

INORMACIJA
o realizaciji kreditnog aranžmana sa Njemačkom bankom za razvoj (KfW) za
realizaciju Projekta Vodosnadbijevanja i odvođenja otpadnih voda na
crnogorskom primorju – Faza V

U cilju nastavka saradnje sa Njemačkom bankom za razvoj (KfW), Vlada Crne Gore usvojila je Zaključke br. 08 - 2502, od 5. novembra 2015. godine, kojima je zadužila Ministarstvo održivog razvoja i Ministarstvo finansija da nastavi pregovore sa pomenutom institucijom radi zaključenja kreditnog aranžmana u iznosu do 30 miliona eura.

U vezi sa tim, predstavnici Ministarstva finansija, Ministarstva održivog razvoja i turizma, Vodacom-a, zajedno sa predstavnicima opština na crnogorskom primorju i Njemačkom bankom za razvoj (KfW), u prethodnih par mjeseci, razmatrali su mogućnosti na polju dalje saradnje u unapređenju i obnovi komunalne infrastrukture na crnogorskom primorju.

Imajući u vidu sve veći razvoj opština na primorju, potrebi za poboljšanjem trenutnih komunalnih kapaciteta, kako u vodosnadbijevanju, tako i tretmana otpadnih voda, kao i saniranju mulja koji nastaje kroz tretman otpadnih voda, kao i sve veću potrebu za pružanjem kvalitetnije usluge u ovoj oblasti, od strane opština dostavljeni su predlozi za finansiranje projekata.

Tako su za nova finansijska sredstva projekte kandidovali opštine Tivat, Kotor i Herceg Novi. Pomenute opštine, kandidovale su sledeće projekte:

- Izgradnja solarnih staklenika za isušivanje kanizacionog mulja iz zajedničkih postrojenja za prečišćavanje otpadnih voda za Kotor i Tivat, i postrojenja Herceg Novi, u iznosu od 5.6 miliona eura;
- Implementacija investicionog paketa hitnih mjera u opštinama Kotor, Tivat i Herceg Novi, u iznosu od 4,7 miliona eura;
- Implementacija dugoročnih investicionih mjera u iznosu od 16,5 miliona eura, na osnovu liste prioriteta koja će biti definisana Studijom izvodljivosti, koja je u završnoj fazi izrade;

Imajući u vidu navedene projekte, neophodna kreditna sredstva bila bi, po opštinama, raspoređena na sledeći način:

- opština Kotor.....5.8 miliona eura;
- opština Tivat.....11 miliona eura;
- opština Herceg Novi.....10 miliona eura;
- konsultantske usluge za opštine.....2 miliona eura;
UKUPNO.....28,8 miliona eura;

Pomenuta sredstva u visini od 2 miliona eura, za konsultantske usluge, biće utrošena za izradu projektne i tenderske dokumentacije, i usluge nadzora. Iznos sredstava konsultantskih usluga biće naknadno utvrđen, kada se utvrdi lista prioriteta po gradovima.

U vezi sa tim, nastavljena je saradnja sa Njemačkom bankom za razvoj (KfW), na Projektu »Vodosnadbijevanje i odvođenje otpadnih voda na crnogorskom primorju – Faza V II«. Fazom V II ovog projekta predviđen je kreditni aranžman u ukupnom iznosu od 28,8 miliona eura. Kao što je navedeno, sredstva iz ove faze biće namijenjena za realizaciju komunalnih projekata u tri opštine, i to Tivat, Kotor i Hereceg Novi.

1. **Izgradnja solarnih staklenika za isušivanje kanalizacionog mulja iz PPOV-a (postorjenje za prečišćavanje otpadnih voda) Kotor i Tivat i Herceg Novi (5.6 miliona eura)**
 - Izgradnja solarnih staklenika za isušivanje kanalizacionog mulja iz PPOV-a Kotor i Tivat, u iznosu od 2.8 miliona eura (udio Kotora 1.3 miliona eura, udio Tivta 1.5 miliona eura);
 - Izgradnja solarnih staklenika za isušivanje kanalizacionog mulja iz PPOV-a Herceg Novi, u iznosu od 2.8 miliona eura;
2. **Implementacija investicionog paketa hitnih mjera u opštinama Kotor, Tivat i Herceg Novi (4.7 miliona eura);**
 - Izgradnja krajnje faze tranzitnog cjevovoda za vodosnabdijevanje Luštice iz regionalnog vodovoda i sekundarne kanalizacione mreže na teritoriji grada Tivta i Luštice, u iznosu od 3.5 miliona eura;
 - Rekonstrukcija kanalizacionog kolektora u zoni Igala, Herceg Novi, u iznosu od 1.2 miliona eura;
3. **Implementacija dugoročnih investicionih mjera na osnovu liste prioriteta koja će biti definisana Studijom izvodljivosti koju trenutno izrađuje konsultantska firma Fichtner Water & Transportation (16.5 miliona EUR)**
 - Rehabilitacija objekata i mreže vodovodnog sistema u Kotoru u cilju smanjenja gubitaka i proširenja objekata kanalizacionog sistema, u iznosu od 4.5 miliona eura;
 - Izgradnja rezervoara i nastavak proširenja kanalizacionog sistema u opštini Tivat, u iznosu od 6 miliona eura;
 - Izgradnja sekundarne kanalizacione mreže u opštini Herceg Novi, rehabilitacija vodovodnog sistema u cilju smanjenja gubitaka i izgradnje novih objekata vodovodnog sistema, u iznosu od 6 miliona eura.

Kreditna sredstva aranžmana za Fazu V, kao što je navedeno iznosiće ukupno 28,8 miliona eura. Efektivnost za povlačenje sredstava podijeljena je po godinama, i sredstva će biti efektivna po godinama po sljedećoj dinamici: za 2016. godinu - 3,000,000.00 eura; za 2017. godinu - 7,000,000.00 eura; za 2018. godinu - 8,800,000.00 eura; za 2019. godinu - 10,000,000.00 eura.

Kreditni aranžman će se otplaćivati u periodu od 15 godina, sa 5 godina grace perioda, naknada za obradu kredita iznosiće 0.5%, dok će provizija na neiskorišteni dio kredita iznositi 0.25% godišnje. Pomenuta provizija se obračunava za period počevši od isteka perioda od 24 mjeseca, odnosno 2 godine, nakon potpisivanja ugovora o kreditu i traje do datuma kada se kredit isplati u potpunosti, ili se u potpunosti otkáže, u zavisnosti od slučaja. Provizija je naplativa polu-godišnje u vremenu 30. juna i 30. decembra svake godine, a prvi put je naplativa 30. juna 2016. godine. Navedena provizija predstavlja standardnu klauzulu u aranžmanima sa KfW-om, zbog povoljnijih uslova finansiranja i nije bilo moguće ukloniti proviziju ili je smanjiti. U cilju obezbjeđivanja povoljnih uslova kreditiranja, KfW je iskazala spremnost da će se kamatna stopa kretati između 1.8 do 2%, i biće utvrđena u momentu potpisivanja ugovora, i biće fiksna za cijeli period otplate kredita.

Ugovorom je i definisana obaveza da opštine neće biti u mogućnosti da raspolažu, odnosno prodaju ili zalažu imovinu izgrađenu i pribavljenu sredstvima kredita, bez prethodne saglasnosti KfW-a, do perioda otplate kredita. Istovremeno, Ugovor definiše obavezu da sredstva Vodacom-a ili opština, koja budu, eventualno, korištene za implementaciju projekta neće biti nedozvoljena sredstva, kao i da Vodacom i opštine neće učestvovati u aktivnostima koje će biti povezane sa krijumčarenjem droge, korupcijom, aktivnostima organizovanog kriminala, ili terorizmom. Navedne odredbe predstavljaju obavezujuće članove aranžmana.

Sredstva kreditnog aranžmana biće prenešena opštinama na osnovu podkreditnih ugovora, koji će biti pripremljeni i dostavljeni Vladi Crne Gore na odobrenje. U vezi sa tim, opština Tivat je već donijela odluke o zaduženju, u iznosu od 5 miliona eura, koliko je predviđeno za realizaciju projekata u ovoj opštini. Istovremeno, i ostale opštine su u fazi priprema odluka za kreditno zaduženje, što će omogućiti brzo započinjanje realizacije projekata. Sredstva opštinama, biće proslijeđena pod istim uslovima, pod kojim je zaključen aranžman između Vlade Crne Gore i KfW-a.

Takođe, između tri strane, KfW-a, Ministarstva održivog razvoja i turizma, Ministarstva finansija i Vodacom-a, biće definisan Poseban ugovor kojim će biti definisani način korišćenja sredstava, vremenska dinamika, raspored korišćenja sredstava, odnosno tenderske procedure za izbor izvođača radova i usluga, finansijsko izvještavanje. Navedeni ugovor biće pripremljen i dostavljen Vladi Crne Gore naknadno, kada se utvrde sva prava i obaveze između strana.

Za realizaciju navedenog projekta predviđeno je i potpisivanje Ugovora o finansiranju i projektu, kojim je obezbjeđivanje grant sredstava u visini od 2 miliona eura. Pomenuta sredstva koristiće se u cilju obezbjeđivanja konsultanata i obavljanja pripremnih radova za realizaciju projekta.

Ugovor o kreditu

zaključen
_____ 2015. godine

između

**KfW, Frankfurt am Main
(„KFW“)**

|

**Crne Gore
koju predstavlja Ministarstvo finansija
(„Korisnik“)**

na iznos od
28.800.000,00 EUR

**Vodosnadbijevanje i odvođenje otpadnih voda na Jadranskoj obali,
Faza V – Komponenta 2 (BMZ 2015 67 817)**

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Uvod

Osnova za ovaj ugovor o kreditu između KfW banke i Korisnika (**“Ugovor” ili “Ugovor o kreditu”**) je razmjena verbalnih nota od 21.04.2015. godine i _____ između Vlade Savezne Republike Njemačke i Vlade Crne Gore o Finansijskoj saradnji (FS).

