

# Z A K O N

## O POTVRĐIVANJU UGOVORA O GARANCIJI (ŽELEZNICE SRBIJE – VOZNA SREDSTVA) IZMEĐU REPUBLIKE SRBIJE I EVROPSKE BANKE ZA OBNOVU I RAZVOJ

### Član 1.

Potvrđuje se Ugovor o garanciji (Železnice Srbije – Vozna sredstva) između Republike Srbije i Evropske banke za obnovu i razvoj, potpisan 14. jula 2006. godine u Beogradu.

### Član 2.

Tekst Ugovora o garanciji (Železnice Srbije – Vozna sredstva) između Republike Srbije i Evropske banke za obnovu i razvoj u originalu na engleskom jeziku i prevodu na srpski jezik glasi:

## GUARANTEE AGREEMENT

AGREEMENT dated 14 July 2006 between the REPUBLIC OF SERBIA (the "Guarantor") and EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (the "Bank").

## PREAMBLE

WHEREAS, the Guarantor and Javno Preduzece Zeleznice Srbije (the "Borrower") have requested assistance from the Bank in the financing of part of the Project;

WHEREAS, pursuant to a loan agreement dated the date hereof between the Borrower and the Bank (the "Loan Agreement" as defined in the Standard Terms and Conditions), the Bank has agreed to make a loan to the Borrower in the maximum amount of € 60,000,000, subject to the terms and conditions set forth or referred to in the Loan Agreement, but only on the condition that the Guarantor guarantees the obligations of the Borrower under the Loan Agreement, and that, among other things, the Guarantor undertakes to provide the Borrower with the necessary support to successfully implement the Project and to cause the Borrower to satisfy its obligations under the Loan Agreement as provided in this Agreement; and

WHEREAS, the Guarantor, in consideration of the Bank entering into the Loan Agreement with the Borrower, has agreed to guarantee such obligations of the Borrower.

NOW, THEREFORE, the parties hereby agree as follows:

## ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

### Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated February 1999, as amended by the Loan Agreement, are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein (such provisions as so modified are hereinafter called the "Standard Terms and Conditions").

### **Section 1.02. Definitions**

Wherever used in this Agreement (including the Preamble), unless stated otherwise or the context otherwise requires, the terms defined in the Preamble have the respective meanings given to them therein, the terms defined in the Standard Terms and Conditions and the Loan Agreement have the respective meanings given to them therein and the following terms have the following meanings:

"Access Charges"	means charges levied for the use of the public railway tracks.
"Guarantor's Authorised Representative"	means the Minister of Finance of the Guarantor.
"Network Statement"	means of document which sets out the general rules, deadlines, procedures and criteria concerning the respective responsibilities of the Directorate for Infrastructure and the infrastructure users, the schedule of fees and the procedures for capacity allocation.

### **Section 1.03. Interpretation**

In this Agreement, a reference to a specified Article or Section shall, except where stated otherwise in this Agreement, be construed as a reference to that specified Article or Section of this Agreement.

### **Section 1.04. Acknowledgement**

The Guarantor has been provided with, and hereby acknowledges receipt of a copy of the Standard Terms and Conditions and the Loan Agreement.

## **ARTICLE II - GUARANTEE; OTHER OBLIGATIONS**

### **Section 2.01. Guarantee**

The Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of any and all sums due under the Loan Agreement, whether at stated maturity, by acceleration or otherwise, and the punctual performance of all other obligations of the Borrower, all as set forth in the Loan Agreement.

### **Section 2.02. Project Completion**

Whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for the carrying out of the Project, the Guarantor shall promptly take measures to provide the Borrower, or cause the Borrower to be provided, with such funds as are needed to meet such expenditures and requirements within the limit of the resources budgeted for this purpose in the current fiscal year.

### **Section 2.03. Other Obligations**

(a) The Guarantor shall take all necessary measures (and shall confirm to the Bank that such measures have been taken) to ensure that the Borrower performs and discharges punctually all of its obligations (including, for the avoidance of doubt, its payments obligations) as set out in the Loan Agreement, and shall promptly take measures satisfactory to the Bank to provide the Borrower, or cause the Borrower to be provided, with such funds as are needed to meet any payments due under the Loan Agreement.

