

ZAKON

O POTVRĐIVANJU SPORAZUMA O ZAJMU IZMEĐU KfW, FRANKFURT NA MAJNI I REPUBLIKE SRBIJE – PROGRAM PODSTICANJA OBNOVLJIVE ENERGIJE: RAZVOJ TRŽIŠTA BIOMASE U REPUBLICI SRBIJI (PRVA KOMPONENTA)

Član 1.

Potvrđuje se Sporazum o zajmu između KfW, Frankfurt na Majni i Republike Srbije – Program podsticanja obnovljive energije: Razvoj tržišta biomase u Republici Srbiji (prva komponenta), koji je potpisan 21. juna 2017. godine u Beogradu, u originalu na engleskom jeziku.

Član 2.

Tekst Sporazuma o zajmu između KfW, Frankfurt na Majni i Republike Srbije – Program podsticanja obnovljive energije: Razvoj tržišta biomase u Republici Srbiji (prva komponenta), u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

Loan Agreement

dated 21.06.2017

between

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

and

**the Republic of Serbia
("Borrower")**
represented by the Minister of Finance

for

EUR 20,000,000.00

for the Program:

**- Promotion of Renewable Energies: Developing the Biomass
Market in the Republic of Serbia (first component) -**

Loan ID: 28111

BMZ ID: 201197888

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PREAMBLE

The program "Promotion of Renewable Energies: Developing the Biomass Market in the Republic of Serbia (first component)" will be co-financed by the Federal Republic of Germany (the "**German Contribution**") and the Swiss Confederation (the "**Swiss Contribution**").

The Swiss Contribution in the amount of EUR 5,000,000.00 (less KfW's implementation fee) will be made available to the Borrower through KfW by means of a separate financing agreement (the "**Financing Agreement I**").

The German Contribution in the amount of EUR 22,000,000.00 will be made available through KfW by means of this loan agreement (the "**Loan Agreement**") and a separate financing agreement (the "**Financing Agreement II**").

The loan to be provided under this Loan Agreement and the financial contributions to be provided under the Financing Agreements I and II are hereinafter collectively referred to as the "**Program Funds**".

The basis for this Loan Agreement between KfW and the Borrower is the commitment by the Government of the Federal Republic of Germany dated 16 December 2011 and the Summary Record of the Negotiations on Development Cooperation between the Government of the Federal Republic of Germany and the Government of the Republic of Serbia held in Belgrade on 18 October 2012.

KfW will refinance the Loan granted in accordance with the conditions of this Loan Agreement with interest subsidies from low-interest budget funds provided by the Federal Republic of Germany for projects that meet development-policy eligibility criteria. The terms and conditions of the Loan comply with the OECD requirements applicable on the date of signing of the Agreement for recognition as Official Development Assistance (ODA).

On this basis and under the condition that the Federal Republic of Germany extends a guarantee for the Loan, KfW will grant a Loan in accordance with the terms and conditions of this Loan Agreement.

1. Loan

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

EUR 20,000,000.00 ("Loan").

1.2 *Purpose.* The Borrower shall use the Loan exclusively to finance (i) the construction and retrofitting of district heating systems based on renewable energy sources (the "**Investments**") and (ii) corresponding engineering services ("**Engineering Services**") for selected municipalities or their corresponding district heating companies ("**Program-Executing Agencies**") in the Republic of Serbia ("**Program**"). To this end, the Borrower shall channel the Loan in full, except for the costs for the Engineering Services in the estimated amount of EUR 700,000.00, to the Program-Executing Agencies in accordance with the conditions set forth in Article 2 and ensure that the Program-Executing Agencies will use the Loan exclusively to finance the Investments. The Borrower, through the Ministry of Finance ("**MoF**") and the Ministry of Mining and Energy ("**MoME**"), and KfW will determine the details of the Program and the supplies and services to be financed from the Loan by a separate agreement ("**Separate Agreement**").

1.3 *Taxes, charges, customs duties.* Taxes and other public charges owed by the Borrower or the Program-Executing Agencies as well as customs duties will not be financed from the Loan.

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

2. Channelling of the Loan

2.1 *Channelling of the Loan to the Program-Executing Agencies.* The Borrower shall channel the Loan in full, except for the costs for Engineering Services, to the Program-Executing Agencies under separate on-lending agreements ("**Trilateral Agreements**") concluded between the Borrower, selected municipalities and their corresponding district heating companies. The terms and conditions of such Trilateral Agreements shall be at least as favorable as the terms and conditions set out in Articles 5.1 and 6.1 hereof.

2.2 *Certified translation.* Prior to the first disbursement from the Loan, the Borrower through the MoME shall send KfW certified English translations of the Trilateral Agreements. This does not apply to disbursements related exclusively to the Engineering Services.

2.3 *No liability of the Program-Executing Agencies.* The channeling of the Loan shall not constitute any liability of the Program-Executing Agencies to KfW for payment obligations under this Loan Agreement, but will not exclude them from payment obligations towards the Borrower.

3. Disbursement

3.1 *Requesting disbursements.* As soon as all conditions precedent to disbursement pursuant to Article 3.3 hereof are fulfilled, KfW will disburse the Loan in accordance with the progress of the Program and upon request of the Borrower. Disbursements will be made 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 of the

next ensuing half-year periods. With the exception of disbursements for the Engineering Services and of the last disbursement for the Investments, KfW is not obligated to make disbursements of less than EUR 200,000.00.

3.2 *Deadline for requesting disbursements.* KfW may refuse to make disbursements after 30 December 2021. KfW and the Borrower may agree on an extension of this deadline in writing by way of an exchange of letters.

3.3 *Conditions precedent to disbursement.* KfW is obligated to make disbursements under this Loan Agreement only if the following conditions precedent have been fulfilled in a manner satisfactory to KfW in form and substance:

a) The Borrower will have demonstrated to the satisfaction of KfW, by presenting a legal opinion the content of which is essentially in conformity with the specimen in Annex 2 hereof and by presenting certified copies (each with an official translation into the language of this Loan Agreement) of all documents to which such Legal Opinion refers, that the Loan Agreement is legally effective and enforceable and, in particular, that

- (i) the Borrower has met all requirements under its constitutional law and other applicable legal provisions for the valid assumption of all its obligations under this Loan Agreement, and
- (ii) KfW is exempted from all taxes on income from interest earnings and all levies, commissions and similar costs in the Republic of Serbia when granting the Loan;

b) KfW is in possession of an original of this Loan Agreement and the Separate Agreement, each signed with legally binding force;

c) the specimen signatures mentioned in Article 13.1 hereof have been received by KfW;

d) the guarantee from the Federal Republic of Germany mentioned in Article 8 is in force and effect without any restriction. KfW will inform the Borrower once the Guarantee is in force and effect. The form of confirmation letter to be provided by KfW will be enclosed as Annex 3 to this Loan Agreement;

e) the Borrower has paid the Management Fee set forth in Article 4.2 hereof;

f) no reason for termination has occurred, nor has an incident occurred that would become a cause for termination by notification or expiration or ascertainment or fulfilment of a condition (potential reason for termination);

g) no extraordinary circumstances have arisen that preclude or seriously jeopardise the implementation, the operation, or the purpose of the Program or the performance of the payment obligations assumed by the Borrower under this Loan Agreement; and

h) KfW has received a certified English translation of the Trilateral Agreements in accordance with Article 2.1 hereof, whereby this condition shall not apply to disbursements exclusively related to the Engineering Services as set out in Article 2.2 hereof.

KfW has the right prior to any disbursement from the Loan to demand such further documents and evidence as it deems necessary at its discretion (acting reasonably in accordance with regulations and policies applicable to KfW and/or international banking practise) to ascertain the conditions precedent for disbursement specified in this section.

- 3.4 *Details of the disbursement procedure.* The Borrower, through the MoME, and KfW will determine the details of the disbursement procedure by the Separate Agreement and, in particular, the evidence that has to be furnished by the Borrower through the MoME documenting that the requested Loan amounts are being used for the agreed purpose.
- 3.5 *Right to cancel disbursements.* Subject to the fulfilment of its obligations under Article 11 hereof the Borrower may waive the disbursement of undisbursed Loan amounts with the prior consent of KfW against payment of a **Non-acceptance Compensation** pursuant to and as defined in Article 3.6 hereof.
- 3.6 *Non-acceptance Compensation.* If the Borrower cancels the disbursement of a Loan amount pursuant to Article 3.5 hereof, or if such Loan amount is not disbursed at all or is not disbursed by the deadline stated in Article 3.2 hereof, 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-disbursement of the Loan amount ("**Non-acceptance Compensation**"), unless such non-disbursement constitutes a breach of this Agreement by KfW. KfW will calculate the amount of the Non-acceptance Compensation in a reasonable manner and communicate it to the Borrower.

4. Fees

- 4.1 *Commitment Fee.* The Borrower will pay a non-refundable commitment fee of 0.25 % p. a. ("**Commitment Fee**") on undisbursed Loan amounts.

The Commitment Fee is due for payment semi-annually in arrears on 15 May and 15 November of each year, for the first time on 15 November 2017 but no earlier than on the respective date following the day on which this Loan Agreement enters into force and effect pursuant to Article 15.10 hereof.

The Commitment Fee will be charged if applicable with retroactive effect for the period beginning twelve months after the signing of this Loan Agreement and lasting until the date of disbursement of the Loan in full or, if applicable, until the date of definitive termination of disbursements from the Loan.

- 4.2 *Management Fee.* The Borrower will pay KfW a non-refundable one-time lump-sum management fee of 0.50 % of the Loan amount stated in Article 1.1 hereof ("**Management Fee**").

The Management Fee is payable on the earliest of the following two dates: (i) before the first disbursement or (ii) after six months have elapsed since the signing of this Loan Agreement by KfW or after one month has elapsed since the entry into force and effect of this Loan Agreement (whichever of the dates stated under (ii) occurs later). The Management Fee is due for payment as soon as this Agreement has been signed irrespective of whether the Loan is disbursed in full or only in part or at all.

5. Interest

The Borrower will pay interest to KfW as follows:

- 5.1 *Interest (Fixed Interest Rate set upon commitment of the Loan).* The Borrower will pay interest on the Loan at a rate of 1.10% p. a. ("**Fixed Interest Rate**") until the last repayment instalment has been received in accordance with the repayment schedule set out in Article 6.1 hereof.
- 5.2 *Interest calculation.* Interest on a disbursed Loan amount will be charged from the date (exclusively) on which the respective Loan amount is disbursed from the Loan account held with KfW for the Borrower until the date (inclusively) on

which the respective repayments are credited to KfW's account specified in Article 7.3 hereof. Interest will be calculated in accordance with Article 7.1 hereof.

5.3 *Payment Dates.* Interest will be due in arrears for payment on the dates specified below (each a "**Payment Date**"):

a) prior to the due date of the first repayment instalment, on 15 May and 15 November of each year, for the first time on 15 November 2017 but no earlier than on the Payment Date following the day on which this Loan Agreement enters into force and effect pursuant to Article 15.10 hereof;

b) the due date of the first repayment instalment pursuant to Article 6.1 hereof together with such instalment;

c) thereafter on the due dates of the repayment instalments pursuant to Article 6.1 hereof.

