

EXECUTION VERSION

*CLASS NO.: 310-14/10-01/16
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**THE REPUBLIC OF CROATIA,
ACTING BY AND THROUGH ITS MINISTRY OF FINANCE
as Guarantor**

of obligations of

ULJANIK BRODOGRADILIŠTE D.D.
relating to or in connection with the facility
of EUR 45,000,000

arranged by

DEUTSCHE BANK AG, LONDON BRANCH
as Arranger and Original Lender

and

DEUTSCHE BANK AG, LONDON BRANCH
as Agent

GUARANTEE

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THIS GUARANTEE is dated 28 April 2010 and made

BETWEEN:

- (1) **THE REPUBLIC OF CROATIA** acting by and through its **MINISTRY OF FINANCE** (the "**Guarantor**"), and
- (2) **DEUTSCHE BANK AG, LONDON BRANCH** as agent and trustee for itself, the Arranger and the Lenders under the Facility Agreement as defined below (in this capacity, the "**Agent**").

BACKGROUND:

- (A) This Guarantee relates to obligations relating to or in connection with the EUR 45,000,000 facility to be made available to Uljanik Brodogradilište d.d. (the "**Company**") on the terms of a facility agreement dated on or around the date hereof between, *inter alios*, the Company as borrower, the Original Lender (as defined therein) and the Agent (the "**Facility Agreement**") under which the provision of this Guarantee is a condition precedent.
- (B) The Ministry of Finance of the Republic of Croatia has been empowered and authorised to execute and deliver in the name and on behalf of the government of the Republic of Croatia this Guarantee in connection with the Facility Agreement.
- (C) The Guarantor has confirmed that the giving of this Guarantee by the Guarantor is in accordance with the Croatian Law on Execution of the State Budget of the Republic of Croatia for the year 2010 (Official Gazette of Croatia No. 151/09), and that the Minister of Finance has been empowered and authorized to execute and deliver this Guarantee in the name and on behalf of the Republic of Croatia.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

- (a) In this Guarantee "**Republic**" means the Republic of Croatia.
- (b) Terms defined in the Facility Agreement have the same meaning when used in this Guarantee, unless otherwise defined in this Guarantee or the context otherwise requires.

1.2 Construction

Clause 1.2 of the Facility Agreement shall be deemed incorporated in this Guarantee as if set out in full, *mutatis mutandis*.

2. GUARANTEE

2.1 Guarantee

The Guarantor irrevocably and unconditionally:

- (a) guarantees to each Finance Party prompt performance by the Company of all of its payment obligations under the Facility Agreement (whether upon scheduled

payment dates, at stated maturity, by acceleration or otherwise) so that whenever the Company does not pay any amount due and payable by it under the Facility Agreement, the Guarantor shall, within three Business Days of receipt by the Guarantor of a demand for payment by the Agent, pay that amount as if the Guarantor instead of the Company were expressed to be the principal obligor; and

- (b) indemnifies each Finance Party against any loss or liability suffered by any of them if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid, void or illegal (such payment to be made by the Guarantor within three Business Days of receipt by the Guarantor of a demand for payment by the Agent).

2.2 Continuing guarantee

This Guarantee is a continuing guarantee and will extend to the ultimate balance of all sums payable by the Company under the Facility Agreement regardless of any intermediate payment or discharge in whole or in part.

2.3 Reinstatement

- (a) Where any discharge in respect of the obligations of the Company or any security for those obligations is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is, in any such case, avoided or must be restored on insolvency, liquidation or similar laws of general application affecting the Company or its assets, the liability of the Guarantor under this Guarantee shall continue as if the discharge or arrangement had not occurred.
- (b) Each Finance Party may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration without affecting the Guarantor's obligations hereunder.

2.4 Waiver of defences

The obligations of the Guarantor under this Guarantee will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Guarantee or prejudice or diminish those obligations in whole or in part, including, without limitation (whether or not known to it or any Finance Party):

- (a) any time or waiver granted to, or composition with, the Company or any other person;
- (b) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of the Company or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (c) any incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status (including any re-organisation, merger or

transfer or the whole or partial privatisation of the Company or any other person) of the Company or any other person;

- (d) any variation or amendment (however fundamental) or replacement of the Facility Agreement or any other document or security so that references to the Facility Agreement in this Guarantee shall include each variation, amendment or replacement;
- (e) any unenforceability, illegality or invalidity of any obligation of any person under the Facility Agreement or any other document or security, to the intent that the Guarantor's obligations under this Guarantee shall remain in full force and its guarantee be construed accordingly, as if there were no unenforceability, illegality or invalidity;
- (f) any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of the Company under the Facility Agreement resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order so that each such obligation shall for the purposes of the Guarantor's obligations under this Guarantee be construed as if there were no such circumstance; or
- (g) the privatisation of the Company or any other arrangement by which the Republic ceases, directly or indirectly, to control the voting share capital of the Company, or any other change in the ownership of, or control of, the Company (where "control" means the power to direct the management and policies of an entity or to control the composition of its board of directors or other equivalent body, whether through the ownership of voting capital, by contract or otherwise).

2.5 Immediate recourse

Notwithstanding any rights the Guarantor's may have under any law or regulation to the contrary, the Guarantor waives any right it may have of first requiring any Finance Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee.

2.6 Appropriations

Until all amounts which may be or become payable by the Company under the Facility Agreement have been irrevocably paid in full each Finance Party may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received by the Agent from the Guarantor, which are insufficient to discharge all amounts then due and payable but unpaid by the Guarantor under this Guarantee, without liability to pay interest on those moneys.

2.7 Non-competition

Until all amounts which may be or become payable by the Company under the Facility Agreement have been irrevocably paid in full, the Guarantor shall not exercise any rights which it has by virtue of any payment or performance by it under this Guarantee:

- (a) to be subrogated to any rights, security or moneys held, received or receivable by any Finance Party (or any trustee or agent on its behalf) or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Guarantee;
- (b) to claim, rank, prove or vote as a creditor of the Company or its estate in competition with any Finance Party (or any trustee or agent on its behalf); or
- (c) to receive, claim or have the benefit of any payment, distribution or security from or on account of the Company, or exercise any right of set-off as against the Company.

The Guarantor shall hold in trust for (or otherwise for and on behalf of) and forthwith pay or transfer to the Agent for the Finance Parties any payment or distribution or benefit of security received by it contrary to this Clause 2.7.

2.8 Additional security

This Guarantee is in addition to and is not in any way to be prejudiced by any other security now or subsequently held by any Finance Party.

3. PAYMENTS

3.1 Place

All payments by the Guarantor under this Guarantee shall be made to the Agent to its account at such office or bank in the principal financial centre of the country of the relevant currency as it may notify to the Guarantor in any demand for this purpose.

3.2 Funds

Payments under this Guarantee to the Agent shall be made for value on the due date at such times and in such funds as the Agent may specify to the Guarantor as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

3.3 Currency

- (a) Any amount payable under this Guarantee is payable under this Guarantee in the same currency as that amount under the Facility Agreement.
- (b) Any other amount payable under this Guarantee is, except as otherwise provided in this Guarantee, payable in EUR.

3.4 Set-off and counterclaim

All payments by the Guarantor under this Guarantee shall be made without set-off or counterclaim.

3.5 Partial payments

- (a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Guarantor under this Guarantee, the Agent shall apply that payment towards the obligations of the Guarantor under this Guarantee in the following order:
 - (i) **first**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agent or the Arranger *pari passu* under the Finance Documents;
 - (ii) **secondly**, in or towards payment *pro rata* of any accrued default interest due from the Company but unpaid under the Facility Agreement;
 - (iii) **thirdly**, in or towards payment *pro rata* of any accrued contractual interest due from the Company but unpaid under the Facility Agreement;
 - (iv) **fourthly**, in or towards payment *pro rata* of any principal due from the Company but unpaid under the Facility Agreement; and
 - (v) **fifthly**, in or towards payment *pro rata* of any other sum due from the Company or the Guarantor but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (a) (v) above.
- (c) Paragraphs (a) and (b) above shall override any appropriation made by the Company or the Guarantor.

4. TAXES

4.1 Definitions

- (a) In this Guarantee a "**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document.
- (b) Unless a contrary indication appears, in this Clause 4 a reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination.

4.2 Tax gross-up

- (a) The Guarantor shall make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Guarantor shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Guarantor.
- (c) If a Tax Deduction is required by law to be made by the Guarantor, the amount of the payment due from the Guarantor shall be increased to an amount which

(after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

- (d) If the Guarantor is required to make a Tax Deduction, the Guarantor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (e) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Guarantor shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

4.3 **Disclosure of information to the Guarantor**

Each Lender making a claim under Clause 4.2 (*Tax gross-up*) shall support such claim upon request in writing by the Guarantor to the Agent, with a reasonably detailed calculation thereof **provided that** nothing shall oblige the applicable Lender to disclose any information or any part of such information to the extent that such information is tax sensitive, proprietary or legally privileged.

5. **REPRESENTATIONS AND WARRANTIES**

5.1 **Representations and warranties**

The Guarantor makes the following representations and warranties for the benefit of each Finance Party:

- (a) it has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of, this Guarantee and the transactions contemplated by this Guarantee;
- (b) this Guarantee is validly given pursuant to the Croatian Law on Execution of the State Budget of the Republic of Croatia for the year 2010 (Official Gazette of Croatia No. 151/09), has been duly executed by the Guarantor and constitutes the Guarantor's legally binding and valid obligation, enforceable against it in accordance with its terms;
- (c) all Authorisations and notifications (including any authorisations or consents of, or notifications to, the Croatian Competition Agency or any other competition or regulatory body) required in connection with the entry into, performance, validity and enforceability of this Guarantee and the transactions contemplated by this Guarantee have been obtained or effected and are in full force and effect;
- (d) the entry into and performance by the Guarantor of, and the transactions contemplated by, this Guarantee do not conflict with any law applicable to the Guarantor or its assets, including any limits imposed on the Guarantor by the Croatian Law on the State Budget (Official Gazette of Croatia No. 87/08) under the laws of the Republic as to the maximum amount of contingent liabilities which the Guarantor can undertake in respect of payment guarantees or as at the

date of this Guarantee, any document which is binding upon the Guarantor or any of its assets;

- (e) its obligations under this Guarantee rank at least *pari passu* with any and all present and future senior unsecured debt obligations of the Guarantor;
- (f) all amounts payable by the Guarantor under this Guarantee may be made free and clear of and without deduction for or on account of any tax and no stamp or registration duty or similar taxes or charges are payable in the Republic in respect of this Guarantee;
- (g) the Guarantor's execution of this Guarantee constitutes, and its exercise of its rights and performance of its obligations under this Guarantee will constitute, private and commercial acts done and performed for private and commercial purposes, and the Guarantor will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in the Republic in relation to this Guarantee save that enforcement against the Guarantor is not permitted in relation to property which is used solely for the performance of specific activities of the Republic (the office buildings in the Republic being excluded from such exemption), ambassadorial and consular buildings and the contents thereof as per the Vienna Convention on Diplomatic Relations, or any bank accounts of the embassies or consulates, in each case necessary for the proper official, ambassadorial or consular functioning, assets necessary for the proper functioning of the Republic as a sovereign power e.g. building, arms and equipment for national defence, claims for collection of taxes and other fees and charges and on *res extra commercium*;
- (h) the Guarantor's:
 - (i) irrevocable submission under Clause 14 (*Jurisdiction*) to the jurisdiction of the courts of the State of New York and to arbitration;
 - (ii) agreement that this Guarantee and all non-contractual obligations arising from or connected to it are governed by the laws of the State of New York; and
 - (iii) agreement not to claim any immunity to which it or its assets may be entitled, is legal, valid and binding under the laws of the Republic,

save that enforcement against the Guarantor is not permitted in relation to property which is used solely for the performance of specific activities of the Republic (the office buildings in the Republic being excluded from such exemption), ambassadorial and consular buildings and the contents thereof as per the Vienna Convention on Diplomatic Relations, or any bank accounts of the embassies or consulates, in each case necessary for the proper official, ambassadorial or consular functioning, assets necessary for the proper functioning of the Republic as a sovereign power e.g. building, arms and equipment for national defence, claims for collection of taxes and other fees and charges and on *res extra commercium*;

- (i) any arbitration award issued pursuant to the dispute resolution procedure set forth in this Guarantee that requires the Guarantor to pay any amount will be enforceable against the Guarantor in accordance with the provisions of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Croatian Law on Arbitration (Official Gazette of Croatia No. 88/2001); and
- (j) no investigation has commenced or is pending or threatened against the Company or the Guarantor (in relation to the Company), by the Croatian Competition Agency or any other competition or regulatory authority in connection with state aid or any other competition related issue.

