

Z A K O N

O POTVRĐIVANJU SPORAZUMA O ZAJMU IZMEĐU KFW, FRANKFURT NA MAJNI I REPUBLIKE SRBIJE KOJU ZASTUPA VLADA REPUBLIKE SRBIJE DELUJUĆI PREKO I PUTEM MINISTARSTVA FINANSIJA ZA PROGRAM „RAZVOJ TRŽIŠTA BIOMASE U REPUBLICI SRBIJI (DRUGA KOMPONENTA)”

Član 1.

Potvrđuje se Sporazum o zajmu između KfW, Frankfurt na Majni i Republike Srbije koju zastupa Vlada Republike Srbije delujući preko i putem Ministarstva finansija za Program „Razvoj tržišta biomase u Republici Srbiji (druga komponenta)”, koji je potpisan 27. oktobra 2023. godine u Frankfurtu na Majni i Beogradu, u originalu na engleskom jeziku.

Član 2.

Tekst Sporazuma o zajmu između KfW, Frankfurt na Majni i Republike Srbije koju zastupa Vlada Republike Srbije delujući preko i putem Ministarstva finansija za Program „Razvoj tržišta biomase u Republici Srbiji (druga komponenta)”, u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

Loan Agreement

dated October 27 2023

between

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

and

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

represented by the Government of the Republic of Serbia by and through the
Ministry of Finance

for

EUR 20,000,000.00

**- Development of the Biomass Market in the Republic of Serbia (second
component) -**

ID: 31347

BMZ-No. 201968395

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P R E A M B L E

The basis for this loan agreement between KfW and the Borrower ("**Loan Agreement**") is 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 Berlin on 19/20 November 2019.

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 Loan Agreement for recognition as Official Development Assistance (ODA).

To complement the funds provided hereunder, (i) the European Commission has made available additional funds under the Western Balkan Investment Framework ("**WBIF**") through KfW, (ii) the Delegation of the European Union to the Republic of Serbia through KfW has made available additional funds under the Instrument of Pre-accession Assistance ("**IPA**") in Serbia and (iii) the Federal Republic of Germany has made available additional funds for accompanying measures. Therefore, KfW and the Borrower intend to enter into (i) a separate grant agreement in an amount of up to EUR 9,000,000.00 for the partial financing of the Program (as defined below) (the "**WBIF Grant Agreement**"), (ii) a separate grant agreement in an amount of up to EUR 925,233.64 for the partial financing of the Program (the "**IPA Grant Agreement**") and (iii) a separate grant agreement in an amount of up to EUR 2,000,000 for the partial financing of the Program (the "**Grant Agreement**").

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")
(In words: twenty million Euro).
- 1.2 *Purpose.* The Borrower shall channel the Loan in full to selected municipalities (the "**Project-Executing Agencies**" and each a "**Project-Executing Agency**") in accordance with the conditions set forth in Article 2. The Borrower shall ensure that each Project-Executing Agency will use the Loan exclusively for financing the construction and conversion of district heating systems based on renewable energy sources and related associated measures ("**Program**"). The Borrower, in this respect represented by the Ministry of Mining and Energy, acting as the Program coordinating agency (the "**Program Coordinating Agency**"), 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 as well as customs duties will not be financed from the Loan. In addition to the foregoing, 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 value added tax.

2. Channelling of the Loan

- 2.1 *Channelling of the Loan to the Project-Executing Agencies.* The Borrower shall channel the Loan in full to the Project-Executing Agencies under separate channelling agreements (the "**Trilateral Agreements**") and to be entered between, *inter alios*, the Borrower, represented by the Program Coordinating Agency, the relevant Project-Executing Agencies and their corresponding district heating companies. It is hereby understood that payments in connection with the Trilateral Agreements shall be made directly to the respective contractors which have been selected in

accordance with the provisions set out in this Loan Agreement and in the Separate Agreement. 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 hereof and provide a term of 20 years.

2.2 *Certified translation.* Prior to the first disbursement of the Loan, the Borrower, through the Program Coordinating Agency, shall furnish to KfW a certified English translation of all Trilateral Agreements entered into prior to the first disbursement of the Loan (the “**First Disbursement Trilateral Agreements**”). Provided that the Borrower, represented by the Program Coordinating Agency, and a Project-Executing Agency has entered into a Trilateral Agreement other than the First Disbursement Trilateral Agreement, the Borrower, through the Program Coordinating Agency, shall furnish to KfW a copy of such Trilateral Agreement prior to any further disbursement of the Loan.

2.3 *No liability of the Project-Executing Agencies.* The channelling of the Loan shall not constitute any liability of the Project-Executing Agencies to KfW for any payment obligations under this Loan Agreement.

3. **Disbursement**

3.1 *Requesting disbursements.* As soon as all conditions precedent to disbursement pursuant to Article 3.3 (*Conditions precedent to disbursement*) hereof are fulfilled, KfW will disburse the Loan in accordance with the progress of the Program and upon request of the Borrower, in this respect represented by the Program Coordinating Agency, which request is irrevocable. Disbursements will be made in accordance with the Disbursement Schedule contained in Annex 1 (*Disbursement Schedule*) to this Loan Agreement. KfW will make disbursements only up to the maximum amounts determined for each disbursement period specified in Annex 1. To the extent the Borrower, in this respect represented by the Program Coordinating Agency, requests disbursement of lower amounts within any such period the undisbursed amounts may be requested in any of the next ensuing periods. With the exception of the last disbursement, KfW is not obligated to make disbursements of less than EUR 300,000.00.

- 3.2 *Deadline for requesting disbursements.* KfW has the right to refuse to make disbursements after 30 December 2029. 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 (*Form of Legal Opinion of the Ministry of Justice of the Republic of Serbia*) 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 (*Representation of the Borrower*) hereof have been received by KfW;
 - d) the guarantee from the Federal Republic of Germany mentioned in Article 8 (*Guarantee from the Federal Republic of Germany*) is in force and effect without any restriction. KfW will inform the Borrower once such guarantee is in full force and effect. The form of confirmation letter to be provided by KfW is attached as Annex 3 to this Loan Agreement;

- e) the Borrower has paid the Management Fee set forth in Article 4.2 (*Management Fee*) 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 First Disbursement Trilateral Agreements in accordance with Article 2.2 hereof prior to the first disbursement and a copy of any further Trilateral Agreements in accordance with Article 2.2 hereof prior to any further disbursements.

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, in this respect represented by the Program Coordinating Agency, 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 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 (*Special obligations*) hereof the Borrower may waive the disbursement of undisbursed Loan amounts with the prior consent of KfW against payment of a Non-Utilisation Fee pursuant to and as defined in Article 3.6 (*Non-Utilisation Fee*) hereof.

3.6 *Non-Utilisation Fee.* If the Borrower cancels the disbursement of a Loan amount for which an interest rate has already been determined pursuant to Article 3.5 (*Right to cancel disbursements*) hereof, or if such Loan amount is not disbursed at all or is not disbursed by the deadline stated in Article 3.2 (*Deadline for requesting disbursements*) 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-Utilisation Fee**"), unless such non-disbursement constitutes a breach of this Loan Agreement by KfW. KfW will calculate the amount of the Non-Utilisation Fee and communicate it to the Borrower. The Non-Utilisation Fee shall be determined as if no interest subsidies had been provided by the Federal Republic of Germany for the Program.

4. Fees

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

The Commitment Fee is due for payment semi-annually in arrears on 30 June and 30 December of each year, for the first time on 30 December 2024, 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 (*Entry into force and effect*) 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 0.5 % of the Loan amount stated in Article 1.1 (*Amount*) 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 Loan Agreement has been signed irrespective of whether the Loan is disbursed in full or only in part or at all.

5. Interest

5.1 *Fixed Interest Rate set upon disbursement of the Loan.*

a) *Interest rate.* The Borrower will pay interest on each disbursed Loan amount at a rate ("**Fixed Interest Rate**") determined by KfW within two **Banking Days** (as defined in Article 15.1 (*Banking Day*) hereof) prior to the disbursement of the respective Loan amount and which will be composed of:

- (i) The swap rate determined on the basis of Reuters page "**ICAPEURO**" or, if this page does not contain the necessary details or is not accessible, on Bloomberg page "**ICAE**" (or on a following page replacing the Reuters or Bloomberg pages stated above). If both pages fail to contain the necessary data or are irretrievable, KfW will determine this rate on the basis of its effective funding costs in the euro capital market for maturities that match the respective fixed interest periods as closely as possible,
- (ii) plus a margin of **0.60** % per annum that takes into account the grant funds made available by the Government of the Federal Republic of Germany.

If the interest rate calculated in accordance with the foregoing falls below 0 % per annum, the Fixed Interest Rate will be 0 % per annum.

The Fixed Interest Rate thus determined will apply until the last repayment instalment has been received in accordance with the repayment schedule set out in Article 6.1 (*Repayment schedule*) hereof.

b) *Consolidation.* If more than one disbursement is made from the Loan KfW will consolidate the interest rates fixed for each Loan amount into a single interest rate after each disbursement. This consolidated Fixed Interest Rate will correspond to the weighted average of the individual interest rates, rounded down to 1/10,000 of one percentage point if the

first omitted decimal is lower than 5 or rounded up to 1/10,000 of one percentage point if the first omitted decimal is equal to or greater than 5, and will be the basis for further calculation of interest from the date of each disbursement to the next disbursement. After full disbursement of the Loan the average interest rate thus determined will apply until the last repayment instalment has been received in accordance with the repayment schedule set out in Article 6.1 (*Repayment schedule*) hereof.