KfW banka refinansira ovaj Kredit odobren u skladu sa uslovima ovog Ugovora uz subvencije kamatne stope iz budžetskih sredstava za niske kamatne stope koja Savezna Republika Njemačka obezbjeđuje za projekte koji zadovoljavaju kriterijume prihvatljivosti razvojne-politike. Uslovi ovog Kredita su u skladu sa zahtjevima OECD važećim na datum potpisivanja Ugovora za zvanično prihvatanje kao Zvanična pomoć u razvoju (Official Development Assistance (ODA)).

Na ovoj osnovi i pod uslovom da Savezna Republika Njemačka pruži garanciju za ovaj Kredit, KfW banka će odobriti Kredit u skladu sa odredbama i uslovima ovog Ugovora o kreditu,

S obzirom na to da, u pogledu izvršenja ovog Ugovora, Korisnika predstavlja Ministarstvo finansija. U pogledu realizacije Projekta (kako je definisano u članu 1.2 u nastavku), Korisnika zastupa Ministarstva održivog razvoja i turizma.

1. Kredit

1.1 *Iznos:* KfW banka će obezbijediti Korisniku kredit koji ne prelazi ukupan iznos od

28.800.000,00 EUR

(„Kredit“)

1.2 *Svrha:* Korisnik koristi Kredit isključivo za finansiranje investicija u rehabilitaciju i produženje sistema za odvođenje i prečišćavanje otpadnih voda kao i sistema za vodosnadbijevanje u primorskim opštinama Crne Gore uključujući i troškove za konsultanta za implementaciju **(„Projekat“)**, proslijeđivanjem kredita Opštinama (kako je definisano u nastavku) u skladu sa uslovima definisanim u članu 2. Korisnik, Vodacom d.o.o. **(„Agencija za implementaciju projekta“)** i KfW banka će u Posebnom sporazumu **(“Poseban sporazum”)** utvrditi detalje Projekta, kao i dobra i usluge koje se finansiraju iz ovog Kredita.

1.3 *Troškovi poreza, carina i ostalih dažbina.* Troškovi poreza i ostalih javnih dažbina kao i troškovi uvoznih carina ne plaćaju se iz Kredita.

2. Proslijeđivanje Kredita Opštinama

Korisnik će proslijediti Kredit opštinama koje su navedene u Posebnom Sporazumu ("**Opštine**") u skladu sa posebnim ugovorima o kreditu pod uslovima navedenim u članovima 5.3, 6.1 i 7.1 ovog Ugovora o kreditu ili pod povoljnijim uslovima.

3. Isplata

3.1 *Zahtjevi za vršenje isplata.* U skladu s predviđenim godišnjim budžetskim propisima Korisnika, maksimalan iznos Kredita koji se isplaćuje po kalendarskoj godini treba da bude, kako je navedeno u nastavku:

u 2016: 3,000,000.00 (slovima: tri miliona eura)

u 2017: 7,000,000.00 (slovima: sedam miliona eura)

u 2018: 8,800,000.00 (slovima: osam miliona i osam stotina hiljada eura)

u 2019: 10,000,000.00 (slovima: deset miliona eura)

U slučaju da Agencija za implementaciju projekta zatraži isplatu manjeg iznosa u okviru bilo koje navedene kalendarske godine, može se tražiti isplata neisplaćenih kreditnih sredstava u bilo kojoj od narednih godina u skladu sa članom 3.2 ovog Ugovora.

Kada budu ispunjeni svi uslovi koji prethode isplati shodno članu 3.3 ovog Ugovora, KfW banka će izvršiti isplatu Kredita srazmjerno napredovanju Projektnih aktivnosti i na zahtjev Agencije za implementaciju projekta. Isplata će se vršiti na osnovu Rasporeda isplate iz Aneksa 1 ovog Ugovora. KfW banka će izvršiti isplatu do maksimalnog iznosa koji je utvrđen za period od svakih pola godine. U slučaju da Agencija za implementaciju projekta zatraži da joj se isplati manji iznos u okviru bilo kojeg perioda od pola godine, isplata neisplaćenih sredstva se može zatražiti u jednom od narednih polugodišnjih perioda. Izuzetak čini vršenje posljednje isplate, KfW banka nije u obavezi da izvrši isplate za iznose koji su manji od 150.000,00 € (slovima: jedna stotina i pedeset hiljada Eura).

3.2 *Rok za dostavljanje zahtjeva za isplatu.* KfW banka ima pravo da odbije vršenje isplate nakon 31 decembra 2020.

3.3 *Uslovi koji prethode isplati.* KfW banka ima obavezu da izvrši isplate iznosa u skladu sa ovim Ugovorom, samo ukoliko su ispunjeni sljedeći preduslovi na način koji je prihvatljiv za KfW banku u pogledu forme i sadržine:

- a) Korisnik dokazuje, na zadovoljstvo KfW banke, prikazivanjem pravnog mišljenja sadržine koja je suštinski usklađena sa primjerom iz Dodatka 2 ovog Ugovora i dostavljanjem ovjerenih kopija (svaka sa ovjerenim prevodom na njemački ili engleski jezik) svih dokumenata na koje se pravno mišljenje odnosi, da je Ugovor o kreditu pravosnažan i sprovedljiv, a posebno da:
 - aa) je Korisnik ispunio sve zahtjeve u skladu sa zakonom svoje zemlje, kao i drugim primjenjivim pravnim odredbama za valjano preuzimanje svih obaveza po ovom Ugovoru; i
 - bb) je KfW banka izuzeta od plaćanja svih poreza na prihod od kamata, i svih naknada, provizija i sličnih troškova u Crnoj Gori pri davanju Kredita;
- b) KfW banka posjeduje original ovog Ugovora, potpisanog s pravno obvezujućom snagom;
- c) je KfW banka dobila deponovane potpise pomenute u članu 12.1 (predstavljanje *Korisnika i Agencije za implementaciju projekta*) ovog Ugovora;
- d) je Garancija Savezne Republike Njemačke pomenuta u članu 8 važeća bez bilo kakvih ograničenja;
- e) je Korisnik platio proviziju za upravljanje sredstvima pomenutu u članu 4.2 ovog Ugovora;
- f) nema razloga za raskid Ugovora;
- g) niti je došlo do incidenta koji bi mogao biti razlog za raskid po obavještenju ili isteku ili utvrđivanju ili ispunjenju nekog od uslova (potencijalni razlog za raskid); i
- h) Nema vanrednih okolnosti koje bi spriječile ili ozbiljno ugrozile implementaciju, upravljanje, ili svrhu Projekta, ili vršenje obaveza plaćanja koje je Korisnik preuzeo u skladu sa ovim Ugovorom.

Prije bilo kakve isplate iz Kredita KfW banka ima pravo da zahtijeva dodatna dokumenta i dokaze koje smatra potrebnim po svom nahođenju da bi se utvrdila ispunjenost preduslova za vršenje isplate koji su navedeni u ovom dijelu.

3.4 Informacije o proceduri isplate. Korisnik, Agencija za implementaciju Projekta i KfW banka će detaljno odrediti proceduru isplate u Posebnom Sporazumu, a naročito dokaze koje treba da obezbijedi Korisnik u kojima se navodi da se tražena kreditna sredstva koriste samo u dogovorene svrhe.

3.5 Pravo na otkazivanje isplata. Shodno isvršenju obaveza u skladu sa članom 10 ovog Ugovora, Korisnik može da odustane od traženja isplate neisplaćenog iznosa Kredita uz

prethodnu saglasnost KfW banke uz plaćanje **kompensacije za neprihvatanje** shodno članu 3.6 ovog Ugovora.

- 3.6 *Kompensacija za neprihvatanje.* Ako Korisnik otkáže traženje isplate kreditnog iznosa u skladu sa članom 3.5 ovog Ugovora, ili ukoliko takav Kreditni iznos nije isplaćen uopšte, ili nije isplaćen do roka navedenog u članu 3.2 ovog Ugovora iz razloga za koje se KfW banka ne može smatrati odgovornom, Korisnik odmah plaća KfW banci na zahtjev KfW banke neophodan iznos da bi nadoknadio KfW banci bilo kakve gubitke, troškove, ili troškove na teret KfW banke kao rezultat neprihvatanja otkazanog kreditnog iznosa ("**Kompensacija za neprihvatanje**"). KfW banka će obrčunati iznos kompensacije za neprihvatanje i obavijestiti Korisnika o istom.

4. Provizije

- 4.1 *Provizija na neiskorišteni dio kredita.* Korisnik plaća bespovratnu proviziju na neiskorišteni dio kredita od 0.25% godišnje (**Provizija na neiskorišteni dio kredita**) na neisplaćeni iznos Kredita.

Provizija na neiskorišteni dio kredita dospijeva za plaćanje na svakih pola godine u zaostatku, 30.06. i 30.12. svake godine, a prvi put 30.12.2017.godine, ali ne prije odgovarajućeg datuma nakon dana stupanja na snagu ovog Ugovora u skladu sa članom 14.10 ovog Ugovora.

Provizija na neiskorišteni dio kredita se obračunava za period počevši od dvadeset četiri mjeseca nakon potpisivanja ovog Ugovora do datuma kada se Kredit isplati u cjelosti, ili, ukoliko je primjenjivo, do datuma definitivnog otkaza isplata iz Kredita.

- 4.2 *Provizija za upravljanje sredstvima.* Korisnik plaća KfW banci jednokratno bespovratno paušalan iznos na račun provizije za upravljanje sredstvima od 0,5% iznosa Kredita navedenog u članu 1.1. ovog Ugovora ("**Provizija za upravljanje sredstvima**").