5.2 Times for making representations and warranties

The representations and warranties set out in Clause 5.1 (*Representations and Warranties*) are made by the Guarantor on the date of this Guarantee and on each day during the period commencing on and including the date immediately following the date of this Guarantee to and including the date on which all actual or contingent obligations of the Company and the Guarantor under each Finance Document to which they are party have been discharged in full and the Commitments of each Lender under the Facility Agreement have been irrevocably cancelled, by reference to the facts then existing.

6. UNDERTAKINGS

6.1 Duration

The undertakings in this Clause 6 remain in force from the date of this Guarantee for so long as any amount is or may be outstanding under the Facility Agreement or hereunder or any Commitment is in force.

6.2 Undertakings

- (a) The Guarantor shall:
 - (i) promptly provide to the Agent for each of the Finance Parties such information regarding the financial condition of the Guarantor, in so far as directly relevant to this Guarantee, as the Agent may from time to time reasonably request;
 - (ii) promptly obtain, maintain and comply with the terms of any Authorisation required under any law to enable it to perform its obligations under, or for the validity or enforceability of, this Guarantee;
 - (iii) ensure that its obligations under this Guarantee (i) will at all times be direct, unconditional, absolute, and irrevocable general obligations of the Guarantor, and (ii) will rank at least *pari passu* with any and all present and future senior unsecured debt obligations of the Guarantor; and
 - (iv) notify the Agent immediately of any circumstances, which may impair the satisfaction of the Company's obligations under the Facility Agreement or the Guarantor's obligations under this Guarantee so as to be likely to cause a Material Adverse Effect.

- (b) It is acknowledged that the Croatian Competition Agency has currently interrupted the process of considering and granting approvals in relation to state aid and competition law issues in Croatia. The Guarantor shall, as soon as reasonably practicable and in any event within 75 days of such interruption ceasing, procure the approval of the Croatian Competition Agency to the entry into and performance by the Guarantor of, and the transactions contemplated by, this Guarantee.

7. PARTIES

7.1 Guarantor

The Guarantor may not assign, transfer, novate or dispose of any of, or any interest in, its rights and/or obligations under this Guarantee.

7.2 Finance Parties

- (a) Failure of a Finance Party to carry out its obligations under the Facility Agreement does not relieve the Guarantor of its obligations under this Guarantee.
- (b) The rights of each Finance Party under or in respect of this Guarantee are divided rights. Each Finance Party may separately enforce those rights.
- (c) This Guarantee shall enure to the benefit of the Finance Parties and their respective successors, assigns, transferees and substitutes under Transfer Certificates or otherwise to the intent that each person for the time being party to the Facility Agreement in the capacity of a Finance Party shall have the full benefit of this Guarantee as if it were an original signatory to the Facility Agreement with a Commitment and/or a participation in the Facility and with such rights and obligations as it acquires and/or assumes pursuant to the Transfer Certificate(s), assignment(s), transfer(s) or succession to title by which it becomes such a party or alters its Commitments and/or participation. Accordingly, the Guarantor consents to any assignment, transfer, substitution, succession to title or change in lending office made by a Finance Party under and in accordance with the Facility Agreement.

7.3 Information

- (a) Subject to paragraph (b) below, any Lender may disclose to:
 - (i) any of its officers, employees, agents, professional advisers or auditors; and
 - (ii) any other person:
 - (A) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;
 - (B) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other

transaction under which payments are to be made by reference to, the Facility Agreement or the Company or the Guarantor; or

- (C) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about the Guarantor, the Company and the Facility Agreement as that Lender shall consider appropriate **provided that** such Lender shall procure that any person referred to in subparagraphs (i) or (ii) of paragraph (b) above, signs a confidentiality undertaking in respect of such information.

- (b) Without prejudice to paragraph (a) above, at any time following the occurrence of a Default or a Credit Event in respect of the Company or the Guarantor, any Lender may disclose to any person any information about the Facility and the Finance Documents as that Lender shall consider appropriate.

8. CURRENCY INDEMNITY

8.1 Indemnity

If:

- (a) any amount payable by the Guarantor hereunder or in connection herewith is received by the Agent, or any Finance Party in a currency (the "**Payment Currency**") other than that agreed to be payable hereunder (the "**Agreed Currency**"), whether as a result of any judgment or order or the enforcement thereof or otherwise howsoever; and
- (b) the amount produced by converting the Payment Currency so received into the Agreed Currency is less than the relevant amount of the Agreed Currency,

then the Guarantor shall, as an independent obligation, indemnify each of the Agent and the Finance Parties for the deficiency and any loss sustained as a result. Such conversion shall be made at such prevailing rate of exchange, on such date and in such market as is reasonably determined by the Agent or the relevant Finance Party as being most appropriate for such conversion.

8.2 Currency of payment

The Guarantor waives any right it may have in any jurisdiction to pay any amount hereunder in a currency other than that in which it is expressed to be payable hereunder.

9. SET-OFF

If an Event of Default has occurred and is continuing, a Finance Party may set off any matured obligation owed by the Guarantor under this Guarantee (to the extent beneficially owned by that Finance Party) against any obligation (whether or not matured) owed by that Finance Party to the Guarantor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either

obligation is unliquidated or unascertained, the Finance Party may set off in an amount estimated by it in good faith to be the amount of that obligation.

10. **PRO RATA SHARING**

10.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers (whether by set off or otherwise) any amount from the Guarantor other than in accordance with Clause 3 (*Payments*) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 3 (*Payments*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 3.5 (*Partial payments*).

10.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the Company or the Guarantor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 3.5 (*Partial payments*).

10.3 **Recovering Finance Party's rights**

On a distribution by the Agent under Clause 10.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution. If and to the extent that the Recovering Finance Party is not able to rely on its rights under Clause 10.2 (*Redistribution of payments*) above, the Guarantor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

10.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 10.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

- (b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the Guarantor or the Company (as the case may be) will be liable to the reimbursing Finance Party for the amount so reimbursed.

10.5 Exceptions

- (a) This Clause 10 shall not apply:
 - (i) to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Guarantor or the Company; or
 - (ii) in respect of any amounts received by the Recovering Finance Party (other than from the Guarantor or the Company) arising out of a sub-participation, assignment, transfer or any similar transaction or arrangement.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
 - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

11. SEVERABILITY

If a provision of this Guarantee is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

- (a) the validity or enforceability in that jurisdiction of any other provision of this Guarantee; or
- (b) the validity or enforceability in other jurisdictions of that or any other provision of this Guarantee.

12. NOTICES

12.1 Giving of notices

All notices or other communications under or in connection with this Guarantee shall be given in writing or by facsimile. Any such notice will be deemed to be given as follows:

- (a) if in writing, when delivered; and
- (b) if by facsimile, when received.

However, a notice given in accordance with the above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

12.2 Addresses for notices

- (a) The address and facsimile number of the Guarantor is:

Address: The Republic of Croatia, c/o Ministry of Finance,
10 000 Zagreb
Katanciceva 5
Croatia

Facsimile: +385 45 91 388
Attention: Mr.Hrvoje Radovanic

or such other as the Guarantor may notify to the Agent by not less than five Business Days' notice.

- (b) The address and facsimile number of the Agent is:

Address: Winchester House, 1 Great Winchester Street
London EC2N 2DB

Facsimile: +44-207-545-4638
Attention: Matthew Baker / Julie Williams

Copy to:

Facsimile: +44-207-547-2326
Attention: Rahul Jain / Dougal Wise

or such other as the Agent may notify to the Guarantor by not less than five Business Days' notice.

13. MISCELLANEOUS

- (a) Any certification or determination by a Finance Party of an amount due under this Guarantee is, in the absence of fraud or manifest error, conclusive evidence of the matters to which it relates.
- (b) No failure to exercise and no delay in exercising on the part of a Finance Party of any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights of the Finance Parties hereunder may be waived only in writing and specifically. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by the law.
- (c) This Guarantee may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Guarantee.

- (d) Any notice given, or document provided, under or in connection with this Guarantee shall be in English. All notices from or to the Guarantor shall be sent through the Agent.

14. JURISDICTION

14.1 Jurisdiction of the courts of the State of New York

- (a) Subject to Clause 14.2 (*Arbitration*), each Party (i) agrees that any dispute, controversy or claim arising out of or relating to this Guarantee, including any question regarding its existence, validity, interpretation, breach or termination (a "**Dispute**") may be brought in the courts of the State of New York and the courts of the United States of America, in each case sitting in the County of New York and (ii) consents to the exclusive jurisdiction of such court.
- (b) Notwithstanding the exclusive agreement in paragraph (a) above, each Finance Party shall retain the right to bring proceedings in any other court which has jurisdiction and for these purposes the Guarantor irrevocably submits to any such court.
- (c) The Guarantor irrevocably waives any objections that it may now or hereafter have to the venue of any such suit or any such court or that such Dispute is brought in an inconvenient court.
- (d) The Guarantor irrevocably consents to service of process by mail or in any other manner permitted by the relevant law or regulation.
- (e) The Guarantor irrevocably agrees that, to the extent permitted by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

14.2 Arbitration

- (a) The Finance Parties may elect to refer any Dispute to arbitration by notice to the Company, in which case any Dispute shall be finally resolved by arbitration under the International Arbitration Rules of the International Centre for Dispute Resolution of the American Arbitration Association, which rules are deemed to be incorporated by reference into this Clause.
- (b) The tribunal shall consist of three arbitrators (the chairman of which should be a lawyer with not less than 15 years' experience in international contracts).
- (c) The seat and place of arbitration shall be New York and the English language shall be used throughout the arbitral proceedings.
- (d) Any award of the tribunal shall be binding from the day it is made, and the parties hereby waive any right to refer any question of law and any right of appeal on the law and/or merits to any court.

14.3 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Guarantor irrevocably appoints Seward & Kissel LLP, with its address at One Battery Park Plaza, New York, New York 10004, United States of America, Attention:

Managing Clerk, as its agent for service of process in relation to any proceedings before the New York courts in relation to the Guarantee.

15. **WAIVER OF IMMUNITY**

The Guarantor irrevocably and unconditionally:

- (a) agrees that if a Finance Party brings proceedings against it or its assets in relation to a Finance Document, no immunity from those proceedings (including, without limitation, suit, attachment prior to judgment, other attachment, the obtaining of judgment, execution or other enforcement) will be claimed by or on behalf of itself or with respect to its assets;
- (b) waives any such right of immunity which it or its assets now has or may subsequently acquire; and
- (c) consents generally in respect of any such proceedings to the giving of any relief or the issue of any process in connection with those proceedings, including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in those proceedings, subject to the Enforcement Act of the Republic of Croatia (Official Gazette Nos. 57/96, 29/99, 42/00, 173/03, 194/03, 151/04, 88/05, 121/05 and 67/08) whereby enforcement is not permitted against the assets and rights of a legal entity which are indispensable for the performance of activities of that legal entity, but only if the activities of the legal entity would be discontinued as a result of the enforcement, except in the case where the creditor acquired a lien or similar right on a particular asset or right of such legal entity in order to secure its claim pursuant to a legal transaction in accordance with law.