6. Repayment and prepayment

6.1 *Repayment schedule.* The repayment period shall not be longer than fifteen (15) years, including up to five (5) years of grace period. The Borrower will repay the Loan as follows:

Instalment	Due Date	Amount in EUR
1	15.05.2022	952,000.00
2	15.11.2022	952,000.00
3	15.05.2023	952,000.00
4	15.11.2023	952,000.00
5	15.05.2024	952,000.00
6	15.11.2024	952,000.00
7	15.05.2025	952,000.00
8	15.11.2025	952,000.00
9	15.05.2026	952,000.00
10	15.11.2026	952,000.00
11	15.05.2027	952,000.00
12	15.11.2027	952,000.00
13	15.05.2028	952,000.00
14	15.11.2028	953,000.00
15	15.05.2029	953,000.00
16	15.11.2029	953,000.00
17	15.05.2030	953,000.00
18	15.11.2030	953,000.00
19	15.05.2031	953,000.00
20	15.11.2031	953,000.00
21	15.05.2032	953,000.00

- 6.2 *Undisbursed Loan amounts.* Undisbursed Loan amounts will be offset against the respective last repayment instalment due pursuant to the repayment schedule set forth in Article 6.1 hereof unless KfW at its own discretion after prior consultation with the Borrower, chooses another offsetting alternative in individual cases.
- 6.3 *Repayments in case of incomplete disbursement.* If a repayment instalment is due before the Loan has been disbursed in full, this will not affect the repayment schedule pursuant to Article 6.1 hereof as long as the repayment instalment due under the repayment schedule is lower than the Loan amount disbursed and not yet repaid ("**Outstanding Loan Amount**"). If the repayment instalment due in accordance with Article 6.1 hereof exceeds the Outstanding Loan Amount, such repayment instalment will be reduced to the level of the Outstanding Loan Amount and the difference will be allocated evenly to the repayment instalments still outstanding. In computing the Outstanding Loan Amount KfW reserves the right to consider disbursements from the Loan that are made within a period of 45 or fewer days before a Payment Date to determine the Outstanding Loan Amount only for the next ensuing Payment Date.
- 6.4 *Prepayment.* The following will apply to prepayments:
- a) *Right to prepayment.* Subject to the following paragraphs 6.4 b) to 6.4 e) hereof, the Borrower has the right to repay Loan amounts before the scheduled due date if this prepayment is at least in the amount of a repayment instalment pursuant to Article 6.1 hereof.
 - b) *Notification.* Prepayment of a Loan amount pursuant to Article 6.4 a) hereof is subject to notification of the prepayment by the Borrower to KfW no later than on the fifteenth **Banking Day** (as defined in Article 15.1 hereof) prior to the intended prepayment date. Such notice is irrevocable; it must specify the date and the amount of the prepayment and obligates the Borrower to pay to KfW the stated amount on the stated date.
 - c) *Prepayment Compensation.* If the Borrower prepays a fixed interest Loan amount the Borrower will immediately pay to KfW on demand such amount as is necessary to compensate for any losses, expenses or costs incurred by KfW as a result of such prepayment (the "**Prepayment Compensation**"). KfW will determine the amount of the Prepayment Compensation and communicate it to the Borrower. At the request of the Borrower KfW will provide the Borrower with an indication of the amount of the prepayment fee prior to the required irrevocable notification of the repayment pursuant to Article 6.4 b) hereof.
 - d) *Amounts due.* Together with the prepayment pursuant to Article 6.4 a) hereof, the Borrower will pay the following amounts:
 - (i) any Prepayment Compensation due as a result of the prepayment pursuant to Article 6.4 c) hereof; and
 - (ii) all interest accrued on the prepaid Loan amount and any other payments still outstanding under this Agreement that have accrued until the date of the prepayment.
 - e) *Offsetting.* Article 6.2 hereof will apply mutatis mutandis to the offsetting of prepayments.
- 6.5 *Revised repayment schedule.* In the event that Article 6.3 or Article 6.4 hereof 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.

7. Calculations and payments in general

- 7.1 *Calculation.* Interest, the Commitment Fee, default interest pursuant to Article 7.5 hereof, lump-sum compensation payments for overdue amounts pursuant to Article 7.6 hereof, Non-acceptance Compensation and Prepayment Compensation will be calculated on the basis of a 360-day year with thirty-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, 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 last Banking Day of the current calendar month.
- 7.3 *Account number, time of crediting.* The Borrower will be released from its payment obligations in connection with this Agreement if and to the extent that the respective amounts have been credited to KfW at its free disposal without any deductions in euros and no later than at 10.00 a.m. in Frankfurt am Main, Federal Republic of Germany, to KfW's account in Frankfurt am Main, Federal Republic of Germany, number IBAN DE DE92 5002 0400 3122 3012 32 stating the due date as an additional reference ("Ref. YYYYMMDD").
- 7.4 *Counterclaims of the Borrower.* The Borrower is not entitled to assert any rights of retention or set-off or comparable rights against payment obligations under this Loan Agreement unless such rights are recognised by declaratory judgment or are not being contested by KfW.
- 7.5 *Default interest.* If any repayment instalments or prepayments pursuant to Article 6.4 hereof are not at the disposal of KfW when due, KfW may without prior reminder charge default interest at the rate of 200 basis points above the interest rate *per annum* set out in Article 5.1 hereof 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 hereof. Such default interest must be paid immediately upon KfW's first demand.
- 7.6 *Lump-sum compensation.* KfW may without prior reminder request lump-sum compensation on overdue amounts (with the exception of the repayment instalments and prepayments mentioned in Article 7.5 hereof) from the due date until the date of payment at a rate of 200 basis points above the Fixed Interest Rate *per annum* pursuant to Article 5.1 hereof. The lump-sum compensation must be paid immediately upon KfW's first demand. The Borrower is free to demonstrate that no damages have occurred or that the damages were less than the lump-sum compensation.
- 7.7 *Offsetting.* KfW has the right to offset payments received against payments due under this Loan Agreement.
- 7.8 *Calculations made by KfW.* Absent manifest errors, the values calculated by KfW and calculations performed by KfW of amounts due in connection with this Loan Agreement constitute *prima-facie* evidence (*Anscheinsbeweis*).

8. 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.

9. Illegality

If, in any applicable jurisdiction, it becomes unlawful for KfW to perform any of its obligations as contemplated by this Loan Agreement or to fund or maintain the Loan (the "Illegality Event"), upon KfW notifying the Borrower

- a) the commitment of KfW will be immediately cancelled, and
- b) the Borrower shall repay the Loan in full on the date specified by KfW in the notice delivered to the Borrower by KfW (being no earlier than the last day of any applicable grace period permitted by law).

In its notice hereunder, KfW will provide a reasonable explanation regarding the Illegality Event. KfW and the Borrower may agree on another repayment date or on repayment in instalments.

For the avoidance of doubt, any cancellation hereunder will be subject to Article 3.6.

10. Costs and public charges

- 10.1 *No 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 make any such deductions or withholdings on payments, the payments made by the Borrower will increase by such amount as necessary for KfW to receive in full the amounts due under this Loan Agreement after deduction of taxes and charges.
- 10.2 *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 Loan Agreement and of any other document related to this Loan Agreement as well as of all rights resulting therefrom.
- 10.3 *Taxes and other charges.* The Borrower will bear all taxes and other public charges accruing outside the Federal Republic of Germany in connection with the conclusion and execution of this Loan Agreement. If KfW advances such taxes or charges, the Borrower will transfer them without delay upon request to KfW's account specified in Article 7.3 hereof or to such other account as specified by KfW.

11. Special obligations

- 11.1 *Program implementation and special information.* The Borrower through the MoME will itself and will ensure that the Program-Executing Agencies will:
 - a) prepare, implement, operate and maintain the Program in conformity with sound financial and technical practices, in compliance with environmental and social standards and substantially in accordance with the Program conception and the aide memoire dated 29 July 2016 agreed upon between the Borrower and KfW;
 - b) assign the preparation and supervision of construction of the Program to independent, qualified consulting engineers or consultants, and the implementation of the Program to qualified firms;
 - c) award the contracts for the goods and services to be financed from the Loan (Article 11.1 b hereof) and other Program Funds upon prior international public competitive bidding in accordance with the KfW Guidelines for Procurement of Goods, Works and associated Services and the KfW

Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries, except for the contracts for the Engineering Services for geothermal energy measures which may be awarded directly;

d) ensure the full financing of the Program and furnish to KfW upon its request evidence proving that the costs not paid from this Loan are covered;

e) keep books and records or have books and records kept that unequivocally show all costs of goods and services required for the Program and clearly identify the goods and services financed from this Loan;

f) enable KfW and its agents at any time to inspect such books and records and any and all other documentation relevant to the implementation and operation of the Program, and to visit the Program and all the installations related thereto;

g) furnish to KfW any and all such information and records on the Program and its further progress as KfW may reasonably request;

h) notify KfW of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Program;

i) furnish to KfW any and all such information on the Program-Executing Agencies' financial situation as KfW may reasonably request and to keep such information confidential subject to Article 14;

j) in case of the respective district-heating companies being the Program-Executing Agencies send audited financial statements with the balance sheet and profit and loss accounts and relevant notes to KfW as soon as possible but in any case within seven months after the end of each financial year;

k) in case of the municipalities being the Program-Executing Agencies send audited financial statements (including balance sheet, income statement, report on capital expenditures and income, cash flow statement, budget execution report) according to Article 3 of the "Rulebook on the method of Preparation, Creation and Submission of financial statements uses of Budget Funds" by the Ministry of Finance of Serbia, as published in the Official Gazette of the Republic of Serbia No 18 /2015, as soon as possible but in any case within seven months after the end of each financial year; and

l) enable KfW and its agents at any time to inspect the Program-Executing Agencies' books and records, which must reflect the Program-Executing Agencies' business activity and financial situation in conformity with standard accounting principles.

11.2 *Forwarding of OECD queries.* The Borrower through the MoME will immediately and on its own initiative 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.

11.3 *Details of Program implementation.* The Borrower, through the MoME, and KfW will determine the details pertaining to Article 11.1 hereof by the Separate Agreement.

11.4 *Compliance.* The Borrower through the MoME will ensure that the persons entrusted by itself and/or by the Program-Executing Agencies with preparing and implementing the Program, awarding contracts for the supplies and services to be financed and 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.

- 11.5 *Assistance to the Program-Executing Agencies.* The Borrower through the MoME will assist the Program-Executing Agencies in conformity with sound engineering and financial practices in the implementation of the Program and the performance of its obligations under the Separate Agreement.

In particular, the Borrower will grant the Program-Executing Agencies any and all permissions necessary for the implementation of the Program in line with the laws of the Republic of Serbia.

- 11.6 *Sanctions.* The Borrower will comply and shall ensure that the Program-Executing Agencies will comply with the obligations set out in the Separate Agreement, in particular with Article II.2 thereof.

- 11.7 *Pari passu ranking.* The Borrower warrants and represents that its obligations under this Loan Agreement rank and will be serviced at least *pari passu* with all other unsecured and not subordinated payment obligations, and, accordingly, to perform the obligations under this Loan Agreement *pari passu*. The Borrower will ensure to the extent permitted by law that this ranking is also assured for all future unsecured and not subordinated payment obligations.

- 11.8 *Charges.* The Borrower will itself and will ensure that the Program-Executing Agencies will not create or permit to subsist any Charges on the Program assets without KfW's prior consent. In this Agreement, "**Charge**" means any mortgage, pledge, lien, charge, assignment or transfer by way of security, hypothecation or security interest and any other agreement or arrangement the effect of which is the creation of a security or any right conferring a priority of payment in respect of any obligation of any person.

This obligation does not apply:

a) to Charges existing or already agreed upon when this Loan Agreement was signed and disclosed to KfW before the Loan Agreement was signed,

b) to Charges that are customarily created in the ordinary course of business under legal or other customary contractual regulations to secure obligations (with the exception of loan liabilities) towards suppliers or other providers of services (e.g. retention of title rights customary in the industry and legal liens), or

c) to Charges that already existed at the time an asset was acquired, provided such Charges are removed within three months after acquisition.

If the Borrower or the Program-Executing Agencies grants any third party security or other rights enabling such third party to demand preferential satisfaction of claims against any of the Borrower's or the Program-Executing Agencies' Program assets, property or revenues, KfW may make its consent contingent upon the Borrower or the Program-Executing Agencies also providing KfW with (additional) security to the same degree that equally and rateably secures KfW's claims against the Borrower under this Loan Agreement.

- 11.9 *Sale of assets.* Without KfW's prior consent, the Borrower itself will not and will ensure that the Program-Executing Agencies will not sell any Program assets in their entirety or parts thereof before repayment of the Loan in full.

- 11.10 *Money laundering.* The Borrower, through the MoME, will ensure that the Program-Executing Agencies will promptly make available to KfW on demand all information and documents which KfW requires to fulfil its obligations to

prevent money laundering and terrorism financing as well as for the continuous monitoring of its business relationship with the Borrower which is necessary for this purpose.

By entering into and implementing this Loan Agreement the Borrower will ensure that the Program-Executing Agencies will act in their own name and for their own account. With regard to German law or the law of the country of incorporation of the Borrower,

- a) the Program-Executing Agencies' own resources or the amounts invested in the financing of the Program will not be of illicit origin and, in particular, without this list being exhaustive, will not be associated with drug trafficking, corruption, organised criminal activity or terrorism;
- b) the capital of the Program-Executing Agencies will not at any time be of illicit origin and, in particular, without this list being exhaustive, will not at any time be related to drug trafficking, corruption, organised crime or terrorism;
- c) the Program-Executing Agencies will not engage in the acquisition, possession or use of property that is of illicit origin;
- d) the Program-Executing Agencies will not at any time be associated with drug trafficking, corruption, organised criminal activity or terrorism, without this list being exhaustive;
- e) the Program-Executing Agencies will not engage in financing terrorism.