(b) The Guarantor shall not impose any direct or indirect taxes, duties, fees and other charges of whatever nature on foreign consultants employed by the Bank or the Borrower in the implementation of the Project and financed out of the proceeds of any technical cooperation funds made available by the Bank or in respect of any goods, works and services procured by the Borrower and financed by the Bank under the Loan Agreement for the purpose of the Project, except to the extent that such taxes, duties, fees and other charges are paid for by funds other than the proceeds of any technical co-operation funds made available by the Bank.

(c) The Guarantor shall, not later than 30 June 2007, introduce and maintain a comprehensive and transparent system of financial compensation to the Borrower in respect of the Public Service Obligation in accordance with 2005 Railway Act.

(d) The Guarantor shall, not later than 31 December 2007 prepare a network statement for the Serbian rail network, setting out the general rules, deadlines, procedures and criteria concerning the respective responsibilities of the Directorate for Infrastructure and the infrastructure users, the schedule of fees and procedures for capacity allocation.

(e) The Guarantor shall, not later than 31 December 2007, prepare a report acceptable to the Bank on track Access Charges, which should include: (a) the structure of charges and the reason for adopting the particular structure; (b) consistency and compatibility with charging systems in adjacent systems; and (c) the coverage of the charges in terms of working expenses.

(f) The Guarantor shall, not later than 31 December 2006, initiate privatisation of three of the Borrower's non-core activities.

(g) The Guarantor shall, not later than 31 July 2008, submit to the National Assembly of the Guarantor a draft Enabling Act which will require the Borrower to adopt a company structure in accordance with the 2006-2010 Business Plan.

### **ARTICLE III – MISCELLANEOUS**

#### **Section 3.01. Notices**

The following addresses are specified for purposes of Section 10.01 of the Standard Terms and Conditions:

For the Guarantor:

Ministry of Finance of Serbia  
Kneza Milosa 20  
11000 Belgrade  
Serbia

Attention: Natasa Sakic, Assistant Director, Treasury Department,  
Ministry of Finance

Fax: +381-11-3022-765

For the Bank:

European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
United Kingdom

Attention: Operation Administration Unit

Fax: +44-20-7338-6100

**Section 3.02. Entry into force**

This Guarantee Agreement shall come into force on the day when the relevant law of the Guarantor which pertains to its ratification comes into effect.

**Section 3.03. Legal Opinion**

For purposes of Section 9.03 (b) of the Standard Terms and Conditions and in accordance with Section 6.02. (b) of the Loan Agreement, the opinion or opinions of counsel shall be given on behalf of the Guarantor by the Minister of Justice of the Republic of Serbia.

IN WITNESS WHEREOF the parties hereto, acting through their duly authorised representatives, have caused this Agreement to be signed in six copies and delivered at Belgrade, Serbia as of the day and year first above written.

REPUBLIC OF SERBIA

By: \_\_\_\_\_  
Name:  
Title:

EUROPEAN BANK  
FOR RECONSTRUCTION AND DEVELOPMENT

By: \_\_\_\_\_  
Name:  
Title:

## UGOVOR O GARANCIJI

Ugovor od 14. jula 2006. godine između Republike Srbije (u daljem tekstu: Garant) i Evropske banke za obnovu i razvoj (u daljem tekstu: Banka).

### PREAMBULA

S obzirom da su Garant i Javno preduzeće Železnice Srbije (Zajmoprimac) zatražili pomoć od Banke za finansiranje dela ovog projekta;

S obzirom da se u skladu sa Ugovorom o zajmu koji nosi datum ovog ugovora, a koji je potpisan između Zajmoprimca i Banke (Ugovor o zajmu onako kako je definisan u Standardnim uslovima poslovanja), Banka saglasila da odobri zajam Zajmoprimcu u maksimalnom iznosu od € 60.000.000 saglasno uslovima koje Ugovor o zajmu utvrđuje ili na koje se poziva, ali samo pod uslovom da Garant garantuje za obaveze Zajmoprimca po Ugovoru o zajmu i da, između ostalog, Garant preuzme obavezu da obezbedi Zajmoprimcu neophodnu podršku za uspešnu realizaciju Projekta i da omogući da Zajmoprimac ispuni svoje obaveze iz Ugovora o zajmu, kako je predviđeno ovim ugovorom;