16. **GOVERNING LAW**

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

17. **WAIVER OF JURY TRIAL**

EACH OF THE PARTIES TO THIS GUARANTEE AGREES TO WAIVE IRREVOCABLY ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM BASED UPON OR ARISING OUT OF THIS GUARANTEE OR ANY OF THE DOCUMENTS REFERRED TO IN THIS GUARANTEE OR ANY TRANSACTION CONTEMPLATED IN THIS GUARANTEE. THIS WAIVER IS INTENDED TO APPLY TO ALL DISPUTES. EACH PARTY ACKNOWLEDGES THAT (A) THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO THIS GUARANTEE, (B) IT HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS GUARANTEE AND (C) IT WILL CONTINUE TO RELY ON THIS WAIVER IN FUTURE DEALINGS. EACH PARTY REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL ADVISERS AND THAT IT KNOWINGLY AND VOLUNTARILY

**WAIVES ITS JURY TRIAL RIGHTS AFTER CONSULTATION WITH ITS
LEGAL ADVISERS.**

IN WITNESS whereof this Guarantee has been entered into on the date stated at the beginning
of this Guarantee.

SIGNATURES

Guarantor

THE REPUBLIC OF CROATIA

acting by and through its **MINISTRY OF FINANCE**

By:

Agent

DEUTSCHE BANK AG, LONDON BRANCH

By:

By:

SIGNATURES

Guarantor

THE REPUBLIC OF CROATIA

acting by and through its **MINISTRY OF FINANCE**

By:

Agent

DEUTSCHE BANK AG, LONDON BRANCH

By:

By:

EXECUTION VERSION

**THE REPUBLIC OF CROATIA,
ACTING BY AND THROUGH ITS MINISTRY OF FINANCE**
as Guarantor

of obligations of

ULJANIK BRODOGRADILIŠTE D.D.
relating to or in connection with the facility
of EUR 45,000,000

arranged by

DEUTSCHE BANK AG, LONDON BRANCH
as Arranger and Original Lender

and

DEUTSCHE BANK AG, LONDON BRANCH
as Agent

GUARANTEE

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THIS GUARANTEE is dated 28 April 2010 and made

BETWEEN:

- (1) **THE REPUBLIC OF CROATIA** acting by and through its **MINISTRY OF FINANCE** (the "**Guarantor**"), and
- (2) **DEUTSCHE BANK AG, LONDON BRANCH** as agent and trustee for itself, the Arranger and the Lenders under the Facility Agreement as defined below (in this capacity, the "**Agent**").

BACKGROUND:

- (A) This Guarantee relates to obligations relating to or in connection with the EUR 45,000,000 facility to be made available to Uljanik Brodogradilište d.d. (the "**Company**") on the terms of a facility agreement dated on or around the date hereof between, *inter alios*, the Company as borrower, the Original Lender (as defined therein) and the Agent (the "**Facility Agreement**") under which the provision of this Guarantee is a condition precedent.
- (B) The Ministry of Finance of the Republic of Croatia has been empowered and authorised to execute and deliver in the name and on behalf of the government of the Republic of Croatia this Guarantee in connection with the Facility Agreement.
- (C) The Guarantor has confirmed that the giving of this Guarantee by the Guarantor is in accordance with the Croatian Law on Execution of the State Budget of the Republic of Croatia for the year 2010 (Official Gazette of Croatia No. 151/09), and that the Minister of Finance has been empowered and authorized to execute and deliver this Guarantee in the name and on behalf of the Republic of Croatia.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

- (a) In this Guarantee "**Republic**" means the Republic of Croatia.
- (b) Terms defined in the Facility Agreement have the same meaning when used in this Guarantee, unless otherwise defined in this Guarantee or the context otherwise requires.

1.2 Construction

Clause 1.2 of the Facility Agreement shall be deemed incorporated in this Guarantee as if set out in full, *mutatis mutandis*.

2. GUARANTEE

2.1 Guarantee

The Guarantor irrevocably and unconditionally:

- (a) guarantees to each Finance Party prompt performance by the Company of all of its payment obligations under the Facility Agreement (whether upon scheduled

payment dates, at stated maturity, by acceleration or otherwise) so that whenever the Company does not pay any amount due and payable by it under the Facility Agreement, the Guarantor shall, within three Business Days of receipt by the Guarantor of a demand for payment by the Agent, pay that amount as if the Guarantor instead of the Company were expressed to be the principal obligor; and

- (b) indemnifies each Finance Party against any loss or liability suffered by any of them if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid, void or illegal (such payment to be made by the Guarantor within three Business Days of receipt by the Guarantor of a demand for payment by the Agent).

2.2 Continuing guarantee

This Guarantee is a continuing guarantee and will extend to the ultimate balance of all sums payable by the Company under the Facility Agreement regardless of any intermediate payment or discharge in whole or in part.

2.3 Reinstatement

- (a) Where any discharge in respect of the obligations of the Company or any security for those obligations is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is, in any such case, avoided or must be restored on insolvency, liquidation or similar laws of general application affecting the Company or its assets, the liability of the Guarantor under this Guarantee shall continue as if the discharge or arrangement had not occurred.
- (b) Each Finance Party may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration without affecting the Guarantor's obligations hereunder.

2.4 Waiver of defences

The obligations of the Guarantor under this Guarantee will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Guarantee or prejudice or diminish those obligations in whole or in part, including, without limitation (whether or not known to it or any Finance Party):

- (a) any time or waiver granted to, or composition with, the Company or any other person;
- (b) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of the Company or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (c) any incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status (including any re-organisation, merger or

transfer or the whole or partial privatisation of the Company or any other person) of the Company or any other person;

- (d) any variation or amendment (however fundamental) or replacement of the Facility Agreement or any other document or security so that references to the Facility Agreement in this Guarantee shall include each variation, amendment or replacement;
- (e) any unenforceability, illegality or invalidity of any obligation of any person under the Facility Agreement or any other document or security, to the intent that the Guarantor's obligations under this Guarantee shall remain in full force and its guarantee be construed accordingly, as if there were no unenforceability, illegality or invalidity;
- (f) any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of the Company under the Facility Agreement resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order so that each such obligation shall for the purposes of the Guarantor's obligations under this Guarantee be construed as if there were no such circumstance; or
- (g) the privatisation of the Company or any other arrangement by which the Republic ceases, directly or indirectly, to control the voting share capital of the Company, or any other change in the ownership of, or control of, the Company (where "control" means the power to direct the management and policies of an entity or to control the composition of its board of directors or other equivalent body, whether through the ownership of voting capital, by contract or otherwise).

2.5 Immediate recourse

Notwithstanding any rights the Guarantor's may have under any law or regulation to the contrary, the Guarantor waives any right it may have of first requiring any Finance Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Guarantee.

2.6 Appropriations

Until all amounts which may be or become payable by the Company under the Facility Agreement have been irrevocably paid in full each Finance Party may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received by the Agent from the Guarantor, which are insufficient to discharge all amounts then due and payable but unpaid by the Guarantor under this Guarantee, without liability to pay interest on those moneys.

2.7 Non-competition

Until all amounts which may be or become payable by the Company under the Facility Agreement have been irrevocably paid in full, the Guarantor shall not exercise any rights which it has by virtue of any payment or performance by it under this Guarantee:

- (a) to be subrogated to any rights, security or moneys held, received or receivable by any Finance Party (or any trustee or agent on its behalf) or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Guarantee;
- (b) to claim, rank, prove or vote as a creditor of the Company or its estate in competition with any Finance Party (or any trustee or agent on its behalf); or
- (c) to receive, claim or have the benefit of any payment, distribution or security from or on account of the Company, or exercise any right of set-off as against the Company.

The Guarantor shall hold in trust for (or otherwise for and on behalf of) and forthwith pay or transfer to the Agent for the Finance Parties any payment or distribution or benefit of security received by it contrary to this Clause 2.7.

2.8 Additional security

This Guarantee is in addition to and is not in any way to be prejudiced by any other security now or subsequently held by any Finance Party.

3. PAYMENTS

3.1 Place

All payments by the Guarantor under this Guarantee shall be made to the Agent to its account at such office or bank in the principal financial centre of the country of the relevant currency as it may notify to the Guarantor in any demand for this purpose.

3.2 Funds

Payments under this Guarantee to the Agent shall be made for value on the due date at such times and in such funds as the Agent may specify to the Guarantor as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

3.3 Currency

- (a) Any amount payable under this Guarantee is payable under this Guarantee in the same currency as that amount under the Facility Agreement.
- (b) Any other amount payable under this Guarantee is, except as otherwise provided in this Guarantee, payable in EUR.

3.4 Set-off and counterclaim

All payments by the Guarantor under this Guarantee shall be made without set-off or counterclaim.

3.5 Partial payments

- (a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Guarantor under this Guarantee, the Agent shall apply that payment towards the obligations of the Guarantor under this Guarantee in the following order:
 - (i) **first**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agent or the Arranger *pari passu* under the Finance Documents;
 - (ii) **secondly**, in or towards payment *pro rata* of any accrued default interest due from the Company but unpaid under the Facility Agreement;
 - (iii) **thirdly**, in or towards payment *pro rata* of any accrued contractual interest due from the Company but unpaid under the Facility Agreement;
 - (iv) **fourthly**, in or towards payment *pro rata* of any principal due from the Company but unpaid under the Facility Agreement; and
 - (v) **fifthly**, in or towards payment *pro rata* of any other sum due from the Company or the Guarantor but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (a) (v) above.
- (c) Paragraphs (a) and (b) above shall override any appropriation made by the Company or the Guarantor.

4. TAXES

4.1 Definitions

- (a) In this Guarantee a "**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document.
- (b) Unless a contrary indication appears, in this Clause 4 a reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination.

4.2 Tax gross-up

- (a) The Guarantor shall make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Guarantor shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Guarantor.
- (c) If a Tax Deduction is required by law to be made by the Guarantor, the amount of the payment due from the Guarantor shall be increased to an amount which

(after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

- (d) If the Guarantor is required to make a Tax Deduction, the Guarantor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (e) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Guarantor shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

4.3 **Disclosure of information to the Guarantor**

Each Lender making a claim under Clause 4.2 (*Tax gross-up*) shall support such claim upon request in writing by the Guarantor to the Agent, with a reasonably detailed calculation thereof **provided that** nothing shall oblige the applicable Lender to disclose any information or any part of such information to the extent that such information is tax sensitive, proprietary or legally privileged.