12. Termination of the Agreement

12.1 *Reasons for termination.* KfW may exercise the rights set out in Article 12.2 hereof (Legal consequences of the occurrence of a cause for termination) if a circumstance arises that constitutes good cause (Wichtiger Grund). These include, in particular, the following circumstances:

- a) the Borrower fails to perform payment obligations to KfW when due;
- b) obligations under this Loan Agreement, the Financing Agreement I, the Financing Agreement II or under the Separate Agreement as well as any other legally binding additional agreements to this Loan Agreement are violated;
- c) this Loan Agreement or any part thereof no longer has a binding effect upon the Borrower or can no longer be enforced against the Borrower;
- d) any declaration, confirmation, information, 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) the Borrower discontinues its payments to creditors, is insolvent or commences negotiations with one or more of the Borrower's creditors (with the exception of KfW) on a moratorium, waiver of debts outstanding, deferment of payments or discontinuation of the debt service.

12.2 *Legal consequences of the occurrence of a cause for termination.* If one of the events mentioned in Article 12.1 a) - g) hereof has occurred, KfW may immediately suspend disbursements under this Loan Agreement. If this event is not resolved within a period of five days (in the case of Article 12.1 a) hereof) or in all other cases of Article 12.1 hereof within a period determined

by KfW which, however, shall be at least 30 days, KfW may cancel this Loan Agreement in whole or in part with the consequence that its obligations under this Loan Agreement cease and KfW may demand the immediate repayment of all or part of the Outstanding Loan Amount together with the interest accrued and the remaining amounts owed under this Loan Agreement. Articles 7.5 and 7.6 hereof apply to accelerated amounts *mutatis mutandis*.

- 12.3 *Compensation for damages.* If this Loan Agreement is terminated in full or in part the Borrower will pay Non-acceptance Compensation in accordance with Article 3.6 and/or Prepayment Compensation in accordance with Article 6.4 c).

13. Representation and statements

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

- 13.2 *Addresses.* Declarations or notifications 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 declarations or notifications made in connection with this Loan Agreement must be sent to the following addresses:

For KfW:

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

For the Borrower:

Ministry of Finance
Kneza Milosa 20
11000 Belgrade
Republic of Serbia
Fax: +381-11-3618-961

Ministry of Mining and Energy
Nemanjina 22-26
11000 Belgrade
Republic of Serbia
Fax: +381 - 11 361 66 03

14. Publication and transfer of Program-related information

- 14.1 *Publication of Program-related information by KfW.* To comply with internationally accepted principles of utmost transparency and efficiency in the development cooperation, KfW publishes selected information (including evaluation reports) about the Program and how it is financed during pre-contractual negotiations, while the Program-related agreement(s) is (are) being implemented and in the post-contractual stage (hereinafter referred to as the "**Entire Period**").

The information is published regularly on the website of KfW Development Bank (<http://transparenz.kfw-entwicklungsbank.de/en>).

The publication of information (either by KfW or third parties in accordance with Article 14.3 below) about the Program and how it is financed does not include any contractual documentation or any sensitive financial or business-related detailed information about the parties involved in the Program or its financing, such as

- a) information about internal financial data;
 - b) business strategies;
 - c) internal corporate guidelines and reports;
 - d) personal data of natural persons;
 - e) KfW's internal rating of the parties' financial position.
- 14.2 *Transfer of Program-related information to third parties.* KfW shares selected information about the Program and how it is financed during the Entire Period with the entities mentioned below, particularly to ensure transparency and efficiency:
- a) subsidiaries of KfW;
 - b) the Federal Republic of Germany and its competent bodies, authorities, institutions, agencies or entities;
 - c) other implementing organisations involved in German bilateral development cooperation, particularly the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH;
 - d) international organisations involved in collecting statistical data and their members, especially the Organisation for Economic Cooperation and Development (OECD) and its members, and
 - e) the Swiss Confederation represented by its State Secretariat for Economic Affairs ("**SECO**").
- 14.3 *Transfer of Program-related information to third parties and publication by these.* Furthermore, the Federal Republic of Germany has requested KfW to share selected information about the Program and how it is financed throughout the Entire Period with the following entities, which publish the sections relevant to the purpose:
- a) Federal Republic of Germany for the purposes of the International Aid Transparency Initiative (http://www.bmz.de/de/was_wir_machen/wege/transparenz-fuer-mehr-Wirksamkeit/index.html);
 - b) Germany Trade & Invest (GTAI) for the purposes of market information (<http://www.gtai.de/GTAI/Navigation/DE/trade.FOO>)

c) OECD for the purpose of reporting financial flows in the framework of development cooperation (<http://stats.oecd.org/>);

d) German Institute for Development Evaluation (DEval) for the purposes of evaluating the overall German development cooperation to ensure transparency and efficiency (<http://www.deval.org/de/>); and

e) the Swiss public procurement platform SIMAP.

- 14.4 *Transfer of Program-related information to other third parties (including publication by these).* KfW further reserves the right to transfer (including for the purposes of publication) information about the Program and how it is financed during the Entire Period to other third parties so as to safeguard legitimate interests.

The information is not transferred by KfW to other third parties if the legitimate interests of the Borrower in the information not being transferred outweigh KfW's interests in it being transferred. The legitimate interests of the Borrower particularly include the confidentiality of the sensitive information mentioned in Article 0, which is excluded from publication.

Furthermore, KfW is entitled to transfer information to third parties if this is necessary due to statutory or regulatory requirements or to assert or defend claims or other legal rights in court or administrative proceedings.

15. General provisions

- 15.1 *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, Federal Republic of Germany are open for general business.
- 15.2 *Place of performance.* The place of performance for all obligations under this Loan Agreement is Frankfurt am Main, Federal Republic of Germany.
- 15.3 *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.
- 15.4 *Written form.* Any addenda and amendments to this Loan Agreement must be in writing. The parties may waive the written form requirement only in writing.
- 15.5 *Assignment.* The Borrower may not assign or transfer, pledge or mortgage any claims from this Loan Agreement.
- 15.6 *Applicable law.* This Loan Agreement is governed by German law.
- 15.7 *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 arisen and in which KfW has become aware of the circumstances constituting such claim or could have become aware of them without gross negligence.
- 15.8 *Waiver of immunity.* If and to the extent that the Borrower may now or in future in any jurisdiction claim immunity for itself or its assets and to the extent that a jurisdiction grants immunity to the Borrower and its assets from suit, execution, attachment or other legal process, the Borrower irrevocably agrees to waive such immunity for claims from and in connection with this Loan Agreement to

the fullest extent permitted by the laws of such jurisdiction. Foregoing waiver of immunity shall not apply to property which is (i) used by a diplomatic, consular or special mission and missions of international organizations or international conferences of the Borrower's Country or (ii) of a military character and under the control of a military authority.

15.9 *Legal disputes.* 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:

a) 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) applicable from time to time.

b) The arbitration proceeding will be conducted in Frankfurt am Main. The language of the proceeding will be English.

15.10 *Entry into force.* This Loan Agreement will not enter into force and effect until

a) it has been ratified by the National Assembly of the Republic of Serbia; and

b) the Borrower has provided KfW with a written confirmation that the Loan Agreement has been duly ratified and published according to applicable law.

Should the Loan Agreement not have entered into force and effect within twelve months following the date the last party has signed this Loan Agreement, KfW may, as of the day following the end of the twelve months period until the date of entry into force, unilaterally withdraw from this Loan Agreement and thus terminate its provisional ineffectiveness by sending a written notification to the Borrower. In this event the Borrower will pay non-acceptance compensation in accordance with Article 3.6 (*Non-acceptance compensation*).

Done in four originals in the English language.

Belgrade,
this 21.06. day of 2017

Belgrade.
this 21.06. day of 2017

For the Republic of Serbia
represented by
the Minister of Finance

For KfW

Name: Aleksandar Antic
Title: Minister of Mining
and Energy

Name: Arne Goss Name: Simone Wunsch
Title: Director Title: Regional Director
KfW Office Belgrade KfW Frankfurt

Annex 1
Disbursement schedule

Fastest possible Disbursement schedule

Until the end of each disbursement period ("**Effective Date of End of Period**" in accordance with the list below) the Borrower may request disbursements only up to a level that does not exceed the cumulative sum of disbursements specified in the following table.

Period	Effective Date of Begin of Period (incl.)	Effective Date of End of Period (excl.)	Maximum amount that may be disbursed up to the end of the period (cumulative) (all figures in EUR)
1	01.07.2017	01.01.2018	140,000.00
2	01.01.2018	01.07.2018	280,000.00
3	01.07.2018	01.01.2019	3,880,000.00
4	01.01.2019	01.07.2019	9,000,000.00
5	01.07.2019	01.01.2020	15,000,000.00
6	01.01.2020	01.07.2020	19,500,000.00
7	01.07.2020	01.01.2021	19,700,000.00
8	01.01.2021	01.07.2021	19,900,000.00
9	01.07.2021	31.12.2021	20,000,000.00

Annex 2

Form of Legal Opinion of the Ministry of Justice of the Republic of Serbia

Note: Please amend "Republic of COUNTRY"/"COUNTRY" appropriately.

[Letterhead of Legal Adviser]

KfW

Department [_____]

Attn: [_____]

Palmengartenstrasse 5 - 9

Postfach 11 11 41

60325 Frankfurt am Main/Germany

Federal Republic of Germany

(date)

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

Dear Sirs,

I am [Minister of Justice of] [legal adviser to] [head of the legal department of the _____ (*please specify ministry or other authority*) of] the Republic of COUNTRY. I have acted in that capacity in connection with a loan agreement, dated _____ (the "Loan Agreement"), 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 COUNTRY, 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 COUNTRY*];
 - (c) _____ [*please refer here to other documents, e.g. decrees or resolutions by governmental or administrative bodies of COUNTRY relating to the conclusion of loan agreements by COUNTRY 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 COUNTRY and the Government of the Federal Republic of Germany dated _____ (the "Cooperation Agreement")

and such other laws, regulations, certificates, records, registrations and documents as I have deemed necessary or desirable to examine. In addition, I 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 COUNTRY 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 COUNTRY, 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 COUNTRY 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 COUNTRY:]

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 COUNTRY) 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 COUNTRY:]

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 COUNTRY) 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 _____ of the Loan Agreement are valid and binding. Arbitration awards against the Borrower will be recognised and enforceable in the Republic of COUNTRY 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 COUNTRY].

2.6 The courts of the Republic of COUNTRY are at liberty to give judgment denominated in the currency or currencies specified in the Loan Agreement.

2.7 The borrowing by the Borrower under the Loan Agreement and the execution and performance by the Borrower of the Loan Agreement constitute private and commercial acts and not governmental or public acts. Neither the Borrower nor any of its property has any right of immunity from arbitration, suit, execution, attachment or other legal process.

2.8 The Cooperation Agreement is in full force and effect under the constitution and laws of the Republic of COUNTRY. [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 _____ 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 *COUNTRY* 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 *COUNTRY*.

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 *COUNTRY*.

_____, _____
 (Place) (Date)

[Signature]

Name: _____

Enclosures:

Note: Please attach certified photocopies of the documents and legal provisions referred to above (with respect to lengthy laws or the Constitution of the Republic of *COUNTRY*, a copy of the relevant provisions would be sufficient) and also provide KfW with an official English or German translation of each of the above documents unless such document is issued in English or German as an official language or unless KfW has indicated that another language is satisfactory.

Annex 3

Confirmation letter from KfW regarding the German Government Guarantee

Financial Cooperation between the Republic of Serbia and the Federal Republic of Germany

Program: Promotion of Renewable Energies: Developing the Biomass Market in the Republic of Serbia

Guarantee of the Federal Republic of Germany for the Loan

Dear Sirs,

We herewith confirm that the Guarantee of the Federal Republic of Germany for the Loan as stipulated in the Preamble of the Loan Agreement dated _____ for the Program Promotion of Renewable Energies: Developing the Biomass Market in the Republic of Serbia.

Yours sincerely,

KfW

Sporazum o zajmu

od 21. juna 2017. godine

između

**KfW, Frankfurt na Majni
(„KfW”)**

i

**Republike Srbije
(„Zajmoprimac”)**
koju predstavlja ministar finansija

za

20.000.000,00 evra

za

**- Program podsticanja obnovljive energije: Razvoj tržišta biomase u Republici
Srbiji (prva komponenta) -**

Zajam br: 28111

BMZ Br: 201197888

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PREAMBULA

Program „Podsticanje obnovljive energije: Razvoj tržišta biomase u Republici Srbiji (prva komponenta)” biće kofinansiran od strane Savezne Republike Nemačke („**Nemački doprinos**”) i Švajcarske Konfederacije („**Švajcarski doprinos**”).