S obzirom da je Garant u odnosu na Banku stupio u Ugovor o zajmu sa Zajmoprimcem i preuzeo na sebe da garantuje za napred pomenute obaveze Zajmoprimca;

Na osnovu toga, ugovorne strane se ovim usaglašavaju na sledeći način:

### Član 1.

#### Standardni uslovi poslovanja; Definicije

##### Odeljak 1.01. Unošenje Standardnih uslova poslovanja

Sve odredbe Standardnih uslova poslovanja Banke od februara 1999. godine, onako kako su izmenjene u Ugovoru o zajmu, unete su u ovaj ugovor i one će biti primenljive sa istim dejstvom kao da su u potpunosti ovde navedene (te odredbe koje budu tako izmenjene u daljem tekstu će se nazivati Standardni uslovi poslovanja).

##### Odeljak 1.02. Definicije

Gde god da se koristi u ovom ugovoru (uključujući Preambulu), a osim ukoliko nije drugačije utvrđeno ili ukoliko kontekst drugačije ne zahteva, izrazi definisani u Preambuli imaju značenja koja su im data u ovom ugovoru, izrazi definisani u Standardnim uslovima poslovanja i Ugovoru o zajmu imaju odgovarajuća značenja koja su im data u njima, a sledeći izrazi će imati sledeća značenja:

„Naknade za pristup” označava naknade koje se naplaćuju za korišćenje javnih železničkih pruga;

„Ovlašćeni predstavnik Garanta” označava ministra finansija Garanta;

„Definicija mreže” označava dokument koji određuje opšta pravila, rokove, procedure i kriterijume u pogledu odnosnih odgovornosti Direkcije za infrastrukturu i korisnika infrastrukture, program naknada i procedure za dodelu kapaciteta.

### **Odeljak 1.03. Tumačenje**

U ovom ugovoru, pozivanje na određeni član ili odeljak će se, osim ukoliko je drugačije navedeno u okviru ovog ugovora, tumačiti kao pozivanje na taj određeni član ili odeljak ovog ugovora.

### **Odeljak 1.04. Potvrda prijema**

Garantu je prosleđen, i on ovim potvrđuje, da je primio primerak Standardnih uslova poslovanja i Ugovora o zajmu.

## **Član 2.**

### **Garancija; Ostale obaveze**

#### **Odeljak 2.01. Garancija**

Garant ovim bezuslovno garantuje, kao primarni dužnik, a ne samo kao garant, propisno i pravovremeno plaćanje svih iznosa plativih po osnovu Ugovora o zajmu, bilo po navedenom dospeću, po osnovu ubrzanja ili po nekom drugom osnovu, i pravovremeno izvršenje svih ostalih obaveza Zajmoprimca, a sve kako je navedeno u Ugovoru o zajmu.

#### **Odeljak 2.02. Izvršenje Projekta**

Kad god se pojavi opravdan razlog da se smatra da sredstva koja su na raspolaganju Zajmoprimcu neće biti dovoljna da pokriju predviđene izdatke za izvršenje Projekta, Garant će smesta preduzeti mere, da obezbedi Zajmoprimcu ili da omogući da Zajmoprimac bude obezbeđen sa sredstvima koja su neophodna da se pokriju takvi izdaci i potrebe do nivoa sredstava predviđenih u budžetu za tekuću fiskalnu godinu.

#### **Odeljak 2.03. Ostale obaveze**

(a) Garant će preduzeti sve neophodne mere (i potvrdiće Banci da su takve mere preduzete) kako bi osigurao da će Zajmoprimac na vreme obavljati i ispunjavati sve svoje obaveze (uključujući, radi otklanjanja sumnje, obaveze u pogledu plaćanja), a kao što je definisano Ugovorom o zajmu i blagovremeno će preduzeti mere, zadovoljavajuće za Banku, kako bi se Zajmoprimcu obezbedila ili će omogućiti da se Zajmoprimcu obezbede ona sredstva koja su neophodna za vršenje svih plaćanja dospelih po osnovu Ugovora o zajmu.