5. **REPRESENTATIONS AND WARRANTIES**

5.1 **Representations and warranties**

The Guarantor makes the following representations and warranties for the benefit of each Finance Party:

- (a) it has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of, this Guarantee and the transactions contemplated by this Guarantee;
- (b) this Guarantee is validly given pursuant to the Croatian Law on Execution of the State Budget of the Republic of Croatia for the year 2010 (Official Gazette of Croatia No. 151/09), has been duly executed by the Guarantor and constitutes the Guarantor's legally binding and valid obligation, enforceable against it in accordance with its terms;
- (c) all Authorisations and notifications (including any authorisations or consents of, or notifications to, the Croatian Competition Agency or any other competition or regulatory body) required in connection with the entry into, performance, validity and enforceability of this Guarantee and the transactions contemplated by this Guarantee have been obtained or effected and are in full force and effect;
- (d) the entry into and performance by the Guarantor of, and the transactions contemplated by, this Guarantee do not conflict with any law applicable to the Guarantor or its assets, including any limits imposed on the Guarantor by the Croatian Law on the State Budget (Official Gazette of Croatia No. 87/08) under the laws of the Republic as to the maximum amount of contingent liabilities which the Guarantor can undertake in respect of payment guarantees or as at the

date of this Guarantee, any document which is binding upon the Guarantor or any of its assets;

- (e) its obligations under this Guarantee rank at least *pari passu* with any and all present and future senior unsecured debt obligations of the Guarantor;
- (f) all amounts payable by the Guarantor under this Guarantee may be made free and clear of and without deduction for or on account of any tax and no stamp or registration duty or similar taxes or charges are payable in the Republic in respect of this Guarantee;
- (g) the Guarantor's execution of this Guarantee constitutes, and its exercise of its rights and performance of its obligations under this Guarantee will constitute, private and commercial acts done and performed for private and commercial purposes, and the Guarantor will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in the Republic in relation to this Guarantee save that enforcement against the Guarantor is not permitted in relation to property which is used solely for the performance of specific activities of the Republic (the office buildings in the Republic being excluded from such exemption), ambassadorial and consular buildings and the contents thereof as per the Vienna Convention on Diplomatic Relations, or any bank accounts of the embassies or consulates, in each case necessary for the proper official, ambassadorial or consular functioning, assets necessary for the proper functioning of the Republic as a sovereign power e.g. building, arms and equipment for national defence, claims for collection of taxes and other fees and charges and on *res extra commercium*;
- (h) the Guarantor's:
 - (i) irrevocable submission under Clause 14 (*Jurisdiction*) to the jurisdiction of the courts of the State of New York and to arbitration;
 - (ii) agreement that this Guarantee and all non-contractual obligations arising from or connected to it are governed by the laws of the State of New York; and
 - (iii) agreement not to claim any immunity to which it or its assets may be entitled, is legal, valid and binding under the laws of the Republic,

save that enforcement against the Guarantor is not permitted in relation to property which is used solely for the performance of specific activities of the Republic (the office buildings in the Republic being excluded from such exemption), ambassadorial and consular buildings and the contents thereof as per the Vienna Convention on Diplomatic Relations, or any bank accounts of the embassies or consulates, in each case necessary for the proper official, ambassadorial or consular functioning, assets necessary for the proper functioning of the Republic as a sovereign power e.g. building, arms and equipment for national defence, claims for collection of taxes and other fees and charges and on *res extra commercium*;

- (i) any arbitration award issued pursuant to the dispute resolution procedure set forth in this Guarantee that requires the Guarantor to pay any amount will be enforceable against the Guarantor in accordance with the provisions of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Croatian Law on Arbitration (Official Gazette of Croatia No. 88/2001); and
- (j) no investigation has commenced or is pending or threatened against the Company or the Guarantor (in relation to the Company), by the Croatian Competition Agency or any other competition or regulatory authority in connection with state aid or any other competition related issue.

5.2 Times for making representations and warranties

The representations and warranties set out in Clause 5.1 (*Representations and Warranties*) are made by the Guarantor on the date of this Guarantee and on each day during the period commencing on and including the date immediately following the date of this Guarantee to and including the date on which all actual or contingent obligations of the Company and the Guarantor under each Finance Document to which they are party have been discharged in full and the Commitments of each Lender under the Facility Agreement have been irrevocably cancelled, by reference to the facts then existing.

6. UNDERTAKINGS

6.1 Duration

The undertakings in this Clause 6 remain in force from the date of this Guarantee for so long as any amount is or may be outstanding under the Facility Agreement or hereunder or any Commitment is in force.

6.2 Undertakings

(a) The Guarantor shall:

- (i) promptly provide to the Agent for each of the Finance Parties such information regarding the financial condition of the Guarantor, in so far as directly relevant to this Guarantee, as the Agent may from time to time reasonably request;
- (ii) promptly obtain, maintain and comply with the terms of any Authorisation required under any law to enable it to perform its obligations under, or for the validity or enforceability of, this Guarantee;
- (iii) ensure that its obligations under this Guarantee (i) will at all times be direct, unconditional, absolute, and irrevocable general obligations of the Guarantor, and (ii) will rank at least *pari passu* with any and all present and future senior unsecured debt obligations of the Guarantor; and
- (iv) notify the Agent immediately of any circumstances, which may impair the satisfaction of the Company's obligations under the Facility Agreement or the Guarantor's obligations under this Guarantee so as to be likely to cause a Material Adverse Effect.

- (b) It is acknowledged that the Croatian Competition Agency has currently interrupted the process of considering and granting approvals in relation to state aid and competition law issues in Croatia. The Guarantor shall, as soon as reasonably practicable and in any event within 75 days of such interruption ceasing, procure the approval of the Croatian Competition Agency to the entry into and performance by the Guarantor of, and the transactions contemplated by, this Guarantee.

7. PARTIES

7.1 Guarantor

The Guarantor may not assign, transfer, novate or dispose of any of, or any interest in, its rights and/or obligations under this Guarantee.

7.2 Finance Parties

- (a) Failure of a Finance Party to carry out its obligations under the Facility Agreement does not relieve the Guarantor of its obligations under this Guarantee.
- (b) The rights of each Finance Party under or in respect of this Guarantee are divided rights. Each Finance Party may separately enforce those rights.
- (c) This Guarantee shall enure to the benefit of the Finance Parties and their respective successors, assigns, transferees and substitutes under Transfer Certificates or otherwise to the intent that each person for the time being party to the Facility Agreement in the capacity of a Finance Party shall have the full benefit of this Guarantee as if it were an original signatory to the Facility Agreement with a Commitment and/or a participation in the Facility and with such rights and obligations as it acquires and/or assumes pursuant to the Transfer Certificate(s), assignment(s), transfer(s) or succession to title by which it becomes such a party or alters its Commitments and/or participation. Accordingly, the Guarantor consents to any assignment, transfer, substitution, succession to title or change in lending office made by a Finance Party under and in accordance with the Facility Agreement.

7.3 Information

- (a) Subject to paragraph (b) below, any Lender may disclose to:
- (i) any of its officers, employees, agents, professional advisers or auditors; and
 - (ii) any other person:
 - (A) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;
 - (B) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other

transaction under which payments are to be made by reference to, the Facility Agreement or the Company or the Guarantor; or

- (C) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about the Guarantor, the Company and the Facility Agreement as that Lender shall consider appropriate **provided that** such Lender shall procure that any person referred to in subparagraphs (i) or (ii) of paragraph (b) above, signs a confidentiality undertaking in respect of such information.

- (b) Without prejudice to paragraph (a) above, at any time following the occurrence of a Default or a Credit Event in respect of the Company or the Guarantor, any Lender may disclose to any person any information about the Facility and the Finance Documents as that Lender shall consider appropriate.

8. CURRENCY INDEMNITY

8.1 Indemnity

If:

- (a) any amount payable by the Guarantor hereunder or in connection herewith is received by the Agent, or any Finance Party in a currency (the "**Payment Currency**") other than that agreed to be payable hereunder (the "**Agreed Currency**"), whether as a result of any judgment or order or the enforcement thereof or otherwise howsoever; and
- (b) the amount produced by converting the Payment Currency so received into the Agreed Currency is less than the relevant amount of the Agreed Currency,

then the Guarantor shall, as an independent obligation, indemnify each of the Agent and the Finance Parties for the deficiency and any loss sustained as a result. Such conversion shall be made at such prevailing rate of exchange, on such date and in such market as is reasonably determined by the Agent or the relevant Finance Party as being most appropriate for such conversion.

8.2 Currency of payment

The Guarantor waives any right it may have in any jurisdiction to pay any amount hereunder in a currency other than that in which it is expressed to be payable hereunder.

9. SET-OFF

If an Event of Default has occurred and is continuing, a Finance Party may set off any matured obligation owed by the Guarantor under this Guarantee (to the extent beneficially owned by that Finance Party) against any obligation (whether or not matured) owed by that Finance Party to the Guarantor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either

obligation is unliquidated or unascertained, the Finance Party may set off in an amount estimated by it in good faith to be the amount of that obligation.

10. **PRO RATA SHARING**

10.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers (whether by set off or otherwise) any amount from the Guarantor other than in accordance with Clause 3 (*Payments*) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 3 (*Payments*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent; pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 3.5 (*Partial payments*).

10.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the Company or the Guarantor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 3.5 (*Partial payments*).

10.3 **Recovering Finance Party's rights**

On a distribution by the Agent under Clause 10.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution. If and to the extent that the Recovering Finance Party is not able to rely on its rights under Clause 10.2 (*Redistribution of payments*) above, the Guarantor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

10.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 10.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

- (b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the Guarantor or the Company (as the case may be) will be liable to the reimbursing Finance Party for the amount so reimbursed.

10.5 Exceptions

- (a) This Clause 10 shall not apply:

- (i) to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Guarantor or the Company; or
- (ii) in respect of any amounts received by the Recovering Finance Party (other than from the Guarantor or the Company) arising out of a sub-participation, assignment, transfer or any similar transaction or arrangement.

- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

- (i) it notified that other Finance Party of the legal or arbitration proceedings; and
- (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

11. SEVERABILITY

If a provision of this Guarantee is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

- (a) the validity or enforceability in that jurisdiction of any other provision of this Guarantee; or
- (b) the validity or enforceability in other jurisdictions of that or any other provision of this Guarantee.

12. NOTICES

12.1 Giving of notices

All notices or other communications under or in connection with this Guarantee shall be given in writing or by facsimile. Any such notice will be deemed to be given as follows:

- (a) if in writing, when delivered; and
- (b) if by facsimile, when received.

However, a notice given in accordance with the above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

12.2 **Addresses for notices**

- (a) The address and facsimile number of the Guarantor is:

Address: The Republic of Croatia, c/o Ministry of Finance,
10 000 Zagreb
Katanciceva 5
Croatia

Facsimile: +385 45 91 388
Attention: Mr. Hrvoje Radovanic

or such other as the Guarantor may notify to the Agent by not less than five Business Days' notice.

- (b) The address and facsimile number of the Agent is:

Address: Winchester House, 1 Great Winchester Street
London EC2N 2DB

Facsimile: +44-207-545-4638
Attention: Matthew Baker / Julie Williams

Copy to:

Facsimile: +44-207-547-2326
Attention: Rahul Jain / Dougal Wise

or such other as the Agent may notify to the Guarantor by not less than five Business Days' notice.

13. **MISCELLANEOUS**

- (a) Any certification or determination by a Finance Party of an amount due under this Guarantee is, in the absence of fraud or manifest error, conclusive evidence of the matters to which it relates.
- (b) No failure to exercise and no delay in exercising on the part of a Finance Party of any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights of the Finance Parties hereunder may be waived only in writing and specifically. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by the law.
- (c) This Guarantee may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Guarantee.

- (d) Any notice given, or document provided, under or in connection with this Guarantee shall be in English. All notices from or to the Guarantor shall be sent through the Agent.

14. JURISDICTION

14.1 Jurisdiction of the courts of the State of New York

- (a) Subject to Clause 14.2 (*Arbitration*), each Party (i) agrees that any dispute, controversy or claim arising out of or relating to this Guarantee, including any question regarding its existence, validity, interpretation, breach or termination (a "**Dispute**") may be brought in the courts of the State of New York and the courts of the United States of America, in each case sitting in the County of New York and (ii) consents to the exclusive jurisdiction of such court.
- (b) Notwithstanding the exclusive agreement in paragraph (a) above, each Finance Party shall retain the right to bring proceedings in any other court which has jurisdiction and for these purposes the Guarantor irrevocably submits to any such court.
- (c) The Guarantor irrevocably waives any objections that it may now or hereafter have to the venue of any such suit or any such court or that such Dispute is brought in an inconvenient court.
- (d) The Guarantor irrevocably consents to service of process by mail or in any other manner permitted by the relevant law or regulation.
- (e) The Guarantor irrevocably agrees that, to the extent permitted by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

14.2 Arbitration

- (a) The Finance Parties may elect to refer any Dispute to arbitration by notice to the Company, in which case any Dispute shall be finally resolved by arbitration under the International Arbitration Rules of the International Centre for Dispute Resolution of the American Arbitration Association, which rules are deemed to be incorporated by reference into this Clause.
- (b) The tribunal shall consist of three arbitrators (the chairman of which should be a lawyer with not less than 15 years' experience in international contracts).
- (c) The seat and place of arbitration shall be New York and the English language shall be used throughout the arbitral proceedings.
- (d) Any award of the tribunal shall be binding from the day it is made, and the parties hereby waive any right to refer any question of law and any right of appeal on the law and/or merits to any court.

14.3 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Guarantor irrevocably appoints Seward & Kissel LLP, with its address at One Battery Park Plaza, New York, New York 10004, United States of America, Attention:

Managing Clerk, as its agent for service of process in relation to any proceedings before the New York courts in relation to the Guarantee.