Švajcarski doprinos u iznosu od 5.000.000,00 evra (umanjen za implementacionu proviziju KfW-u) biće dostupan Zajmoprimcu preko KfW-a putem posebnog sporazuma o finansiranju („**Finansijski sporazum I**”).

Nemački doprinos u iznosu od 22.000.000,00 evra biće dostupan preko KfW-a putem ovog sporazuma o zajmu („**Sporazum o zajmu**”) i posebnog sporazuma o finansiranju („**Finansijski sporazum II**”).

Zajam obezbeđen u skladu sa ovim sporazumom o zajmu i finansijski doprinosi obezbeđeni u skladu sa finansijskim sporazumima I i II će se u daljem tekstu zajednički nazivati „**Programska sredstva**”.

Osnov za ovaj sporazum o zajmu između KfW i Zajmoprimca je obaveza Vlade Savezne Republike Nemačke od 16. decembra 2011. godine i Sažeti zapisnik o pregovorima o razvojnoj saradnji između Vlade Savezne Republike Nemačke i Vlade Republike Srbije održanim u Beogradu 18. oktobra 2012. godine.

KfW će refinansirati Zajam dodeljen u skladu sa uslovima ovog sporazuma o zajmu sa subvencionisanjem kamatne stope iz budžetskih sredstava sa niskom kamatom koje je Savezna Republika Nemačka obezbedila za projekte koji ispunjavaju kriterijume podobnosti razvojne politike. Uslovi Zajma su usklađeni sa zahtevima Organizacije za ekonomsku saradnju (OECD) koji se primenjuju na dan potpisivanja ovog sporazuma o zajmu u cilju njegovog priznavanja kao Zvanične razvojne pomoći (*Official Development Assistance, ODA*).

Na toj osnovi i pod uslovom da Savezna Republika Nemačka izda garanciju za Zajam, KfW će odobriti zajam u skladu sa uslovima ovog sporazuma o zajmu.

1. Zajam

1.1 *Iznos.* KfW će Zajmoprimcu odobriti zajam koji ne prelazi ukupan iznos od

20.000.000,00 evra („Zajam“).

1.2 *Svrha.* Zajmoprimac će Zajam koristiti isključivo za finansiranje (i) izgradnje i nadgradnje sistema daljinskog grejanja zasnovanih na obnovljivim izvorima energije („**Investicija**“) i (ii) odgovarajućih inženjerskih usluga („**Inženjerske usluge**“) za odabrane opštine ili njihova preduzeća za proizvodnju i distribuciju toplote („**Agencije za sprovođenje Programa**“) u Republici Srbiji („**Program**“). U tom cilju, Zajmoprimac će preneti Zajam u celosti (osim za troškove Inženjerskih usluga u procenjenom iznosu od 700.000,00 evra) Agencijama za sprovođenje Programa u skladu sa uslovima definisanim u članu 2. i obezbediće da Agencije za sprovođenje Programa koriste Zajam isključivo za finansiranje Investicije. Zajmoprimac, preko Ministarstva finansija („**MF**“) i Ministarstva rudarstva i energetike („**MRE**“) i KfW će utvrditi detalje Programa, kao i robu i usluge koje će se finansirati iz Zajma, posebnim sporazumom („**Poseban sporazum**“).

1.3 *Porezi, takse, carinske dažbine.* Porezi i druge javne dažbine koje predstavljaju obaveze Zajmoprimca ili Agencija za sprovođenje Programa, kao i carinske dažbine, neće se finansirati iz Zajma.

1.4 *Poresko oslobođenje.* Porezi, uvozne dažbine i drugi nameti ne mogu se finansirati iz Programskih sredstava. Uvoz dobara i usluga za potrebe Programa su oslobođeni plaćanja carinskih dažbina a promet dobara, usluga i opreme za potrebe Programa se oslobađa od plaćanja PDV-a.

2. Prenošnje Zajma

2.1 *Prenošenje Zajma na Agencije za sprovođenje Programa.* Zajmoprimac će preneti Zajam u potpunosti, osim troškova za Inženjerske usluge, na Agencije za sprovođenje Programa u skladu sa posebnim sporazumima o prenosu zajma („**Trilateralni sporazumi**“) zaključenim između Zajmoprimca, odabranih opština i njihovih preduzeća za proizvodnju i distribuciju toplote. Uslovi Trilateralnih ugovora biće povoljni u najmanjoj meri kao što su uslovi utvrđeni u čl. 5.1. i 6.1 ovog sporazuma o zajmu.

2.2 *Overen prevod.* Pre prve isplate iz Zajma, Zajmoprimac će, posredstvom MRE dostaviti KfW-u overene prevode na engleski jezik Trilateralnih sporazuma. Ovo se neće primenjivati na isplate u vezi sa Inženjerskim uslugama.

2.3 *Nema prenošenja obaveza na Agencije za sprovođenje Programa.* Prenošnje Zajma neće imati za posledicu preuzimanje bilo kakvih obaveza od strane Agencija za sprovođenje Programa prema KfW-u u pogledu plaćanja obaveza prema ovom sporazumu o zajmu, ali ih ne oslobađa od plaćanja obaveza prema Zajmoprimcu.

3. Isplata

3.1 *Zahtev za isplatu.* Čim budu ispunjeni svi uslovi koji prethode isplati u skladu sa članom 3.3 ovog sporazuma o zajmu, KfW će na zahtev Zajmoprimca isplatiti Zajam u skladu sa napretkom Programa. Isplata će se izvršiti u skladu sa planom 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 zahtevao isplatu manjih iznosa u bilo kom polugodišnjem periodu, Zajmoprimac će moći da zahteva isplatu neisplaćenih iznosa u svakom narednom polugodišnjem periodu. Uz

izuzetak isplate za Inženjerske usluge i poslednje isplate, KfW nije u obavezi da vrši isplate u iznosima manjim od 200.000,00 evra.

3.2 *Rok za podnošenje zahteva za isplatu.* KfW može da odbije zahteve za isplatu nakon 30. decembra 2021. godine. KfW i Zajmoprimac mogu da se dogovore u pisanoj formi, razmenom pisama, o produženju ovog roka.

3.3 *Uslovi koji prethode isplati.* KfW je u obavezi da izvrši isplate prema ovom sporazumu o zajmu samo ukoliko su ispunjeni sledeći uslovi koji prethode isplati, i to u obliku i sadržaju koji je prihvatljiv za KfW:

a) Zajmoprimac će, na zadovoljavajući način za KfW, dostaviti pravno mišljenje, čiji sadržaj mora biti u skladu sa uzorkom u Aneksu 2. ovog sporazuma o zajmu, i overene primerke (svaki sa overenim prevodom na jezik ovog sporazuma o zajmu) svih dokumenata na koje se dato pravno mišljenje odnosi, da sporazum o zajmu ima pravno dejstvo i da je na snazi i, posebno, da

(i) je Zajmoprimac ispunio sve zahteve u skladu sa Ustavom i drugim zakonskim odredbama za pravosnažno preuzimanje svih svojih obaveza prema ovom sporazumu o zajmu, i

(ii) je KfW oslobođen plaćanja svih poreza na prihod od kamate, dažbina, naknada i sličnih troškova u Republici Srbiji, kada odobri Zajam;

b) KfW je primio originalni primerak ovog sporazuma o zajmu i Posebnog sporazuma, pri čemu je svaki pravosnažno potpisan;

c) KfW je primio deponovane potpise navedene u članu 13.1 ovog sporazuma o zajmu;

d) garancija Savezne Republike Nemačke navedena u članu 8. stupila je na snagu i pravosnažna je bez ikakvih ograničenja; KfW će obavestiti Zajmoprimca kada Garancija stupi na snagu i postane pravosnažna; obrazac Pisma o potvrdi koje će dostaviti KfW priložen je kao Aneks 3 ovog sporazuma o zajmu;

e) Zajmoprimac je platio Proviziju za organizovanje posla predviđenu u članu 4.2 ovog sporazuma o zajmu;

f) ne postoji razlog za raskid ovog sporazuma o zajmu niti je nastao bilo kakav incident koji bi postao uzrok za raskid obaveštenjem ili istekom ili utvrđivanjem ili ispunjenjem uslova (potencijalni razlog za raskid);

g) nema vanrednih okolnosti koje su nastale i sprečavaju ili ozbiljno ugrožavaju sprovođenje, funkcionisanje ili svrhu Programa, ili izvršenje obaveza plaćanja koje Zajmoprimac preuzima u skladu sa ovim sporazumom o zajmu; i

h) KfW je primio overene prevode na engleski jezik posebnih sporazuma u skladu sa članom 2.1 ovog sporazuma o zajmu, pri čemu se ovaj uslov ne primenjuje na isplate isključivo u vezi sa Inženjerskim uslugama kao što je navedeno u članu 2.2 ovog sporazuma o zajmu.

KfW ima pravo da pre početka bilo koje isplate sredstava iz Zajma zahteva dodatna dokumenta i dokaze koje prema svom diskrecionom pravu smatra neophodnim kako bi potvrdio uslove koji prethode isplati navedenoj u ovom odeljku (postupajući u razumnoj meri u skladu sa regulativama i politikama koje se primenjuju u KfW i/ili međunarodnoj bankarskoj praksi).

3.4 *Detalji postupka isplate.* Zajmoprimac, posredstvom MRE, i KfW će odrediti detalje postupka isplate u Posebnom sporazumu i, posebno, dokaze koje

Zajmoprimac, posredstvom MRE, mora da dostavi čime dokumentuje da se zahtevani iznosi Zajma koriste u dogovorenu svrhu.

- 3.5 *Pravo na odustajanje od isplate.* Pod uslovom da je ispunio svoje obaveze predviđene članom 11. ovog sporazuma o zajmu, Zajmoprimac može odustati od isplate neisplaćenih iznosa Zajma, uz prethodnu saglasnost KfW-a, u zamenu za plaćanje **Naknade za odustajanje od isplate** u skladu i kako je definisano članom 3.6 ovog sporazuma o zajmu.
- 3.6 *Naknada za odustajanje od isplate.* Ukoliko Zajmoprimac odustane od isplate nekog iznosa Zajma, ili ukoliko iznos Zajma uopšte nije isplaćen, ili ukoliko nije isplaćen do roka navedenog u članu 3.2 ovog sporazuma o zajmu, Zajmoprimac će na zahtev, bez odlaganja, platiti KfW-u iznos koji je neophodan da bi se KfW-u nadoknadili svi gubici, izdaci i troškovi koje KfW snosi kao posledicu odustajanja od isplate iznosa Zajma („**Naknada za odustajanje od isplate**”), osim ukoliko takvo neprihvatanje predstavlja kršenje ovog sporazuma o zajmu od strane KfW. KfW će obračunati iznos Naknade za odustajanje od isplate i o tome obavestiti Zajmoprimca.

4. **Provizije**

- 4.1 *Provizija na nepovučena sredstva.* Zajmoprimac će platiti bespovratnu proviziju na nepovučena sredstva u iznosu od 0,25% godišnje („**Provizija na nepovučena sredstva**”) na neisplaćene iznose Zajma.

Provizija na nepovučena sredstva dospeva za plaćanje polugodišnje za protekli period, na dan 15. maj i 15. novembar svake godine, a prvi put 15. novembra 2017. godine, ali ne pre od odgovarajućeg datuma koji sledi nakon dana kada ovaj sporazum o zajmu stupi na snagu i proizvodi pravno dejstvo, shodno članu 15.10 ovog sporazuma o zajmu.

Provizija na nepovučena sredstva će biti obračunata, ukoliko je primenjivo, sa retroaktivnim dejstvom za period koji počinje dvanaest meseci nakon potpisivanja ovog sporazuma o zajmu i traje do datuma isplate sredstava Zajma u celosti ili, ukoliko je primenjivo, do datuma definitivnog otkazivanja isplate Zajma.

- 4.2 *Provizija za organizovanje posla.* Zajmoprimac će platiti KfW-u bespovratni jednokratni paušalni iznos na ime provizije za organizovanje posla u iznosu od 0,50% od iznosa Zajma navedenog u članu 1.1 ovog sporazuma o zajmu („**Provizija za organizovanje posla**”).

