljem tekstu: „**MRE**”) i KfW će definisati detalje Projekta kao i robu i usluge koji će se finansirati iz Zajma posebnim sporazumom (u daljem tekstu: „**Posebni sporazum**”) uz ovaj sporazum o zajmu.

- 1.3 *Porezi, takse, carinske dažbine.* Porezi i druge javne dažbine koje predstavljaju obavezu Zajmoprimca, kao i carinske dažbine, ne mogu se finansirati iz Zajma. Pored pomenutog, roba i usluge koji se uvoze u Republiku Srbiju za svrhe Projekta su izuzeti od carinskih dažbina, a promet robom, uslugama i opremom za potrebe Projekta se oslobađa od plaćanja PDV-a.

## 2. Isplata

- 2.1 *Zahtev za isplatu.* Čim budu ispunjeni svi uslovi koji prethode isplati u skladu sa članom 2.3 ovog sporazuma o zajmu, KfW će na zahtev Zajmoprimca isplatiti Zajam u skladu sa napretkom Projekta. Isplata će biti izvršena prema Planu isplate koji je naveden u Aneksu 1 ovog sporazuma o zajmu. KfW će vršiti isplate samo do visine maksimalnih iznosa utvrđenih za svaki polugodišnji period. U meri u kojoj Zajmoprimac bude zahtevaо isplatu manjeg iznosa, od predviđenih u bilo kom polugodišnjem periodu, Zajmoprimac će moći da zahteva isplatu preostalog dela neisplaćenih iznosa u svakom narednom polugodišnjem periodu. Uz izuzetak poslednje isplate, KfW nije u obavezi da vrši isplate u iznosu nižem od 150.000 evra.
- 2.2 *Rok za podnošenje zahteva za isplatu.* KfW može da odbije zahteve za isplatu nakon 30. decembra 2017. godine.
- 2.3 *Uslovi koji prethode isplati.* KfW je u obavezi da izvrši isplate bilo kog iznosa prema ovom sporazumu o zajmu, isključivo ukoliko su ispunjeni sledeći uslovi koji prethode isplati, i to u obliku i sadržaju koji su prihvatljivi za KfW:
- a) Zajmoprimac će, dostavljanjem pravnog mišljenja koje je u najvećoj mogućoj meri sastavljeno u formi navedenoj u Aneksu 3 ovog sporazuma o zajmu, i dostavljanjem overenih kopija (svaki preveden na nemački ili engleski jezik) svih dokumenata na koje se dato pravno mišljenje odnosi demonstrirati da:
- aa) je Zajmoprimac ispunio sve zahteve prema svom ustavnom pravu i drugim zakonskim odredbama za pravosnažno preuzimanje svih svojih obaveza prema ovom sporazumu o zajmu, i

- bb) je KfW izuzet od plaćanja svih poreza na prihod, kao i troškova kamata, naknada, provizija i sličnih troškova u Republici Srbiji, po osnovu odobravanja Zajma;
- b) je KfW primio potpisani originalni primerak ovog sporazuma o zajmu;
- v) su dostavljeni deponovani potpisi navedeni u članu 12.1 ovog sporazuma o zajmu (Zastupanje Zajmoprimca);
- g) je garancija Savezne Republike Nemačke navedena u članu 7. ovog sporazuma o zajmu, stupila na snagu i da je pravosnažna bez ikakvih ograničenja;
- d) je Zajmoprimac platio proviziju za organizovanje posla predviđenu članom 3.2 ovog sporazuma o zajmu;
- đ) ne postoji nikakav stvarni ili potencijalni razlog za raskid ovog sporazuma o zajmu; i
- e) nisu nastale bilo kakve vanredne okolnosti koje bi mogle da spreče ili ozbiljno ugroze sprovođenje, funkcionisanje ili svrhu Projekta, ili izvršavanje obaveza plaćanja koje Zajmoprimac preuzima u skladu sa ovim sporazumom o zajmu.

KfW ima pravo da pre početka isplate sredstava iz Zajma zahteva dodatna dokumenta i dokaze koje opravdano bude smatrao neophodnim.

- 2.4 *Poseban sporazum.* Posebnim sporazumom Zajmoprimac, koga zastupaju MF, MRE i MPNTR i KfW će definisati proceduru isplate uključujući konkretne uslove koji prethode isplati a naročito dokaze koje Zajmoprimac treba da dostavi, a kojima se dokazuje da su traženi iznosi iz Zajma iskorišćeni u svrhe predviđene ovim sporazumom o zajmu.
- 2.5 *Odricanje od isplate.* Pod uslovom da je ispunio svoje obaveze predviđene članom 10. ovog sporazuma o zajmu, Zajmoprimac se može odreći isplate neisplaćenih delova Zajma uz saglasnost KfW-a, u zamenu za plaćanje naknade za odricanje od isplate u skladu sa članom 2.6 ovog sporazuma o zajmu.
- 2.6 *Naknada za odricanje od isplate.* Ukoliko se Zajmoprimac odrekne nekog iznosa Zajma, ili ukoliko iznos Zajma uopšte nije isplaćen, ili ukoliko nije isplaćen do roka navedenog u članu 2.2 ovog sporazuma o zajmu, iz nekog razloga za koji se KfW ne može smatrati odgovornim, Zajmoprimac će bez odlaganja platiti KfW-u, na zahtev KfW-a, iznos koji je neophodan da bi se KfW-u nadoknadili svi gubici, izdaci ili troškovi koje KfW snosi kao posledicu

odricanja od isplate iznosa predmetnog zajma. KfW će obračunati iznos naknade za odricanje od isplate i o tome obavestiti Zajmoprimca.