15. **WAIVER OF IMMUNITY**

The Guarantor irrevocably and unconditionally:

- (a) agrees that if a Finance Party brings proceedings against it or its assets in relation to a Finance Document, no immunity from those proceedings (including, without limitation, suit, attachment prior to judgment, other attachment, the obtaining of judgment, execution or other enforcement) will be claimed by or on behalf of itself or with respect to its assets;
- (b) waives any such right of immunity which it or its assets now has or may subsequently acquire; and
- (c) consents generally in respect of any such proceedings to the giving of any relief or the issue of any process in connection with those proceedings, including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in those proceedings, subject to the Enforcement Act of the Republic of Croatia (Official Gazette Nos. 57/96, 29/99, 42/00, 173/03, 194/03, 151/04, 88/05, 121/05 and 67/08) whereby enforcement is not permitted against the assets and rights of a legal entity which are indispensable for the performance of activities of that legal entity, but only if the activities of the legal entity would be discontinued as a result of the enforcement, except in the case where the creditor acquired a lien or similar right on a particular asset or right of such legal entity in order to secure its claim pursuant to a legal transaction in accordance with law.

16. **GOVERNING LAW**

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

17. **WAIVER OF JURY TRIAL**

EACH OF THE PARTIES TO THIS GUARANTEE AGREES TO WAIVE IRREVOCABLY ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM BASED UPON OR ARISING OUT OF THIS GUARANTEE OR ANY OF THE DOCUMENTS REFERRED TO IN THIS GUARANTEE OR ANY TRANSACTION CONTEMPLATED IN THIS GUARANTEE. THIS WAIVER IS INTENDED TO APPLY TO ALL DISPUTES. EACH PARTY ACKNOWLEDGES THAT (A) THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO THIS GUARANTEE, (B) IT HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS GUARANTEE AND (C) IT WILL CONTINUE TO RELY ON THIS WAIVER IN FUTURE DEALINGS. EACH PARTY REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL ADVISERS AND THAT IT KNOWINGLY AND VOLUNTARILY

**WAIVES ITS JURY TRIAL RIGHTS AFTER CONSULTATION WITH ITS
LEGAL ADVISERS.**

IN WITNESS whereof this Guarantee has been entered into on the date stated at the beginning
of this Guarantee.

SIGNATURES

Guarantor

THE REPUBLIC OF CROATIA

acting by and through its **MINISTRY OF FINANCE**

By:

Agent

DEUTSCHE BANK AG, LONDON BRANCH

By:

By:

Ovaj prijevod sastoji se od
21 stranice / 21 listova
Broj – OV: 24/2010
Datum: 26.4.2010

*Ovjerovljeni prijevod
s engleskog jezika*



KONAČNI TEKST

REPUBLIKA HRVATSKA,
PO MINISTARSTVU FINACIJA REPUBLIKE HRVATSKE
kao Davatelju jamstva

za obveze

ULJANIK BRODOGRADILIŠTE d.d.
u vezi sa/koje se odnose na kredit u iznosu od

EUR 45,000,000

Organiziran po

DEUTSCHE BANK AG, LONDON BRANCH
kao Organizator i Izvorni Davatelj kredita

i

DEUTSCHE BANK AG, LONDON BRANCH
kao Agent

DRŽAVNO JAMSTVO

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OVO JAMSTVO od 28. travnja 2010. sklopljeno je između

IZMEĐU:

- (1) REPUBLIKE HRVATSKE po Ministarstvu financija Republike Hrvatske ("Davatelj jamstva");
- (2) ~~DEUTSCHE BANK AG, LONDON BRANCH~~ kao agent i povjerenik za sebe, Organizatora i Davatelje kredita po Ugovoru o kreditu kako je definirano u nastavku (u ovom svojstvu, "Agent").

OSNOVA:

- (A) Ovo jamstvo odnosi se na obveze u vezi sa kreditom od EUR 45,000,000 koji će biti odobren Uljanik Brodogradilište d.d. („Društvo“) u skladu s uvjetima ugovora o kreditu, potpisanog na dan ili oko dana izdavanja ovog jamstva, između, *inter alios*, Društva kao primatelja kredita, Originalnog Davatelja kredita (kako je definiran u Ugovoru o kreditu) i Agentu ("Ugovor o kreditu"), prema čijim je odredbama ovo Jamstvo prethodni uvjet.
- (B) Ministarstvo financija Republike Hrvatske je opunomoćeno i ovlašteno da u ime Vlade Republike Hrvatske potpiše i izda ovo jamstvo u vezi sa Ugovorom o kreditu.
- (C) Davatelj Jamstva je potvrdio da je izdavanje ovog jamstva od strane Davatelja jamstva u skladu sa Zakonom o izvršavanju državnog proračuna Republike Hrvatske za 2010. godinu (NN 151/09), i da je Ministar Financija opunomoćen i ovlašten da potpiše i izda ovo Jamstvo u ime i za račun Republike Hrvatske.

UTVRĐENO JE kako slijedi:

1. INTERPRETACIJE

1.1 Definicije

(a) U ovom Jamstvu "**Republika**" zna i Republika Hrvatska

(b) Pojmovi definirani u Ugovoru o kreditu imaju jednako značenje kada se koriste u ovom Jamstvu, osim ukoliko je to drugačije definirano ovim Jamstvom ili to proizlazi iz konteksta.

1.2. Konstrukcija

lanak 1.2. Ugovora o kreditu smatrati e se sastavnim dijelom ovog Jamstva u kako je navedeno u cijelosti, sa nužnim izmjenama (*mutatis mutandis*)

2. JAMSTVO

2.1 Jamstvo

Davatelj Jamstva neopozivo i bezuvjetno:

- (a) jamči svakoj stranci financiranja promptno ispunjenje svih obveza na plaćanje prema Ugovoru o kreditu od strane Društva (bilo po ugovorenim datumima plaćanja, po dospijeću, ubrzanom isplatom ili na drugi način), na način da kada god Društvo ne plati bilo koji dospjeli iznos koji treba platiti prema Ugovoru o kreditu Davatelj jamstva će, u roku od tri radna dana od primitka zahtjeva za plaćanje od strane Agent, platiti taj iznos umjesto Društva, kao da je sam Davatelj jamstva glavni dužnik ; i
- (b) obeštećuje svaku stranku financiranja od bilo kojeg gubitka ili odgovornosti, ukoliko bilo koja obveza pokrivena jamstvom je ili postane neprovođiva, nevažeća, pobjorna ili nezakonita (takvo plaćanje će biti učinjeno od strane Davatelja jamstva u roku od tri radna dana od kada Davatelj jamstva primi Agentov zahtjev za plaćanje).

2.2 Produženo jamstvo

Ovo jamstvo je produženo jamstvo i traje do zadnjeg obračuna svih iznosa plaćenih od strane Društva po Ugovoru o kreditu, bez obzira na bilo kakva obročna plaćanja ili otpust, djelomični ili u cijelosti.

2.3 Reaktiviranje

- (a) U slučaju bilo kakvog otpusta, djelomičnog ili u cijelosti, u odnosu na obveze Društva ili bilo kojeg osiguranja za te obveze, ili bilo kojeg dogovora koji se temelji na vjeri u plaćanje, osiguranje ili drugo raspolaganje koje je, u bilo kojem takvom slučaju, pobjorno ili mora biti vraćeno u slučaju stečaja, likvidacije ili sličnih propisa opće primjene sa učinkom na Društvo ili njegovu imovinu, odgovornost Davatelja jamstva prema ovom Jamstvu će postojati, kao da nije došlo do otpusta ili sporazuma.
- (b) Bilo koja stranka financiranja može priznati ili nagoditi se da je bilo koje plaćanje, osiguranje ili drugo raspolaganje, dužno radi izbjegavanja ili obnove, bez utjecaja na obveze Davatelja jamstva iz Jamstva.

2.4 Odricanje od prigovora

Na obveze Davatelja jamstva iz ovog Jamstva neće utjecati bilo kakva radnja, propuštanje ili stvar koja će, osim u odnosu na ovu odredbu, umanjiti, osloboditi ili prejudicirati bilo koju

njegovu obvezu iz Jamstva ili prejudicirati ili umanjiti te obveze /u dijelu ili u cijelosti, uključujući, bez ograničenja (bilo da su poznate ili nisu poznate njemu ili strankama financiranja):

- (a) bilo u koje vrijeme ili odricanje, ili u kombinaciji s, Društvom ili drugom osobom;
- (b) Uzimanje, mijenjanje, nagađanje, razmjena, obnova ili oslobađanje od, ili odbijanje ili zanemarivanje da se provede, preuzme ili ovrši, bilo koje pravo protiv, ili osiguranje na imovini Društva ili bilo koje druge osobe, ili bio kakvo ne-slaganje ili ne-postupanje u skladu s bilo kojom formalnosti ili drugim zahtjevom u odnosu na bilo koji instrument ili propust da se realizira bilo koje osiguranje u njegovoj punoj vrijednosti;
- (c) bilo kakva nesposobnost ili manjak ovlaštenja, ovlasti ili pravne osobnosti ili raspuštanje ili promjenu članstva ili statusa (uključujući re-organizaciju, spajanje ili prijenos) Društva ili druge osobe;
- (d) bilo koja izmjena ili dopuna (bez obzira koliko ključna), novacija ili zamjena Ugovora o kreditu ili bilo kojeg dugog dokumenta ili osiguranja tako da će pozivanje na Ugovor o financiranju u ovom jamstvu uključiti svaku izmjenu, dopunu, novaciju ili zamjenu;
- (e) bilo kakvu nemogućnost ovrhe, nezakonitost ili nevaljanost bilo koje obveze bilo koje osobe prema Ugovoru o kreditu ili bilo kojeg drugog dokumenta ili osiguranja, sa namjerom da obveze Davatelja jamstva prema ovom Jamstvu ostanu u punoj snazi i da je jamstvo u skladu s time, kao da ne postoji nemogućnost ovrhe, nezakonitost ili nevaljanost;
- (f) bilo kakva odgoda, oslobađanje, smanjenje, nemogućnost dokazivanja i druga slična okolnost koja je od utjecaja na obvezu Društva prema Ugovoru o kreditu koja proizlazi iz bilo kakvog stečaja, likvidacije ili postupka raspuštanja ili iz bilo kojeg zakona, odredbi ili poretka tako da će se za svaku takvu obvezu za potrebe obveze Davatelja jamstva prema ovom Jamstvu, smatrati da ne postoji takva okolnost; ili
- (g) privatizacija Društva ili bilo koji drugačiji sporazum kojim Republika prestaje, direktno ili posredno, kontrolirati udjele u temeljnom kapitalu Primatelja kredita s pravom glasa, ili bilo koju drugu promjenu u vlasništvu ili kontroli nad Primateljem kredita (gdje „kontrola“ znaci ovlast da se daju upute za upravljanje i politiku društva, ili kontrola sastava upravnog odbora društva ili drugog ekvivalentnog tijela, bilo kroz vlasnički ili glasački kapital, ugovorom ili na drugi način) .

2.5 Izravna primjena

Bez obzira na bilo koja drugačija prava koja bi Davatelj jamstva mogao imati po bilo kojem pravu ili propisima, Davatelj jamstva odriče se bilo kojeg prava koje bi mogao imati da zahtjeva od stranaka financiranja da u prvom redu idu u ovrhu protiv ili koriste bilo kakva osiguranja ili podnose zahtjeve za plaćanje bilo kojoj osobi prije nego bi iste mogao tražiti od Davatelja jamstva po ovom jamstvu.