Provizija za upravljanje sredstvima dospijeva na plaćanje na raniji od sljedeća dva datuma: (i) prije prve isplate Kredita, ili (ii) po isteku tromjesečnog perioda nakon što KfW banka potpiše ovaj Ugovor, ili po isteku od mjesec dana od stupanja na snagu ovog Ugovora (koji god od datuma navedenih pod (ii) nastupi kasnije). Nakon potpisivanja i stupanja na snagu ovog ugovora, provizija za upravljanje sredstvima se obračunava bez obzira da li je Kredit isplaćen u cjelosti, ili ne.

4 Kamata

Korisnik isplaćuje KfW banci kamatu na sljedeći način:

4.1 *Kamata (fiksna kamatna stopa koja se određuje nakon stavljanja na raspolaganje Kredita).* Korisnik će platiti kamatu na Kredit po stopi od ____% godišnje („fiksna kamatna stopa“) do dobijanja posljednje rate otplate u skladu sa rasporedom otplate definisanom u članu 6.1 ovog Ugovora.

4.2 *Obračun kamatne stope.* Kamata na isplaćeni iznos Kredita se naplaćuje (isključivo) od datuma kada se odgovarajući iznos Kredita isplati sa kreditnog računa KfW banke za Korisnika zaključno sa datumom kada se otplata izvrši na račun KfW banke pomenut u članu 7.3 ovog Ugovora. Kamata se obračunava u skladu sa članom 5.1 ovog Ugovora.

5.3 *Datumi plaćanja.* Kamata dospijeva na naplatu u zaostatku na datume navedene u nastavku (svaki "**Datum plaćanja**“):

- a) prije datuma dospijeća prve rate otplate, 30.06. i 30.12. svake godine, prvi put 30.12.2020.godine ali ne prije datuma plaćanja nakon dana na koji ovaj Sporazum stupi na snagu u skladu sa članom 14.10 ovog Ugovora;
- b) na datum dospijeća prve rate otplate u skladu sa članom 6.1 ovog Ugovora zajedno sa takvom ratom;
- c) nakon toga na rokove dospijeća otplate rata, u skladu sa članom 6.1 ovog Ugovora.

5 Otplata i plaćanje unaprijed

6.1 *Raspored otplate.* Korisnik otplaćuje Kredit prema sljedećem rasporedu:

Rata	Datum		Iznos	
1	decembar 30,	2020	1.371.428,57	EUR
2	jun 30,	2021	1.371.428,57	EUR
3	decembar 30,	2021	1.371.428,57	EUR
4	jun 30,	2022	1.371.428,57	EUR
5	decembar 30,	2022	1.371.428,57	EUR
6	jun 30,	2023	1.371.428,57	EUR
7	decembar 30,	2023	1.371.428,57	EUR
8	jun 30,	2024	1.371.428,57	EUR
9	decembar 30,	2024	1.371.428,57	EUR
10	jun 30,	2025	1.371.428,57	EUR
11	decembar 30,	2025	1.371.428,57	EUR
12	jun 30,	2026	1.371.428,57	EUR
13	decembar 30,	2026	1.371.428,57	EUR
14	jun 30,	2027	1.371.428,57	EUR

15	decembar 30,	2027	1.371.428,57	EUR
16	jun 30,	2028	1.371.428,57	EUR
17	decembar 30,	2028	1.371.428,57	EUR
18	jun 30,	2029	1.371.428,57	EUR
19	decembar 30,	2029	1.371.428,57	EUR
20	jun 30,	2030	1.371.428,57	EUR
21	decembar 30,	2030	1.371.428,60	EUR

- 6.1 *Neisplaćeni iznos Kredita.* Neisplaćeni iznos Kredita se poravnava uz odgovarajuću posljednju ratu otplate u skladu sa rasporedom otplate datim u članu 6.1 ovog Ugovora, osim ukoliko KfW po svom nahođenju ne izabere druge alternativne načine poravnanja u pojedinačnim slučajevima.
- 6.2 *Otplata u slučaju nepotpune isplate.* Ukoliko rata dospije na otplatu prije isplate Kredita u potpunosti, to ne utiče na raspored otplate u skladu sa članom 6.1 ovog Ugovora dokle god je iznos rate koja dospije na naplatu u skladu sa rasporedom otplate manji od iznosa Kredita koji je isplaćen, ali još uvijek nije otplaćen („**Neotplaćeni iznos kredita**“) Ako je prispjela rata otplate u skladu sa članom 6.1 ovog Ugovora veća od neotplaćenog iznosa kredita, iznos takve rate otplate se smanjuje na nivo neotplaćenog iznosa kredita, a razlika se raspoređuje ravnomjerno na preostale neplaćene rate otplate. Prilikom obračuna neotplaćenog iznosa kredita KfW banka zadržava pravo da uzme u razmatranje isplate iz Kredita koje su izvršene u periodu od 45, ili manje dana prije datuma plaćanja za određivanje neotplaćenog iznosa kredita samo za sljedeći datum plaćanja.
- 6.3 *Plaćanje unaprijed.* Sljedeće odredbe se primjenjuju na plaćanje unaprijed:
- a) *Pravo na vršenje plaćanja unaprijed.* Korisnik ima pravo da na osnovu stavova 6.4 (b) do 6.4 (e) ovog Ugovora izvrši otplatu kreditnog iznosa prije roka prispjeća otplate ukoliko je iznos ovog plaćanja unaprijed bar jednak iznosu rate otplate u skladu sa članom 6.1 ovog Ugovora.
- b) *Obavještenje.* Za plaćanje unaprijed kreditnog iznosa u skladu sa članom 6.4 a) ovog Ugovora neophodno je da Korisnik obavijesti KfW banku o vršenju plaćanja unaprijed najkasnije petnaestog **bankarskog dana** (kako je definisano u članu 14.10 ovog Ugovora) prije namjeravaneog datuma plaćanja unaprijed. Takvo obavještenje je neopozivo; potrebno je naznačiti datum na koji se plaćanje unaprijed vrši i iznos plaćanja i Korisnik je obavezan da plati KfW banci navedeni iznos na navedeni datum.

- c) *Nadoknada za plaćanje unaprijed.* Ako Korisnik plati unaprijed kreditni iznos sa kamatom po fiksnoj stopi, Korisnik mora odmah platiti KfW banci na zahtjev iznos potreban za nadoknadu bilo kakvih gubitaka, troškova, ili svih troškova kojima se izložila KfW banka kao rezultat takvog plaćanja unaprijed. KfW banka određuje iznos nadoknade za plaćanje unaprijed i o tome obavještava Korisnika. Na zahtjev Korisnika KfW banka daje Korisniku naznaku iznosa nadoknade za plaćanje unaprijed prije potrebnog neopozivog obavještenja o otplati u skladu sa članom 6.4 b) ovog Ugovora.
- d) *Prispjeli iznosi.* Zajedno sa plaćanjem unaprijed u skladu sa članom 6.4 a) ovog Ugovora, Korisnik plaća sljedeće iznose:
- (i) Bilo kakvu nadoknadu za plaćanje unaprijed koju je potrebno izvršiti kao rezultat plaćanja unaprijed u skladu sa 6.4 c) ovog Ugovora; i
 - (ii) sve kamate proistekle na unaprijed plaćen iznos kredita i bilo koja druga plaćanja koja još uvijek nijesu izvršena u skladu sa ovim Ugovorom, a koja su nastala do datuma plaćanja unaprijed.
- e) *Poravnanje.* Član 6.3 ovog Ugovora se primjenjuje uz potrebne izmjene na poravnanje plaćanja unaprijed.

6.4 Izmijenjeni raspored otplata. U slučajevima kada se primjenjuju članovi 6.3, ili član 6.4 ovog Ugovora, KfW banka šalje Korisniku izmijenjen raspored otplata koji postaje sastavni dio ovog Ugovora o kreditu i zamjenjuje raspored otplata koji je bio validan do tog trenutka.

7 Obračun i plaćanja uopšte

7.1 Obračun. Kamata, provizija na neiskorišćeni dio kredita, zatezna kamata u skladu sa članom 7.5 ovog Ugovora, paušalna kompenzacija za zakašnjele iznose u skladu sa članom 7.6 ovog Ugovora, kompenzacija za neprihvatanje i plaćanje unaprijed, obračunavaće se na osnovu 360 dana u godini i 30 dana u mjesecu.

7.2 Datum dospjeća. Ukoliko bilo kakvo plaćanje prema ovom Ugovoru o kreditu dospije na dan koji nije bankarski dan (kako je definisano u članu 14.1 ovog Ugovora), Korisnik takvo plaćanje mora da izvrši prvog sljedećeg bankarskog dana. Ako sljedeći bankarski dan pada sljedećeg kalendarskog mjeseca, plaćanje se vrši posljednjeg bankarskog dana tekućeg kalendarskog mjeseca.