Provizija za organizovanje posla dospeva na plaćanje najranije na sledeća dva datuma: (i) pre prve isplate ili (ii) po isteku šest meseci nakon potpisivanja ovog sporazuma o zajmu od strane KfW-a, ili nakon što protekne mesec dana od stupanja na snagu i dejstvo ovog sporazuma o zajmu (u zavisnosti koji od datuma navedenih u tački (ii) nastupi kasnije). Provizija za organizovanje posla dospeva za plaćanje bez obzira da li je Zajam isplaćen u celosti ili delimično, ili uopšte.

5. **Kamata**

Zajmoprimac će KfW-u platiti kamatu na sledeći način:

- 5.1 *Kamata (fiksna kamatna stopa koja se utvrđuje na dan obezbeđenja Zajma).* Zajmoprimac će plaćati kamatu na Zajam po stopi od 1,10 % godišnje („**Fiksna kamatna stopa**”) dok ne bude primljena poslednja rata otplate u skladu sa planom otplate utvrđenim u članu 6.1 ovog sporazuma o zajmu.
- 5.2 *Obračun kamate.* Kamata na isplaćen iznos Zajma će se zaračunavati od datuma (ne uključujući taj dan) kada je odgovarajući iznos Zajma isplaćen sa

računa Zajma koji je KfW otvorio za Zajmoprimca do datuma (uključujući taj dan) kada su pojedinačne rate otplate Zajma uplaćene na račun KfW-a naveden u članu 7.3 ovog sporazuma o zajmu. Kamata će se obračunavati u skladu sa članom 7.1 ovog sporazuma o zajmu.

5.3 *Datumi plaćanja.* Kamata za prethodni period dospeva za plaćanje na niže navedene datume (svaki od njih „Datum plaćanja”):

a) pre datuma dospeća prve rate otplate, dana 15. maja i 15. novembra svake godine, a prvi put 15. novembra 2017. godine, ali ne pre Datuma plaćanja koji sledi nakon dana kada ovaj sporazum o zajmu stupi na snagu i proizvodi pravno dejstvo, prema članu 15.10 ovog sporazuma o zajmu;

b) na datum dospeća prve rate otplate prema članu 6.1 ovog sporazuma o zajmu, zajedno sa tom ratom;

c) potom na datume dospeća rata otplate prema članu 6.1 ovog sporazuma o zajmu.

6. Otplata i prevremena otplata

6.1 *Plan otplate.* Period otplate neće biti duži od petnaest (15) godina uključujući period počeka do pet (5) godina. Zajmoprimac će otplatiti Zajam na sledeći način:

Rata	Datum dospeća	Iznos u evrima
1	15.05.2022	952.000,00
2	15.11.2022	952.000,00
3	15.05.2023	952.000,00
4	15.11.2023	952.000,00
5	15.05.2024	952.000,00
6	15.11.2024	952.000,00
7	15.05.2025	952.000,00
8	15.11.2025	952.000,00
9	15.05.2026	952.000,00
10	15.11.2026	952.000,00
11	15.05.2027	952.000,00
12	15.11.2027	952.000,00
13	15.05.2028	952.000,00
14	15.11.2028	953.000,00
15	15.05.2029	953.000,00
16	15.11.2029	953.000,00
17	15.05.2030	953.000,00
18	15.11.2030	953.000,00
19	15.05.2031	953.000,00
20	15.11.2031	953.000,00

21	15.05.2032	953.000,00
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- 6.2 *Neisplaćeni iznosi Zajma.* Neisplaćeni iznosi Zajma se saldiraju sa ratom otplate koja poslednja dospeva u skladu sa odgovarajućim Planom otplate, utvrđenim u članu 6.1 ovog sporazuma o zajmu, osim ako KfW po sopstvenom nahođenju, nakon prethodne konsultacije sa Zajmoprimcem, ne izabere neki drugi način saldiranja u posebnim slučajevima.
- 6.3 *Oplata u slučaju nepotpune isplate.* Ukoliko rata otplate dospe za plaćanje pre nego što je Zajam isplaćen u celini, to neće uticati na Plan otplate naveden u članu 6.1. ovog sporazuma o zajmu sve dok odgovarajuća rata otplate koja dospeva za plaćanje prema Planu otplate bude manja od iznosa Zajma koji je isplaćen ali još nije otplaćen („**Neotplaćen iznos Zajma**”). Ukoliko rata otplate koja dospeva u skladu sa članom 6.1 ovog sporazuma o zajmu premaši Neotplaćen iznos Zajma, rata otplate će se smanjiti na iznos Neotplaćenog iznosa Zajma, a razlika će biti ravnomerno dodeljena ratama otplate koje su još neotplaćene. Prilikom obračuna Neotplaćenog iznosa Zajma, KfW zadržava pravo da razmotri isplate iz Zajma izvršene u periodu od 45 ili manje dana pre Datuma plaćanja kako bi utvrdio iznos Neotplaćenog iznosa Zajma samo za sledeći Datum plaćanja.
- 6.4 *Preвременa otplata.* U slučaju prevremene otplate primenjivaće se sledeće:
- a) *Pravo na prevremenu otplatu.* Zajmoprimac, u skladu sa sledećim čl. od 6.4 b) do 6.4 e), ima pravo da izvrši otplatu Zajma pre planiranog Datuma dospeća pod uslovom da prevremeno otplaćeni iznos ne bude manji od iznosa jedne rate otplate prema članu 6.1 ovog sporazuma o zajmu.
- b) *Obaveštenje.* U skladu sa članom 6.4 a) ovog sporazuma o zajmu, prevremena otplata nekog iznosa Zajma mora biti predmet obaveštenja o prevremenoj otplati koje Zajmoprimac šalje KfW-u najkasnije petnaestog **radnog dana banaka** (kako je definisano u članu 15.1 ovog sporazuma o zajmu) pre nameravanog datuma prevremene otplate. Ovakvo obaveštenje je neopozivo; ono mora sadržati datum kada će se prevremena otplata izvršiti, iznos prevremene otplate i obavezuje Zajmoprimca da naznačenog datuma uplati KfW-u navedeni iznos.
- c) *Naknada za prevremenu otplatu.* Ukoliko Zajmoprimac prevremeno otplati bilo koji iznos Zajma na koji se zaračunava fiksna kamatna stopa, Zajmoprimac bez odlaganja plaća KfW-u, na zahtev, iznos koji je neophodan da bi se KfW-u nadoknadili svi gubici, izdaci ili troškovi koje KfW snosi kao posledicu prevremene otplate („**Naknada za prevremenu otplatu**”). KfW će utvrditi visinu iznosa Naknade za prevremenu otplatu i o tome obavestiti Zajmoprimca. Na zahtev Zajmoprimca, KfW će Zajmoprimcu obezbediti preliminarni iznos naknade za prevremenu isplatu pre obaveznog neopozivog obaveštenja o otplati u skladu sa članom 6.4 b) ovog sporazuma o zajmu.
- d) *Dospeli iznosi.* Zajedno sa prevremenom otplatom, Zajmoprimac takođe plaća sledeće iznose u skladu sa članom 6.4 a) ovog sporazuma o zajmu:
- (i) bilo koju naknadu za prevremenu otplatu koja dospeva kao rezultat prevremene otplate u skladu sa članom 6.4 c) ovog sporazuma o zajmu; i
 - (ii) celokupnu pripisanu kamatu na prevremeno otplaćeni deo Zajma i sva druga plaćanja koja još uvek nisu izvršena po ovom sporazumu o zajmu, a koja su nastala do datuma prevremene otplate.

- e) *Saldiranje*. Član 6.2 ovog sporazuma o zajmu će se primenjivati *mutatis mutandis* na saldiranje prevremenih otplata.
- 6.5 *Revidirani Plan otplate*. U slučaju primene člana 6.3 ili člana 6.4 ovog sporazuma o zajmu, KfW će Zajmoprimcu dostaviti revidirani Plan otplate koji će postati sastavni deo ovog sporazuma o zajmu i zameniti Plan otplate koji se primenjivao do tada.
- 7. Obračuni i plaćanja u opštem smislu**
- 7.1 *Obračun*. Kamata, Provizija na nepovučena sredstva, zatezna kamata u skladu sa članom 7.5 ovog sporazuma o zajmu, paušalna naknada za neplaćene iznose u skladu sa članom 7.6 ovog sporazuma o zajmu, Naknada za odustajanje od isplate i Naknada za prevremenu otplatu obračunavaće se na osnovu godine u trajanju od 360 dana sa mesecima u trajanju od 30 dana.
- 7.2 *Datum dospeća*. Ukoliko neko plaćanje koje treba da bude izvršeno prema ovom sporazumu o zajmu dospeva na dan koji nije radni dan banaka, Zajmoprimac mora izvršiti takvo plaćanje narednog radnog dana banaka. Ukoliko sledeći radni dan banaka pada narednog kalendarskog meseca, takvo plaćanje mora biti izvršeno poslednjeg radnog dana banaka tekućeg kalendarskog meseca.
- 7.3 *Broj računa, vreme uplate*. Zajmoprimac će biti oslobođen obaveza plaćanja koje proizilaze iz ovog sporazuma o zajmu čim se utvrdi da su odgovarajući iznosi uplaćeni KfW-u i da su na raspolaganju KfW-u bez ikakvih umanjenja iznosa u evrima, da je uplata izvršena najkasnije do 10 sati pre podne u Frankfurtu na Majni, Savezna Republika Nemačka, na račun KfW-a u Frankfurtu na Majni, Savezna Republika Nemačka, broj IBAN DE 92 5002 0400 3122 3012 32, uz naznaku datuma dospeća kao dodatne reference („Ref. godina/ mesec/dan”).
- 7.4 *Protivpotraživanja Zajmoprimca*. Zajmoprimac nema pravo da zahteva zadržavanje ili poravnanje iznosa ili neka druga slična prava u vezi sa obavezom plaćanja prema ovom sporazumu o zajmu, osim ukoliko je takvo pravo priznato konačnom presudom ili ukoliko nije osporeno od strane KfW-a.
- 7.5 *Zatezna kamata*. Ukoliko bilo koja rata otplate ili prevremene otplate u skladu sa članom 6.4 ovog sporazuma o zajmu ne bude na raspolaganju KfW-u na dan dospeća, KfW može, bez prethodnog upozorenja, naplatiti zateznu kamatu po stopi od 200 baznih poena na godišnjem nivou iznad kamatne stope navedene u članu 5.1 ovog sporazuma o zajmu za period koji počinje na datum dospeća i završava se na dan izvršenja takve uplate na račun KfW-a naveden u članu 7.3 ovog sporazuma o zajmu. Takva zatezna kamata mora biti plaćena odmah na prvi zahtev KfW-a.
- 7.6 *Paušalna naknada*. Za dospele a neplaćene iznose (uz izuzetak onih rata otplate i prevremene otplate navedene u članu 7.5 ovog sporazuma o zajmu) KfW može, bez prethodnog upozorenja, zahtevati uplatu paušalne naknade za period od datuma dospeća do datuma uplate, po stopi od 200 baznih poena na godišnjem nivou iznad Fiksne kamatne stope navedene u članu 5.1 ovog sporazuma o zajmu. Paušalna naknada mora biti plaćena odmah na prvi zahtev KfW-a. Zajmoprimac je slobodan da dokaže da nije naneta nikakva šteta ili da je naneta šteta manja od iznosa paušalne naknade.
- 7.7 *Saldiranje*. KfW ima pravo na saldiranje primljenih plaćanja u odnosu na plaćanja koja dospevaju prema ovom sporazumu o zajmu.

- 7.8 *Obračuni od strane KfW-a.* Ukoliko nema očiglednih grešaka, obračun KfW-a i izračunavanje dospelih iznosa u vezi sa ovim sporazumom o zajmu, predstavlja *prima-facie* dokaz (*Anscheinsbeweis*).

8. Garancija Savezne Republike Nemačke

Pre prve isplate, za potraživanja KfW-a na osnovu ovog sporazuma o zajmu garantovaće Savezna Republika Nemačka.

9. Nezakonitost

Ukoliko, prema bilo kojoj važećoj nadležnosti, za KfW postane nezakonito da vrši svoje obaveze kako je predviđeno ovim sporazumom o zajmu, ili finansira ili održava Zajam („**Nezakoniti događaj**”), nakon što KfW obavesti Zajmoprimca:

- a) obaveza KfW-a će se odmah otkazati, i
- b) Zajmoprimac otplaćuje Zajam u celosti na datum koji KfW utvrdi u obaveštenju koje dostavi Zajmoprimcu (najranije poslednjeg dana bilo kojeg važećeg perioda počeka koji je dozvoljen zakonom).