2.6 Određenja

Dok svi iznosi koji su ili postanu plativi od strane Društva po Ugovoru o kreditu , ne budu plaćeni u cijelosti i neopozivo, svaka stranka financiranja može:

- (a) se suzdržati od primjene ili ovrhe bilo kojih novčanih sredstava, osiguranja ili prava koja imaju ili su primile te stranke financiranja o kreditu (ili bilo koji povjerenik ili agent u njihovo ime) u odnosu na te iznose, ili ih primjeni ili ovrši na način i prema poretku koji smatra primjerenim (bilo u odnosu na te iznose ili općenito) i Davatelj jamstva neće imati pravo koristiti se istima; i
- (b) držati na privremenom računu bilo koje iznose primljene po Agentu od strane Davatelja jamstva, koji nisu dostatni za otpust svih dospjelih iznosa koji nisu plaćeni od strane Davatelja jamstva po jamstvu, bez obveze da na te iznose plati kamate.

2.7 Ne-natjecanje

Dok svi iznosi kredita koji mogu biti ili postanu plativi po Društvu u vezi sa Ugovorom o kreditu , nisu u cijelosti i neopozivo plaćeni, Jamac neće koristiti bilo koje pravo koje mu pripada s osnova bilo kojeg plaćanja ili ispunjenja iz ovog Jamstva:

- (a) subrogacijom bilo kojeg prava, osiguranja ili novca koji drži, koje je primila ili će primiti bilo koja stranka financiranja (ili bilo kojeg povjerenika ili agenta u njeno ime) ili imati pravo na bilo koji doprinos ili obeštećenje u odnosu na bilo koje izvršeno plaćanje ili primljene iznose na račun odgovornosti Davatelja jamstva iz ovog Jamstva;
- (b) podnošenjem zahtjeva, rangiranjem, dokazivanjem ili glasom kao vjerovnik Društva ili njegove imovine u odnosu na bilo koju stranku financiranja (ili bilo kojeg povjerenika ili agenta u njegovo ime); ili
- (c) primanjem, podnošenjem zahtjeva ili se okoristi bilo kakvim plaćanjem, diobom, osiguranjem iz i za račun Društva ili korištenjem bilo kojim pravom prijeboja u odnosu na Društvo.

Jamac će držati u povjeri (ili na drugi način u ime i za račun) i odmah platiti ili izvršiti prijenos Agentu za stranke financiranja bilo koje plaćanje ili raspodjelu ili korist od osiguranja koji

primi u suprotnosti s ovom odredbom 2.7..

2.8 Dodatno osiguranje

Ovo jamstvo je dodatno osiguranje i na bilo koji način nije prejudicirano bilo kojim drugim osiguranjem koji sada drži ili će kasnije držati bilo koja stranka financiranja.

3. PLAĆANJA

3.1 Mjesto

Sva plaćanja Agentu Davatelja jamstva po jamstvu biti će uplaćena na agentov račun u banci ili u postavi banke u glavnom financijskom centru države relevantne valute, o kojoj za ovu svrhu Agent obavijesti Davatelja jamstva.

3.2 Sredstva

Sva plaćanja Agentu po ovom jamstvu biti će za iznos na dan dospjeća u vrijeme i u sredstvima koja Agent specificira Jamcu kao uobičajena u vrijeme isplate u relevantnoj valuti u mjestu plaćanja.

3.3 Valuta

- (a) Bilo koji iznos plativ po jamstvu, plativ je po ovom Jamstvu u istoj valuti kao i taj iznos po Ugovoru o kreditu .
- (b) Bilo koji drugi iznos plativ po ovom Jamstvu plativ je, osim ako je to izričito drugačije predviđeno jamstvom, u EUR.

3.4 Prijeboj i protuzahhtjev

Sva plaćanja od strane Jamca prema ovom jamstvu biti će učinjena bez prijeboja i protuzahhtjeva.

3.5 Djelomična plaćanja

- (a) Ako Agent primi plaćanje koje nije dostatno za pokriće svih do tada dospjelih iznosa po jamstvu, Agent će koristiti primljene uplate za obveze po jamstvu u skladu sa slijedećim redoslijedom:
 - (i) prvo, za ili za razmjerno djelomično plaćanje bilo kojih neplaćenih naknada, troškova i rashoda Agentu ili Organizatora, *pari passu* u skladu s dokumentima financiranja;
 - (ii) drugo, za ili za razmjerno djelomično plaćanje bilo koje dospjele zatezne kamate Primatelja kredita, a neplaćene po Ugovoru o kreditu;
 - (iii) treće, za ili za razmjerno djelomično plaćanje bilo koje dospjele ugovorne kamate Primatelja kredita, a neplaćene po Ugovoru o kreditu;
 - (iv) četvrto, za ili za razmjerno djelomično plaćanje bilo koje dospjele glavnice po

Primatelju kredita, a neplaćene po Ugovoru o kreditu; i

- (v) **peto**, za ili za razmjerno djelomično plaćanje bilo kojeg drugog iznosa po primatelju kredita ili Davatelju jamstva koji su ostali neplaćeni po Dokumentima Financiranja.
- (b) Agent će, ukoliko primi takvu uputu od većine Davatelja kredita, promijeniti redoslijed iz paragrafa (a) (ii) do (a)(v).
- (c) Paragrafi (a) i (b) imaju jaču pravnu snagu od bilo kakvog drugačijeg dogovora Primatelja kredita i jamca.

4. POREZI

4.1. Pojmovi

- (a) U ovom Jamstvu "**Porezni odbitak**" znači odbitak ili zadržavanje za ili na račun poreza od plaćanja prema Dokumentima financiranja.
- (b) Osim ako ne proizlazi suprotno, u 4. članku "**određuje**" ili "**određivalo**" znači određivanje učinjeno u najvećoj diskreciji osobe koja vrši određivanje.

4.2. Porezni bruto obračun

- (a) Jamac će izvršiti sva plaćanja prema Dokumentima financiranja bez poreznog odbitka, osim u slučaju da je porezni odbitak propisan zakonom.
- (b) Jamac će odmah po saznanju o obvezi poreznog odbitka (ili da je došlo do bilo kakve promjene u stopi ili osnovici poreznog odbitka) o tome obavijestiti Agenta. Isto tako, Davatelj kredita će obavijestiti Agenta odmah po saznanju u odnosu na isplatu plativu tom Davatelju kredita. U slučaju da Agent zaprimi takvu obavijest od Davatelja kredita obavijestiti će Jamca.
- (c) U slučaju da je Porezni odbitak propisan zakonom i to na teret Jamca, iznos koji će Jamac morati isplatiti biti će uvećan na način da iznos isplaćen (nakon poreznih odbitaka) bude jednak iznosu koji bi bio plaćen da nije bilo obveze poreznog odbitka.
- (d) U slučaju da je Jamac obavezan na porezni odbitak, Jamac će izvršiti porezni odbitak i bilo koju isplatu potrebnu s njim u vezi u najkraćem roku utvrđenom u zakonu.
- (e) U roku od trideset dana od dana odbitka ili bilo koje isplate zahtjevane u vezi sa Poreznim odbitkom, Jamac će dostaviti Agentu za stranku financiranja ovlaštenom na uplatu dokaz, prihvatljiv toj stranci financiranja o poreznom odbitku ili (ukoliko je primjenjivo) bilo koje drugo pogodno

plaćanje izvršeno nadležnom poreznom tijelu.

4.3. Otkrivanje informacija Jamcu

Svaki Davatelj kredita koji postavi zahtjev u skladu s čl. 4.2 (*Porezni bruto obračun*) će dokumentirati takav zahtjev, nakon što primi pismeni zahtjev Jamca upućen Agentu, u razumno očekivanoj mjeri, pod uvjetom da ništa ne obvezuje Davatelja kredita na kojeg se to odnosi da otkrije bilo koju informaciju ili dio informacije koja je porezno osjetljiva ili zaštićena pravom vlasništva ili zakonom.

5. IZJAVE I JAMSTVA

5.1. Izjave i jamstva

Jamac daje sljedeće izjave i jamstva u korist svake od stranaka financiranja :

- (a) da ima ovlaštenje da sklopi i provede, te da je poduzeo sve potrebne radnje kako bi dobio ovlaštenje da sklopi, provede i preda, ovo Jamstvo te transakcije utvrđene ovim Jamstvom;
- (b) da je ovo jamstvo je valjano na temelju Zakona o izvršavanju državnog proračuna Republike Hrvatske za 2010 godinu (NN 151/09), te je izvršeno od strane davatelja Jamstva i predstavlja pravno obvezujuću i važeću obvezu, ovršnu na temelju sklopljenih uvjeta;
- (c) sva ovlaštenja i obavijesti (uključujući bilo kakva ovlaštenja ili dopuštenja ili obavijesti za ili od Hrvatske agencije za zaštitu tržišnog natjecanja ili bilo kojeg drugog nadležnog tijela) potrebna u vezi sa sklapanjem, izvršenjem, valjanosti i ovršnosti ovoga Jamstva te transakcija povezanih s ovim Jamstvom su pribavljena te su na snazi i važeća;
- (d) da sklapanje i izvršenje od strane davatelja Jamstva, te transakcije povezane ovim Jamstvom nisu u sukobu s bilo kojim primjenjivim zakonom na davatelja Jamstva ili njegovom imovinom, uključujući i ograničenja postavljena na davatelja Jamstva na temelju Zakona o državnom proračunu (NN 87/08) prema Hrvatskim zakonima u odnosu na maksimalni iznos odgovornosti davatelja Jamstva na isplatu jamstva ili na datum ovog Jamstva, ili bilo koju ispravu koja je obvezujuća za davatelja ili njegovu imovinu;
- (e) svoje obveze prema ovom Jamstvu su po snazi barem *pari passu* sa bilo kojim i svim sadašnjim i budućim neosiguranim dugovanjima davatelja Jamstva;
- (f) niti jedna stranka financiranja ne djeluje kao fiducijar ili savjetnik Davatelja Jamstva u vezi sa Jamstvom.
- (g) provođenje ovog Jamstva, provedba proizašlih prava te izvršenje obveza prema ovom Jamstvu

nastaju, u obliku privatnih i komercijalnih akata izvršenih za privatne i komercijalne svrhe, a Jamac neće imati pravo na imunitet od tužbi, ovrhe, pljenidbe ili drugih pravnih postupaka u Republici u svezi s ovim Jamstvom osim ako ovrhe protiv davatelja Jamstva nisu dopuštene u vezi s imovinom koja se isključivo koristiti za izvršenje pojedinih aktivnosti Republike (poslovnih zgrada u Republici isključenih od takvih izuzeća), ambasadinih i konzularnih zgrada te ono što je u njima sadržano prema Bečkoj konvenciji o međunarodnim odnosima, ili bilo koji bankovni račun ambasada ili konzulata, u svakom slučaju potrebnih za uobičajeno funkcioniranje službenih, ambasadinih ili konzularnih aktivnosti, imovinu potrebnu za funkcioniranje države kao neovisne države, npr. zgrade, naoružanje i oprema za nacionalnu obranu, zahtjeva za prikupljanje poreza i drugih troškove na *res extra commercium*.

(h) Davatelj jamstva:

(i) prihvaća neopozivu nadležnost sudova Države New York i arbitraže, prema čl. 14 (*Nadležnost*);

(ii) daje suglasnost na primjenu prava Države New York na ovo Jamstvo i sve izvanugovorne odnose koje proizlaze ili su u vezi s Jamstvom, i

(iii) daje suglasnost da se neće pozivati na imunitet na koji bi on ili njegova imovina mogli biti ovlašteni, imali pravo, bila važeći ili obvezan prema Hrvatskom pravu,

osim ako protiv Davatelja jamstva nisu dopuštene ovrhe u vezi s imovinom koja se isključivo koristi za izvršenje pojedinih aktivnosti Republike (poslovne zgrade u Republici isključene su od takvih izuzeća), ambasadinih i konzularnih zgrada te ono što je u njima sadržano prema Bečkoj konvenciji o međunarodnim odnosima, ili bilo koji bankovni račun ambasada ili konzulata, u svakom slučaju potrebnih za uobičajeno funkcioniranje službenih, ambasadinih ili konzularnih aktivnosti, imovinu potrebnu za funkcioniranje države kao neovisne države, npr. zgrade, naoružanje i oprema za nacionalnu obranu, zahtjeva za prikupljanje poreza i drugih troškove na *res extra commercium*.