- c) *Notification of the interest rate.* KfW will notify to the Borrower the Fixed Interest Rate set pursuant to Article 5.1 a) (*Interest rate*) hereof without delay after it has been fixed. KfW will notify to the Borrower the interest rate consolidated pursuant to Article 5.1 b) (*Consolidation*) hereof prior to the next ensuing Payment Date (as defined in Article 5.3 (*Payment Dates*) 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 (*Account number, time of crediting*) hereof. Interest will be calculated in accordance with Article 7.1 (*Calculation*) 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 30 June and 30 December of each year 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 (*Entry into force and effect*) hereof;
- b) on the due date of the first repayment instalment pursuant to Article 6.1 (*Repayment schedule*) hereof together with such instalment;
- c) thereafter on the due dates of the repayment instalments pursuant to Article 6.1 (*Repayment schedule*) hereof.

6. Repayment and prepayment

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

Instalment	Due Date	Repayment Instalment	
1	30 Dec 2028	952,000.00	EUR
2	30 Jun 2029	952,000.00	EUR
3	30 Dec 2029	952,000.00	EUR
4	30 Jun 2030	952,000.00	EUR
5	30 Dec 2030	952,000.00	EUR
6	30 Jun 2031	952,000.00	EUR
7	30 Dec 2031	952,000.00	EUR
8	30 Jun 2032	952,000.00	EUR
9	30 Dec 2032	952,000.00	EUR
10	30 Jun 2033	952,000.00	EUR
11	30 Dec 2033	952,000.00	EUR
12	30 Jun 2034	952,000.00	EUR
13	30 Dec 2034	952,000.00	EUR
14	30 Jun 2035	953,000.00	EUR
15	30 Dec 2035	953,000.00	EUR
16	30 Jun 2036	953,000.00	EUR
17	30 Dec 2036	953,000.00	EUR
18	30 Jun 2037	953,000.00	EUR
19	30 Dec 2037	953,000.00	EUR
20	30 Jun 2038	953,000.00	EUR
21	30 Dec 2038	953,000.00	EUR

This Repayment Schedule may be adjusted from time to time in accordance with Article 6.5 (*Revised payment schedule*).

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 (*Repayment schedule*) 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 (*Repayment schedule*) 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 (*Repayment schedule*) 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) (*Notification*) to 6.4 e) (*Offsetting*) 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 (*Repayment schedule*) hereof.
- b) *Notification.* Prepayment of a Loan amount pursuant to Article 6.4 a) (*Right to prepayment*) hereof is subject to notification of the prepayment by the Borrower to KfW no later than on the fifteenth Banking Day 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 Fee.* 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 Fee**"). KfW will determine the amount of the Prepayment Fee and communicate it to the Borrower. The Prepayment Fee shall be determined as if no interest subsidies had been provided by the Federal Republic of Germany for the Program. 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) (*Notification*) hereof.

- d) *Amounts due.* Together with the prepayment pursuant to Article 6.4 a) (*Right to prepayment*) hereof, the Borrower will pay the following amounts:
- (i) any Prepayment Fee due as a result of the prepayment pursuant to Article 6.4 c) (*Prepayment Fee*) hereof; and
 - (ii) all interest accrued on the prepaid Loan amount and any other payments still outstanding under this Loan Agreement that have accrued until the date of the prepayment.
- e) *Offsetting.* Article 6.2 (*Undisbursed Loan amounts*) hereof will apply *mutatis mutandis* to the offsetting of prepayments.

6.5 *Revised repayment schedule.* In case of any application pursuant to Article 6.3 (*Repayments in case of incomplete disbursement*) or Article 6.4 (*Prepayment*), KfW shall send the Borrower a revised repayment schedule which shall form an integral part of this Loan Agreement and replace any repayment schedule applicable at the time of such replacement after the last disbursement under the Loan by KfW.

7. Calculations and payments in general

7.1 *Calculation.* Interest, the Commitment Fee, default interest pursuant to Article 7.5 (*Default interest*) hereof, lump-sum compensation payments for overdue amounts pursuant to Article 7.6 (*Lump-sum compensation*) hereof, Non-Utilisation Fee and Prepayment Fee 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 Loan 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 Loan 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 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 (*Prepayment*) 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 (*Interest*) 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 (*Account number, time of crediting*) 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 (*Default interest*) 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 (*Interest*) 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, 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 (being no earlier than the last day of any applicable grace period permitted by law).

For the avoidance of doubt, any cancellation hereunder will be subject to Article 3.6 (*Non-Utilisation Fee*) and any repayment of the Loan hereunder constitutes a prepayment and will be subject to the provisions set out in Article 6.4 c) (*Prepayment Fee*) and d) (*Amounts due*).

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 (*Account number, time of crediting*) hereof or to such other account as specified by KfW.

11. **Special obligations**

11.1 *Program implementation and special information.* The Borrower will itself, in this respect represented by the Program Coordinating Agency, and will ensure that the Project-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 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) at all times comply with the procurement provisions stipulated in the Separate Agreement including, the respective procurement plan;
- 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 request;
- h) immediately and on its own initiative,
 - (i) forward to KfW any queries received by the Borrower from the OECD or its members under the so-called "Agreement for Untied ODA Credits Transparency" following the award of the contracts for the supplies and services to be financed from the Loan and will coordinate the reply to any such queries with KfW, and
 - (ii) notify KfW of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Program.

11.2 *Details of Program implementation.* The Borrower, in this respect represented by the Program Coordinating Agency, and KfW will determine the details pertaining to Article 11.1 (*Program implementation and special information*) hereof by the Separate Agreement.

11.3 *Compliance Undertaking.* The Borrower, in this respect represented by the Program Coordinating Agency, undertakes to comply at all times with the obligations set out in the Separate Agreement and will ensure that each Project-Executing Agency complies at all times with the corresponding obligations set out in the Separate Agreement (*Compliance Covenants*).

11.4 *Assistance.* The Borrower will assist each Project-Executing Agency in conformity with sound engineering and financial practices in the implementation of the Program and in the performance of its obligations under the Separate Agreement and, in particular, grant each Project-

Executing Agency any and all permissions necessary for the implementation of the Program in line with the laws of the Republic of Serbia.

11.5 *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 the Borrower will ensure to the extent permitted by law that this ranking is also assured for all future unsecured and not subordinated payment.

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

12. Termination of the Loan Agreement

12.1 *Reasons for termination.* KfW may exercise the rights set out in Article 12.2 (*Legal consequences of the occurrence of a cause for termination*) hereof 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 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 on a moratorium, waiver of debts outstanding, deferment of payments or discontinuation of the debt service; or
- h) an event has occurred based on which KfW has the right to request the repayment of the grant provided under the WBIF Grant Agreement, the IPA Grant Agreement or the Grant Agreement or to suspend disbursements thereunder.

12.2 *Legal consequences of the occurrence of a cause for termination.* If one of the events mentioned in Article 12.1 (*Reasons for termination*) 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 (*Reasons for termination*) 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 (*Default interest*) and 7.6 (*Lump-sum compensation*) 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-Utilisation Fee in accordance with Article 3.6 (*Non-Utilisation Fee*) and/or Prepayment Fee in accordance with Article 6.4 c) (*Prepayment Fee*).

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

Program Coordinating

Agency: Ministry of Mining and Energy
Kralja Milana 36
11000 Belgrade
Republic of Serbia
Fax: +381 11 3346 755

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 results of environmental and social categorization and assessment as well as ex post evaluation reports) about the Program and its financing 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 (<https://www.kfw.de/microsites/Microsite/transparenz.kfw.de/#/start>).

The publication of information (either by KfW or third parties in accordance with Article 14.3 (*Transfer of program related information to third parties and publication by these*) below) about the Program and its financing 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 its financing 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), the Paris Club and their respective

members (including, for the avoidance of doubt, the participants and observers of the Paris Club);

- e) the parties to the general conditions of the European Western Balkan Joint Fund (“**EWBJF**”);
- f) the institutions administering the EWBJF and the WBIF contributors;
- g) the European Union and its competent institutions; and
- h) any Project-Executing Agency.

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 its financing 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 (<https://www.bmz.de/en/ministry/facts-figures/project-and-organisation-data>);
- b) Germany Trade & Invest (GTAI) for the purposes of market information (<http://www.gtai.de/GTAI/Navigation/DE/welcome.html>);
- c) OECD for the purpose of reporting financial flows in the framework of development cooperation (<https://www.oecd.org/>);
- d) German Institute for Development Evaluation (DEval) for the purposes of evaluating the overall German development cooperation to ensure transparency and efficiency (<https://www.deval.org/en/>);
- e) the parties to the general conditions of the EWBJF;
- f) the institutions administering the EWBJF and the WBIF contributors and
- g) the European Union and its competent institutions.

- 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 its financing 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 14.1 (*Publication of program-related information by KfW*), 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.** "Banking Day" means each day (other than a Saturday or Sunday), on which commercial banks are open for general business in Frankfurt am Main, Germany; provided that for the purposes of defining any repayment date and Payment Date in relation to a Loan provided hereunder and for determining any dates for disbursement or other payments thereunder, such day must in addition be a TARGET Day.

"**TARGET Day**" means any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer System (TARGET) is open for payments.