- 7.3 *Broj računa, vrijeme uplate.* Korisnik je oslobođen obaveza plaćanja u vezi sa ovim Ugovorom o kreditu samo kada i nakon što se odgovarajući iznosi prebace KfW banci na slobodno raspolaganje bez ikakvih odbitaka u eurima najkasnije u 10.00 časova ujutru u Frankfurtu na Majni, Savezna Republika Njemačka na račun KfW banke u Frankfurtu na Majni, Savezna Republika Njemačka IBAN DE 76 50020400 3121990247, sa dodatnim pozivanjem na datum dospijeća („Ref. god./ mjesec/ dan“).
- 7.4 *Protivpotraživanje Korisnika.* Korisnik nema prava zadržavanja ili poravnanja ili slična prava u vezi sa obavezama plaćanja po ovom Ugovoru osim ako su mu ta prava konačnom presudom priznata ili ih KfW banka ne osporava.
- 7.5 *Zatezna kamata.* Ukoliko bilo koja rata otplate kredita ili plaćanje unaprijed u skladu sa članom 7.3 ovog Ugovora nisu stavljeni na raspolaganje KfW banci na vrijeme, KfW banka može bez ikakve najave da naplati zateznu kamatu po stopi od 200 osnovnih poena iznad godišnje kamatne stope navedene u članu 6.4 ovog Ugovora za period koji počinje od datuma dospijeća i završava se na datum kada se ta sredstva prebace na račun KfW banke naznačen u članu 5.1 ovog Ugovora. Takva zatezna kamata se mora platiti odmah nakon prvog zahtjeva KfW banke.
- 7.6 *Paušalna kompenzacija.* KfW banka može bez prethodne najave zahtijevati paušalnu kompenzaciju za zakašnjele dospjele iznose (uz izuzetak plaćanja rata otplate i plaćanja unaprijed pomenutih u članu 7.5 ovog Ugovora) od datuma dospijeća do datuma plaćanja po stopi od 200 osnovnih poena godišnje iznad fiksne kamatne stope u skladu sa članom 5.1 ovog Ugovora. Paušalna kompenzacija se mora platiti odmah nakon prvog zahtjeva KfW banke. Korisnik ima slobodu da dokaže da nije nanesena nikakva šteta ili da je iznos štete manji od iznosa paušalne kompenzacije.
- 7.7 *Poravnanje.* KfW ima pravo da poravna uplate koje primi za potraživanja po ovom Ugovoru, ili po drugom ugovoru zaključenom između KfW banke i Korisnika.
- 7.8 *Obračuni koje vrši KfW banka.* Nepostojanje očevidne greške u obračunu vrijednosti koji vrši KfW banka ili u obračunima iznosa koji dospijevaju na plaćanje u skladu sa ovim Ugovorom o kreditu koje vrši KfW banka predstavlja *dokaz na prvi pogled*.

8. Garancija Savezne Republike Njemačke

Savezna Republika Njemačka garantuje KfW banci potraživanja uplata u skladu sa ovim Ugovorom o Kreditu prije prve isplate.

9. Troškovi i opšte obaveze

9.1 *Zabrana odbitaka i zadržavanja.* Korisnik vrši sva plaćanja po ovom Ugovoru bez odbitaka za poreze, druge javne dažbine, ili troškove. U slučaju da je Korisnik obavezan zakonom ili iz drugih razloga da izvrši bilo kakve takve odbitke ili zadržavanja na plaćanja, iznos plaćanja koja Korisnik treba da izvrši se povećava za iznos koji je potreban da bi KfW banka dobila cjelokupne iznose dospjele na plaćanje u skladu sa ovim Ugovorom nakon odbijanja poreza i dažbina.

9.2 *Troškovi.* Korisnik snosi sve troškove koji nastanu u vezi sa isplatom i otplatom Kredita, naročito u vezi sa troškovima novčanih pošiljki i transfera. (uključujući provizije za konverziju), kao i troškove i rashode koji nastanu u vezi sa održavanjem ili sprovođenjem ovog Ugovora i svih drugih dokumenata u vezi sa ovim Ugovorom, kao i svih prava koja rezultiraju iz istog.

9.3 *Porezi i drugi troškovi.* Korisnik snosi sve troškove poreza i drugih javnih dažbina koji nastanu van Savezne Republike Njemačke u vezi sa zaključenjem i sprovođenjem ovog Ugovora o Kreditu. Ukoliko KfW plati te poreze ili troškove unaprijed, Korisnik ih bez odlaganja prebacuje na račun KfW banke naveden u članu 6.3 ovog Ugovora, ili na neki drugi račun koji navede KfW banka.

10. Posebne obaveze

10.1 *Realizacija Projekta i posebne informacije.* Korisnik se stara da Agencija za implementaciju projekta i Opštine

- a) Pripremaju i sprovode Projekat u skladu sa dobrom finansijskom i inženjerskom praksom i suštinski u skladu sa konceptom Projekta koji su usaglasili Korisnik, Agencija za implementaciju projekta i KfW banka;
- b) dodjeljuje poslove pripreme i nadzora izvođenja radova na Projektu nezavisnim, kvalifikovanim konsultantima inženjerima ili konsultantima, a implementaciju Projekta kvalifikovanim kompanijama;

- c) dodijeljuju ugovore za dobra i usluge koje se financiraju iz Kreditnih sredstava nakon prethodnog održavanja međunarodnog javnog nadmetanja; Bez obzira na gore navedeno, svaki ugovor za robu i usluge u vrijednosti od ispod 100.000,00 eura (slovima: sto hiljada eura) može se dodijeliti kroz direktnu dodjelu;
- d) vodi knjige i evidenciju ili obezbjeđuje vođenje kniga i evidencija koje nedvosmisleno pokazuju sve troškove robe i usluga potrebne za Projekat i gdje su jasno naznačene sve robe i usluge koje su financirane iz ovog Kredita;
- e) omogućava predstavnicima KfW banke da u bilo koje vrijeme pregledaju navedene knjige i evidencije podatke i ostalu dokumentaciju koja je relevantna za implementaciju i upravljanje Projektom, kao i da posjete radove na Projektu i sve izvedene radove vezane uz Projekat;
- f) obezbjeđuje KfW banci bilo kakvu ili sve informacije i izvještaje o Projektu i njegovom daljem napretku, koje KfW može zatražiti i
- g) bez odlaganja i samoinicijativno obavještava KfW banku o svim okolnostima koje onemogućavaju, ili ozbiljno ugrožavaju implementaciju, upravljanje ili namjenu Projekta.

10.2 Posebne obaveze Korisnika. Korisnik

- a) stara se o tome da se obezbijedi kompletno finansiranje Projekta i ukoliko KfW banka to zatraži dostavlja KfW banci dokaz da su troškovi koji nijesu obuhvaćeni Kreditom pokriveni;
- b) stara se, u skladu sa Zakonom o Porezu na dodatu vrijednost, o tome da nabavke robe ili pružanje usluga koje se finansira iz Kredita budu izuzete od plaćanja poreza na dodatu vrijednost u Crnoj Gori;
- c) odmah i na svoju inicijativu,
 - aa) proslijeđuje KfW banci sva pitanja koja Korisnik dobije od OECD-a ili njegovih članova po takozvanom "Sporazumu o transparentnosti koncesionalnih ODA kredita" u vezi sa dodjelom ugovora za robu i usluge koje se financiraju iz Kredita i koordinira sa KfW bankom odgovor na bilo koje takvo pitanje, kao i

bb) obavještava KfW banku o svim okolnostima koje onemogućavaju ili ozbiljno ugrožavaju implementaciju, upravljanje ili namjenu Projekta.

d) pruža podršku Agenciji za implementaciju projekta i Opštinama, u skladu sa dobrim inženjerskim i finansijskim praksama, u realizaciji Projekta, a posebno daje Agenciji za implementaciju projekta i Opštinama sve primjenjive dozvole koje su neophodne za realizaciju ovog Projekta.

10.3 Poseban sporazum. Korisnik, Agencija za implementaciju projekta i KfW banka određuju detalje koji se odnose na Član 10.1 ovog Ugovora u Posebnom Sporazumu.

10.4 Obavezivanje. Korisnik se sam stara i stara se da Agencija za implementaciju projekta i Opštine osiguraju da osobe kojima se povjeri priprema i implementacija Projekta, dodjela ugovora za nabavke i usluge koje treba finansirati i za koje su kreditna sredstva potrebna ne traže, prime, dozvole, obećaju i ne prihvate da prime nezakonita plaćanja ili druge prednosti u vezi sa ovim zadacima.

10.5 Pranje novca. Korisnik se stara da Agencija za implementaciju projekta i Opštine neodložno stave KfW banci na raspolaganje, na zahtijev iste, sve informacije i dokumenta koja KfW banka traži za ispunjavanje obaveza sprječavanja pranja novca i finansiranja terorizma, kao i u svrhe neophodnog stalnog praćenja poslovnog odnosa sa Korisnikom, Agencijom za implementaciju projekta i Opštinama što je u ove svrhe neophodno.

Zaključivanjem ovog Ugovora i realizacijom istog, Korisnik se stara da Agencija za implementaciju projekta i Opštine nastupaju u svoje ime i za svoj račun. U pogledu njemačkog zakona, ili zakona zemlje u kojoj je Korisnik osnovan, Korisnik se stara da:

- a) Lični resursi Agencije za implementaciju projekta, ili Opština, ili sredstva uložena u finansiranje Projekta neće biti nedozvoljenog porijekla, a naročito, s obzirom na to da ovaj spisak nije sveobuhvatan, neće biti povezane sa krijumčarenjem droge, korupcijom, aktivnostima organizovanog kriminala, ili terorizmom;
- b) Osnivački kapital Agencije za implementaciju projekta nikada neće biti nedozvoljenog porijekla, a naročito, s obzirom na to da ovaj spisak nije sveobuhvatan, neće biti povezan sa krijumčarenjem droge, korupcijom, aktivnostima organizovanog kriminala, ili terorizmom;

- c) Agencija za implementaciju projekta i/ili Opštine neće učestvovati u sticanju, posjedovanju, ili korišćenju vlasništva koje je nedozvoljenog porijekla;
- d) Agencija za implementaciju projekta i/ili Opštine neće nikada biti povezane sa krijumčarenjem droge, korupcijom, aktivnostima organizovanog kriminala, ili terorizmom, s obzirom na to da ovaj spisak nije sveobuhvatan;
- e) Agencija za implementaciju projekta i/ili Opštine neće učestvovati u finansiranju terorističkih aktivnosti.