U svom obaveštenju na osnovu ovog stava, KfW je u obavezi da pruži razumno objašnjenje u vezi sa Nezakonitim događajem. KfW i Zajmoprimac mogu dogovoriti drugi datum otplate ili otplate u ratama.

Radi izbegavanja sumnje, bilo kakvo otkazivanje na osnovu ovog sporazuma o zajmu podleže članu 3.6.

10. Troškovi i javne dažbine

- 10.1 *Zabrana odbitaka i obustava.* Zajmoprimac će izvršiti sva plaćanja po ovom sporazumu o zajmu bez odbitaka na ime poreza, drugih javnih dažbina ili drugih troškova. U slučaju da Zajmoprimac ima zakonsku ili obavezu druge vrste da izvrši takav odbitak ili umanjenje plaćanja, Zajmoprimac će uvećati takve iznose po potrebi kako bi KfW primila u celosti iznose koji dospevaju prema ovom sporazumu o zajmu nakon odbitaka na ime poreza i dažbina.

- 10.2 *Troškovi.* Zajmoprimac snosi sve troškove i rashode nastale u vezi sa isplatom i otplatom Zajma, posebno troškove doznačavanja i prenosa (uključujući i proviziju za konverziju), kao i sve troškove i rashode koji nastanu u vezi sa održavanjem ili izvršenjem ovog sporazuma o zajmu, kao i sva prava koja proističu iz njega.

- 10.3 *Porezi i druge dažbine.* Zajmoprimac snosi sve poreze i druge javne dažbine nastale van Savezne Republike Nemačke u vezi sa zaključivanjem i izvršenjem ovog sporazuma o zajmu. Ukoliko KfW unapred plati iznos takvih poreza ili dažbina, Zajmoprimac će bez odlaganja, odmah po zahtevu KfW-a uplatiti pomenuti iznos na račun KfW-a naveden u članu 7.3 ovog sporazuma o zajmu ili na drugi račun koji precizira KfW.

11. Posebne obaveze

- 11.1 *Sprovođenje Programa i posebne informacije.* Zajmoprimac će obezbediti preko MRE, sopstvenim kapacitetima, kao i da Agencije za sprovođenje Programa:

- a) pripreme, sprovedu, upravljaju i održavaju Program u skladu sa dobrim finansijskim i tehničkim praksama, u skladu sa ekološkim i socijalnim standardima i u svim pojedinostima u skladu sa konceptom Programa i Zapisnikom (Aide Mémoire) od 29. jula 2016. godine dogovorenim između Zajmoprimca i KfW;

- b) povere pripremu i nadzor nad građevinskim radovima u okviru Programa nezavisnim, kvalifikovanim inženjerima konsultantima ili konsultantima, a sprovođenje Programa kompetentnim firmama;
- c) dodele ugovore za nabavku robe i usluga koji se finansiraju iz Zajma (član 11.1 b) ovog sporazuma o zajmu) i drugih Programskih sredstava na osnovu prethodno sprovedenih međunarodnih tendera u skladu sa KfW-ovim *Smernicama za nabavku robe, radova i pratećih usluga i Smernicama za angažovanje konsultanata u finansijskoj saradnji sa partnerskim zemljama*, osim za ugovore za Inženjerske usluge za mere geotermalne energije koji mogu da se dodeljuju direktno;
- d) obezbede finansiranje Programa u celosti i dostave, na zahtev, KfW-u dokaze kojima se potvrđuje da su troškovi koji se ne finansiraju iz Zajma takođe pokriveni;
- e) vode knjige i evidenciju ili povere vođenje knjiga i evidencije u svoje ime, koji nedvosmisleno prikazuju sve troškove robe i usluga neophodnih za Program i u kojima su jasno naznačeni robe i usluge koji su finansirani iz ovog zajma;
- f) omogućće KfW-u i njenim zastupnicima uvid u takve knjige i evidencije i bilo koju i celokupnu dokumentaciju od značaja za sprovođenje i funkcionisanje Programa, kao i da posete lokacije i sve instalacije u vezi sa Programom;
- g) dostave KfW-u bilo koju ili sve informacije i evidencije o Programu i njegovom daljem napredovanju ukoliko to KfW bude u razumnoj meri zahtevao;
- h) obaveste KfW o bilo kojoj i svim okolnostima koje onemogućavaju ili ozbiljno ugrožavaju sprovođenje, funkcionisanje ili svrhu Programa;
- i) dostave KfW-u bilo koje i sve informacije o finansijskoj situaciji Agencija za sprovođenje Programa, koje KfW može u razumnoj meri da zahteva ali i da zadrži one poverljive informacije koje su predmet člana 14;
- j) šalju KfW-u revidirane finansijske izveštaje sa bilansom stanja i bilansom uspeha i relevantne napomene što je pre moguće, ali u svakom slučaju, u roku od sedam meseci nakon završetka svake finansijske godine, u slučaju kada su Agencije za sprovođenje Programa preduzeća za proizvodnju i distribuciju toplotne energije;
- k) šalju revidirane finansijske izveštaje (uključujući bilans stanja, bilans uspeha, izveštaj o kapitalnim izdacima i primanjima, izveštaj o novčanim tokovima, izveštaj o izvršenju budžeta) prema članu 3. Pravilnika o načinu pripreme, sastavljanja i podnošenja finansijskih izveštaja korisnika budžetskih sredstava, korisnika sredstava organizacija za obavezno socijalno osiguranje i budžetskih fondova Ministarstva finansija, objavljenog u „Službenom glasniku Republike Srbije”, broj 18/15, što je pre moguće, ali u svakom slučaju, u roku od sedam meseci nakon završetka svake finansijske godine, u slučaju kada su Agencije za sprovođenje Programa određene opštine; i
- l) omogućće KfW-u i njenim zastupnicima u bilo kom trenutku da pregledaju knjige i evidenciju Agencija za sprovođenje Programa koja mora odražavati njihovo poslovanje i finansijsku situaciju u skladu sa standardnim računovodstvenim principima.
- 11.2 *Prosleđivanje OECD upita.* Zajmoprimac će, preko MRE, bez odlaganja i samoinicijativno proslediti KfW-u svaki upit koji dobije od OECD-a ili njegovih članova po tzv. „Sporazumu za nevezanu ODA transparentnost kredita”,

nakon dodele ugovora za nabavku robe i usluga koje se finansiraju iz Zajma, a sa KfW-om će usklađivati odgovore na svaki takav upit.

- 11.3 *Detalji o sprovođenju Programa.* Zajmoprimac, posredstvom MRE, i KfW će Posebnim sporazumom utvrditi detalje koji se odnose na član 11.1 ovog sporazuma o zajmu.
- 11.4 *Usklađenost.* Zajmoprimac će, posredstvom MRE, obezbediti da lica kojima je poverio i/ili im je poverena od strane Agencije za sprovođenje Programa priprema i sprovođenje Programa, dodela ugovora za nabavku robe i usluge koje se finansiraju i zahtevaju iznose Zajma, ne zahtevaju, prihvataju, vrše, dodeljuju, obećavaju ili prihvataju obećana nezakonita plaćanja ili druge koristi u vezi sa ovim zadacima.
- 11.5 *Pomoć Agencijama za sprovođenje Programa.* Zajmoprimac će, posredstvom MRE, pomagati Agencijama za sprovođenje Programa u skladu sa dobrom inženjerskom i finansijskom praksom u sprovođenju Programa i ispunjavanju njihovih obaveza prema Posebnom sporazumu.
- Naročito, Zajmoprimac će obezbediti Agencijama za sprovođenje Programa bilo koju i sve dozvole neophodne za sprovođenje Programa u skladu sa zakonima Republike Srbije.
- 11.6 *Dodatne obaveze.* Zajmoprimac će postupati u skladu i obezbediti da Agencije za sprovođenje Programa postupaju u skladu sa obavezama utvrđenim Posebnim sporazumom.
- 11.7 *Rangiranje pari passu.* Zajmoprimac garantuje i izjavljuje da se njegove obaveze prema ovom sporazumu o zajmu rangiraju i biće servisirane u najmanjoj meri kao *pari passu*, sa svim drugim neobezbeđenim i nepodređenim obavezama plaćanja, a Zajmoprimac će, u meri u kojoj je to dozvoljeno zakonom, obezbediti da se ovo rangiranje takođe obezbedi za sve buduće neobezbeđene ili nepodređene obaveze.
- 11.8 *Opterećenja.* Zajmoprimac neće stvarati niti dozvoliti da Agencije za sprovođenje Programa stvaraju bilo kakva opterećenja na sredstvima u Programu bez prethodne saglasnosti KfW-a. U ovom sporazumu o zajmu, „**Opterećenje**” znači bilo koja hipoteka, zalog, založno pravo, naknada, ustupanje ili prenos putem obezbeđenja, hipotekarnog zaloga ili prava na obezbeđenje i bilo koji sporazum ili dogovor koji rezultira stvaranjem obezbeđenja ili bilo kojeg prava koje omogućava prvenstvo plaćanja bilo koje obaveze bilo kojeg lica.

Ova obaveza se ne primenjuje:

- a) na opterećenja koja su već postojala ili su već ugovorena kada je ovaj sporazum o zajmu potpisan i koja su obelodanjena KfW-u pre nego što je sporazum o zajmu potpisan,
- b) na opterećenja koja obično nastaju u redovnom poslovanju prema zakonskim i drugim uobičajenim ugovornim propisima kako bi se obezbedile obaveze (sa izuzetkom kreditnih obaveza) prema dobavljačima ili drugim pružiocima usluga (npr. zadržavanje prava uobičajeno u industrijskim i pravnim zalozima), ili
- c) na opterećenja koja su već postojala u vreme kada je imovina stečena, pod uslovom da su opterećenja eliminisana u roku od tri meseca nakon sticanja.

Ako Zajmoprimac ili Agencija za sprovođenje Programa da bilo kom trećem licu sredstvo obezbeđenja ili druga prava koja tom trećem licu omogućavaju

da zahteva povlašćeno izmirivanje potraživanja iz bilo kojih sredstava, imovine ili prihoda Programa Zajmoprimca ili Agencije za sprovođenje Programa sredstava, KfW može svoj pristanak da učini potencijalnim za Zajmoprimca ili Agenciju za sprovođenje Programa i takođe KfW osigurati (dodatno) obezbeđenje u istoj meri u kojoj se potraživanja KfW od Zajmoprimca jednako i merljivo obezbeđuju prema ovom sporazumu o zajmu.

11.9 *Prodaja imovine.* Bez prethodne saglasnosti KfW-a, Zajmoprimac neće prodati niti će dozvoliti da Agencija za sprovođenje Programa proda bilo koju imovinu Programa u celosti ili njen deo pre otplate Zajma u potpunosti.

11.10 *Pranje novca.* Zajmoprimac će, posredstvom MRE, obezbediti da Agencija za sprovođenje Programa odmah stavi na raspolaganje KfW-u, na zahtev, sve informacije i dokumente koje KfW zahteva kako bi ispunila svoje obaveze da spreči pranje novca i finansiranje terorizma, kao i da neprekidno prati svoj poslovni odnos sa Zajmoprimcem, kao što je neophodno za tu svrhu.

Zaključivanjem i sprovođenjem ovog sporazuma o zajmu, Zajmoprimac će obezbediti da Agencija za sprovođenje Programa postupa u svoje ime i za svoj račun. U pogledu nemačkog zakona ili zakona zemlje osnivanja Zajmoprimca,

a) sopstveni resursi Agencije za sprovođenje Programa ili iznosi koji su investirani u finansiranje Programa neće biti nezakonitog porekla a, posebno, budući da ova lista nije sveobuhvatna, neće se povezivati sa trgovinom droge, korupcijom, organizovanim kriminalnom ili terorizmom;

b) kapital Agencije za sprovođenje Programa ni u kom trenutku neće biti nezakonitog porekla a, posebno, budući da ova lista nije sveobuhvatna, neće se povezivati sa trgovinom droge, korupcijom, organizovanim kriminalom ili terorizmom;

c) Agencija za sprovođenje Programa se neće angažovati u sticanju, posedovanju ili upotrebi imovine nezakonitog porekla;

d) Agencija za sprovođenje Programa se neće ni u kom trenutku povezivati sa trgovinom droge, korupcijom, organizovanim kriminalom ili terorizmom, budući da lista nije sveobuhvatna;

e) Agencija za sprovođenje Programa neće biti uključena u finansiranje terorizma.