- 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 diplomatic, consular, special missions and missions of international organizations or of 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.*

Arbitration. All disputes arising out of or in connection with this Loan Agreement will be settled exclusively and finally by an arbitration tribunal. In this regard, the following will apply:

- (i) 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.
- (ii) The arbitration proceeding will be conducted in Frankfurt am Main. The language of the proceeding will be English.

15.10 *Entry into force and effect.* 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 a non-utilisation fee in accordance with Article 3.6 (*Non-Utilisation Fee*).

15.11 *Information concerning Article 15.10.* KfW will send the Borrower a letter in form and substance similar to the letter set out in Annex 4 to the Loan Agreement.

Done in 4 (four) originals in the English language.

Frankfurt am Main,
this 27 day of October 2023

Belgrade,
this 27 day of October 2023

KfW

For the Republic of Serbia

Signature

Signature

Arne Gooss

Siniša Mali

Name:

Name:

(in clear script)

(in clear script)

Head of Municipal & Infrastructure Division

Deputy Prime Minister and

Title: Southeast Europe & Turkey

Title: Minister of Finance

(in clear script)

(in clear script)

Second signature KfW

Signature

HARTMANN

Name:

(in clear script)

DIRECTOR AT KfW

Title:

(in clear script)

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 Beginn 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 EURO)
1	30.06.2024	30.12.2024	200,000.00
2	30.12.2024	30.06.2025	2,500,000.00
3	30.06.2025	30.12.2025	4,800,000.00
4	30.12.2025	30.06.2026	7,300,000.00
5	30.06.2026	30.12.2026	9,800,000.00
6	30.12.2026	30.06.2027	12,300,000.00
7	30.06.2027	30.12.2027	14,800,000.00
8	30.12.2027	30.06.2028	16,800,000.00
9	30.06.2028	30.12.2028	18,800,000.00
10	30.12.2028	End of disbursement period	20,000,000.00

Annex 2Form 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: [_____] (date)
Palmengartenstrasse 5 - 9
Postfach 11 11 41
60325 Frankfurt am Main/Germany

Federal Republic of Germany

Loan Agreement for the Program: Development of the Biomass Market in the Republic of Serbia (second component) (BMZ-No. 201968395, Loan ID: 31347) 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 Serbia. 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 *Serbia*, dated _____, duly published in _____, No _____, page _____, as amended;
- (b) Law(s) No _____ dated _____, duly published in _____, No _____, page _____, as amended *[please insert here, if existing, laws (e.g. budget laws) concerning the borrowing of money by the Republic of Serbia];*
- (c) _____ *[please refer here to other documents, e.g. decrees or resolutions by governmental or administrative bodies of Serbia relating to the conclusion of loan agreements by Serbia in general or with regard to the conclusion of the Loan Agreement]*

and 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 *Serbia* at the date hereof:

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

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

(c) _____ [please refer to other resolutions, decisions etc.].

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

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

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

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

No other official authorisations, consents, licenses, registrations and / or approvals of any governmental authority or agency (including the Central / National Bank of the Republic of Serbia) or court are required or advisable in connection with the execution and performance of the Loan Agreement by the Borrower (including without limitation the obtaining and transfer to KfW of all amounts due thereunder in the currencies specified therein) and the validity and enforceability of the Borrower's obligations under the Loan Agreement.

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

2.3 No official authorisations, consents, licenses, registrations and / or approvals of any governmental authority or agency (including the Central / National Bank of the Republic of Serbia) or court are required or

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

- 2.4 No stamp tax or similar tax or duty has to be paid in connection with the validity or enforceability of the Loan Agreement.
- 2.5 The choice of German law to govern the Loan Agreement and the submission to arbitration in accordance with Article _____ of the Loan Agreement are valid and binding. Arbitration awards against the Borrower will be recognised and enforceable in the Republic of *Serbia* according to the following rules: _____ *[please insert applicable treaty (if any), e.g. the 1958 New York Convention, and / or the basic principles regarding recognition and enforcement of arbitration awards in Serbia]*.
- 2.6 The courts of the Republic of *Serbia* are at liberty to give judgment denominated in the currency or currencies specified in the Loan Agreement.
- 2.7 The borrowing by the Borrower under the Loan Agreement and the execution and performance by the Borrower of the Loan Agreement constitute private and commercial acts and not governmental or public acts. Neither the Borrower nor any of its property (with the exception of property to which the waiver of immunity does not apply in accordance with Article [] of the Loan Agreement) has any right of immunity from arbitration, suit, execution, attachment or other legal process.
- 2.8 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 *Serbia* by reason only of the execution, performance or enforcement of the Loan Agreement. It is not necessary or advisable that KfW be licensed, qualified or otherwise entitled to carry on business or that KfW appoints agents or representatives in the Republic of *Serbia*.

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

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

_____, _____
(Place) (Date)

[Signature]

Name: _____

Enclosures:

Note: Please attach certified photocopies of the documents and legal provisions referred to above (with respect to lengthy laws or the Constitution of the Republic of *Serbia*, a copy of the relevant provisions would be sufficient) and also provide KfW with 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.

Confirmation letter from KfW regarding the German Government Guarantee

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

Program: Development of the Biomass Market in the Republic of Serbia (second component)

Guarantee of the Federal Republic of Germany for the Loan

Dear Sirs,

We herewith confirm that we have received the Guarantee of the Federal Republic of Germany for the Loan as stipulated in the Loan Agreement dated _____ for the Program Development of the Biomass Market in the Republic of Serbia (second component).

Yours sincerely,

KfW

Annex 4

Information concerning Article 15.10

[Insert address MoF]

Financial Cooperation between the Republic of Serbia and the Federal Republic of Germany
Loan Agreement (No XXXXX) amounting to EUR 20 million between KfW and the Republic of Serbia for the Program “Development of the Biomass Market in the Republic of Serbia (second component)” (BMZ-No. 201968395), signed on _____ 2023 (the “Loan Agreement”)

Dear Madam or Sir,

Reference is made to the Loan Agreement and your request to receive a confirmation from KfW regarding the entry into force of the Loan Agreement.

We herewith would like to confirm receipt of your confirmation on ratification dated _____ in accordance with Article 15.10 b) of the Loan Agreement.

To our positive knowledge, the requirements for the entry into force of the Loan Agreement as set out in Article 15.10 of the Loan Agreement have been fulfilled¹ on_____.

Therefore, the payment of the management fee is due and payable on [*insert date*].

The confirmation is given on the date of its signing and the statements above shall not constitute a legal opinion nor legal advice in relation to German law or any other applicable law and do not limit or replace the fulfillment of the disbursement requirements as further specified in the Loan Agreement.

Yours sincerely,
KfW

¹ Please note that this language assumes that the notice of ratification send to us will be the same as for previous transactions.

Sporazum o zajmu

od 27. oktobra 2023. godine

između

**KfW, Frankfurt na Majni
(u daljem tekstu: „KfW”)**

i

**Republike Srbije
(u daljem tekstu: „Zajmoprimac”)**
koju zastupa Vlada Republike Srbije delujući preko i putem Ministarstva
finansija

u iznosu od

20.000.000,00 evra

- Razvoj tržišta biomase u Republici Srbiji (druga komponenta) -

**ID Zajma: 31347
BMZ- br. 201968395**

SADRŽAJ

SADRŽAJ.....
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2. Prenošnje Zajma.....
3. Isplata
4. Provizije
5. Kamata
6. Otplata i prevremena otplata
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8. Garancija Savezne Republike Nemačke
9. Nezakonitost
10. Troškovi i javne dažbine.....
11. Posebne obaveze
12. Raskid Sporazuma o zajmu
13. Zastupanje i izjave
14. Objavljivanje i prenos informacija u vezi sa Programom.....
15. Opšte odredbe
Prilog 1 Plan isplate.....
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Prilog 4 Informacije u vezi sa članom 15.10.....

PREAMBULA

Osnov za ovaj sporazum o zajmu između KfW-a i Zajmoprimca (u daljem tekstu: „**Sporazum o zajmu**”) je Sažeti zapisnik o pregovorima o razvojnoj saradnji između Vlade Savezne Republike Nemačke i Vlade Republike Srbije održanim u Berlinu 19. i 20. novembra 2019. 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 i razvoj (*OECD*) koji se primenjuju na dan potpisivanja ovog sporazuma o zajmu u cilju njegovog priznavanja kao Zvanične razvojne pomoći (*Official Development Assistance, ODA*).

Kako bi dopunila sredstva predviđena ovim sporazumom, (i) Evropska komisija je stavila na raspolaganje dodatna sredstva u okviru Investicionog okvira za Zapadni Balkan (u daljem tekstu: „**WBIF**”) preko KfW-a, (ii) Delegacija Evropske unije u Republici Srbiji preko KfW-a je učinila raspoloživim dodatna sredstva u okviru Instrumenta pretpristupne pomoći (u daljem tekstu: „**IPA**”) u Srbiji i (iii) Savezna Republika Nemačka je stavila na raspolaganje dodatna sredstva za prateće mere. Stoga, KfW i Zajmoprimac nameravaju da zaključe (i) poseban sporazum o dodeli bespovratnih sredstava u iznosu do 9.000.000 evra za delimično finansiranje Programa (kao što je definisano u nastavku) (u daljem tekstu: „**WBIF Sporazum o dodeli bespovratnih sredstava**”), (ii) poseban sporazum o dodeli bespovratnih sredstava u iznosu do 925.233,64 evra za delimično finansiranje Programa (u daljem tekstu: „**IPA Sporazum o dodeli bespovratnih sredstava**”) i (iii) i poseban Sporazum o dodeli bespovratnih sredstava u iznosu do 2.000.000 evra za delimično finansiranje Programa (u daljem tekstu: „Sporazum o dodeli bespovratnih sredstava”).