10.5 Ravnopravan tretman. Korisnik garantuje i izjavljuje da će svoje obveze u skladu sa ovim Ugovorom tretirati i izvršavati u najmanjoj mjeri ravnopravno sa svim drugim neosiguranim i nepodređenim obavezama, a Korisnik će se pobrinuti u mjeri dopuštenoj zakonom da se ovakav tretman osigura za sve buduće neosigurane i nepodređene obaveze.

10.6 Prodaja imovine. Korisnik se stara da Opštine ne prodaju bilo kakvu Projektnu imovinu bez prethodne saglasnosti KfW banke, do otplate kredita u cjelosti.

11 Raskid Ugovora

11.1 *Razlozi za raskid.* KfW ima pravo da ostvari pravo shodno članu 11.2 (pravne posljedice postojanja razloga za raskid) ovog Ugovora, ukoliko dođe do slučaja koji predstavlja dobar razlog (wichtiger Grund). To posebno uključuje sljedeće okolnosti:

- a) Korisnik ne izmiri obaveze plaćanja prema KfW banci na vrijeme;
- b) Korisnik i/ili Agencija za implementaciju projekta prekrši(e) obaveze u skladu sa ovim Ugovorom ili Posebnim sporazumom, kao i bilo koje druge pravno obavezujuće dodatne sporazume uz ovaj Ugovor;
- c) Ovaj Ugovor o Kreditu ili neki njegov dio prestaju da budu obavezujući za Korisnika, ili prestaju da budu primjenjivi na Korisnika;
- d) Pokaže se da su izjave, uvjerenja, informacije ili predstavljanja ili davanja garancije koje KfW banka smatra značajnim za dodjelu i održavanje Kredita netačne, obmanjive, ili nepotpune;
- e) Dođe do drugih vanrednih okolnosti koje odgađaju, ili spriječavaju ispunjavanje obaveza u skladu sa ovim Ugovorom;
- f) Korisnik ne može da dokaže da su kreditna sredstva utrošena u ugovorene svrhe;
- g) Korisnik prekine plaćanja prema kreditorima, insolventan je ili započne pregovore sa jednim ili više Korisnikovih kreditora u vezi moratorijuma,

otpisu neotplaćenog duga, odlaganju plaćanja ili odustajaju od servisiranja duga.

11.4 Pravne posljedice postojanja razloga za raskid Ugovora. Ukoliko dođe do nekog od slučajeva opisanih u članu 11.1 ovog Ugovora, KfW banka može odmah obustaviti isplate u skladu sa ovim Ugovorom. Ukoliko se slučaj ne razriješi u roku od pet dana (u slučaju člana 11.1 a) ovog Ugovora, ili u svim drugim slučajevima iz člana 11.1 ovog Ugovora u roku koji odredi KfW banka a koji, međutim, treba da bude najmanje 30 dana, KfW banka može raskinuti ovaj Ugovor u potpunosti ili djelimično, uz posljedicu da obeveze KfW banke u skladu sa ovim Ugovorom prestanu i KfW banka može tražiti da se odmah otplati cjelokupan ili dio neotplaćenog iznosa kredita uz kamate i ostale iznose koji treba da se isplate u skladu sa ovim Ugovorom. Članovi 7.5 i 7.6 ovog Ugovora primjenjuju se na ubrzano plaćanje iznosa uz potrebne izmjene (*mutatis mutandis*).

11.5 Nadoknada štete. U slučaju da se ovaj Ugovor o kreditu raskine u potpunosti ili djelimično, Korisnik plaća nadoknadu za neprihvatanje u skladu sa članom 3.6 i/ili nadoknadu za plaćanje unaprijed u skladu sa članom 6.4 c).

12 Predstavljanje i Izjave

12.1 Predstavljanje Korisnika ili Agencije za implementaciju projekta Ministar finansija i lica koje on, ili ona imenuje KfW banci i ovlasti deponovanim potpisima čiju autentičnost dokazuje on, ili ona predstavljaju Korisnika prilikom realizacije ovog Ugovora. Ministar održivog razvoja i turizma finansija i lica koje on, ili ona imenuje KfW banci i ovlasti deponovanim potpisima čiju autentičnost dokazuje on, ili ona predstavljaju Korisnika prilikom realizacije ovog Ugovora. Izvršni direktor Vodacom-a i lica koje on, ili ona imenuje KfW banci i ovlasti deponovanim potpisima čiju autentičnost dokazuje on, ili ona predstavljaju Agenciju za implementaciju projekta u realizaciji ovog Ugovora. Ovlaštenje za zastupanje ne ističe dok KfW banka ne primi izričit opoziv istog od predstavnika Korisnika ili Agencije za implementaciju projekta koji je u to vrijeme ovlašten.

12.2 Adrese. Obavještenja ili izjave u vezi sa ovim Ugovorom moraju biti u pisanoj formi. Obavještenja i izjave se šalju u originalu, ili izuzev Zahtjeva za isplatu – faksom. Sva druga obavještenja ili izjave u vezi sa ovim Ugovorom se šalju na sljedeće adrese:

Za KfW banku:

KfW
Attn: Department LEa

Postfach 11 11 41
60046 Frankfurt am Main
Federal Republic of Germany
Faks: +49 69 7431 2944

Za Korisnika:

Ministarstvo finansija
Stanka Dragojevića br 2
81000 Podgorica
Republika Crna Gora
Faks: +381 81 224 450

13. Objava i prenošenje informacija koje se odnose na stručne usluge

- 13.1 *Objava informacija vezanih za projekat koju vrši KfW banka.* U skladu s međunarodno priznatim principima potpune transparentnosti i učinkovitosti u programu razvojne saradnje, KfW banka objavljuje odabrane podatke (uključujući i evaluacione izvještaje) o Projektu i o načinu na koji je isti finansiran u toku ugovornih pregovaranja, dok se ugovor(i) koji se odnosi(e) na Projekat realizuje(u) takođe i u post-ugovornoj fazi (u daljem tekstu: "**Cjelokupan period**").

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

Objava informacija (koju vrši ili KfW banka, ili treća strana u skladu sa Članom 13.3 u nastavku) u vezi Projekta i načina na koji je isti finansiran ne uključuje bilo kakvu ugovornu dokumentaciju, ili bilo kakve osjetljive finansijske detalje, ili detaljne poslovne informacije o stranama koje su uključene u Projekat, ili finansiranje istog, kao što su

- a) Informacije o internim finansijskim podacima;
- b) Poslovne strategije;
- c) Interne korporativne smjernice i izvještaji;
- d) Lični podaci fizičkih lica;
- e) Interne ocjene KfW banke o finansijskoj poziciji stranaka.

- 13.2 *Prenos informacija vezanih za projekat trećim stranama* KfW banka dijeli odabrane informacije o Projektu i načinu na koji je isti finansiran u toku Cjelokupnog perioda dolje navedenim subjektima, posebno zbog osiguranja transparentnosti i efikasnosti:

- a) Podružnicama KfW banke;
- b) Saveznoj Republici Njemačkoj i njenim nadležnim tijelima, organima, institucijama, agencijama, ili subjektima;
- c) Drugim implementatorskim organizacijama koje su uključene u njemačku bilateralnu razvojnu saradnju, naročito Njemačkoj organizaciji za tehničku saradnju (Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH);

- d) Međunarodnim organizacijama koje su uključene u prikupljanje statističkih podataka i njihovim članovima, naročito Organizaciji za ekonomsku saradnju i razvoj (OECD) i njenim članovima.

13.3 *Prenos informacija vezanih za projekat trećim stranama* i objava informacija koju vrši treća strana. Pored toga, Savezna Republika Njemačka je tražila od KfW banke da podijeli odabrane informacije o Projektu i načinu na koji je isti finansiran kroz cjelokupan period sljedećim subjektima, koji objavljuju djelove istih u relevantne svrhe:

- a) Savezna Republika Njemačka u svrhu Inicijative za transparentnost međunarodne pomoći (http://www.bmz.de/de/was_wir_machen/wege/transparenz-fuer-mehr-Wirksamkeit/index.html);
- b) Njemačka savezna agencija za međunarodnu privredu i spoljnu trgovinu (Germany Trade & Invest (GTAI)) za potrebe tržišnih informacija (<http://www.gtai.de/GTAI/Navigation/DE/trade.FOO>);
- c) OECD u svrhu izvještavanja o finansijskim tokovima u okviru razvojne saradnje (<http://stats.oecd.org/>);

Njemačkog instituta za procjenu razvoja (DEVal) u svrhu evaluacije cjelokupnog programa njemačke saradnje da bi se osigurala transparentnost i efikasnost (<http://www.deval.org/de/>) *Prenos informacija vezanih za projekat drugim trećim stranama (uključujući objavu informacija koju vrše treće strane).*

KfW banka nadalje zadržava pravo prenošenja (uključujući i svrhe objavljivanja) podatka o Projektu i načinu na koji je isti finansiran u toku cjelokupnog perioda ostalim trećim stranama kako bi se zaštitili legitimni interesi.

KfW banka ne prenosi informacije trećim licima ukoliko su legitimni interesi Korisnika u vezi informacija koje nisu prenešene važniji od interesa KfW banke da ove informacije budu prenešene. Legitimni interesi Korisnika posebno uključuju povjerljivost osjetljivih informacija koje su navedene u Članu 13.1, koje se ne objavljuju.

Nadalje, KfW banka ima pravo da prenosi informacije trećim stranama ukoliko je to potrebno u skladu sa zakonskim, ili regulatornim zahtjevima, ili da potvrdi, ili odbrani tvrdnje, ili druga zakonska prava u sudskom, ili upravnom postupku.

14 Opšte odredbe

14.1 *Bankarski dan.* U ovom Ugovoru o Kreditu „bankarskim danom“ se podrazumijevaju dani osim subote i nedelje kojima su komercijalne banke u Frankfurtu na Majni otvorene za opšte poslove.