12. Raskid Sporazuma

12.1 *Razlozi za raskid.* KfW može ostvariti prava definisana u članu 12.2 ovog sporazuma o zajmu (*Pravne posledice nastanka uzroka za raskid*) ukoliko nastane događaj koji se smatra materijalnim razlogom (*Wichtiger Grund*). Materijalnim razlogom će se posebno smatrati sledeće okolnosti:

a) ukoliko Zajmoprimac ne izvrši obavezu plaćanja prema KfW-u po dospeću;

b) ukoliko dođe do kršenja obaveza prema ovom sporazumu o zajmu, Finansijskom sporazumu I, Finansijskom sporazumu II ili Posebnom sporazumu, kao i bilo kojim pravno obavezujućim dodatnim ugovorima uz ovaj sporazum o zajmu;

c) ukoliko ovaj sporazum o zajmu ili bilo koji njegov deo prestane da bude obavezujući za Zajmoprimca ili prestane da se primenjuje na Zajmoprimca;

d) ukoliko se ispostavi da su bilo koja izjava, potvrda, informacija, zastupanje ili garancija koji su po mišljenju KfW-a od ključnog značaja za odobravanje i izvršenje Zajma netačni, dovode u zabludu ili nepotpuni;

- e) ukoliko nastanu druge vanredne okolnosti usled kojih se odlaže ili sprečava izvršenje obaveza prema ovom sporazumu o zajmu;
- f) ukoliko Zajmoprimac ne bude u mogućnosti da dokaže da su iznosi Zajma upotrebljeni u dogovorene svrhe;
- g) ukoliko Zajmoprimac obustavi plaćanja poveriocima, ili je nesolventan ili započne pregovore sa jednim ili više poverilaca (uz izuzetak KfW-a) o moratorijumu, otpisu neizmirenih dugovanja, odlaganju plaćanja, ili prekidu servisiranja duga.
- 12.2 *Pravne posledice nastanka uzroka za raskid.* Ukoliko je nastao bilo koji od slučajeva navedenih u članu 12.1 a)–g) ovog sporazuma o zajmu, KfW može odmah obustaviti isplate prema ovom sporazumu o zajmu. Ukoliko takav slučaj nije rešen u roku od pet dana (u slučaju člana 12.1 a) ovog sporazuma o zajmu) ili u svim drugim slučajevima navedenim u članu 12.1 ovog sporazuma o zajmu u periodu koji odredi KfW, a koji, međutim, ne može biti kraći od 30 dana, KfW može raskinuti ovaj sporazum o zajmu u celini ili bilo koji njegov deo, što može imati za posledicu da će njegove obaveze prema ovom sporazumu o zajmu prestati i KfW može zahtevati trenutnu otplatu celog ili dela Neotplaćenog iznosa Zajma, zajedno sa dospelom kamatom i svim ostalim iznosima dospelim prema ovom sporazumu o zajmu. Čl. 7.5 i 7.6 ovog sporazuma o zajmu se primenjuju na ubranu naplatu iznosa *mutatis mutandis*.
- 12.3 *Odšteta.* U slučaju da ovaj sporazum o zajmu bude u celosti ili delimično raskinut, Zajmoprimac će platiti Naknadu za odustajanje od isplate u skladu sa članom 3.6 i/ili Naknadu za prevremenu otplatu u skladu sa članom 6.4 c).

13. Zastupanje i izjave

- 13.1 *Zastupanje Zajmoprimca.* Zajmoprimca će prilikom sprovođenja ovog sporazuma o zajmu i Programa predstavljati ministar finansija i lica koja on/ona imenuje za KfW i koja su ovlašćena deponovanim potpisima uz potvrdu ministra. Zajmoprimca će prilikom sprovođenja Programa i ovog sporazuma o zajmu predstavljati ministar rudarstva i energetike i lica koja on/ona imenuje za KfW i koja su ovlašćena deponovanim potpisima uz potvrdu ministra. Ovlašćenje u pogledu zastupanja će se smatrati punovažnim sve dok KfW ne primi izričiti opoziv od predstavnika Zajmoprimca ovlašćenog u tom trenutku.
- 13.2 *Adrese.* Obaveštenja ili izjave u vezi sa ovim sporazumom o zajmu moraju biti u pisanom obliku. Ona se šalju u vidu originala ili – sa izuzetkom zahteva za isplatu – faksom. Sva obaveštenja i izjave date u vezi sa ovim sporazumom moraju biti poslate na sledeće adrese:

Za KfW:

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

Za Zajmoprimca:

Ministarstvo finansija
 Kneza Miloša 20
 11000 Beograd

Republika Srbija
Fax: +381-11-3618-961

Ministarstvo rudarstva i energetike
Nemanjina 22-26
11000 Beograd
Republika Srbija
Fax: +381-11-3616-603

14. Objavljivanje i prenos informacija u vezi sa Programom

- 14.1 *Objavljivanje informacija u vezi sa Programom od strane KfW-a.* U skladu sa međunarodno prihvaćenim načelima krajnje transparentnosti i efikasnosti u razvojnoj saradnji, KfW objavljuje odabrane informacije (uključujući i izveštaje o oceni) o Programu i načinu njegovog finansiranja u toku pregovora koji se vode pre potpisivanja sporazuma, u toku same realizacije sporazuma u vezi sa Programom i u fazi nakon realizacije sporazuma (u daljem tekstu: „**Čitav period**”).

Informacije se redovno objavljuju na veb stranici KfW-a (<http://transparenz.kfw-entwicklungsbank.de/en>).

Objavljivanje informacija (od strane KfW-a ili od trećih strana, u skladu sa niže navedenim članom 14.3) o Programu i načinu njegovog finansiranja ne uključuje nikakvu ugovornu dokumentaciju niti osetljive finansijske ili poslovne informacije o stranama koje učestvuju u Programu ili njegovom finansiranju, kao što su,

- a) informacije o internim finansijskim podacima;
 - b) poslovne strategije;
 - c) interni pravilnici i izveštaji;
 - d) lični podaci fizičkih lica;
 - e) KfW-ov interni rejting finansijskog stanja strana.
- 14.2 *Prenos informacija u vezi sa Programom trećim stranama.* KfW prenosi informacije o Programu i načinu njegovog finansiranja tokom Čitavog perioda subjektima navedenim u nastavku, posebno da bi se obezbedila transparentnost i efikasnost:
- a) zavisnim društvima KfW-a;
 - b) Saveznoj Republici Nemačkoj i njenim nadležnim telima, organima, institucijama, agencijama ili subjektima;
 - c) drugim organizacijama uključenim u nemačku bilateralnu razvojnu saradnju, posebno Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH;
 - d) međunarodnim organizacijama uključenim u prikupljanje statističkih podataka i njihovim članovima, posebno Organizaciji za ekonomsku saradnju i razvoj (OECD) i njenim članovima, i
 - e) Švajcarskoj Konfederaciji koju predstavlja Državni sekretarijat za ekonomske poslove („SECO”).

14.3 *Prenos informacija u vezi sa Programom trećim stranama i njihovo objavljivanje od strane istih.* Nadalje, Savezna Republika Nemačka je zatražila od KfW-a da podeli odabrane informacije o Programu i načinu njegovog finansiranja tokom celog perioda sa sledećim subjektima, koji objavljuju delove koji su od značaja za određenu svrhu:

- a) Saveznom Republikom Nemačkom, za potrebe Inicijative za transparentnost međunarodne pomoći (http://www.bmz.de/de/was_wir_machen/wege/transparenz-fuer-mehr-Wirksamkeit/index.html);
- b) agencijom Germany Trade & Invest (GTAI), za potrebe tržišnih informacija (<http://www.gtai.de/GTAI/Navigation/DE/trade.FOO>);
- c) OECD, za potrebe izveštavanja o finansijskim tokovima u okviru razvojne saradnje (<http://stats.oecd.org/>);
- d) Institutom za ocenu razvoja Savezne Republike Nemačke (DEVal) za potrebe ocene sveukupne razvojne saradnje Nemačke, kako bi se obezbedila transparentnost i efikasnost (<http://www.deval.org/de/>); i
- e) Švajcarskom platformom za javne nabavke (SIMAP).

14.4 *Prenos informacija u vezi sa Programom drugim trećim stranama (uključujući njihovo objavljivanje od strane istih).* KfW zadržava pravo da trećim stranama prenosi (između ostalog i za potrebe objavljivanja) informacije o Programu i njegovom finansiranju tokom celog perioda, kako bi štitila legitimne interese.

KfW ne prenosi informacije trećim stranama ako je legitiman interes Zajmoprimca da informacije ne budu prenete važniji od interesa KfW da informacije budu prenete. U legitimne interese Zajmoprimca posebno spada poverljivost osetljivih informacija koje su pomenute u članu 14.1, koje se ne objavljuju.

Pored toga, KfW ima pravo da prenosi informacije trećim stranama ako je to neophodno zbog zakonskih ili regulatornih zahteva da se dokazuju ili brane potraživanja ili druga zakonska prava na sudu ili u upravnom postupku.

15. Opšte odredbe

15.1 *Radni dan banaka.* Kada se u ovom sporazumu o zajmu navodi „**radni dan banaka**”, to označava dan koji nije subota ili nedelja, na koji su poslovne banke u Frankfurtu na Majni, Savezna Republika Nemačka otvorene radi obavljanja opštih poslova.

15.2 *Mesto izvršenja.* Mesto izvršenja svih obaveza po ovom sporazumu o zajmu je Frankfurt na Majni, Savezna Republika Nemačka.

15.3 *Nevažeće odredbe i praznine.* Ukoliko bilo koja odredba ovog sporazuma o zajmu jeste ili postane nevažeća, ili ukoliko postoji praznina u bilo kojoj odredbi ovog sporazuma o zajmu, to neće imati uticaja na pravnu valjanost ostalih odredaba Sporazuma o zajmu. Sporazumne strane će zameniti sve nevažeće odredbe pravno važećim odredbama koje su najbliže duhu i svrsi nevažećih odredbi. Sporazumne strane će popuniti svaku prazninu u odredbama sa pravno valjanim odredbama koje su najbliže duhu i svrsi ovog sporazuma o zajmu.

15.4 *Pisani oblik.* Izmene i dopune ovog sporazuma o zajmu moraju biti u pisanom obliku. Sporazumne strane moraju da u pisanom obliku najave svako odstupanje u odnosu na ovaj zahtev.

- 15.5 *Ustupanje.* Zajmoprimac ne može da ustupi ili prenese, založi ili stavi pod hipoteku bilo koje potraživanje iz ovog sporazuma o zajmu.
- 15.6 *Merodavno pravo.* Za ovaj sporazum o zajmu merodavni su zakoni Savezne Republike Nemačke.
- 15.7 *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.
- 15.8 *Odricanje od imuniteta.* Ako i 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 ovim neopozivo odriče takvog imuniteta u pogledu obaveza Zajmoprimca prema ovom sporazumu o zajmu i u vezi sa njim, u meri u kojoj to dozvoljavaju zakoni u toj nadležnosti. Ovo odricanje od imuniteta se neće odnositi na imovinu (i) koja se koristi u okviru diplomatskih, konzularnih, specijalnih i misija pri međunarodnim organizacijama ili međunarodnim konferencijama države Zajmoprimca ili (ii) vojnog karaktera ili pod kontrolom vojnih organa.
- 15.9 *Pravni sporovi.* Sve sporove nastale na osnovu ili u vezi sa ovim sporazumom o zajmu rešavaće isključivo i konačno Arbitražni sud. U tom slučaju, primenjuju se sledeće odredbe:
- a) Arbitražni sud će se sastojati od jednog ili tri arbitra koji će biti imenovani i postupati u skladu sa Pravilima arbitraže Međunarodne trgovinske komore (MTK) koja važe u tom trenutku.
 - b) Arbitražni postupak će se voditi u Frankfurtu na Majni. Postupak će se voditi na engleskom jeziku.
- 15.10 Stupanje na snagu. Ovaj sporazum o zajmu neće stupiti na snagu sve dok
- a) ne bude ratifikovan od strane Narodne skupštine Republike Srbije; i
 - b) Zajmoprimac ne obezbedi KfW-u pisanu potvrdu da je Sporazum o zajmu propisno ratifikovan i objavljen prema važećem zakonu.
- Ukoliko Sporazum o zajmu nije stupio na snagu i dejstvo u roku od dvanaest meseci od dana kada je poslednja strana potpisala ovaj sporazum o zajmu, KfW može da se, od dana koji sledi nakon isteka dvanaestomesečnog perioda do dana stupanja na snagu, jednostrano povuče iz ovog sporazuma o zajmu i time raskine njegovo provizorno nedejstvo tako što će poslati pisano obaveštenje Zajmoprimcu. U ovom slučaju Zajmoprimac plaća naknadu za odustajanje od isplate u skladu sa članom 3.6 (*Naknada za odustajanje od isplate*).