Na ovom osnovu i pod uslovom da Savezna Republika Nemačka odobri 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 u ukupnom iznosu koji ne prelazi

20.000.000,00 evra (u daljem tekstu: „**Zajam**”)

(slovima: dvadeset miliona evra).

- 1.2 *Svrha.* Zajmoprimac će preneti Zajam u celosti izabranim jedinicama lokalne samouprave (u daljem tekstu: „**Agencije za sprovođenje Projekta**” i pojedinačno „**Agencija za sprovođenje Projekta**”) u skladu sa uslovima definisanim u članu 2. Zajmoprimac će obezbediti da svaka Agencija za sprovođenje Projekta koristi Zajam isključivo za finansiranje izgradnje i konverzije sistema daljinskog grejanja na obnovljive izvore energije i povezane mere (u daljem tekstu: „**Program**”). Zajmoprimac, kog u tom smislu predstavlja Ministarstvo rudarstva i energetike koje deluje kao Agencija za koordinaciju Programa (u daljem tekstu: „**Agencija za koordinaciju Programa**”), i KfW će utvrditi pojedinosti Programa i robe i usluge koje će se finansirati iz Zajma u posebnom sporazumu (u daljem tekstu: „**Posebni sporazum**”).

- 1.3 *Porezi, takse, carine.* Porezi i druge javne dažbine koje duguje Zajmoprimac, kao ni carinske dažbine, ne mogu se finansirati iz Zajma. Pored navedenog, robe i usluge uvezene u Republiku Srbiju za potrebe Programa biće oslobođene plaćanja carine, a promet dobara, usluga i opreme za potrebe Programa biće oslobođen plaćanja poreza na dodatu vrednost.

2. Prenošnje Zajma

- 2.1 *Prenošenje Zajma Agencijama za sprovođenje Projekta.* Zajmoprimac će preneti Zajam u celosti Agencijama za sprovođenje Projekta u skladu sa posebnim ugovorima o prenošenju sredstava (u daljem tekstu: „**Trilateralni ugovori**”) koji će biti zaključeni, između ostalog, između Zajmoprimca kog zastupa Agencija za koordinaciju Programa, relevantnih Agencija za sprovođenje Projekta i njihovih predmetnih toplana. Ovim se podrazumeva da će se plaćanja u vezi sa Trilateralnim ugovorima vršiti direktno

odgovarajućim izvođačima koji su odabrani u skladu sa odredbama utvrđenim u ovom sporazumu o zajmu i Posebnom ugovoru. Uslovi takvih Trilateralnih ugovora će u najmanju ruku biti povoljni kao i uslovi definisani u članu 5.1 ovog sporazuma i predviđaće rok od 20 godina.

2.2 *Overen prevod.* Pre prve isplate Zajma, Zajmoprimac će preko Agencije za koordinaciju Programa, dostaviti KfW-u overeni prevod na engleski jezik svih Trilateralnih ugovora koji su zaključeni pre prve isplate Zajma (u daljem tekstu: „**Trilateralni ugovori za prvu isplatu**”). Pod uslovom da su Zajmoprimac, kog predstavlja Agencija za koordinaciju Programa i Agencija za sprovođenje Projekta zaključili Trilateralni ugovor koji se razlikuje od Trilateralnih ugovora za prvu isplatu, Zajmoprimac će, posredstvom Agencije za koordinaciju Programa, dostaviti KfW-u kopiju takvog Trilateralnog ugovora pre daljih isplata Zajma.

2.3 *Neprenošenje obaveza na Agencije za sprovođenje Projekta.* Prenošenje sredstava iz Zajma neće imati za posledicu bilo kakvo preuzimanje obaveza od strane Agencija za sprovođenje Projekta prema KfW-u u pogledu obaveza plaćanja u skladu sa ovim sporazumom o zajmu.

3. **Isplata**

3.1 *Zahtev za isplatu.* Čim se ispune svi uslovi koji prethode isplati navedeni u članu 3.3 ovog sporazuma (*Uslovi koji prethode isplati*), KfW će isplatiti Zajam u skladu sa napretkom Programa i na zahtev Zajmoprimca kog u ovom smislu zastupa Agencija za koordinaciju Programa, koji se smatra neopozivim. Isplate će biti izvršene u skladu sa Planom isplate koji je priložen u Prilogu 1 (*Plan isplate*) uz ovaj sporazum o zajmu. KfW će izvršiti isplate samo do utvrđenih maksimalnih iznosa utvrđenih za svaki period isplate naveden u Prilogu 1. U meri u kojoj Zajmoprimac, kog u ovom smislu predstavlja Agencija za koordinaciju Programa, bude zahtevao isplatu manjih iznosa u toku bilo kog takvog perioda, neisplaćeni iznosi se mogu zahtevati tokom bilo kog od narednih perioda. Uz izuzetak poslednje isplate, KfW nije u obavezi da izvrši isplate vrednosti ispod 300.000,00 evra.

- 3.2 *Rok za dostavljanje zahteva za isplatu.* KfW ima pravo da odbije zahteve za isplatu posle 30. decembra 2029. godine. KfW i Zajmoprimac se mogu dogovoriti o produžetku ovog roka u pisanoj formi putem razmene pisama.
- 3.3 *Uslovi koji prethode isplati.* KfW je u obavezi da izvrši isplatu u skladu sa ovim sporazumom o zajmu isključivo ukoliko su ispunjeni sledeći uslovi koji prethode isplati, i to u obliku i sadržaju koji su prihvatljivi za KfW:
- a) Zajmoprimac će pokazati da je, na zadovoljavajući način za KfW, dostavio pravno mišljenje, čiji sadržaj mora biti u skladu sa obrascem datim u Prilogu 2 (*Obrazac Pravnog mišljenja Ministarstva pravde Republike Srbije*) 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
 - (i) da je Zajmoprimac ispunio sve zahteve u skladu sa Ustavom i drugim važećim zakonskim odredbama za pravosnažno preuzimanje svih svojih obaveza prema ovom sporazumu o zajmu, i
 - (ii) da je KfW oslobođen plaćanja svih poreza na prihod od kamate, svih dažbina, naknada i sličnih troškova u Republici Srbiji, kada odobri Zajam;
 - b) da je KfW je primio originalni primerak ovog sporazuma o zajmu i Posebnog sporazuma, pri čemu je svaki pravosnažno potpisan;
 - c) da su KfW-u dostavljeni deponovani potpisi navedeni u članu 13.1 (*Zastupanje Zajmoprimca*) ovog sporazuma o zajmu;
 - d) da je Garancija Savezne Republike Nemačke iz člana 8 (*Garancija Savezne Republike Nemačke*) stupila na snagu i da je pravosnažna bez ikakvih ograničenja. KfW će obavestiti Zajmoprimca kada garancija stupi na snagu i postane pravosnažna. Obrazac pisma potvrde koje će dostaviti KfW je priložen u vidu Priloga 3 uz ovaj sporazum o zajmu;
 - e) Zajmoprimac je platio Proviziju za organizovanje posla definisanu u članu 4.2 (*Provizija za organizovanje posla*) ovog sporazuma o zajmu;

- f) da ne postoji razlog za raskid ovog sporazuma o zajmu niti je nastao bilo kakav događaj koji bi postao uzrok za raskid obaveštenjem ili istekom ili utvrđivanjem ili ispunjenjem uslova (potencijalni razlog za raskid);
- g) da ne postoje nikakve vanredne okolnosti koje bi mogle da spreče ili ozbiljno ugroze sprovođenje, rad ili svrhu Programa, ili izvršavanje obaveza plaćanja koje je Zajmoprimac preuzeo u skladu sa ovim sporazumom o zajmu; i
- h) da je KfW primio overeni prevod na engleski jezik Trilateralnih ugovora za prvu isplatu u skladu sa članom 2.2 ovog sporazuma o zajmu pre prve isplate i kopiju bilo kakvih dodatnih Trilateralnih ugovora u skladu sa članom 2.2. ovog sporazuma o zajmu pre bilo kakvih daljih isplata.

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

- 3.4 *Pojedinosti procedure isplate.* Zajmoprimac kog u ovom smislu predstavlja Agencija za koordinaciju Programa, i KfW će utvrditi pojedinosti procedure isplate u Posebnom sporazumu i, posebno, dokaze koje Zajmoprimac treba da dostavi kojima se potvrđuje da se zahtevani iznosi Zajma koriste u dogovorene svrhe.
- 3.5 *Pravo na odustajanje od isplate.* Pod uslovom da je ispunio svoje obaveze prema članu 11 (*Posebne obaveze*) ovog sporazuma o zajmu, Zajmoprimac može da odustane od isplate neisplaćenih iznosa Zajma uz prethodnu saglasnost KfW-a uz plaćanje *Naknade za odustajanje od isplate* u skladu sa i na način definisan u članu 3.6 (*Naknada za odustajanje od isplate*) ovog sporazuma o zajmu.
- 3.6 *Naknada za odustajanje od isplate.* Ukoliko Zajmoprimac odustane od isplate nekog iznosa Zajma za koji je određena kamata u skladu sa članom 3.5 (*Pravo na odustajanje od isplate*) ovog sporazuma o zajmu, ili ukoliko

takav iznos Zajma uopšte nije isplaćen, ili ukoliko nije isplaćen u roku navedenom u članu 3.2 (*Rok za podnošenje zahteva za isplatu*) ovog sporazuma o zajmu, Zajmoprimac će bez odlaganja platiti KfW-u, na njegov zahtev, iznos koji je neophodan da bi se KfW-u nadoknadili svi gubici, izdaci ili troškovi koje KfW snosi kao posledicu neisplaćivanja takvog iznosa Zajma (u daljem tekstu: „**Naknada za odustajanje od isplate**”), osim ako takvo neisplaćivanje sredstava ne čini kršenje ovog sporazuma o zajmu od strane KfW-a. KfW će obračunati iznos Naknade za odustajanje od isplate i o tome obavestiti Zajmoprimca. Naknada za odustajanje od isplate biće određena kao da Savezna Republika Nemačka nije obezbedila subvencionisanu kamatu za Program.