(i) bilo koja arbitražna odluka donesena u razrješenju spora u postupku predviđenim ovim Jamstvom koja zahtjeva da Jamac isplati bilo koji iznos biti će ovršiva protiv davatelja Jamstva u skladu s odredbama Konvencije Ujedinjenih naroda o priznavanju i izvršavanju stranih arbitražnih odluka i Zakona o Arbitraži (NN 88/2001); i

(j) nije započet ili prijeti ispitni postupak protiv Društva ili Jamca (u vezi s Društvom), od strane Hrvatske agencije za zaštitu tržišnog natjecanja ili drugog nadležnog tijela u vezi sa pitanjem državnih potpora ili bilo kojim drugim pitanjem vezanim uz zaštitu tržišnog natjecanja.

5.2. Vrijeme za davanje izjava i jamstava

Izjave i jamstva kako su utvrđena u odredbi 5.1. (*Izjave i Jamstva*) su izdana od strane Davatelja jamstva na dan ovog Jamstva te za svaki dan tijekom razdoblja koje započinje na i uključuje dan koji slijedi neposredno nakon dana ovog Jamstva i uključuje dan kada su stvarne i paušalne obveze Društva i davatelja Jamstva prema svakom od dokumenata financiranja kojeg su one stranke podmirene u cijelosti i obveze svakog Davatelja kredita prema Ugovoru o kreditu su bile neopozivo otkazane, pozivanjem na činjenice koje su postojale u tom trenutku.

6. OBVEZE

6.1. Trajanje

Obveze iz ovog čl. 6. su na snazi od datuma ovog Jamstva sve dok je bilo koji iznos koji je ili bi mogao biti dugovan prema Ugovoru o kreditu ili ovdje ugovorenom ili su bilo koje Obveze na snazi.

6.2. Obveze

(a) Jamac će:

(i) pravodobno dostaviti Agentu za svaku stranku financiranja one podatke u vezi s financijskim uvjetima Jamca, neposredno relevantne za ovo Jamstvo, koje agent povremeno i razumno zahtjeva.

(ii) pravodobno pribaviti, održavati i udovoljiti sukladno uvjetima bilo koju Autorizaciju zahtijevanu zakonom kako bi se omogućilo provođenje preuzetih obveza, ili valjanost ili ovršnost ovog Jamstva.

(iii) osigurati da obveze iz ovog Jamstva (i) budu u svako vrijeme neposredne, bezuvjetne, apsolutne i nepovratne opće obveze davatelja Jamstva, i (ii) da su po snazi barem *pari passu* sa bilo kojim i svim sadašnjim i budućim neosiguranim dugovanjima davatelja Jamstva.

(iv) bez odgode obavijestiti Agentu o bilo kojim okolnostima, koje bi mogle onemogućiti sposobnost izvršenja obveza Društva prema Ugovoru o kreditu ili sposobnost davatelja Jamstva da izvrši svoje obveze iz Jamstva na način da bi mogle proizvesti Materijalno Nepovoljan Učinak.

(b) Potvrđuje se da je Hrvatska agencija za zaštitu tržišnog natjecanja trenutno prekinula postupak za razmatranje zahtjeva i izdavanje suglasnosti u vezi sa državnim potporama i pitanjima zaštite tržišnog natjecanja u Hrvatskoj. Davatelj Jamstva će, čim se za to ispune uvjeti, a najkasnije u roku od 75 dana od dana prestanka prekida, pribaviti suglasnost Državne agencije za zaštitu tržišnog natjecanja za sklapanje i ispunjenje obveza davatelja Jamstva koje proizlaze iz Jamstva.

7. UGOVORNE STRANE

7.1. Davatelj jamstva

Jamac ne može ustupiti, prenijeti, obnoviti ili raspolagati s bilo kojim od svojih prava i obveza po ovom Jamstvu.

7.2. Stranke Financiranja

(a) Nepoštivanje obveza stranaka financiranja iz Ugovora o kreditu ne oslobađa davatelja Jamstva od obveza proizašlih iz ovog Jamstva.

(b) Prava svake stranke financiranja proizašla iz ili u vezi s ovim jamstvom su podijeljena prava. Svaka stranka financiranja može pojedinačno prisilno ostvarivati svoja prava.

(c) Ovo će Jamstvo ostati na snazi u korist stranaka financiranja i njihovih slijednika, stjecatelja, primatelja i zamjenika sukladno potvrdama o prijenosu ili na drugi način, s namjerom da svaka osoba u danom trenutku stranka financiranja sa svojstvom stranke financiranja ili stranke bilo kojeg drugog Dokumenta Financiranja imaju sve koristi ovoga Jamstva kao da je izvorni potpisnik ugovora o kreditu ili Dokumenta Financiranja kako bude slučaj sa Obvezom i/ili sudjeluje u Kreditu sa predviđenim pravima i obvezama i/ili preuzima na temelju Certifikata o prijenosu(ima), ustupa, prijenosa ili sukcesije kojima postaje stranka financiranja ili bilo kojeg drugog Dokumenta Financiranja ili da mijenja sadržaj Obveza i/ili sudjelovanje. Shodno navedenom, Davatelj Jamstva dopušta bilo koji ustup, prijenos, zamjenu, obnovu, sukcesiju ili izmjenu u Davatelju kredita izvršenu od strane stranaka ugovora o kreditu prema i u skladu sa Ugovorom o kreditu i bilo koji ustup, prijenos, zamjenu, obnovu, sukcesiju prava stranaka financiranja prema i u skladu s Ugovorom o kreditu.

7.3. Informacije

(a) U skladu s paragrafom (b) nastavno, svaki Davatelj kredita može razotkriti:

(i) svim svojim dužnosnicima, zaposlenicima, agentima, profesionalnim savjetnicima ili revizorima; i

(ii) bilo kojoj drugoj osobi:

(A) kojoj (ili putem koje) taj Davatelj kredita financiranja cedira ili prenese (ili može eventualno cedirati ili prenijeti) sva ili neka svoja prava i obveze iz dokumenata financiranja;

(B) sa kojom (ili putem koje) taj Davatelja kredita sklapa (ili eventualno bude

sklapalo) ugovore kojima sudjeluje u kreditu, ili uđe u drugi posao u kojem su plaćanja vezana uz Ugovor o kreditu ili Društvo ili Davatelja jamstva; ili

(C) kojoj, i u granicama u kojima je informaciju dužna razotkriti temeljem primjenjivog zakona ili podzakonskog akta,

svaku informaciju o Davatelju jamstva, Društvu i Ugovoru o kreditu koje Davatelj kredita nađe shodnim pod uvjetom da će taj Davatelj kredita osigurati da svaka osoba iz podparagrafa (i) i (ii) paragrafa (b) gore, potpiše izjavu o povjerljivosti koja se odnosi na takve informacije..

(b) Bez obzira na paragraf (a) , u bilo koje vrijeme kada nastupi povreda ugovora ili Kreditni događaj u odnosu na Društvo i Davatelja jamstva, bilo koji Davatelj kredita je ovlašten otkriti informaciju o Ugovoru o kreditu ili dokumentima financiranja bilo kojoj osobi po vlastitom izboru, koj ocijeni primjerenom.

8. ODŠTETA S OSNOVE RAZLIKE U TEČAJU

8.1. Odšteta

Ukoliko:

(a) bilo koji iznos koji je Davatelj jamstva ovime ili u svezi s ovim dužan platiti, Agent ili bilo koja stranka financiranja primi u valuti ("**valuta plaćanja**") različitoj od one koja je ovdje ugovorena ("**ugovorena valuta**"), bilo kao posljedica sudske odluke ili izvršenja iste ili na bilo koji drugi način: i

(b) iznos koji nastane pretvaranjem valute plaćanja u ugovorenu valutu je manji od pripadajućeg iznosa ugovorene valute,

onda će Davatelj jamstva, kao nezavisnu obvezu, obešteti posebno Agentu i stranke financiranja za manjak i bilo kakav pretrpljeni gubitak. Takva će se konverzija izvršiti prema prevladavajućem tečaju, na dan i na tržištu za koje Agent ili stranka financiranja razumno odredi kao najprikladnije za takvu konverziju valute.

8.2. Valuta plaćanja

Davatelj jamstva se odriče bilo kojeg prava koje eventualno ima u bilo kojoj jurisdikciji, na plaćanje bilo kojeg ovdje određenog iznosa u valuti različitoj od one koja je izričito ovdje ugovorena.

9. PRIJEBOJ

U slučaju nastupa i trajanja povrede ugovora Stranka financiranja može izvršiti prijeboj bilo koje dospjele obveze dugovane od Davatelja jamstva po ovom Jamstvu (u mjeri u kojoj je opravdano dugovan po toj stranci financiranja) sa bilo kojom obvezom (neovisno da li je dospjela) koju ta stranka financiranja duguje Davatelju jamstva, neovisno o mjestu plaćanja, poslovnici koja obavlja knjiženje ili valute obveze. U svrhu prijeboja, ukoliko su obveze iskazane u različitim valutama, stranka financiranja može pretvoriti obvezu prema tečaju na tržištu na kojem uobičajeno obavlja djelatnost. Ukoliko je i jedna od obveza neodređena ili neutvrđena, stranka ugovora o kreditu može izvršiti prijeboj u iznosu za koji u dobroj vjeri ocijeni da je iznos obveze.

10. RAZMJERNA PODJELA

10.1. Plaćanja strankama financiranja

Ukoliko Davatelj kredita ("Naplatitelj") od Davatelja jamstva primi ili naplati (bilo prijebojem ili na drugi način) bilo koji iznos, osim sukladno čl 3 (*Plaćanja*) i primjeni taj iznos na dospjeli dug iz Dokumenta financiranja, u tom slučaju:

- (a) Naplatitelj će u roku od 3 radna dana izvjestiti Agentu o pojedinostima primitka ili naplate;
- (b) Agent će utvrditi da li primljeni ili naplaćeni iznos premašuje iznos koji bi Naplatitelju bio plaćen da je primitak ili naplata izvršena od strane Agentu i raspoređena sukladno članku 3 (*Plaćanja*), ne uzimajući u obzir bilo kakav porez koji bi Agent snosio u svezi s primitkom, naplatom ili rasporedom;
- (c) Naplatitelj će u roku od 3 radna dana od Agentovog zahtjeva, platiti Agentu iznos ("Podijeljeni iznos") jednak naplaćenom ili primljenom iznosu umanjen za bilo koji iznos koji Agent odredi da Naplatitelj može zadržati kao svoj udio bilo kojeg plaćanja koje će se izvršiti, sukladno čl 3.5. (*Djelomična plaćanja*).

10.2. Razdioba plaćanja

Agent će postupati s Podijeljenim plaćanjem kao da je plaćanje izvršeno od strane Primatelja kredita ili Davatelja jamstva i raspodijeliti ga između stranaka financiranja (osim Naplatitelja) sukladno članku 3.5. (*Djelomična plaćanja*).

0.3. Prava Naplatitelja

Na temelju razdiobe izvršene od strane Agentu sukladno članku 10.2. (*Razdioba plaćanja*), izvršiti će se subrogacija prava na Naplatitelja od stranaka ugovora o kreditu koje su sudjelovale u razdiobi. Ukoliko i u onoj mjeri u kojoj se Naplatitelj nije mogao osloniti na

svoja prava iz članka 10.2 (*Razdioba plaćanja*), , Davatelj jamstva odgovara Naplatitelju za dug koji je jednak Podijeljenom plaćanju, a koji je odmah dospio i naplativ.