Sačinjeno u četiri originalna primerka na engleskom jeziku.

U Beogradu,
na dan 21. juna 2017. godine

za Republiku Srbiju

u Beogradu,
na dan 21. juna 2017. godine

za KfW

koju predstavlja
ministar finansija

Ime: Aleksandar Antić, s.r.

Funkcija: Ministar rudarstva i energetike

Ime: Arne Goss, s.r.

Funkcija: Direktor
KfW Kancelarije u
Beogradu

Ime: Simone Wunsch, s.r.

Funkcija: Regionalni
direktor KfW Frankfurt

Aneks 1
Plan isplate

Plan najbrže moguće isplate

Do isteka svakog perioda isplate („Efektivni datum kraja perioda” u skladu sa listom u nastavku), Zajmoprimac može podneti zahtev za isplatu do iznosa koji ne prelazi ukupnu sumu naznačenu za svaki period isplate u sledećoj tabeli.

Period	Efektivni datum početak perioda (uklj.)	Efektivni datum kraj <i>perioda</i> (isklj.)	Maksimalni iznos koji može biti isplaćen do kraja perioda (zbirno) (svi iznosi u evrima)
1	01.07.2017	01.01.2018	140.000,00
2	01.01.2018	01.07.2018	280.000,00
3	01.07.2018	01.01.2019	3.880.000,00
4	01.01.2019	01.07.2019	9.000.000,00
5	01.07.2019	01.01.2020	15.000.000,00
6	01.01.2020	01.07.2020	19.500.000,00
7	01.07.2020	01.01.2021	19.700.000,00
8	01.01.2021	01.07.2021	19.900.000,00
9	01.07.2021	31.12.2021	20.000.000,00

Aneks 2**Obrazac Pravnog mišljenja Ministarstva pravde Republike Srbije**

Napomena: Dopuniti „Republika ZEMLjE”/„ZEMLjA” odgovarajuće.

[Memorandum izdavaoca pravnog mišljenja]

KfW

Sektor [_____]

Na ruke: [_____]

Palmengartenstrasse 5 - 9

Postfach 11 11 41

60325 Frankfurt am Main/Germany

_____ (datum)

Savezna Republika Nemačka

Sporazum o zajmu od datuma _____ sačinjen između KfW i [_____] („Zajmoprimac”) na iznos koji ne prelazi ukupno EUR____.000.000,--.

Poštovani,

Ja sam [Ministar pravde] [pravni zastupnik] [rukovodilac pravne službe _____ (unesite ministarstvo ili drugi organ)] Republike ZEMLjE. U tom svojstvu nastupam u vezi sa Sporazumom o zajmu, od datuma _____ („Sporazum o zajmu”), sačinjenim između Zajmoprimca i vas, a čiji je predmet zajam koji treba da odobrite Zajmoprimcu, u ukupnom iznosu koji ne prelazi ukupno EUR____.000.000,--.

1. Pregledana dokumentacija

pregledao sam:

1.1 autentični potpisani original Sporazuma o zajmu;

1.2 ustavna dokumenta Zajmoprimca, posebno:

- (a) Ustav Republike ZEMLJE _____, od datuma _____, propisno objavljen u _____, br. _____, str. _____, i njegove izmene;
- (b) Zakon(e) br. _____, od (datum) _____, propisno objavljene u _____, br., strana _____, i njihove izmene *[molimo ovde navedite eventualne zakone koji se odnose na pozajmljivanje novca od strane Republike ZEMLJE, (npr. budžetske zakone)]*;
- (c) _____ *[molimo da navedete druga dokumenta, npr. uredbe ili odluke Vladinih ili administrativnih tela ZEMLJE koja se odnose na zaključivanje sporazuma o zajmu od strane ZEMLJE uopšte ili na zaključivanje Sporazuma o zajmu]*; i
- (d) Sporazum o finansijskoj saradnji između Vlade Republike ZEMLJE i Vlade Savezne Republike Nemačke od datuma _____ („Sporazum o saradnji”)

i druge zakone, propise, potvrde, evidencije, registracije i dokumentaciju koju je po mom mišljenju bilo neophodno pregledati. Pored toga, sproveo sam istraživanja koja je po mom mišljenju bilo neophodno i poželjno sprovesti radi davanja ovog mišljenja.

2. Mišljenje

Shodno tome, za potrebe člana _____ Sporazuma o zajmu, mišljenja sam da prema zakonima Republike ZEMLJE koji su na snazi na ovaj datum:

2.1 Prema članu _____ Ustava / članu _____ zakona o _____ *[unesite odgovarajuće]* Zajmoprimac ima pravo da zaključi Sporazum o zajmu i preduzeo je sve neophodne aktivnosti kako bi odobrio potpisivanje, uručenje i izvršenje Sporazuma o zajmu, posebno na osnovu:

- (a) Zakona br. _____ od datuma _____ Parlamenta Republike ZEMLJE, kojim se potvrđuje Sporazum o zajmu / odobrava potpisivanje, uručenje i izvršenje Sporazuma o zajmu od strane Zajmoprimca / _____ *[unesite odgovarajuće]*;
- (b) Odluke(a) br. _____ od datuma _____ Vlade / Državnog saveta za zajmove / _____ *[unesite odgovarajuće Vladino ili administrativno telo ZEMLJE]*;
- (c) _____ *[unesite nazive drugih rezolucija, odluka itd.]*.

2.2 G-đa/G-din _____ (i G-đa./G-din _____) je (su) propisno ovlašćeni od _____ *[tj. po zakonu o njegovom/voj položaju (kao ministar _____ / kao _____), po odluci Vlade _____, po punomoćju od _____ datuma _____, itd.]* da potpiše samostalno / zajednički Sporazum o zajmu u ime Zajmoprimca. Sporazum o zajmu potpisan od strane G-din/G-đa _____ (i G-din/G-đa _____) je propisno zaključen u ime Zajmoprimca i predstavlja pravno obavezujuće obaveze Zajmoprimca čije neispunjavanje podleže primeni zakona protiv Zajmoprimca u skladu sa uslovima Sporazuma o zajmu.

[Izbor 1 za Odeljak 2.3, koristi se ako pored dokumenata navedenih u Odeljku 2.1 i 2.2 određena službena ovlašćenja itd. moraju biti dobijena u skladu sa zakonima Republike ZEMLjE:]

2.3 Za zaključivanje i izvršenje Sporazuma o zajmu Zajmoprimac (uključujući, bez ikakvih ograničenja, treba da obezbedi i prenese KfW-u sve iznose dospele u skladu sa Sporazumom o zajmu u valutama koje su njime predviđene), pribavljena su sledeća pravosnažna zvanična odobrenja, ovlašćenja, licence, registracije i/ili saglasnosti, koji su na punoj pravnoj snazi i proizvode pravno dejstvo:

- (a) Odobrenje od _____ [Centralna banka / Narodna banka / _____], datum _____, br. _____;
- (b) Saglasnost od _____ [Ministar / Ministarstvo _____], datum _____, br. _____; i
- (c) _____ [uneti druga zvanična ovlašćenja, dozvole i/ili saglasnosti].

Nisu potrebne nikakve druge zvanične saglasnosti, dozvole, registracije i/ili odobrenja državnih institucija ili agencija (uključujući Centralnu / Narodnu banku Republike ZEMLjE) ili suda u vezi sa zaključivanjem i izvršenjem Sporazuma o zajmu od strane Zajmoprimca (uključujući bez ograničenja dobijanje i prenos KfW-u svih iznosa koji dospevaju i u utvrđenim valutama, kako je navedeno u Sporazumu o zajmu) i validnošću i primenjivošću obaveza Zajmoprimca prema Sporazumu o zajmu.

[Izbor 2 za Odeljak 2.3, koristi se ako pored dokumenata navedenih u Odeljku 2.1 i 2.2 određena službena ovlašćenja itd. ne moraju biti dobijena u skladu sa zakonima Republike ZEMLjE:]

2.3 Nisu potrebne nikakve zvanične saglasnosti, dozvole, registracije i/ili odobrenja državnih institucija ili agencija (uključujući Centralnu / Narodnu banku Republike ZEMLjE) ili suda u vezi sa zaključivanjem i izvršenjem Sporazuma o zajmu od strane Zajmoprimca (uključujući bez ograničenja obezbeđivanje i prenos KfW-u svih iznosa koji dospevaju i u utvrđenim valutama, kako je navedeno u Sporazumu o zajmu) i validnošću i primenjivošću obaveza Zajmoprimca prema Sporazumu o zajmu.

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 i sudskoj nadležnosti u skladu sa članom _____ Sporazuma o zajmu važeći su i obavezujući. Odluke i presude arbitražnih sudova protiv Zajmoprimca se priznaju i primenjuju se u Republici ZEMLjE u skladu sa sledećim pravilima: _____; [unesite primenjiv sporazum (ako postoji), tj. 1958 Njujorška Konvencija, i / ili osnovne principe u vezi sa priznavanjem i izvršavanjem arbitražnih odluka u ZEMLj].

2.6 Sudovi Republike ZEMLjE 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 zaključivanje i izvršenje Sporazuma o zajmu od strane Zajmoprimca predstavljaju privatne i komercijalne radnje, a ne državne ili javne poslove. Ni Zajmoprimac niti bilo koji deo njegove imovine nemaju pravo na imunitet od arbitraže, sudskog postupka, izvršenja, zaplene ili drugih pravnih radnji.

2.8 Sporazum o saradnji je na snazi i efektivan prema Ustavu i zakonima Republike ZEMLjE. [Prema članu 3. Sporazuma o saradnji] [ako Sporazum o saradnji nije stupio na snagu ali sporazum o dvostrukom oporezivanju postoji] prema

_____ [unesite sporazum ili zakon i propise koji se promjenjuju] / Zajmoprimcu neće biti potrebno da vrši bilo kakvo umanjenje ili odbitak od bilo kog plaćanja koje je Zajmoprimac u obavezi da izvrši prema Sporazumu o zajmu i ukoliko bi takvo umanjenje ili odbitak naknadno bili nametnuti primenjivaće se odredbe člana _____ Sporazuma o zajmu prema kojem se od Zajmoprimca zahteva da u skladu sa tim članom obešteti KfW.

2.9 KfW nije i ne može se smatrati domaćim licem, niti da ima boravak ili sedište, posluje ili podleže oporezivanju u Republici *ZEMLJE* isključivo na osnovu zaključivanja, sprovođenja ili izvršenja 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 *ZEMLJE*.

Na osnovu gore iznetog, obaveze Zajmoprimca po Sporazumu o zajmu su direktne i безусловne, pravosnažne i obavezujuće za Zajmoprimca i mogu se primenjivati na Zajmoprimca u skladu sa uslovima ovog sporazuma o zajmu.

Ovo pravno mišljenje se ograničava na zakone Republike *ZEMLJE*.

_____, _____
 (Mesto) (Datum)

[Potpis]

Ime: _____

Prilozi:

Napomena: Molimo priložite overene kopije dokumenata i zakonskih odredaba navedenih u gornjem tekstu (imajući u vidu obiman Ustav i zakone Republike *ZEMLJE*, kopije relevantnih odredbi bi bile dovoljne) i dostavite KfW-u overeni prevod na engleski ili nemački jezik svakog od gorenavedenih dokumenata ukoliko takav dokument već nije objavljen na engleskom ili nemačkom jeziku kao zvaničnim jezicima i ukoliko KfW nije naveo da je neki drugi jezik prihvatljiv.

Pismo potvrde od KfW-a o Garanciji nemačke Vlade

Finansijska saradnja između Republike Srbije i Savezne Republike Nemačke

Program: Podsticanje obnovljivih energija: Razvoj tržišta biomase u Republici Srbiji

Garancija Savezne Republike Nemačke za Zajam

Poštovani,

Ovim potvrđujemo da je Garancija Savezne Republike Nemačke za Zajam, kao što je predviđeno u Preambuli Sporazuma o zajmu od datuma _____ za Program podsticanja obnovljivih energija: Razvoj tržišta biomase u Republici Srbiji, na snazi i obavezujuća.

S poštovanjem,

KfW

Član 3.

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