14.2 *Mjesto izvršenja.* Mjesto izvršenja svih obaveza po ovom Ugovoru o Kreditu je Frankfurt na Majni, Savezna Republika Njemačka.

14.3 *Djelimična ništavost i propusti.* Ukoliko je bilo koja odredba ovog Ugovora nevažeća, ili postane nevažeća, ili ukoliko postoji propust u nekoj odredbi ovog Ugovora, to ne utiče na validnost ostalih odredbi Ugovora. Strane u ovom Ugovoru zamijenjuju nevažeću odredbu odredbom koja je pravno važeća koja je u duhu i svrsi što sličnija nevažećoj odredbi. Strane popunjavaju propuste u odredbama pravno validnim odredbama čiji je priroda i svrha što bliža ovom Ugovoru.

14.4 *Pisana forma.* Izmjene i dopune ovog Ugovora moraju biti u pisanoj formi. Odstupanje od ovog zahtjeva pisane forme mora se izjaviti u pisanoj formi.

14.5 *Dodjela.* Korisnik ne smije dodijeliti ili prenijeti, založiti ili staviti pod hipoteku potraživanja po ovom Ugovoru o Kreditu.

14.6 *Mjerodavno pravo.* Mjerodavno pravo u ovom Ugovoru o Kreditu je pravo Savezne Republike Njemačke.

14.7 *Period ograničavanja.* Potraživanja KfW banke koja proisteknu iz ovog Ugovora ističu nakon pet godina od kraja godine u kojoj je potraživanje nastalo i od kada je KfW banka upoznata sa okolnostima koja predstavljaju osnovu za potraživanje, ili je mogla biti upoznata o istim bez grube nepažnje.

14.8 *Odustajanje od imuniteta.* Do mjere do koje Korisnik može ili će moći u bilo kojoj nadležnosti zahtijevati za sebe ili svoju imovinu imunitet od sudskog procesa, izvršenja, oduzimanja imovine ili drugog pravnog procesa u kojem Korisnik neopozivo prihvata da odustane od takvog imuniteta od potraživanja od ili u vezi sa ovim Ugovorom o kreditu do najveće mjere dozvoljene u skladu sa zakonima te nadležnosti. Korisnik se ne odriče imuniteta u pogledu bilo koje sadašnje ili buduće (i) imovine koja se koristi u administrativne svrhe vlasti, (ii) za "prostorije misije" kako je definirano u Bečkoj konvenciji o diplomatskim odnosima iz 1961. godine, (iii) "konzularne prostorije", kako je definirano u Bečkoj konvenciji o diplomatskim odnosima iz 1963. godine, ili (iv) vojni posjed, ili vojna sredstva.

14.9 *Pravni sporovi.*

- a) *Arbitraža.* Svi sporovi koji proisteknu iz ili su u vezi sa ovim Ugovorom rješavaju se isključivo i konačno putem arbitražnog suda. S tim u vezi, primjenjuje se sljedeće:

aa) Arbitražni sud sačinjavaju jedan ili tri arbitra koje se imenuju i koji vrše dužnost u skladu sa Arbitražnim pravilima Međunarodne trgovinske komore (ICC) koja se povremeno primjenjuju.

bb) Procedura arbitraže se sprovodi u Frankfurtu na Majni. Procedura se obavlja na engleskom jeziku.

b) *Nadležnost.* Pored toga, KfW banka ima pravo da povede pravni proces u sudovima opšte nadležnosti (ordentliche Gerichte) u Frankfurtu na Majni ili u bilo kojem sudu kompetentne nadležnosti, osim ako je predmet spora već predmet arbitraže između strana. Korisnik neopozivo poštuje nadležnost pomenutih sudova.

14.10 *Stupanje na snagu.* Ovaj Ugovor neće stupiti na snagu dok Korisnik pismeno ne informiše KfW banku da je Zakon o budžetu za 2016 godinu, kojim se obezbđuje potpisivanje ovog Ugovora o kreditu, usvojen i objavljen u Službenom listu Crne Gore. Ukoliko KfW banka ne primi ovo obavještenje do 31.03.2016. godine, KfW banka može bilo kada jednostrano otkazati Ugovor o kreditu..

Ovaj Ugovor je sačinjen na engleskom jeziku u dva primjerka.

Potpisano u _____,

dana 2015.g

KfW banka

Ime:

Zvanje:

Ime:

Zvanje:

Potpisano u _____

dana 2015.g

Crna Gora, koju predstavlja Ministarstvo finansija

Ime:

Zvanje:

Dodatak 1

Raspored isplate

Pred kraj perioda isplate naznačenih u nastavku, Korisnik može zahtijevati isplatu kreditnih iznosa koji ne prekoračuju ukupan iznos naznačen u nastavku za svaki period isplate.

Period	do...	Maksimalni ukupni iznos koji se može isplatiti do kraja svakog perioda isplate (akumulirani) (sve cifre u Eurima)
1	30.12.2015	0,00
2	30.06.2016	1.500.000,00
3	30.12.2016	3.000.000,00
4	30.06.2017	5.800.000,00
5	30.12.2017	10.000.000,00
6	30.06.2018	14.400.000,00
7	30.12.2018	18.800.000,00
8	30.06.2019	23.100.000,00
9	30.12.2019	28.800.000,00

Ugovor o finansiranju

zaključen

između

**KfW banke, Frankfurt na Majni
("KfW")**

i

**Crne Gore,
koju predstavlja Ministarstvo finansija
("Korisnik")**

i

**Vodacom d.o.o.
Tivat, Crna Gora
 („Agencija za implementaciju projekta“)**

u iznosu od

2.000.000,00 Eura

- Prateće mjere za

- Program “Vodosnabdijevanje i odvođenje otpadnih voda na Jadranskoj obali,

**Faza V –
(BMZ 2015 701 34)**

Na osnovu razmjene verbalnih nota od 21.04.2015. godine i _____ između Vlade Savezne Republike Njemačke i Vlade Crne Gore o Finansijskoj saradnji ("Sporazum Vlade"), Korisnik, Agencija implementaciju projekta i KfW banka zaključuju sljedeći Ugovor o finansiranju:

Član 1

Iznos i svrha finansijske pomoći

1.1 KfW banka dodjeljuje Korisniku finansijsku pomoć u iznosu do

2.000.000,00 Eura

Sredstva finansijske pomoći su bespovratna ukoliko nije drugačije utvrđeno članom 4.2.

1.2 Korisnik finansijsku pomoć u cjelosti kanališe Agenciji za implementaciju projekta u skladu sa uslovima iz Člana 2. Agencija za implementaciju koristi finansijsku pomoć isključivo za institucionalnu podršku, kao i za mjere obuke i instrukcije kojim bi se osiguralo održivo upravljanje postrojenja za prečišćavanje otpadnih voda i adekvatna organizaciona struktura za osiguranje održivog upravljanja postrojenja za prečišćavanje otpadnih voda ("Stručne usluge"). Agencija za implementaciju projekta i KfW banka će posebnim sporazumom utvrditi detalje i obim Stručnih usluga kao i robu i usluge koje je potrebno finansirati iz finansijske pomoći.

1.3 Agencija za implementaciju projekta i KfW banka će u Posebnom sporazumu utvrditi detalje u vezi doprinosa partnerske strane koji treba da obezbijedi Agencija za implementaciju projekta. Agencija za implementaciju projekta je obavezna da pruži svoj doprinos u potpunosti i na vrijeme. Agencija za implementaciju projekta dostavlja KfW banci na upit dokaz o mjerama koje su preduzete u tom cilju.

1.4 Poreze i druge javne dažbine snosi Korisnik i/ili Agencija za implementaciju projekta, a uvozne carine se ne finansiraju iz finansijske pomoći.

Član 2

Kanalisanje finansijske pomoći Agenciji za implementaciju projekta

2.1 Korisnik kanališe finansijsku pomoć Agenciji za implementaciju projekta kao bespovratnu donaciju na osnovu Posebnog sporazuma o finansiranju.

2.2 Prije vršenja prve isplate sredstava iz finansijske pomoći, Korisnik dostavlja KfW banci kopiju i ovjeren prevod Sporazuma koji je naveden u Članu 2.1

2.3 Kanalisanjem finansijske pomoći ne nameće se bilo kakva odgovornost Agenciji za implementaciju projekta prema KfW banci u vezi sa obavezama plaćanja u skladu sa ovim Ugovorom.

Član 3

Isplata

- 3.1 KfW banka vrši isplatu sredstava finansijske pomoći u skladu sa napretkom u pružanju Stručnih usluga i na zahtjev Agencije za implementaciju projekta. Posebnim sporazumom Agencija za implementaciju projekta i KfW banka treba da utvrde proceduru plaćanja, a posebno dokaz kojim se potvrđuje da su isplaćena finansijska sredstva iskorištena u ugovorene svrhe.
- 3.2 KfW banka ima pravo da odbije vršenje isplata nakon 31.12.2020.godine.

Član 4

Obustavljanje isplata i otplata

- 4.1 KfW banka ne može obustaviti isplate osim u slučaju da
- a) Korisnik ne ispoštuje obaveze prema KfW banci da bi blagovremeno izvršila plaćanja;
 - b) se krše obaveze u skladu sa ovim Ugovorom, ili u skladu sa posebnim sporazumima koji se odnose na ovaj Ugovor;
 - c) Agencija za implementaciju projekta ne može da dokaže da je isplaćeni iznos finansijske pomoći iskorišten u ugovorene svrhe, ili;
 - d) se jave vanredne okolnosti koje sprječavaju ili ozbiljno ugrožavaju realizaciju, sprovođenje ili svrhu pružanja Stručnih usluga;
- 4.2 KfW banka ima pravo da traži hitnu otplatu finansijske pomoći ukoliko dođe do bilo kakve situacije koja je navedena u Članu 4.1 b) i c) i ukoliko se ista ne otkloni u roku koji je odredila KfW banka, a koji, međutim, mora da bude najmanje 30 dana. U slučaju Člana 4.1 c), otplata se ograničava na one iznose za koje Korisnik ne može da dokaže da su iskorišteni u ugovorene svrhe.