4. Provizije

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

Provizija na nepovučena sredstva dospeva za plaćanje polugodišnje, na dan 30. jun i 30. decembar svake godine, a prvi put 30. decembra 2024. 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 (*Stupanje na snagu*) 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 0,5% iznosa Zajma, kao što je navedeno u članu 1.1 (*Iznos*) ovog sporazuma (u daljem tekstu: „**Provizija za organizovanje posla**”).

Provizija za organizovanje posla najranije dospeva na plaćanje na sledeća dva datuma: (i) pre prve isplate ili (ii) nakon isteka perioda od šest meseci od potpisivanja ovog sporazuma o zajmu od strane KfW-a ili nakon isteka perioda od mesec dana od stupanja na snagu i početka pravnog dejstva

ovog sporazuma o zajmu (koji god od datuma navedenih pod (ii) nastupa kasnije). Provizija za organizovanje posla dospeva na naplatu čim ovaj sporazum o zajmu bude potpisan bez obzira na to da li je Zajam isplaćen u celosti ili delom ili uopšte.

5. Kamata

5.1 Fiksna kamatna stopa definisana prilikom isplate Zajma.

a) *Kamatna stopa.* Zajmoprimac će platiti kamatu na svaki isplaćeni iznos Zajma po stopi (u daljem tekstu: „**Fiksna kamatna stopa**”) koju odredi KfW u roku od dva **bankarska dana** (kao što je definisano u članu 15.1 (*Radni dan banaka*) ovog sporazuma o zajmu) pre isplate odgovarajućeg iznosa zajma i koja će se sastojati od:

- (i) SWAP stope utvrđene na osnovu *Reuters* stranice „**ICAPEURO**” ili, ako ova stranica ne sadrži potrebne detalje ili nije dostupna, na *Bloomberg* stranici „**ICAE**” (ili na sledećoj stranici koja zamenjuje gore navedene *Reuters* ili *Bloomberg* stranice). Ukoliko obe stranice ne sadrže potrebne podatke ili su nepovratne, KfW će odrediti ovu stopu na osnovu svojih efektivnih troškova finansiranja na tržištu kapitala u evrima za rokove koji odgovaraju odgovarajućim periodima fiksne kamate što je bliže moguće,
- (ii) (plus marža od **0.60%** godišnje koja uzima u obzir bespovratna sredstva koja je Vlada Savezne Republike Nemačke stavila na raspolaganje.

Ako kamatna stopa obračunata u skladu sa gore navedenim padne ispod 0% godišnje, Fiksna kamatna stopa će biti 0% godišnje.

Ovako određena fiksna kamatna stopa primenjivaće se sve dok se ne primi poslednja rata otplate u skladu sa planom otplate iz člana 6.1 (*Plan otplate*) ovog sporazuma o zajmu.

b) *Konsolidacija.* Ako se iz Zajma izvrši više od jedne isplate, KfW će konsolidovati kamatne stope utvrđene za svaki iznos Zajma u jednu kamatnu stopu nakon svake isplate. Ova konsolidovana Fiksna kamatna stopa će odgovarati ponderisanom proseku pojedinačnih kamatnih stopa, zaokruženog na 1/10.000 jednog procentnog poena

ako je prva izostavljena decimala manja od 5 ili zaokružena na 1/10.000 jednog procentnog poena ako je prva izostavljena decimala jednaka ili veća od 5, i biće osnova za dalji obračun kamate od datuma svake isplate do sledeće isplate. Nakon potpune isplate Zajma, ovako utvrđena prosečna kamatna stopa primenjivaće se sve dok se ne primi poslednja rata otplate u skladu sa planom otplate iz člana 6.1 (*Plan otplate*) ovog sporazuma o zajmu.

- c) *Obaveštenje o kamatnoj stopi.* KfW će obavestiti Zajmoprimca o Fiksnoj kamatnoj stopi koja je definisana u skladu sa članom 5.1 a) (*Kamatna stopa*) ovog sporazuma o zajmu bez odlaganja nakon što bude utvrđena. KfW će obavestiti Zajmoprimca o konsolidovanoj kamatnoj stopi shodno članu 5.1 b) (*Konsolidacija*) ovog sporazuma o zajmu pre sledećeg Dana plaćanja (kako je definisano u članu 5.3 (*Datumi plaćanja*) 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 (*Broj računa, vreme uplate*) ovog sporazuma o zajmu. Kamata će se obračunavati u skladu sa članom 7.1 (*Obračun*) ovog sporazuma o zajmu.

5.3 *Datumi plaćanja.* Kamata za prethodni period dospeva na plaćanje na datume navedene ispod (svaki u daljem tekstu: „**Datum plaćanja**“):

- a) pre datuma dospeća prve rate otplate, dana 30. juna i 30. decembra svake 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 (*Stupanje na snagu*) ovog sporazuma o zajmu;
- b) na datum dospeća prve rate otplate prema članu 6.1 (*Plan otplate*) ovog sporazuma o zajmu, zajedno sa tom ratom;
- c) potom na datume dospeća rata otplate prema članu 6.1 (*Plan otplate*) ovog sporazuma o zajmu.

6. **Otplata i prevremena otplata**

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

Rata	Datum dospeća	Rata otplate	
1.	30. decembar 2028. godine	952.000,00.	evra
2.	30. jun 2029. godine	952.000,00.	evra
3.	30. decembar 2029. godine	952.000,00.	evra
4.	30. jun 2030. godine	952.000,00.	evra
5.	30. decembar 2030. godine	952.000,00.	evra
6.	30. jun 2031. godine	952.000,00.	evra
7.	30. decembar 2031. godine	952.000,00.	evra
8.	30. jun 2032. godine	952.000,00.	evra
9.	30. decembar 2032. godine	952.000,00.	evra
10.	30. jun 2033. godine	952.000,00.	evra
11.	30. decembar 2033. godine	952.000,00.	evra
12.	30. jun 2034. godine	952.000,00.	evra
13.	30. decembar 2034. godine	952.000,00.	evra
14.	30. jun 2035. godine	953.000,00.	evra
15.	30. decembar 2035. godine	953.000,00.	evra
16.	30. jun 2036. godine	953.000,00.	evra
17.	30. decembar 2036. godine	953.000,00.	evra
18.	30. jun 2037. godine	953.000,00.	evra
19.	30. decembar 2037. godine	953.000,00.	evra
20.	30. jun 2038. godine	953.000,00.	evra
21.	30. decembar 2038. godine	953.000,00.	evra

Ovaj Plan otplate može biti izmenjen s vremena na vreme u skladu sa članom 6.5 (*Revidirani Plan otplate*).

- 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 (*Plan otplate*) ovog sporazuma o zajmu, osim ako KfW po sopstvenom nahođenju, nakon prethodne konsultacije sa Zajmoprimcem, ne izabere neki drugi način saldiranja u pojedinačnim slučajevima.
- 6.3 *Otplate 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 (*Plan otplate*) 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 (u daljem tekstu: „**Neotplaćen iznos Zajma**”). Ukoliko rata otplate koja dospeva u skladu sa članom 6.1 (*Plan otplate*) 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 *Prevremena otplata.* U slučaju prevremene otplate primenjivaće se sledeće:

- a) *Pravo na prevremenu otplatu.* Zajmoprimac, u skladu sa narednim stavovima od 6.4 b) (*Obaveštenje*) do 6.4 e) (*Saldiranje*), ima pravo da izvrši otplatu Zajma pre planiranog Datuma dospeća pod uslovom da prevremeno otplaćeni iznos bude jednak iznosu rate otplate prema članu 6.1 (*Plan otplate*) ovog sporazuma o zajmu.
- b) *Obaveštenje.* U skladu sa članom 6.4 a) ovog sporazuma o zajmu (*Pravo na prevremenu otplatu*), prevremena otplata nekog iznosa Zajma mora biti predmet Obaveštenja o prevremenoj otplati koje Zajmoprimac šalje KfW-u najkasnije petnaestog *Radnog dana banaka* pre datuma nameravane prevremene otplate. Ovakvo obaveštenje je neopozivo; ono mora da sadrži datum i iznos prevremene otplate, i obavezuje Zajmoprimca da naznačenog datuma uplati KfW-u navedeni iznos.
- c) *Provizija za prevremenu otplatu.* Ukoliko Zajmoprimac prevremeno otplati iznos Zajma sa fiksnom kamatnom stopom, 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 (u daljem tekstu: „**Naknada za prevremenu otplatu**”). KfW će utvrditi visinu iznosa Naknade za prevremenu otplatu i o tome obavestiti Zajmoprimca. Naknada za prevremenu otplatu će biti određena kao da Savezna Republika Nemačka nije obezbedila subvencionisanu kamatnu stopu za Program. Na zahtev Zajmoprimca, KfW će Zajmoprimcu obezbediti preliminarni iznos naknade za prevremenu otplatu pre obaveznog neopozivog obaveštenja o otplati u skladu sa članom 6.4 b) (*Obaveštenje*) ovog sporazuma o zajmu.