### 3. Provizije

- 3.1 *Provizija na nepovučena sredstva Zajma.* Zajmoprimac će platiti bespovratnu proviziju na nepovučena sredstva Zajma u iznosu od 0,25% godišnje na neisplaćeni iznos Zajma. Provizija na nepovučena sredstva Zajma će se obračunavati za period počevši od datuma prve isplate ali najkasnije 6 meseci po potpisivanju ovog sporazuma o zajmu, ili ukoliko ovaj sporazum o zajmu ne stupi na snagu u roku od 6 meseci po njegovom potpisivanju, počevši od datuma stupanja na snagu ovog sporazuma o zajmu u skladu sa članom 13.11 ovog sporazuma o zajmu (Stupanje na snagu), zaključno sa datumom isplate celokupnog Zajma, ili otkazivanja Zajma, šta god da je slučaj.

Provizija na nepovučena sredstva Zajma dospeva na plaćanje polugodišnje i plaća se za protekli period na dan 30. juna i 30. decembra svake godine (svaki pojedinačno u daljem tekstu: „**Dan update**“). Datum za prvu uplatu provizije je 30. decembar 2014. godine.

- 3.2 Zajmoprimac će platiti KfW-u bespovratni jednokratni paušalni iznos na ime provizije za organizovanje posla u iznosu od 0,5% od iznosa glavnice Zajma, navedenog u članu 1.1 ovog sporazuma o zajmu.

Provizija za organizovanje posla dospeva na plaćanje najranije (i) pre prve isplate Zajma ili (ii) po isteku tromesečnog perioda nakon potpisivanja ovog sporazuma o zajmu od strane KfW-a, ili (iii) ukoliko sporazum o zajmu nije stupio na snagu u roku od tri meseca nakon potpisivanja, na dan kada ovaj sporazum o zajmu stupa na snagu u skladu sa članom 13.11. ovog sporazuma o zajmu (Stupanje na snagu).

Nakon potpisivanja ovog sporazuma o zajmu provizija za organizovanje posla postaje naplativa u celosti bez obzira na to da li je Zajam isplaćen u celosti ili uopšte.

### 4. Kamata

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

- 4.1 *Kamata (fiksna kamatna stopa koja se utvrđuje na dan obezbeđenja Zajma.)* Zajmoprimac će plaćati kamatu na Zajam po stopi od 2,10% godišnje (u daljem tekstu: „**Fiksna kamatna stopa**“) dok ne bude primljena poslednja

rata otplate u skladu sa Planom otplate definisanim u članu 5.1 ovog sporazuma o zajmu.

- 4.2 *Obračun kamate i datumi plaćanja kamate.* Kamata na isplaćen iznos Zajma će se zaračunavati od datuma (neuključujući taj dan) kada je dati iznos Zajma isplaćen sa kreditnog računa koji je KfW otvorio za Zajmoprimca do datuma (uključujući i taj dan) kada su pojedinačne rate za otplatu Zajma uplaćene na račun KfW-a kao što je navedeno u članu 6.3 ovog sporazuma o zajmu. Kamata će se obračunavati u skladu sa članom 6.1 ovog sporazuma o zajmu (Obračun). Kamata će se plaćati u obračunatom iznosu na Dan uplate (kao što je definisano u članu 3.1 ovog sporazuma o zajmu).

## 5. Otplata i prevremena otplata

- 5.1 *Plan otplate.* Zajmoprimac će otpaćivati Zajam na sledeći način:

Rata	Datum uplate		Rata otplate	
1	30. decembar	2017	789.000,00	evra
2	30. jun	2018	789.000,00	evra
3	30. decembar	2018	789.000,00	evra
4	30. jun	2019	789.000,00	evra
5	30. decembar	2019	789.000,00	evra
6	30. jun	2020	789.000,00	evra
7	30. decembar	2020	789.000,00	evra
8	30. jun	2021	789.000,00	evra
9	30. decembar	2021	789.000,00	evra
10	30. jun	2022	789.000,00	evra
11	30. decembar	2022	790.000,00	evra
12	30. jun	2023	790.000,00	evra
13	30. decembar	2023	790.000,00	evra
14	30. jun	2024	790.000,00	evra
15	30. decembar	2024	790.000,00	evra
16	30. jun	2025	790.000,00	evra
17	30. decembar	2025	790.000,00	evra
18	30. jun	2026	790.000,00	evra
19	30. decembar	2026	790.000,00	evra
UKUPNO			15.000.000,00	evra

- 5.2 *Neisplaćeni iznosi Zajma.* Neisplaćeni iznosi Zajma se prebijaju u iznosu poslednje dospele rate za otplatu u skladu sa Planom otplate, osim ukoliko KfW po sopstvenom nahođenju ne odabere neki drugi način prebijanja za taj konkretan slučaj.
- 5.3 *Isplate po započinjanju otplate.* Ukoliko određeni iznos Zajma treba da bude isplaćen nakon što je period otplate počeo, to neće uticati na Plan otplate naveden u članu 5.1 ovog sporazuma o zajmu, sve dok predmetna rata otplate koja dospeva na plaćanje prema Planu otplate bude manja od iznosa Zajma koji su već isplaćeni. Ukoliko rata otplate koja dospeva na plaćanje premaši neotplaćeni iznos Zajma, KfW će oduzeti iznos jednak razlici od dospele rate otplate, podeliti je sa preostalim ratama otplate koje još nisu uplaćene i dodati pomenuti iznos svakoj preostaloj rati otplate. KfW zadržava pravo da razmotri odlaganje isplate koja je prispela u roku kraćem od 45 dana pre Dana uplate kako bi se utvrdio iznos preostalog Zajma do drugog narednog Datuma uplate, nakon isplate.