Član 5

Troškovi i javne dažbine

Korisnik snosi sve troškove poreza i drugih javnih dažbina nastalih van Savezne Republike Njemačke u vezi sa zaključivanjem i izvršenjem ovog Ugovora, kao i troškove transfera i konverzije koji nastanu u vezi sa isplatom finansijske pomoći.

Član 6

Ugovorne izjave i ovlašćenje za zastupanje

- 6.1 Ministar finansija i lica koje on, ili ona imenuje KfW banci i ovlasti deponovanim potpisima čiju autentičnost dokazuje on, ili ona predstavljaju Korisnika prilikom realizacije ovog Ugovora. Izvršni direktor Agencije za implementaciju projekta i lica koje on, ili ona imenuje KfW banci i ovlasti deponovanim potpisima čiju autentičnost dokazuje on, ili ona predstavljaju Agenciju za implementaciju projekta u realizaciji ovog Ugovora. Ovlaštenje za zastupanje ne ističe dok KfW banka ne primi izričit opoziv istog od predstavnika koji je u to vrijeme ovlašten.
- 6.2 Izmjene i dopune, ili aneksi ovog Ugovora i sva obavještenja i izjave ugovornih strana u skladu sa ovim Ugovorom, treba da budu u pisanoj formi. Ova obavještenja

ili izjave će se smatrati primljenim kad stignu na sljedeće adrese relevantne ugovorne strane, ili na drugu adresu relevantne ugovorne strane koja se dostavi drugim ugovornim stranama

Za KfW:

KfW, Department LEa
Postfach 11 11 41
60046 Frankfurt na Majni
Savezna repunlika Njemačka
Fax: +49 69 7431-2944

Za Korisnika:

Ministarstvo finansija
Stanka Dragojevica 2
81000 Podgorica
Republika Crna Gora
Fax: +382 81 224 450

Za Agenciju za
implementaciju projekta:

Vodacom d.o.o.
Luke Tomanovica 2
85320 Tivat
Republika Crna Gora
Fax: +382 82 672 782

- 6.3 Saglasnost Agencije za implementaciju projekta neće se tražiti za izmjene i dopune ovog Ugovora koje utiču samo na pravne odnose između KfW banke i Korisnika.

Član 7

Stručne usluge

7.1 Agencija za implementaciju projekta

- a) priprema, sprovodi i prati realizaciju Stručnih usluga u skladu sa dobrom finansijskom i inženjerskom praksom, a u suštini u skladu sa konceptom koji su dogovorili Agencija za implementaciju projekta i KfW banka za Stručne usluge, a u tu svrhu treba da iskoristi usluge nezavisnih, kvalifikovanih konsultantskih kompanija;
- b) stara se o kompletnom finansiranju Stručnih usluga i na zahtjev KfW banke, dostavlja KfW banci dokaz kojim se potvrđuje da su izmireni troškovi koji se ne plaćaju iz ove finansijske pomoći;
- c) vodi, ili obezbjeđuje vođenje knjiga i evidencija koje nedvosmisleno pokazuju sve troškove koji su proistekli iz Stručnih usluga i jasno naznačava usluge finansirane iz ove finansijske pomoći;
- e) omogućava predstavnicima KfW banke u bilo koje doba da izvrše pregled pomenutih knjiga i evidencija i bilo koje, ili cjelokupne dokumentacije koja je relevantna za realizaciju stručnih usluga f) obezbjeđuje KfW banci bilo kakve i sve informacije i izvještaje u vezi Stručnih usluga i napretka istih u skladu sa zahtjevom KfW banke, i

- g) samoinicijativno odmah obavještava KfW banku od bilo kojoj i svim okolnostima koje sprječavaju ili ozbiljno ugrožavaju izvršavanje Stručnih usluga ili svrhu istih;
- 7.2 Agencija za implementaciju projekta i KfW banka utvrđuju detalje koji se odnose na član 7.1 u posebnom sporazumu.
- 7.3 Korisnik pruža podršku Agenciji za implementaciju projekta, u skladu sa dobrim finansijskim praksama, u realizaciji Projekta, kao i u ispunjavanju obaveza Agencije za implementaciju projekta u skladu sa ovim Ugovorom, a posebno, daje Agenciji za implementaciju projekta sve primjenjive dozvole koje su neophodne za realizaciju ovog Projekta.
- 7.4 Korisnik se stara, u skladu sa Zakonom o porezu na dodatu vrijednost, da roba i usluge koje se finansiraju iz sredstava finansijske pomoći budu izuzeti od plaćanja poreza na dodatu vrijednost u Crnoj Gori.

Član 8

Objava i prenošenje informacija koje se odnose na stručne usluge

- 8.1 U skladu s međunarodno priznatim principima potpune transparentnosti i učinkovitosti u programu razvojne saradnje, KfW banka objavljuje odabrane podatke (uključujući i evaluacione izvještaje) o stručnim uslugama i o načinu na koji su iste finansirane u toku ugovornih pregovaranja, dok se ugovor(i) koji se odnosi(e) na stručne usluge realizuje(u) takođe i u post-ugovornoj fazi (u daljem tekstu: "**Cjelokupan period**").

Informacije se redovno objavljuju na veb stranici KfW banke za poslovno područje "Razvojna banka KfW" (<http://transparenz.kfw-entwicklungsbank.de/>).

Objava informacija (koju vrši ili KfW banka, ili treća strana u skladu sa Članom 8.3 u nastavku) u vezi stručnih usluga i načina na koji su iste finansirane ne uključuje bilo kakvu ugovornu dokumentaciju, ili bilo kakve osjetljive finansijske detalje, ili detaljne poslovne informacije o stranama koje su uključene u stručne usluge, ili finansiranje istih, kao što su

- f) Informacije o internim finansijskim podacima;
 - g) Poslovne strategije;
 - h) Interne korporativne smjernice i izvještaji;
 - i) Lični podaci fizičkih lica;
 - j) Interne ocjene KfW banke o finansijskoj poziciji stranaka.
- 8.2 KfW banka dijeli odabrane informacije o Stručnim uslugama i načinu na koji su iste finansirane u toku Cjelokupnog perioda dolje navedenim subjektima, posebno zbog osiguranja transparentnosti i efikasnosti:
 - e) Podružnicama KfW banke;
 - f) Saveznoj Republici Njemačkoj i njenim nadležnim tijelima, organima, institucijama, agencijama, ili subjektima;

- g) Drugim implementatorskim organizacijama koje su uključene u njemačku bilateralnu razvojnu saradnju, naročito *Njemačkoj* organizaciji za tehničku saradnju (Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH);
 - h) Međunarodnim organizacijama koje su uključene u prikupljanje statističkih podataka i njihovim članovima, naročito Organizaciji za ekonomsku saradnju i razvoj (OECD) i njenim članovima.
- 8.3 Pored toga, Savezna Republika Njemačka je tražila od KfW banke da podijeli odabrane informacije o Stručnim uslugama i načinu na koji su iste finansirane kroz cjelokupan period sljedećim subjektima, koji objavljuju djelove istih u relevantne svrhe:
- d) Savezna Republika Njemačka u svrhu Inicijative za transparentnost međunarodne pomoći (http://www.bmz.de/de/was_wir_machen/wege/transparenz-fuer-mehr-Wirksamkeit/index.html);
 - e) *Njemačka* savezna agencija za međunarodnu privredu i spoljnu trgovinu (Germany Trade & Invest (GTAI)) za potrebe tržišnih informacija (<http://www.gtai.de/GTAI/Navigation/DE/trade.FOO>);
 - f) OECD u svrhu izvještavanja o finansijskim tokovima u okviru razvojne saradnje (<http://stats.oecd.org/>);
 - g) Njemačkog instituta za procjenu razvoja (DEval) u svrhu evaluacije cjelokupnog programa njemačke saradnje da bi se osigurala transparentnost i efikasnost (<http://www.deval.org/de/>).
- 9.4 KfW banka nadalje zadržava pravo prenošenja (uključujući i svrhe objavljivanja) podatka o stručnim uslugama i načinu finansiranja istih u toku cjelokupnog perioda ostalim trećim stranama kako bi se zaštitili legitimni interesi.

KfW banka ne prenosi informacije trećim licima ukoliko su legitimni interesi Korisnika ili Agencije za implementaciju projekta u vezi informacija koje nisu prenešene važniji od interesa KfW banke da ove informacije budu prenešene. Legitimni interesi Korisnika ili Agencije za implementaciju projekta posebno uključuju povjerljivost osjetljivih informacija koje su navedene u Članu 8.1, koje se ne objavljuju.

Nadalje, KfW banka ima pravo da prenosi informacije trećim stranama ukoliko je to potrebno u skladu sa zakonskim, ili regulatornim zahtjevima, ili da potvrdi, ili odbrani tvrdnje, ili druga zakonska prava u sudskom, ili upravnom postupku.

Član 9

Ostale odredbe

- 9.1 Korisnik i Agencija za implementaciju projekta osiguravaju da lica koje angažuju za pripremu i pružanje stručnih usluga, dodjela bilo kog ugovora o stručnim uslugama koji treba finansirati, a za koji je potrebno vršiti isplate iz sredstava finansijske pomoći ne zahtjevaju, preuzimaju, pružaju, dodjeljuju, i obećaju ili dobiju obećanje o nezakonitim isplatama, ili drugim privilegijama u vezi sa ovim zadacima.