10.4. **Ukidanje razdiobe**

Ukoliko bilo koji dio Podijeljenog iznosa koji Naplatitelj primi ili naplati, postane povrativ i bude vraćen od strane Naplatitelja, u tom slučaju:

(a) svaka će stranka financiranja koja je primila odgovarajući dio Podijeljenog iznosa sukladno članku 10.2. (*Razdioba plaćanja*), po Agentovom zahtjevu, platiti Agentu za račun tog Naplatitelja iznos jednak odgovarajućem dijelu njegovog dijela Podijeljenog iznosa (zajedno sa iznosom koji je potreban da bi se Naplatitelju naknadio njegov udio u kamati na Podijeljeni iznos koji je taj Naplatitelj dužan platiti); i

(b) Naplatitelj neće imati pravo na subrogaciju u slučaju bilo kakve naknade te će Davatelj jamstva i Primatelj kredita (ukoliko to bude slučaj) biti dužni naknaditi stranci ugovora o kreditu iznos koji je na taj način naknađen.

10.5. **Iznimke**

(a) Ovaj članak 10 se ne primjenjuje:

(i) u onoj mjeri u kojoj Naplatitelj ne bi imao, po izvršenom plaćanju sukladno ovom članku, valjani i ovršni zahtjev prema Davatelju jamstva ili Primatelju kredita; ili

(ii) u svezi s bilo kojim iznosima primljenim od strane Naplatitelja (osim od Davatelja jamstva ili Društva) koji proizlaze iz sudjelovanja u kreditu, cesije, prijenosa ili novacije ili druge slične transakcije ili sporazuma.

(b) Naplatitelj nije dužan dijeliti s bilo kojom drugom strankom financiranja bilo koji iznos koji je Naplatitelj primio ili naplatio u pravnom ili arbitražnom postupku, ako:

(i) je obavijestio drugu stranku financiranja o postojanju pravnog ili arbitražnog postupka; i

(ii) druga je stranka financiranja imala mogućnost sudjelovanja u tim pravnim ili arbitražnim postupcima ali to nije učinila u razumnom roku po primitku obavijesti te nije pokrenula zasebne pravne ili arbitražne postupke.

11. **NIŠTETNOST POJEDINIH ODREDBI**

Ukoliko je ili odredba ovog Jamstva bude nezakonita, ništetna ili neizvršiva u bilo kojoj

jurisdikciji, to neće utjecati:

(i) na valjanost ili izvršivost bilo koje druge odredbe ovog Jamstva u toj jurisdikciji; ili

(ii) na valjanosti ili izvršivost te ili bilo koje druge odredbe ovog Jamstva u drugim jurisdikcijama.

12. OBAVIJESTI

12.1. Obavješćavanje

Sve obavijesti i druga komunikacija između stranaka sukladno ili u svezi s ovim Jamstvom će se vršiti u pisanom obliku ili putem faksa. Dostava će se smatrati izvršena u slijedećim slučajevima:

(i) ukoliko je u pisanom obliku, u trenutku kada je pismeno dostavljeno; i

(ii) ukoliko je izvršena faksom, u trenutku kada je faks primljen.

Međutim, obavijest dana u skladu sa gore navedenim ali primljena neradnog dana ili nakon radnog vremena u mjestu primitka će se smatrati da je dana slijedećeg radnog dana u tom mjestu.

12.2. Adrese za korespondenciju

(a) Adresa i broj faksa Davatelja jamstva je kako slijedi:

Republika Hrvatska, na pažnju Ministarstva financija,

10 000 Zagreb

Katančićeva 5

Hrvatska

Faks: 00 385 45 91 388

Na pažnju: g. Hrvoje Radovanić

ili koja druga o kojoj Davatelj jamstva obavijesti Agenta barem pet radnih dana ranije.

(b) Adresa i broj faksa Agenta je kako slijedi:

Adresa: Winchester House, 1 Great Winchester Street
London EC2N 2DB

Faks: +44-207-545-4638

Na pažnju Mathew Baker/ Julie Williams

U kopiji:

Faks: +44-207-547-2326

Na pažnju Rahul Jain/ Dougal Wise

ili koja druga o kojoj Agent obavijesti Davatelja jamstva barem pet radnih dana ranije.

13. PRIJELAZNE I ZAVRŠNE ODREDBE

- (a) Bilo koja potvrda ili utvrđenje stranke financiranja o dospjelom iznosu prema ovom Jamstvu je, osim u slučaju prijevare ili očite greške, konačan dokaz stvari na koje se odnosi.
- (b) Neizvršenje ili zakašnjenje u izvršenju bilo kojeg prava ili privilegije stranke financiranja se neće smatrati odricanjem od tog prava ili privilegije, niti će pojedinačno ili djelomično izvršenje prava ili privilegije prekludirati stranku od daljnjeg izvršenja tog ili nekog drugog prava ili privilegije. Stranke financiranja mogu se odreći samo pojedinačno određenih prava iz ovog Jamstva i to u pisanom obliku. Prava i pravni lijekovi ovdje predviđeni su kumulativni i ne isključuju prava i pravne lijekove propisane zakonom.

- (c) Ovo Jamstvo može biti potpisano u bilo kojem broju primjerka, koji imaju isti učinak kao da su potpisi dani na jednom primjerku Jamstva.
- (d) Sve obavijesti i dokumenti sukladno ili u svezi s ovim Jamstvom moraju biti sastavljeni na engleskom jeziku. Sve obavijesti za ili od Davatelja jamstva se šalju putem Agentu.

14. NADLEŽNOST

14.1. Nadležnost sudova države New York

- (a) U skladu s člankom 14.2. (*Arbitraža*), svaka stranka je suglasna da bilo kakav spor, nesporez ili zahtjev koji proizlazi ili se odnosi na ovo Jamstvo, uključujući spor o postojanju, valjanosti, tumačenju, povredi ili prestanku ovog Ugovora („Spor“) može biti predan sudovima u Državi New York i sudovima Sjedinjenih Američkih Država, sa sjedištem u okrugu New York, i daju svoj pristanak na isključivu nadležnost tog suda.
- (b) Bez obzira na dogovor o isključivosti iz paragrafa (a), svaka stranka financiranja zadržava pravo da pokrene postupak pred bilo kojim nadležnim sudom te davatelj Jamstva ovdje daje svoju neopozivu suglasnost da će se podvrgnuti nadležnosti takvog suda.
- (c) Davatelj Jamstva se neopozivo odriče bilo kakvih prigovora koje ima ili može imati na mjesto bilo kojeg takvog postupka ili na sud ili da je postupak pokrenut pred nenadležnim sudom.
- (d) Davatelj jamstva daje neopoziv pristanak na dostavu pismena poštom ili na bilo koji drugi način dopušten mjerodavnim pravom.
- (e) Davatelj jamstva daje neopozivi pristanak, u opsegu dopuštenom zakonom, da stranke financiranja mogu pokrenuti istovremene postupke pred sudovima različitih jurisdikcija.

14.2. Arbitraža

- (a) Stranke financiranja mogu izabrati da bilo koji Spor bude riješen arbitražom dostavom obavijesti Društvu, u kojem će slučaju bilo koji Spor biti konačno riješen arbitražom prema Međunarodnim Arbitražnim Pravilima (International Arbitration Rules) Međunarodnog Centra za Rješavanje Sporova Američke Arbitražne Udruge (International Centre for Dispute Resolution of the American Arbitration Association), koja se pravila smatraju inkorporiranim u ovaj članak pozivom na pravila.

- (b) Broj arbitara biti će tri (od kojih će Predsjednik biti odvjetnik sa ne manje od 15 godina

iskustva sa radom na međunarodnim ugovorima).

(c) Mjesto arbitraže će biti u New Yorku, i jezik arbitraže će biti engleski.

(d) Odluka Arbitražnog suda biti će obvezujuća od dana donošenja, te se stranke odriču bilo kojeg prava da se pozivaju na bilo koje pravno pitanje ili prava na žalbu zbog zakona/merita bilo kojem sudu.

14.3 Dostava pismena

Bez dovođenja u pitanje bilo koji drugi način dostave koji je dozvoljen prema bilo kojem relevantnom zakonu, Jamac neopozivo imenuje Seward & Kissel LLP sa adresom One Battery Park Plaza, New York, New York 10004, Sjedinjene Američke Države, n/p: administrativni upravitelj, za svog punomoćnika za primanje pismena u vezi bilo kojeg postupka pred sudovima Države New York u vezi sa Jamstvom;

15. ODRICANJE OD IMUNITETA

Jamac neopozivo i bezuvjetno:

- (a) pristaje da ako stranka financiranja pokrene postupak protiv njega ili njegove imovine u vezi s Dokumentom Financiranja, nikakav imunitet od tih postupaka (uključujući, bez ograničenja, tužbi, pljenidbe prije presude, drugih pljenidbi, pribave presude, izvršenja ili drugih ovrha) neće tražiti ili u svoje ime tražiti ili u odnosu na svoju imovinu;
- (b) odriče se bilo kojeg takvog prava na imunitet koje on ili njegova imovina imaju ili mogu naknadno steći;
- (c) općenito pristaje glede bilo kojih takvih postupaka na davanje otpusta ili pokretanja bilo kojih procesa u vezi s tim postupcima, uključujući, bez ograničenja, stvaranje, ovrhu ili izvršenje protiv bilo koje imovine (neovisno od njene namjene ili namjeravane namjene) bilo kojeg naloga ili presude koja može biti donesena ili izdana u tim postupcima, podvrgnuta Ovršnom zakonu Republike Hrvatske (Narodne novine br. 57/96, 29/99, 42/00, 173/03, 194/03, 151/04, 88/05, 121/05 i 67/08) gdje ovrha nije dopuštena protiv imovine i prava pravne osobe koja su neophodna za obavljanje djelatnosti te prave osobe, ali samo ako bi poslovanje pravne osobe bilo prekinuto kao rezultat ovrhe, osim u slučaju kada vjerovnik ima privilegij ili slično pravo na određenoj imovini ili pravu te pravne osobe sa svrhom da osigura svoje potraživanje sukladno pravnoj transakciji u skladu s zakonom.

16. MJERODAVNO PRAVO

Za ovo Jamstvo mjerodavno je pravo Države New York.

17. ODRICANJE OD PRAVA NA SUĐENJE PRED POROTOM

SVAKA STRANKA OVOG JAMSTVA SUGLASNA JE S NEOPOZIVIM ODRICANJEM OD PRAVA NA SUĐENJE PRED POROTOM ZA SVAKI ZAHTJEV KOJI SE TEMELJI ILI JE U VEZI SA OVIM JAMSTVOM ILI BILO KOJIM DOKUMENTOM NA KOJEG SE POZIVA OVO JAMSTVO ILI BILO KOJU TRANSAKCIJU KOJA JE RAZMATRANA U OVOM JAMSTVU. ODRICANJE SE ODNOSI NA BILO KOJI SPOR. SVAKA STRANKA POTVRĐUJE DA (A) JE OVO ODRICANJE BITAN PREDUVJET DA SE SKLOPI PRAVNI POSAO, (B) SE PRILIKOM SKLAPANJA JAMSTVA OSLONILA NA ODRICANJE I (C) DA ĆE SE NASTAVITI OSLANJATI NA ODRICANJE U DALJNJEM OPHOĐENJU. SVAKA STRANKA POTVRĐUJE DA JE PROUČILA ODRICANJE ZAJEDNO SA SVOJIM PRAVNIM SAVJETNICIMA I DA SE, NAKON KONZULTACIJE SA PRAVNIM SAVJETNICIMA, SA POTREBNIM ZNANJEM I DOBROVOLJNO ODRIČE PRAVA NA SUĐENJE PRED POROTOM.

Potvrđujemo da ovo Jamstvo stupa na snagu na dan naveden na početku ovog Jamstava.

POTPISI

Jamac

REPUBLIKA HRVATSKA

Zastupana po svom **Ministarstvu Financija**

po:

Agent

DEUTSCHE BANK AG, LONDON BRANCH

po:

Broj ovjere: 24/10

Ja, Ivana Manovelo, stalni sudski tumač za engleski jezik, imenovana rješenjem predsjednika Županijskog suda u Rijeci, broj 4.Su.-343/06 od 1. lipnja 2007. godine potvrđujem da gornji prijevod potpuno odgovara izvorniku sastavljenom na engleskom jeziku.

U Rijeci, 26. travnja 2010. godine