5.4 *Prevremena otplata.* Sledеće odredbe ћe se primenjivati u slučaju prevremene otplate:

- a) *Pravo na prevremenu otplatu.* Zajmoprimac može da, u skladu sa podstavovima (b) do (d) ispod, izvrši prevremenu otplatu iznosa u vezi sa Zajmom, pod uslovom da prevremeno otplaćeni iznos ne bude manji od iznosa jedne rate otplate u skladu sa članom 5.1 ovog ugovora.
- b) *Obaveštenje.* U skladu sa članom 5.4 a) ovog sporazuma o zajmu, prevremena otplata nekog iznosa Zajma mora biti predmet Obaveštenja o prevremenoj otplati koje Zajmoprimac šalje KfW-u najkasnije 15. radnog dana banaka (kao što je definisano u članu 13.1 ovog sporazuma o zajmu) u Frankfurtu na Majni, pre nameravanog dana prevremene otplate. Ovakvo obaveštenje je neopozivo; ono mora da sadrži datum kada ћe prevremena otplata biti izvršena, iznos prevremene otplate i obavezuje Zajmoprimca da naznačenog datuma uplati KfW-u navedeni iznos.
- v) *Nadoknada za prevremenu otplatu.* Ukoliko Zajmoprimac prevremeno otplati bilo koji iznos Zajma na koji se zaračunava fiksna kamatna stopa Zajmoprimac bez odlaganja plaća KfW-u, po zahtevu KfW-a, iznos koji je neophodan da bi se KfW-u nadoknadili svi gubici, izdaci ili troškovi koje KfW snosi kao posledicu prevremene otplate. KfW ћe utvrditi visinu iznosa nadoknade za prevremenu otplatu i o tome obavestiti Zajmoprimca.
- g) *Dospeli iznosi.* zajedno sa prevremenom otplatom, Zajmoprimac takođe plaća sledeće iznose u skladu sa članom 5.4 a) do v) ovog sporazuma o zajmu:
  - aa) svaku naknadu za prevremenu otplatu koja može nastati kao posledica prevremene otplate dela Zajma u skladu sa članom 5.4 v) ovog sporazuma o zajmu; i
  - bb) sve zaračunate kamate na prevremeno otplaćeni deo Zajma nastale do datuma prevremene otplate.
- d) *Prebijanje.* Član 5.2 (*Neisplaćeni iznosi Zajma*) ovog sporazuma o zajmu ћe se primenjivati mutatis mutandis na prebijanje prevremenih otplata.

5.5 *Revidirani Plan otplate.* U slučaju primene člana 5.3 ovog sporazuma o zajmu (*Isplate po započinjanju otplate*) ili člana 5.4 ovog sporazuma o zajmu, (*Prevremena otplata*) KfW ћe Zajmoprimcu dostaviti revidirani Plan otplate

koji će postati sastavni deo ovog sporazuma o zajmu i zameniti Plan otplate koji se primenjivao do tada.

## **6. Obračuni i plaćanja uopšte**

- 6.1 *Obračun.* Kamate, provizija na nepovučena sredstva Zajma, zatezne kamate u skladu sa članom 6.5 ovog sporazuma o zajmu, paušalna nadoknada za zakasnele uplate prema članu 6.6 ovog sporazuma o zajmu, naknada za odricanje od isplate i naknada za prevremenu otplatu se obračunavaju na osnovu godine od 360 dana, sa mesecima koji traju po 30 dana.
- 6.2 *Datum dospeća.* Ukoliko neko plaćanje koje treba da bude izvršeno prema ovom sporazumu o zajmu dospeva na dan koji nije radni dan (kako je definisano u članu 13.1 ovog sporazuma o zajmu) Zajmoprimec će takvo plaćanje izvršiti narednog radnog dana. Ukoliko sledeći radni dan pada narednog kalendarskog meseca, takvo plaćanje mora biti izvršeno poslednjeg radnog dana tekućeg kalendarskog meseca.
- 6.3 *Broj računa, vreme uplate.* Zajmoprimec će biti oslobođen obaveze plaćanja koje proizilaze iz ovog ugovora o zajmu čim se utvrdi da su odgovarajući iznosi uplaćeni KfW-u i da su na raspolaganju KfW-a bez ikakvih umanjenja iznosa u evrima, da je uplata izvršena do 10 sati pre podne u Frankfurtu na Majni, na račun KfW-a: IBAN DE 92 50020400 3122301232 (poslednje cifre označavaju GP broj) otvoren kod KfW-a, Frankfurt na Majni, uz dodatnu naznaku datuma dospeća „godina/mesec/dan”).
- 6.4 *Protivpotraživanja Zajmoprimeca.* Zajmoprimec nema pravo da zahteva zadržavanje ili prebijanje iznosa ili neka druga slična prava u odnosu na obavezu plaćanja prema ovom sporazumu o zajmu, osim ukoliko je takvo pravo priznato konačnom presudom ili ukoliko nije osporeno od strane KfW-a.
- 6.5 *Zatezna kamata.* Ukoliko bilo koja rata otplate ili prevremene otplate u skladu sa članom 5.4 ovog sporazuma o zajmu (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 6.3 ovog sporazuma o zajmu. 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 bez odlaganja čim KfW to zatraži.
- 6.6 *Paušalna nadoknada.* Za neuplaćene dospele iznose (sa izuzetkom rata otplate i prevremene otplate kao što je navedeno u članu 6.5 ovog sporazuma