- d) *Dospeli iznosi.* Zajedno sa prevremenom otplatom, Zajmoprimac takođe plaća sledeće iznose u skladu sa članom 6.4 a) (*Pravo na prevremenu otplatu*) ovog sporazuma o zajmu:
- (i) bilo koju naknadu za prevremenu otplatu koja dospeva kao rezultat prevremene otplate u skladu sa članom 6.4 c) (*Naknada za prevremenu otplatu*) ovog sporazuma o zajmu;
 - i
 - (ii) celokupnu pripisanu kamatu na prevremeno otplaćeni deo Zajma i sva druga plaćanja koja su i dalje neizmirena po ovom sporazumu o zajmu, a koja su nastala do datuma prevremene otplate.
- e) *Saldiranje.* Član 6.2 (*Neisplaćeni iznosi Zajma*) ovog sporazuma o zajmu će se primenjivati *mutatis mutandis* na saldiranje prevremenih otplata.

6.5 *Revidirani plan otplate.* U slučaju bilo kakvog zahteva u skladu sa članom 6.3 (*Otplata u slučaju nepotpune isplate*) ili članom 6.4 (*Prevremena otplata*), KfW će Zajmoprimcu poslati revidirani plan otplate koji će činiti sastavni deo ovog sporazuma o zajmu i zameniti svaki plan otplate koji se primenjuje u trenutku takve zamene nakon poslednje isplate prema Zajmu od strane KfW-a.

7. Obračuni i plaćanja u opštem smislu

7.1 *Obračun.* Kamata, Provizija na nepovučena sredstva, zatezna kamata u skladu sa članom 7.5 (*Zatezna kamata*) ovog sporazuma o zajmu, paušalna naknada za neplaćene iznose u skladu sa članom 7.6 (*Paušalna naknada*) 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 će takvo plaćanje izvršiti sledećeg 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 DE92 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 saldiranje iznosa ili slična prava u odnosu na obavezu plaćanja prema ovom sporazumu o zajmu, osim ukoliko takvo pravo nije 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 (*Prevremena otplata*) 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 (*Kamata*) 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 (*Broj računa, vreme uplate*) ovog sporazuma o zajmu. Takva zatezna kamata mora biti plaćena odmah na prvi zahtev KfW-a.
- 7.6 *Paušalna naknada.* Za dospеле a neplaćene iznose (uz izuzetak onih rata otplate i prevremene otplate navedene u članu 7.5 (*Zatezna kamata*) 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 (*Kamata*) ovog sporazuma o zajmu. Paušalna naknada mora biti plaćena odmah na prvi zahtev KfW-a. Zajmoprimac je slobodan da dokaže da nije pričinjena nikakva šteta ili da je vrednost nastale štete manja od iznosa paušalne nadoknade.

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.* Osim u slučaju materijalnih grešaka, vrednosti obračunate od strane KfW-a i obračuni izvršeni od strane KfW-a neizmirenih dospelih plaćanja u vezi sa ovim sporazumom o zajmu čine *prima-facie* dokaz (*Anscheinsbeweis*).

8. **Garancija Savezne Republike Nemačke**

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

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, 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).

Radi izbegavanja sumnje, bilo kakvo otkazivanje na osnovu ovog sporazuma o zajmu podleže članu 3.6 (*Naknada za odustajanje od isplate*) i bilo koja otplata Zajma prema ovom sporazumu o zajmu predstavlja prevremenu otplatu i biće predmet odredbi definisanih u članu 6.4 c) (*Naknada za prevremenu otplatu*) i d) (*Dospeli iznosi*).

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, koliko je potrebno, 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 i sa njim bilo kog povezanog dokumenta, kao i sva prava koja iz toga proističu.
- 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 (*Broj računa, vreme uplate*) ovog sporazuma o zajmu ili na drugi račun koji precizira KfW.

11. Posebne obaveze

- 11.1 *Sprovođenje Programa i posebne informacije.* Zajmoprimac kog u ovom smislu predstavlja Agencija za koordinaciju Programa, će obezbediti, sopstvenim kapacitetima, kao i da Agencije za sprovođenje Projekta:
- 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 dogovorenim između Zajmoprimca i KfW-a;
 - b) povere pripremu i nadzor nad građevinskim radovima u okviru Programa nezavisnim, kvalifikovanim inženjerima konsultantima ili konsultantima, a sprovođenje Programa kompetentnim firmama;
 - c) u svako doba ispunjavati odredbe nabavke navedene u Posebnom sporazumu, uključujući odgovarajući plan nabavki;
 - 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 evidencije ili povere vođenje knjiga i evidencija u svoje ime, koje nedvosmisleno prikazuju sve troškove roba i usluga neophodnih za Program i u kojima su jasno naznačene robe i usluge koje se finansiraju iz ovog zajma;
- f) omoguće KfW-u i njenim zastupnicima uvid u takve knjige i evidencije i bilo koju 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 podatke o Programu i njegovom daljem napredovanju, ukoliko to KfW bude zahtevao;
- h) odmah i na sopstvenu inicijativu,
 - (i) dostave KfW-u sve upite koje Zajmoprimac primi od Organizacije za ekonomsku saradnju i razvoj (*OECD*) ili njenih članica u skladu sa tzv. „Sporazumom o jedinstvenoj transparentnosti ODA kredita” nakon dodele ugovora za nabavku robe i usluga koji će se finansirati iz Zajma i koordinira slanje odgovora na svaki takav upit sa KfW-om, i
 - (ii) obaveste KfW o bilo kojoj i svim okolnostima koji onemogućavaju ili ozbiljno ugrožavaju sprovođenje, funkcionisanje ili svrhu Programa.

11.2 *Pojedinosti u vezi sa sprovođenjem Programa.* Zajmoprimac, u ovom smislu predstavljen od strane Agencije za koordinaciju Programa, i KfW će Posebnim sporazumom utvrditi pojedinosti koje se odnose na član 11.1 (*Sprovođenje Programa i posebne informacije*) ovog sporazuma o zajmu.

11.3 *Obaveze o usklađenosti.* Zajmoprimac, kog u ovom smislu predstavlja Agencija za koordinaciju Programa, obavezuje se da u svako doba ispuni obaveze definisane u Posebnom sporazumu i obezbeđuje da svaka Agencija za sprovođenje Projekta sve vreme ispunjava odgovarajuće obaveze definisane u Posebnom sporazumu (*Odredbe o usklađenosti*).

11.4 *Pomoć.* Zajmoprimac će pomagati Agencijama za sprovođenje Projekta u skladu sa dobrom inženjerskom i finansijskom praksom u sprovođenju

Programa i ispunjavanju njihovih obaveza prema Posebnom sporazumu, i naročito će obezbediti Agencijama za sprovođenje Projekta bilo koju i sve dozvole neophodne za sprovođenje Programa u skladu sa zakonima Republike Srbije.

- 11.5 *Rangiranje pari passu.* Zajmoprimac garantuje i izjavljuje da se njegove obaveze po osnovu ovog sporazuma o zajmu rangiraju i servisiraju najmanje *pari passu* sa svim ostalim neobezbeđenim i nepodređenim obavezama plaćanja, i Zajmoprimac će obezbediti do nivoa dozvoljenog zakonom da je ovo rangiranje takođe obezbeđeno za sve buduće neobezbeđene i nepodređene obaveze plaćanja.
- 11.6 *Prodaja imovine.* Bez prethodne saglasnosti KfW-a, Zajmoprimac neće prodati niti će dozvoliti da Agencije za sprovođenje Projekta prodaju bilo koju imovinu Programa u celosti ili njen deo pre otplate Zajma u celosti.

12. Raskid Sporazuma o zajmu

- 12.1 *Razlozi za raskid.* KfW može ostvariti prava navedena u članu 12.2 ovog sporazuma o zajmu (*Pravne posledice nastanka uzroka za raskid*) u slučaju nastanka okolnosti koja se smatra materijalnim razlogom (*Wichtiger Grund*). Materijalnim razlogom će se posebno smatrati sledeće okolnosti:
- a) ukoliko Zajmoprimac ne izvrši obaveze plaćanja prema KfW-u po dospeću;
 - b) ukoliko dođe do kršenja obaveza prema ovom sporazumu o zajmu 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 nije u mogućnosti da dokaže da su iznosi Zajma korišćeni u dogovorenu svrhu;
- g) ukoliko Zajmoprimac obustavi plaćanja poveriocima, ili je nesolventan ili započne pregovore sa jednim ili više poverilaca Zajmoprimca o moratorijumu, otpisu neizmirenih dugovanja, odlaganju plaćanja, ili prekidu servisiranja duga; ili
- h) ukoliko nastane događaj na osnovu kojeg KfW ima pravo da zahteva otplatu granta obezbeđenog prema *WBIF* Sporazumu o dodeli bespovratnih sredstava, *IPA* Sporazumu o dodeli bespovratnih sredstava ili Sporazumu o dodeli bespovratnih sredstava ili da obustavi isplate u skladu sa njima.