(b) Garant neće nametnuti nikakve direktne ili indirektne poreze, dažbine, naknade i ostale troškove bilo koje prirode stranim konsultantima angažovanim od strane Banke ili Zajmoprimca, u toku realizacije Projekta, i finansirane iz bilo kog fonda za tehničku saradnju koji Banka učini raspoloživim, niti u pogledu robe, radova i usluga nabavljenih od strane Zajmoprimca, a finansiranih od strane Banke u okviru Ugovora o zajmu u svrhu Projekta, osim u onoj meri u kojoj se takvi porezi, dažbine, naknade i ostali troškovi plaćaju iz sredstava koja nisu sredstva fondova za tehničku saradnju koje Banka učini raspoloživim.

(c) Ne kasnije od 30. juna 2007. godine, Garant će uvesti i držati na snazi sveobuhvatni i transparentni sistem finansijske naknade Zajmoprimcu po osnovu obaveze javnog prevoza, a u skladu sa Zakonom o železnici iz 2005. godine.

(d) Ne kasnije od 31. decembra 2007. godine, Garant će izraditi definiciju mreže za srpsku železničku mrežu u kojoj će se odrediti opšta pravila, rokovi, procedure i kriterijumi u pogledu odnosnih odgovornosti Direkcije za

infrastrukturu i korisnika infrastrukture, program naknada i procedure za dodelu kapaciteta.

(e) Ne kasnije od 31. decembra 2007. godine, Garant će izraditi za Banku prihvatljiv izveštaj o naknadama za pristup prugama, koji će obuhvatiti: (a) strukturu naknada i razlog za usvajanje određene strukture; (b) konzistentnost i kompatibilnost sa susednim sistemima za naplatu naknada; (c) pokrivenost naknada u pogledu eksploatacionih troškova.

(f) Ne kasnije od 31. decembra 2006. godine, Garant će inicirati privatizaciju tri sporedne delatnosti Zajmoprimca.

(g) Ne kasnije od 31. jula 2008. godine, Garant će Narodnoj skupštini Garanta dostaviti nacrt zakonodavnog akta kojim će se od Zajmoprimca zahtevati da usvoji strukturu preduzeća u skladu sa Planom poslovanja 2006 - 2010. godine.

### **Član 3.**

#### **Razno**

##### **Odeljak 3.01. Obaveštenja**

Sledeće adrese se navode u smislu Odeljka 10.01 Standardnih uslova poslovanja:

Za Garanta:

Ministarstvo finansija Republike Srbije  
Kneza Miloša 20  
11000 Beograd  
Republika Srbija

Na ruke: Nataša Šakić, pomoćnik direktora,  
Uprava za trezor, Ministarstvo finansija  
Faks: +381-11-3022-765

Za Banku:

Evropska banka za obnovu i razvoj  
One Exchange Square  
London EC2A 2JN  
Velika Britanija

Na ruke: Jedinica za administrativno poslovanje  
Faks: + 44-20-7338- 6100

##### **Odeljak 3.02. Stupanje na snagu**

Ovaj ugovor će stupiti na snagu kada zakon Garanta koji se odnosi na njegovu ratifikaciju stupi na snagu.

##### **Odeljak 3.03. Pravna mišljenja**

U smislu Odeljka 9.03 (b) Standardnih uslova poslovanja i u skladu sa Odeljkom 6.02. (b) Ugovora o zajmu, mišljenje ili mišljenja pravnog savetnika biće data u ime Garanta od strane ministra pravde Republike Srbije.

U potvrdu napred iznetog, ugovorne strane preko svojih uredno ovlašćenih predstavnika pripremile su ovaj ugovor za potpisivanje u šest primeraka i predale ga u Beogradu, Republika Srbija, na dan i u godini kako su napred navedeni.

REPUBLIKA SRBIJA

Potpisuje: \_\_\_\_\_

Ime:

Zvanje:

EVROPSKA BANKA  
ZA OBNOVU I RAZVOJ

Potpisuje: \_\_\_\_\_

Ime:

Zvanje:

**Član 3.**

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u "Službenom glasniku Republike Srbije".