o zajmu (Zatezna kamata), KfW može bez prethodnog upozorenja, da zahteva uplatu paušalne nadoknade 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 neuplaćenog dospelog iznosa. Paušalna nadoknada mora biti plaćena bez odlaganja, čim KfW to zatraži. Zajmoprimac je sloboden da dokaže da zapravo nije pretrpljena nikakva šteta ili da iznos odštete ne odgovara navedenom iznosu.

- 6.7 *Obračuni od strane KfW-a.* Osim u slučaju očigledne greške, iznosi koje je KfW utvrdio i obračunao prema ovom ugovoru o zajmu i u vezi sa njim, će sačinjavati „prima-facie“ dokaze.

## 7. **Garancija Savezne Republike Nemačke**

Savezna Republika Nemačka će KfW-u izdati garanciju za potraživanja prema ovom sporazumu o zajmu pre prve isplate. KfW će obavestiti Zajmoprimca o stupanju na snagu i početku primene garancije.

## 8. **Negativna zalogu i „pari pasu“ klauzula**

- 8.1 *Zabранa zaloge ili hipoteke.* Zajmoprimac mora osigurati da on sam kao ni lokalne samouprave koje učestvuju u Projektu neće založiti ili staviti pod hipoteku ili otuđiti imovinu Projekta pre otplate celokupnog iznosa Zajma, niti zaključiti bilo kakav drugi sporazum ili aranžman čija bi primena dovela do stvaranja obezbeđenja ili bilo kog prava koje podrazumeva prvenstvo plaćanja bilo koje obaveze prema bilo kom licu bez prethodne saglasnosti KfW-a.
- 8.2 *„Pari pasu“.* U meri u kojoj je to dozvoljeno zakonom, Zajmoprimac preuzima na sebe obaveze prema ovom sporazumu o zajmu „pari pasu“ u odnosu na sve ostale postojeće ili buduće neobezbeđene i neodređene obaveze plaćanja.

## 9. **Troškovi i javne dažbine**

- 9.1 *Zabranu umanjenja i odbitaka.* Zajmoprimac će izvršiti sva plaćanja u skladu sa ovim sporazumom o zajmu bez odbitaka na ime poreza, drugih javnih dažbina ili drugih troškova. U slučaju da Zajmoprimac ima zakonsku ili drugačiju obavezu da izvrši odbitak ili umanjenje iznosa uplate, Zajmoprimac će KfW-u uplatiti neophodne dodatne iznose tako da preostali neto iznos po

izvršenju takvog umanjenja ili odbitka odgovara iznosu koji treba da bude uplaćen u skladu sa ovim sporazumom o zajmu, kao da do pomenutih umanjenja ili odbitaka nije ni došlo.

- 9.2 *Troškovi.* Zajmoprimac će snositi sve troškove nastale u vezi sa isplatom Zajma, naročito troškove doznačavanja i prenosa sredstava (uključujući provizije prilikom konverzije valute), kao i sve troškove i izdatke nastale u vezi sa održavanjem ili sprovođenjem ovog sporazuma o zajmu.
- 9.3 *Porezi i druge dažbine.* Zajmoprimac će snositi sve poreze i druge javne dažbine nastale van Savezne Republike Nemačke u vezi sa zaključivanjem i sprovođenjem ovog sporazuma o zajmu. 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 da bez odlaganja, odmah po zahtevu KfW-a, uplati na račun KfW-a pomenuti iznos kao što je navedeno u članu 6.3 ovog sporazuma o zajmu.
- 9.4 *Uvećanje troškova.* Ukoliko usled
  - a) ispunjenja zahteva izdatih od strane centralne banke ili neke druge fiskalne, monetarne ili druge institucije nakon potpisivanja ovog sporazuma o zajmu,  
ili
  - b) bilo koje promene zakona ili njegove interpretacije i njegovog sprovođenja,  
ili
  - v) stupanja na snagu, raskida ili izmene bilo kog važećeg bilateralnog ili multilateralnog sporazuma ili ugovora, a naročito o dvostrukom oporezivanju, KfW ostvari dodatne troškove ili gubitke ili ne bude u mogućnosti da ostvari dogovorenu maržu na troškove refinansiranja, kao posledicu zaključivanja i finansiranja ovog sporazuma o zajmu (u daljem tekstu: „Uvećani troškovi”), KfW će o tome obavestiti Zajmoprimca. Bilo koji zahtev te vrste od strane KfW-a će biti propraćen obaveštenjem od strane KfW-a koje će sadržati osnov tog zahteva i razumno detaljan obračun pomenutog iznosa. Zajmoprimac će bez odlaganja na zahtev KfW-a obeštetiti KfW u pogledu svih i bilo kojih Uvećanih troškova te vrste. Član 6. ovog sporazuma o zajmu se primenjuje mutatis mutandis.