12.2 *Pravne posledice nastanka uzroka za raskid.* Ukoliko je nastao bilo koji od slučajeva navedenih u članu 12.1 (*Razlozi za raskid*) 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 (*Razlozi za raskid*) 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 celosti 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. Članovi 7.5 (*Zatezna kamata*) i 7.6 (*Paušalna naknada*) ovog sporazuma o zajmu se primenjuju *mutatis mutandis* na ubranu naplatu iznosa.

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 (*Naknada za odustajanje od isplate*) i/ili Naknadu za prevremenu otplatu u skladu sa članom 6.4 c) (*Naknada za prevremenu otplatu*).

13. Zastupanje i izjave

13.1 *Zastupanje Zajmoprimca.* Zajmoprimca će u sprovođenju ovog sporazuma o zajmu predstavljati ministar finansija i lica koja on/ona imenuje za KfW i koja su ovlašćena deponovanim potpisima, uz potvrdu ministra da predstavljaju Zajmoprimca. Zajmoprimca će u sprovođenju 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 za koje je potvrdio da predstavljaju Zajmoprimca. 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 o zajmu šalju se na sledeće adrese:

Za KfW: KfW
Postfach 11 11 41
60046 Frankfurt na Majni
Nemačka
Faks: +49 69 7431-2944

Za Zajmoprimca: Ministarstvo finansija
Kneza Miloša 20
11000 Beograd
Republika Srbija
Faks: +381-11-3618-961

**Agencija za koordinaciju
Programa:** Ministarstvo rudarstva i energetike
Kralja Milana 36
11000 Beograd
Republika Srbija
Faks: +381 11 3346 755

14. Objavljivanje i prenos informacija u vezi sa Programom

- 14.1 *Objavljivanje informacija u vezi sa Programom od strane KfW-a.* U cilju poštovanja međunarodno prihvaćenih načela krajnje transparentnosti i efikasnosti u razvojnoj saradnji, KfW objavljuje odabrane informacije (uključujući rezultate ekološke i socijalne kategorizacije i procene kao i izveštaje *ex-post* evaluacije) o Programu i njegovom finansiranju tokom predugovornih pregovora, tokom sprovođenja sporazuma u vezi sa Programom i u postugovornoj fazi (u daljem tekstu: „**Celokupan period**“).

Informacije se redovno objavljuju na veb-sajtu Razvojne banke KfW (<https://www.kfw.de/microsites/Microsite/transparenz.kfw.de/#/start>).

Objavljivanje informacija (od strane KfW-a ili od trećih strana, u skladu sa niže navedenim članom 14.3 (*Prenos informacija u vezi sa Programom trećim stranama i objavljivanje sa njihove strane*) niže) 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) interne korporativne smernice ili izveštaji;
- d) lični podaci o fizičkim licima;
- e) interno rangiranje KfW-a o finansijskom stanju strana.

- 14.2 *Prenos informacija u vezi sa Programom trećim stranama.* KfW deli odabrane informacije o Programu i načinu njegovog finansiranja tokom Celokupnog perioda sa subjektima navedenim u nastavku, naročito u cilju osiguravanja transparentnosti i efikasnosti:

- a) zavisna društva KfW-a;
- b) Savezna Republika Nemačka i njena nadležna tela, organi, institucije, agencije ili subjekti;
- c) druge implementacione organizacije uključene u nemačku bilateralnu razvojnu saradnju, posebno *Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH*;

- d) međunarodne organizacije uključene u prikupljanje statističkih podataka i njihovi članovi, posebno Organizacija za ekonomsku saradnju i razvoj (*OECD*), Pariski klub i njihove predmetne članice (uključujući, radi izbegavanja sumnje, učesnike i posmatrače Pariskog kluba);
- e) strane u opštim uslovima Evropskog zajedničkog fonda za zapadni Balkan („**EWBJF**”);
- f) institucije koje administriraju rad EWBJF-a i saradnici WBIF-a;
- g) Evropska unija i njene nadležne institucije; i
- h) Agencije za sprovođenje Projekta.

14.3 *Prenos informacija u vezi sa Programom trećim stranama i objavljivanje sa njihove strane.* Pored toga, Savezna Republika Nemačka je zatražila od KfW-a da podeli odabrane informacije o Programu i njegovom finansiranju tokom Celokupnog perioda sa sledećim subjektima, koji objavljuju delove koji su od značaja za određenu svrhu:

- a) Savezna Republika Nemačka za svrhe Inicijative za transparentnost međunarodne pomoći (*International Aid Transparency Initiative* (<https://www.bmz.de/en/ministry/facts-figures/project-and-organisation-data>));
- b) *Germany Trade & Invest (GTAI)* za svrhe prikupljanja tržišnih informacija (<http://www.gtai.de/GTAI/Navigation/DE/welcome.html>);
- c) *OECD* za svrhe izveštavanja o finansijskim tokovima u okviru razvojne saradnje (<https://www.oecd.org/>);
- d) Nemački institut za razvojnu evaluaciju (*German Institute for Development Evaluation (DEval)*) za svrhe evaluacije sveobuhvatne nemačke razvojne saradnje sa ciljem osiguravanja transparentnosti i efikasnosti (<https://www.deval.org/en/>);
- e) strane potpisnice Opštih uslova EWBJF;
- F) institucije koje administriraju rad EWBJF-a i saradnici WBIF-a i

g) Evropska unija i njene nadležne institucije.

14.4 *Prenos informacija u vezi sa Programom trećim stranama (uključujući objavljivanje sa njihove strane).* KfW dalje zadržava pravo da prenese (uključujući i u svrhu objavljivanja) informacije o Programu načinu njegovog finansiranja tokom Celokupnog perioda drugim trećim stranama u cilju zaštite legitimnih interesa.

KfW ne prenosi informacije drugim trećim stranama ukoliko legitimni interesi Zajmoprimca u informacijama koje se ne prenose prevazilaze interese KfW-a za njihovo prenošenje. U legitimne interese Zajmoprimca posebno spada poverljivost osetljivih informacija koje su pomenute u članu 14.1 (*Objavljivanje informacija u vezi sa Programom od strane KfW-a*), koje se ne objavljuju.

Pored toga, KfW ima pravo da prenese informacije trećim stranama ukoliko je to neophodno zbog zahteva propisanih u zakonima ili propisima ili da potvrdi ili odbrani potraživanja ili druga zakonska prava pred sudom ili u okviru upravnih postupaka.

15. Opšte odredbe

15.1 *Radni dan banaka.* „**Radni dan banaka**” označava svaki dan (osim subote ili nedelje), na koji su poslovne banke otvorene radi obavljanja opštih poslova u Frankfurtu na Majni, Savezna Republika Nemačka, pod uslovom da za potrebe definisanja bilo kog datuma otplate i Datuma plaćanja u vezi sa Zajmom predviđenim u skladu sa ovim sporazumom i za određivanje bilo kog datuma za isplatu ili druga plaćanja u skladu sa tim, taj dan mora dodatno biti *TARGET* dan.

„**TARGET dan**” označava dan kada je Transevropski automatski sistem ekspresnog transfera bruto plaćanja u realnom vremenu (*TARGET*) otvoren za plaćanje.

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 valjanim odredbama koje su najbliže duhu i svrsi nevažećih odredbi. Sporazumne strane će popuniti svaku prazninu u odredbama 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 mogu odstupiti od pisanog oblika samo u pisanoj formi.
- 15.5 *Ustupanje.* Zajmoprimac ne sme 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.* Svi zahtevi KfW-a prema ovom sporazumu o zajmu ističu nakon pet godina od kraja godine u kojoj je takav zahtev nastao i u kojoj su KfW-u postale poznate okolnosti iz kojih proističe takav zahtev ili bi mu mogle postati poznate da nije bilo krajnje nepažnje.
- 15.8 *Odricanje od imuniteta.* Ukoliko i u meri u kojoj Zajmoprimac može trenutno ili u budućnosti zatražiti imunitet u bilo kojoj nadležnosti za sebe ili svoju imovinu i u meri u kojoj takva nadležnost odobri Zajmoprimcu i njegovoj imovini imunitet od pokretanja sudskog postupka, izvršenja, zaplene ili bilo koje druge pravne radnje, Zajmoprimac se neopozivo saglašava da će se odreći takvog imuniteta u pogledu potraživanja iz i u vezi sa ovim sporazumom o zajmu u najvećoj meri dozvoljenoj zakonskim propisima u okviru takve nadležnosti. Ovo odricanje od imuniteta se neće odnositi na imovinu (i) koja se koristi u okviru diplomatskih, konzularnih, specijalnih misija i misija pri međunarodnim organizacijama ili međunarodnim konferencijama države Zajmoprimca ili (ii) onu koja je vojnog karaktera ili pod kontrolom vojnih organa.

15.9 *Pravni sporovi.*

Arbitraža. Svi sporovi proistekli iz ili u vezi sa ovim sporazumom o zajmu rešavaju se isključivo i konačno pred arbitražnim sudom. U tom pogledu primenjuje se sledeće:

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

15.10 *Stupanje na snagu.* Ovaj sporazum o zajmu neće stupiti na snagu sve dok:

- a) ne bude potvrđen od strane Narodne skupštine Republike Srbije; i
- b) Zajmoprimac ne obezbedi KfW-u pisanu potvrdu da je Sporazum o zajmu propisno potvrđen 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*).

15.11 *Informacije u vezi sa članom 15.10.* KfW će poslati Zajmoprimcu pismo u formi i sadržaju slično pismu navedenom u Prilogu 4 Sporazuma o zajmu.

Sačinjeno u 4 (četiri) originalna primerka na engleskom jeziku.