## **10. Posebne obaveze**

- 10.1 *Sprovođenje Projekta i posebne informacije.* Zajmoprimac koga zastupa MPNTR,

- a) će pripremiti, sprovesti, upravljati i održavati Projekat u skladu sa dobrim finansijskim i tehničkim praksama i u svim pojedinostima u skladu sa konceptom Projekta koji je dogovoren između Zajmoprimeca i KfW-a;
  - b) će poveriti pripremu i nadzor nad građevinskim radovima u okviru Projekta nezavisnim, kvalifikovanim inženjerima konsultantima ili konsultantima, a sprovođenje Projekta kompetentnim firmama;
  - v) će dodeliti ugovore za robu i usluge koji treba da se finansiraju iz Zajma na osnovu prethodno sprovedenih međunarodnih tendera;
  - g) će obezbediti finansiranje Projekta u celosti i dostaviti KfW-u na zahtev KfW-a dokaze kojima se potvrđuje da su troškovi koji se ne finansiraju iz Zajma takođe pokriveni;
  - d) će voditi knjige i evidenciju ili poveriti vođenje knjiga i evidencije u svoje ime, koji nedvosmisleno prikazuju sve troškove robe i usluga neophodnih za Projekat i u kojima su jasno naznačeni robe i usluge koji su finansirani iz ovog Zajma;
  - đ) će u bilo kom trenutku omogućiti predstavnicima KfW-a uvid u takve knjige i evidencije i bilo koju i celokupnu dokumentaciju od značaja za sprovođenje i funkcionisanje Projekta, kao i posete lokacijama Projekta na kojima se izvode radovi u vezi sa Projektom;
  - e) će dostaviti KfW-u bilo koju i sve informacije i evidencije o Projektu i njegovom daljem napredovanju ukoliko KfW to bude zahtevao;
  - ž) će bez odlaganja i samoinicijativno,
    - aa) dostaviti KfW-u bilo kakve upite koje Zajmoprimec bude primio od Organizacije za ekonomsku saradnju i razvoj (OECD) ili njenih članica u skladu sa tzv. „Sporazumom o jedinstvenoj transparentnosti ODA kredita” nakon dodelе ugovora za robu i usluge koji treba da budu finansirani iz Zajma, i koordinirati davanje odgovora na takve upite sa KfW-om, i
    - bb) obavestiti KfW o svim okolnostima koje sprečavaju ili ozbiljno ugrožavaju sprovođenje, upravljanje ili svrhu Projekta.
- 10.2 *Posebni sporazum.* Zajmoprimec, koga zastupaju MF, MRE i MPNTR, i KfW će utvrditi detalje navedene u članu 10.1 ovog sporazuma o zajmu, Posebnim sporazumom.
- 10.3 *Pridržavanje propisa.* Zajmoprimec će obezbediti da lica kojima poveri pripremu i sprovođenje Projekta, dodelu ugovora za nabavku robe ili usluga koje su predmet finansiranja, a koja zahtevaju isplatu određenih iznosa iz

Sredstava Zajma ne zahtevaju, prihvataju, odobravaju, obećavaju ili prihvataju obećanja nezakonitih plaćanja ili nekih drugih koristi u vezi sa pomenutim zadacima.

## **11. Raskid Sporazuma**

- 11.1 *Slučaj neizvršenja obaveza.* KfW može ostvariti prava definisana u članu 11.2 ovog sporazuma o zajmu (*Pravne posledice neizvršenja obaveza*), ukoliko nastane događaj koji sačinjava materijalni osnov. Materijalnim osnovom će se posebno smatrati sledeći događaji:
- a) Zajmoprimac ne izvrši obaveze plaćanja prema KfW-u po dospeću;
  - b) ukoliko dođe do kršenja obaveza prema ovom sporazumu o zajmu ili obaveza prema Posebnom sporazumu koji proističe iz ovog sporazuma o zajmu;
  - v) ukoliko ovaj sporazum o zajmu ili bilo koji njegov deo prestanu da budu obavezujući za Zajmoprimca ili se ne mogu primenjivati na Zajmoprimca;
  - g) ukoliko se ispostavi da su bilo koja izjava, potvrda, informacija ili zastupanje ili garancija koji su po mišljenju KfW-a od ključnog značaja za odobravanje i izvršenje Zajma netačni, dovode u zabludu ili nepotpuni;
  - d) nastanu druge vanredne okolnosti usled kojih se odlaže ili sprečava izvršenje obaveza prema ovom sporazumu o zajmu;
  - đ) Zajmoprimac ne bude u mogućnosti da dokaže da su iznosi Zajma upotrebljeni u dogovorene svrhe;
  - e) nastane bilo koji od sledećih događaja vezano za Zajmoprimca:
    - aa) Zajmoprimac ne bude u mogućnosti da izmiri svoja dugovanja na dogovoren način i po njihovom dospeću;
    - bb) započnu pregovori sa jednim ili više poverilaca Zajmoprimca (uz izuzetak KfW-a) o otpisu neizmirenih dugovanja ili odlaganja plaćanja ili o dogovoru o moratoriju ili poravnanju.
- 11.2 *Pravne posledice u slučaju neizvršenja obaveza po osnovu Zajma.* Ukoliko je nastao bilo koji od slučajeva koji su navedeni u članu 11.1 ovog sporazuma o zajmu, i ukoliko takav slučaj nije rešen u roku od 5 dana (u slučaju člana 11.1 a) ovog sporazuma o zajmu) ili ako, u svim drugim slučajevima navedenim u članu 11.1 ovog sporazuma o zajmu, ne bude otklonjen u roku koji određuje KfW a koji, međutim, ne može biti kraći od 30 dana, KfW može da raskine ovaj sporazum o zajmu ili bilo koji njegov deo što može imati za posledicu sledeće:

- a) prestanak obaveza KfW-a po ovom sporazumu o zajmu, 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. Članovi 6.5 ovog sporazuma o zajmu (Zatezna kamata) i 6.6 ovog sporazuma o zajmu (Paušalna nadoknada), se primenjuju na ubrzani naplatu iznosa mutatis mutandis.
- 11.3 *Odšteta.* U slučaju da ovaj sporazum o zajmu bude u celosti ili delimično raskinut, Zajmoprimac će platiti nadoknadu za odricanje od isplate u skladu sa članom 2.6 ovog sporazuma o zajmu (*Nadoknada za odricanje od isplate*) i/ili nadoknadu za prevremenu otplatu u skladu sa članom 5.4 v) ovog sporazuma o zajmu (*Nadoknada za prevremenu otplatu*).

## **12. Zastupanje i izjave**

- 12.1 *Zastupanje Zajmoprimeca.* Ministri MF, MRE i MPNTR i lica koja nadležni ministar imenuje KfW-u i koja su ovlašćena deponovanim potpisom uz potvrdu odgovarajućeg ministra, zastupaju Zajmoprimeca u izvršenju i sprovođenju ovog sporazuma o zajmu. Ministar finansija ili lica koja je ministar imenovao će potpisati ovaj sporazum o zajmu u ime Republike Srbije. MPNTR će delovati u svojstvu Agencije za sprovođenje projekta koja će biti nadležna za sprovođenje Projekta. MRE će biti uključeno u sprovođenje Projekta, naročito kroz članstvo u Programskom koordinacionom odboru. Ovlašćenje u pogledu zastupanja će se smatrati punovažnim sve dok KfW ne primi izričiti opoziv od predstavnika Zajmoprimeca ovlašćenog u tom trenutku.
- 12.2 *Adrese.* Obaveštenja ili izjave u vezi sa ovim sporazumom o zajmu moraju biti u pisanim obliku. Ona se šalju u vidu originala ili – sa izuzetkom zahteva za isplatu – faksom. Sva obaveštenja i izjave date u vezi sa ovim sporazumom o zajmu moraju biti poslati na sledeće adrese:

Za KfW:

KfW

Department LEa3

Postfach 11 11 41

60046 Frankfurt am Main / Germany

Germany

Fax: +49 69 7431-2944

Za Zajmoprimeca:

Ministarstvo finansija

Kneza Miloša 20,  
11000 Beograd  
Republika Srbija  
Faks: +381 11 3618 961

### **13. Opšte odredbe**

- 13.1 *Radni dan banaka.* Kada se u ovom sporazumu o zajmu pominje „radni dan banaka”, to označava dan koji nije subota ili nedelja, na koji poslovne banke u Frankfurtu na Majni rade radi obavljanja opštih poslova.
- 13.2 *Mesto izvršenja.* Mesto izvršenja svih obaveza po ovom sporazumu o zajmu je Frankfurt na Majni, Savezna Republika Nemačka.
- 13.3 *Delimično nevažeće i neslaganje.* Ukoliko bilo koja odredba ovog sporazuma o zajmu jeste ili postane nevažeća, ili ukoliko postoji neslaganje između bilo kojih odredaba ovog sporazuma o zajmu, to neće imati uticaja na valjanost ostalih odredbi Sporazuma o zajmu. Sporazumne strane će zameniti sve nevažeće odredbe pravno važećim odredbama koje su sačinjene najbliže duhu i svrsi nevažećih odredbi. Sporazumne strane će ispraviti svako neslaganje među odredbama pravno valjanim odredbama koje su najbliže duhu i svrsi ovog sporazuma o zajmu.
- 13.4 *Pisani oblik.* Izmene i dopune ovog sporazuma o zajmu moraju biti u pisanim oblicima. Ugovorne strane moraju da u pisanim oblicima najave svako odstupanje u odnosu na ovaj zahtev.
- 13.5 *Ustupanje.* Zajmoprimac ne može da ustupi ili prenese, založi ili stavi pod hipoteku bilo koje potraživanje iz ovog sporazuma o zajmu.
- 13.6 *Merodavno pravo.* Za ovaj sporazum o zajmu merodavni su zakoni Savezne Republike Nemačke.
- 13.7 *Rok zastarevanja.* Sva potraživanja KfW-a prema ovom sporazumu o zajmu ističu nakon pet godina od kraja godine u kojoj je nastalo potraživanje i u kojoj KfW postane svestan okolnosti u kojima je takvo potraživanje nastalo, ili ih je mogao biti svestan da nije bilo krajnje nepažnje.
- 13.8 *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 Zajmoprimeca prema ovom sporazumu o zajmu i (ii) svih i bilo koje obaveze u vezi sa drugim sredstvima koje je Zajmoprimac dobio u vezi sa Projektom, i izvršenjem

takvih obaveza, ovim neopozivo saglašava da neće imati takve zahteve i ovime se odriče takvog imuniteta. Ovo odricanje od imuniteta se neće odnositi na imovinu koja (i) se koristi u okviru diplomatskih, konzularnih, specijalnih misija i misija pri međunarodnim organizacijama ili međunarodnim konferencijama države Zajmodavca ili (ii) je vojnog karaktera ili pod kontrolom vojnih organa.

13.9 *Pravni sporovi.*

- a) *Arbitraža.* Sve sporove nastale na osnovu ili u vezi sa ovim sporazumom o zajmu rešavaće isključivo i konačno Arbitržani 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 vremenom na vreme mogu biti izmenjena.
  - bb) Arbitražni postupak se vodi u Frankfurtu na Majni. Postupak se vodi na engleskom jeziku.

13.10 *Prenos informacija.* KfW ima pravo da prenese izdavaocu savezne garancije koja je navedena u članu 7. ovog sporazuma o zajmu i Saveznoj Republici Nemačkoj, informacije u vezi sa zaključivanjem i izvršenjem ovog sporazuma o zajmu. KfW, izdavalac savezne garancije i Savezna Republika Nemačka imaju pravo da proslede dalje informacije u vezi sa Zajmom i Projektom uključujući informacije vezane za dodelu ugovora za nabavku roba i usluga koji se finansiraju iz sredstava Zajma, međunarodnim organizacijama koje se bave prikupljanjem statističkih podataka, naročito u vezi sa servisiranjem duga, i/ili prikupljanjem i objavljinjanjem podataka u pogledu dodeljivanja ugovora za robe i usluge koji treba da budu finansirani iz Zajma. Navedeno pravo za prosleđivanje informacija međunarodnim organizacijama obuhvata i pravo direktnog prenošenja takvih informacija članovima takvih organizacija.

13.11 *Stupanje na snagu.* Ovaj sporazum o zajmu neće stupiti na snagu sve dok Zajmoprimec ne obavesti KfW u pisanom obliku da je Narodna skupština ratifikovala (potvrdila) ovaj sporazum o zajmu (u daljem tekstu: „Ratifikacija”). Ukoliko KfW ne dobije obaveštenje o Ratifikaciji do 28. februara 2015. godine, KfW može da u bilo kom trenutku jednostrano raskine Sporazum o zajmu, međutim, pod uslovom da KfW ne može da otkaže Sporazum o zajmu nakon prijema obaveštenja o Ratifikaciji.

Ovaj sporazum o zajmu je sačinjen u četiri originalna primerka na engleskom jeziku.

Beograd,  
na dan 14. novembar 2014. godine

Za KfW:

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Dr. Jürgen Welschof  
Direktor KfW  
Kancelarije u Beogradu

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Vibeke Christensen  
Viši Menadžer projekta

Za Republiku Srbiju:

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dr Dušan Vujović  
Ministar finansija

Aneks 1

**Plan isplate sredstava**

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

<b>Period</b>	<b>do...</b>	<b>Maksimalni ukupni iznos koji može biti isplaćen do kraja svakog perioda isplate (zbirno)</b> (svi iznosi su u evrima)
1	30.12.2014.	1.000.000,00
2	30.06.2015.	4.000.000,00
3	30.12.2015.	9.000.000,00
4	30.06.2016.	12.000.000,00
5	30.12.2016.	15.000.000,00

Aneks 2

**Napomena:** Molimo izmenite „Republika DRŽAVA” / „DRŽAVA” prema slučaju.

**Forma pravnog mišljenja [Ministra pravde i državne uprave]  
Zajmoprimca (državi)**

[Memorandum pravnog savetnika]

KfW  
(datum)

Odeljenje [ . . . ]  
Za: [ . . . ]  
Palmengartenstrasse 5 - 9  
Postfach 11 11 41  
60325 Frankfurt am Main / Germany

Savezna Republika Nemačka

**Sporazum o zajmu od (datum). . . sačinjen između KfW-a [ . . . ] (u daljem tekstu: „Zajmoprimac”) i [ . . . ] za ukupan iznos do \_\_.000.000,00 evra**

Poštovani,

Ja sam [ministar pravde i državne uprave...] [pravni savetnik] [načelnik pravne službe . . . . (molimo navedite ministarstvo ili drugi organ)] Republike Srbije. U tom svojstvu nastupam u vezi sa Sporazumom o zajmu od (datum) koji je sačinjen između Zajmoprimca, (...) i, [ . . . ] i Vas, a čiji je predmet Zajam koji Vi treba da odobrite Zajmoprimcu, u ukupnom iznosu koji ne prelazi \_\_.000.000,00 evra (u daljem tekstu: „**Sporazum o zajmu**”).