Frankfurt na Majni
Na današnji dan. 27. oktobra 2023. godine

Beograd,
Na današnji dan 27. oktobra 2023. godine

KfW

Za Republiku Srbiju

Potpis

Potpis

Ime: Arne Gooss
(štampanim slovima)

Ime: Siniša Mali
(štampanim slovima)

Funkcija: Šef odeljenja za opštinsku
infrastrukturu za Jugoistočnu Evropu
i Tursku
(štampanim slovima)

Funkcija: Potpredsednik Vlade i Ministar
finansija
(štampanim slovima)

Drugi potpis KfW

Potpis

Ime: HARTMANN
(štampanim slovima)

Funkcija: DIREKTOR u KfW-u
(štampanim slovima)

Prilog 1
Plan isplate

Najbrži mogući plan isplate

Do isteka svakog pojedinačnog perioda isplate ("**Efektivan datum završetka perioda**" u skladu sa listom ispod), Zajmoprimac može podneti zahtev za isplatu samo do nivoa koji ne prelazi kumulativan zbir isplata naveden u tabeli u nastavku.

Period	Efektivan datum početka perioda (uklj.)	Efektivan datum završetka perioda (bez)	Maksimalni iznos koji može biti isplaćen do završetka perioda (kumulativno) (svi iznosi su u evrima)
1.	30.06.2024.	30.12.2024.	200.000,00.
2.	30.12.2024.	30.06.2025.	2.500.000,00.
3.	30.06.2025.	30.12.2025.	4.800.000,00.
4.	30.12.2025.	30.06.2026.	7.300.000,00.
5.	30.06.2026.	30.12.2026.	9.800.000,00.
6.	30.12.2026.	30.06.2027.	12.300.000,00.
7.	30.06.2027.	30.12.2027.	14.800.000,00.
8.	30.12.2027.	30.06.2028.	16.800.000,00.
9.	30.06.2028.	30.12.2028.	18.800.000,00.
10.	30.12.2028.	Kraj perioda isplate	20.000.000,00.

Prilog 2
 Obrazac pravnog mišljenja Ministarstva pravde
 Republike Srbije

Napomena: Molimo izmenite „Republika DRŽAVE“/„DRŽAVA“ kako je adekvatno.

[Zaglavlje pravnog savetnika]

KfW

Odeljenje [_____]

Za: [_____]

Palmengartenstrasse 5 - 9

Postfach 11 11 41

60325 Frankfurt am Main/Germany

_____ (datum)

Savezna Republika Nemačka

Sporazum o zajmu za Program „Razvoj tržišta biomase u Republici Srbiji (druga komponenta)“ (BMZ- br. 201968395, ID Zajma: 31347,) od _____ sačinjen između KfW-a i [_____] („Zajmoprimac“) za iznos koji ukupno ne prelazi _____.000.000,-- evra.

Poštovani,

Ja sam [ministar pravde] [pravni savetnik] [načelnik pravne službe] _____ (molimo navedite ministarstvo ili drugi organ) Republike Srbije. U tom svojstvu nastupam u vezi sa Sporazumom o zajmu od (datum) _____ („Sporazum o zajmu“), koji je sačinjen između Zajmoprimca i Vas, a čiji je predmet Zajam koji Vi treba da odobrite Zajmoprimcu, u iznosu koji ne prelazi ukupan iznos od _____.000.000,-- evra.

1. Pregledani dokumenti

Pregledao/la sam:

1.1 autentični potpisani original Sporazuma o zajmu;

1.2 ustavna dokumenta Zajmoprimca, posebno:

- (a) Ustav Republike Srbije, od _____, propisno objavljen u _____, br. _____, strana _____, sa izmenama;
- (b) Zakon(e) br. _____ od _____, propisno objavljene u _____, br. _____, strana _____, sa izmenama *[molimo ovde navedite zakone ako postoje (npr. budžetske zakone) koji se primenjuju na pozajmljivanje novca od strane Republike Srbije];*
- (c) _____ *[molimo da navedete druga dokumenta, npr. uredbе ili odluke Vladinih ili administrativnih tela Srbije koja se odnose na zaključivanje sporazuma o zajmu od strane Srbije uopšte ili na zaključivanje Sporazuma o zajmu]*

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

2. Mišljenje

Shodno tome, za potrebe člana _____ Sporazuma o zajmu, mišljenja sam da prema zakonima Republike Srbije 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 _____ Parlamenta Republike Srbije, kojim se potvrđuje Sporazum o zajmu / odobrava potpisivanje, uručenje i izvršenje Sporazuma o zajmu od strane Zajmoprimca / _____ *[unesite odgovarajuće];*
- (b) Odluke(a) br. _____ od _____ Vlade / Državnog saveta za zajmove / _____ *[unesite odgovarajuće Vladino ili administrativno telo Srbije];*
- (c) _____ *[unesite nazive drugih rezolucija, odluka itd].*

2.2 G-đa/G-din _____ (i G-đa/G-din _____) je (su) propisno ovlašćeni od strane _____ [tj. po zakonu o njenom/ njegovom položaju (kao ministar _____/ kao _____), po odluci Vlade _____, po punomoćju od _____ od _____, itd.] da potpiše samostalno / zajednički Sporazum o zajmu u ime Zajmoprimca. Sporazum o zajmu potpisan od strane G-đa/G-din _____ (i G-đa/G-din _____) 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.

[Alternativa 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 Srbije:]

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 _____ [Centralne banke / Narodne banke / _____], od _____, br. _____;
- (b) Saglasnost _____ [ministra/ Ministarstva za _____], od _____, 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 Srbije) 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.

[Alternativa 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 Srbije:]

2.3 Nisu potrebne nikakve druge zvanične saglasnosti, dozvole, registracije i/ili odobrenja državnih institucija ili agencija (uključujući Centralnu / Narodnu banku Republike Srbije) 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.

- 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 su u Republici Srbiji u skladu sa sledećim pravilima: _____ *[unesite primenjiv sporazum (ako postoji), npr. 1958 Njujorška Konvencija, i / ili osnovne principe u vezi sa priznavanjem i izvršavanjem arbitražnih odluka u Srbiji].*
- 2.6 Sudovi Republike Srbije imaju slobodu da presudu donesu u valuti ili valutama navedenim u Sporazumu o zajmu.
- 2.7 Zaduživanje Zajmoprimca u skladu sa Sporazumom o zajmu i 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 (sa izuzetkom imovine na koju se ne primenjuje odricanje od imuniteta u skladu sa članom [] Sporazuma o zajmu) nema pravo na imunitet od arbitraže, sudskog postupka, izvršenja, zaplene ili drugih pravnih radnji.
- 2.8 U skladu sa _____ *[unesite sporazum ili zakon i propise koji se promenjuju] / Zajmoprimcu neće biti potrebno da vrši bilo kakvo umanjeње ili odbitak od bilo kog plaćanja koje je Zajmoprimac u obavezi da izvrši prema Sporazumu o zajmu i ukoliko bi takvo umanjeње 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 Srbiji 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 Srbiji.

Na osnovu gore iznetog, obaveze Zajmoprimca po Sporazumu o zajmu su direktne i bezuslovne, 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 *Srbije*.

_____, _____
(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 *Srbije*, 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.

Prilog 3

Pismo potvrde od KfW-a o Garanciji Vlade Savezne Republike Nemačke

Finansijska saradnja između Republike Srbije i Savezne Republike Nemačke

Program: Razvoj tržišta biomase u Republici Srbiji (druga komponenta)

Garancija Vlade Savezne Republike Nemačke za Zajam

Poštovani,

Ovim potvrđujemo da smo pribavili Garanciju Savezne Republike Nemačke za Zajam, kao što je predviđeno u Sporazumu o zajmu od _____ za Program „Razvoj tržišta biomase u Republici Srbiji (druga komponenta)“.

S poštovanjem,

KfW

Prilog 4

Informacije u vezi sa članom 15.10

[Unesite adresu MF]

Finansijska saradnja između Republike Srbije i Savezne Republike Nemačke
Sporazum o zajmu (Br. XXXXX) za iznos od 20 miliona evra između KfW-a i
Republike Srbije Program „Razvoj tržišta biomase u Republici Srbiji (druga
komponenta)" (BMZ-br. 201968395), potpisan dana _____ 2023. godine
(„Sporazum o zajmu")

Poštovani,

Obraćavamo vam se u vezi sa Sporazumom o zajmu i vašim zahtevom da
dobijete potvrdu od KfW-a u pogledu stupanja na snagu Sporazuma o zajmu.

Ovim želimo da potvrdimo prijem vaše potvrde o ratifikaciji od _____
u skladu sa članom 15.10 b) Sporazuma o zajmu.

Prema našim pozitivnim saznanjima, uslovi za stupanje na snagu Sporazuma
o zajmu iz člana 15.10 Sporazuma o zajmu su ispunjeni¹ na
dan_____.

Prema tome, naknada za organizovanje posla je dospela na plaćanje i plativa
je [upisati datum].

Potvrda je data na datum njenog potpisivanja i gore navedene izjave neće
predstavljati pravno mišljenje niti pravni savet u vezi sa nemačkim zakonom ili
bilo kojim drugim važećim zakonom i ne ograničavaju ili zamenjuju ispunjenje
zahteva za isplatu kako je dalje navedeno u Sporazumu o zajmu.

S poštovanjem,
KfW

¹ Napominjemo da ovaj tekst podrazumeva da će obaveštenje o ratifikaciji koje nam je poslato
biti isto kao i za prethodne transakcije.

Član 3.

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