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), propisno objavljene u ... br. ..., str. ..., i njihove izmene (molimo ovde navedite zakone (npr. budžetske zakone) koji se odnose na novčane pozajmice Republike Srbije);
- (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 predmetnog Sporazuma o zajmu]; i
- (g) Sporazum o finansijskoj saradnji između Vlade Republike Srbije i Vlade Savezne Republike Nemačke od (datum) (u daljem tekstu: „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

Za 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 o....  
*[molimo navedite odgovarajući dokument]* Zajmoprimec ima pravo da sklopi Sporazum o zajmu i preuzeo je sve neophodne mere da ovlasti sprovođenje, izvršavanje i izvođenje Sporazuma o zajmu, a posebno na osnovu:
  - (a) Zakona br. .... od (datum) Narodne skupštine Republike Srbije, kojima se ratificuje Sporazum o zajmu /odobrava sprovođenje, izvršavanje i izvođenje Sporazuma o zajmu od strane Zajmoprimeca/... (*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 u skladu sa ... (npr. zakonom u skladu sa svojom funkcijom (npr. ministra..., ...), odukom Vlade..., ovlašćenjem... od (datum), itd.) da samostalno/ zajednički potpiše/u Sporazum o zajmu u ime Zajmoprimeca. Potpisivanjem g-đe/g-dina... (i g-đe/g-dina...) Sporazum o zajmu se propisno izvršava u ime Zajmoprimeca i predstavlja pravno obavezujuću obavezu Zajmoprimeca čije neispunjavanje podleže primeni zakona u skladu sa uslovima Sporazuma o zajmu.

**[Alternativa 1 Za Poglavlje 2.3, koje se primenjuje ukoliko je, osim dokumenata navedenih u Poglavlju 2.1 i 2.2 potrebno pribaviti i neka zvanična ovlašćenja itd. u skladu sa zakonima Republike Srbije:]**

- 2.3 Za izvršenje i izvođenje Sporazuma o zajmu od strane Zajmoprimeca (uključujući, bez ikakvih ograničenja, prikupljanje i prosleđivanje KfW-u svih iznosa dospelih u skladu sa Sporazumom o zajmu u valutama koje su njime predviđene), pribavljena su sledeća pravosnažna zvanična odobrenja, dozvole, licence, 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 saglasnosti].

U vezi sa izvršenjem i izvođenjem Sporazuma o zajmu od strane Zajmoprimeca, kao i u pogledu važenja i primenjivosti obaveza Zajmoprimeca u skladu sa ovim sporazumom o zajmu, nisu potrebna niti su preporučljiva nikakva dodatna zvanična odobrenja, saglasnosti, dozvole, i/ ili registracije koje izdaje bilo koja državna 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 o zajmu u navedenim valutama).

**[Alternativa 2 za Poglavlje 2.3, koje se primenjuje samo uz dokumente 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 prenos KfW-u svih dospelih iznosa u skladu sa Sporazumom o zajmu u navedenim valutama) i pravosnažnosti i izvršenja obaveza Zajmoprimeca prema ovom Sporazumu o zajmu, nisu potrebna niti su preporučljiva nikakva zvanična ovlašćenja, saglasnosti, dozvole, registracije i/ili odobrenja državnih institucija ili agencija (uključujući Centralnu/ Narodnu banku Republike Srbije) ili suda.
- 2.4 U vezi sa pravosnažnošću ili sprovođenjem Sporazuma o zajmu nije potrebno plaćanje nikakvih taksi ili sličnih nameta.
- 2.5 Izbor zakona Savezne Republike Nemačke koji je merodavan za Sporazum o zajmu i pristupanje arbitraži u skladu sa članom 14.9 Sporazuma o zajmu su važeći i obavezujući. Odluka arbitražnog suda protiv Zajmoprimeca se priznaje i primenjiva je 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 izvršenje i sprovođenje Sporazuma o zajmu od strane Zajmoprimca čine privatne i poslovne radnje, a ne državne ili javne poslove. Ni Zajmoprimac niti bilo koji deo njegove imovine, osim imovine navedene u poslednjoj rečenici člana 13.8 Sporazuma o zajmu, nemaju pravo na imunitet od arbitraže, sudskog postupka, izvršenja, zaplene ili drugih pravnih radnji.
- 2.8 Sporazum o saradnji je punovažan 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 licem, da ima boravak ili sedište, ili posluje, i podleže oporezivanju u Republici Srbiji isključivo na osnovu sprovođenja ili izvršavanja Sporazuma o zajmu. Nije neophodno niti preporučljivo da KfW ima dozvolu, kvalifikaciju ili da na neki drugi način ostvaruje pravo da posluje ili da imenuje svoje zastupnike ili predstavnike u Republici Srbiji.

Na osnovu gore iznetog, obaveze Zajmoprimca u skladu sa Sporazumom o zajmu su direktnе i bezuslovne, pravno punovažne i obavezujuće za Zajmoprimca i predstavljaju zakonsku obavezu Zajmoprimca u skladu sa uslovima utvrđenim u Sporazumu o zajmu.

Ovo pravno mišljenje je ograničeno na zakone Republike Srbije.

....., .....

(mesto)

(datum)

[*Potpis*]

Ime:

Prilozi:

**Napomena: Molimo priložite overene kopije dokumenata i zakonskih odredaba 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 gore navedenih dokumenata ukoliko takav dokument već nije objavljen na engleskom ili nemačkom jeziku kao zvaničnim jezicima.**

**Član 3.**

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