9.2 Agencija za implementaciju projekta neodložno treba da stavi KfW banci na raspolaganje, na zahtijev iste, sve informacije i dokumenta koja KfW banka traži za ispunjavanje obaveza sprječavanja pranja novca i finansiranja terorizma, kao i u svrhe neophodnog stalnog praćenja poslovnog odnosa sa Agencijom za implementaciju projekta.

Zaključivanjem ovog Ugovora i realizacijom istog, Agencija za implementaciju projekta nastupa u svoje ime i za svoj račun. U pogledu njemačkog zakona, ili zakona zemlje u kojoj je Agencija za implementaciju projekta osnovana:

- f) Lični resursi Agencije za implementaciju projekta, ili sredstva uložena u finansiranje Projekta neće biti nedozvoljenog porijekla, a naročito, s obzirom na to da ovaj spisak nije sveobuhvatan, neće biti povezani sa krijumčarenjem droge, korupcijom, aktivnostima organizovanog kriminala, ili terorizmom;
- g) Osnivački kapital Agencije za implementaciju projekta nikada neće biti nedozvoljenog porijekla, a naročito, s obzirom na to da ovaj spisak nije sveobuhvatan, neće biti povezan sa krijumčarenjem droge, korupcijom, aktivnostima organizovanog kriminala, ili terorizmom;
- h) Agencija za implementaciju projekta neće učestvovati u sticanju, posjedovanju, ili korišćenju vlasništva koje je nedozvoljenog porijekla a naročito, s obzirom na to da ovaj spisak nije sveobuhvatan, neće biti povezana sa krijumčarenjem droge, korupcijom, aktivnostima organizovanog kriminala, ili terorizmom;
- i) Agencija za implementaciju projekta neće učestvovati u finansiranju terorističkih aktivnosti.

9.3 Ukoliko je bilo koja odredba ovog Ugovora nevažeća to neće uticati na ostale odredbe Ugovora. Bilo kakva praznina koja iz toga proistekne biće popunjena odredbom koja je u skladu sa svrhom ovog Ugovora.

9.4 Ni Korisnik niti Agencija za implementaciju projekta ne mogu ustupiti ili prenijeti, založiti ili staviti pod hipoteku bilo koje potraživanje iz ovog Ugovora.

9.5 Ovaj Ugovor se sprovodi u skladu sa zakonom Savezne Republike Njemačke. Mjesto izvršenja je Frankfurt na Majni.

9.6 Pravni odnosi ustanovljeni ovim Ugovorom između KfW banke, Agencije za implementaciju projekta i Korisnika završavaju 6 godina nakon izvršenja konačne isplate sredstava.

Sačijeno u 3 originalna primjerka na engleskom jeziku.

Frankfurt na Majni,
Dana , 2015. godine

KfW banka Crna Gora
koju predstavlja

Podgorica,
dana ____ 2015. godine

koju predstavlja
Ministarstvo finansija
koje predstavlja

Podgorica,
dana ____ 2015. godine

Vodacom d.o.o
koga predstavlja

Loan Agreement

dated 2015

between

KfW, Frankfurt am Main
(“KfW”)

and

Montenegro,
represented by the Ministry of Finance
("Borrower")

for

EUR 28,800,000.00

**Water Supply and Sanitation Programme Adriatic Coast V – Component 2 (BMZ 2015
67 817)**

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PREAMBLE

The basis for this loan agreement between KfW and the Borrower ("**Agreement**" or "**Loan Agreement**") is the exchange of verbal notes dated 21 April 2015 and _____ between the Government of the Federal Republic of Germany and the Government of Montenegro on Financial Cooperation (FC).

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

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

whereas, with respect to the execution of this Agreement, the Borrower is represented by the Ministry of Finance. With respect to the implementation of the Project (as defined in Article 1.2 below), the Borrower is represented by the Ministry of Sustainable Development and Tourism.

1. *Loan*

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

EUR 28,800,000.00
(the "**Loan**").

1.2 *Purpose.* The Borrower will use the Loan exclusively to finance investments for the rehabilitation and extension of the sewage disposal and treatment systems as well as of the water supply in Montenegrin coastal municipalities including the costs for an implementation consultant ("**Project**") by way of channelling the Loan to the Municipalities (as defined below) in accordance with the conditions set forth in Article 2. The Borrower, Vodacom d.o.o. (the "**Project-Executing-Agency**") and KfW will determine the details of the Project and the supplies and services to be financed from the Loan by a separate agreement ("**Separate Agreement**").

1.3 *Taxes, charges, customs duties.* Taxes and other public charges as well as customs duties will not be financed from the Loan.

2. *Channelling of the Loan to the Municipalities*

The Borrower will channel the Loan to the municipalities that are specified in the Separate Agreement (the "Municipalities") under separate loan agreements under the terms and conditions set forth in Articles 5.3, 6.1 and 7.1 of this Loan Agreement or at more favourable terms and conditions.

3. *Disbursement*

3.1 *Requesting disbursements.* In accordance with the envisaged annual budget laws of the Borrower, the maximum Loan amount to be disbursed per calendar year shall be as follows:

in 2016: 3,000,000.00 (in words: three million euro)

in 2017: 7,000,000.00 (in words: seven million euro)

in 2018: 8,800,000.00 (in words: eight million and eight hundred thousand euro)

in 2019: 10,000,000.00 (in words: ten million euro)

To the extent the Project-Executing Agency requests disbursements of lower amounts within any indicated calendar year, the undisbursed Loan amounts may be requested in any of the next ensuing year periods in accordance with Article 3.2 hereof.

As soon as all conditions precedent to disbursement pursuant to Article 3.3 hereof are fulfilled, KfW will disburse the Loan in accordance with the progress of the Project and upon request of the Project-Executing Agency. Disbursements will be made in accordance with the disbursement schedule contained in Annex 1 to this Loan Agreement. KfW will make disbursements only up to the maximum amounts determined for each half-year. To the extent the Project-Executing Agency requests disbursement of lower amounts within any half-year the undisbursed amounts may be requested in any of the next ensuing half-year periods. With the exception of the last disbursement, KfW is not obligated to make disbursements of less than EUR 150,000.00 (in words one hundred and fifty thousand Euros).

3.2 *Deadline for requesting disbursements.* KfW has the right to refuse to make disbursements after 31 December 2020.

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

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

aa) The Borrower has met all requirements under its constitutional law and other applicable legal provisions for the valid assumption of all its obligations under this Agreement; and

bb) KfW is exempted from all taxes on income from interest earnings and all levies, commissions and similar costs in Montenegro when granting the Loan;

- b) KfW is in possession of an original of this Agreement, signed with legally binding force;
- c) the specimen signatures mentioned in Article 12.1 (*Representation of the Borrower and of the Project-Executing Agency*) hereof have been received by KfW;
- d) the Guarantee from the Federal Republic of Germany mentioned in Article 8 is in force and effect without any restriction;
- e) the Borrower has paid the Management Fee set forth in Article 4.2 hereof;
- f) no reason for termination has occurred;
- g) nor has an incident occurred that would become a cause for termination by notification or expiration or ascertainment or fulfilment of a condition (potential reason for termination); and
- g) no extraordinary circumstances have arisen that preclude or seriously jeopardise the implementation, the operation, or the purpose of the Project, or the performance of the payment obligations assumed by the Borrower under this Agreement.

KfW has the right prior to any disbursement from the Loan to demand such further documents and evidence as it deems necessary at its discretion to ascertain the conditions precedent for disbursement specified in this section.

3.4 *Details of the disbursement procedure.* The Borrower, the Project-Executing Agency and KfW will determine the details of the disbursement procedure by the Separate Agreement and in particular the evidence that has to be furnished by the Borrower documenting that the requested Loan amounts are being used for the agreed purpose.

3.5 *Right to cancel disbursements.* Subject to the fulfilment of its obligations under Article 10 hereof the Borrower may waive the disbursement of undisbursed Loan amounts

with the prior consent of KfW against payment of a Non-acceptance Compensation pursuant to and as defined in Article 3.6 hereof.

- 3.6 *Non-acceptance Compensation.* If the Borrower cancels the disbursement of a Loan amount pursuant to Article 3.5 hereof or if such Loan amount is not disbursed at all or is not disbursed by the deadline stated in Article 3.2 hereof for other reasons for which KfW cannot be held accountable, the Borrower will promptly pay to KfW upon its request such amount as is necessary to compensate KfW for any losses, expenses or costs incurred by KfW as a result of the non-acceptance of the cancelled Loan amount ("**Non-acceptance Compensation**"). KfW will calculate the amount of the Non-acceptance Compensation and communicate it to the Borrower.

4. Fees

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

The Commitment Fee is due for payment semi-annually in arrears on 30 June and 30 December of each year, for the first time on 30 December 2017, but no earlier than on the respective date following the day on which this Agreement enters into force and effect pursuant to Article 14.10 hereof.

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

- 4.2 *Management Fee.* The Borrower will pay KfW a non-refundable one-time lump-sum management fee of 0.5% of the Loan amount stated in Article 1.1 hereof ("Management Fee").

The Management Fee is payable on the earliest of the following two dates: (i) before the first disbursement or (ii) after three months have elapsed since the signing of this Agreement by KfW or after one month has elapsed since the entry into force and effect of this Agreement (whichever of the dates stated under (ii) occurs later). Once this Agreement has been signed and has entered into force and effect, the Management Fee shall fully accrue regardless of whether the Loan is disbursed in full, or at all.

5. Interest

The Borrower will pay interest to KfW as follows:

5.1 *Interest (Fixed Interest Rate set upon commitment of the Loan.)* The Borrower will pay interest on the Loan at a rate of _____% p. a. ("**Fixed Interest Rate**") until the last repayment instalment has been received in accordance with the repayment schedule set out in Article 6.1 hereof.

5.2 *Interest calculation.* Interest on a disbursed Loan amount will be charged from the date (exclusively) on which the respective Loan amount is disbursed from the Loan account held with KfW for the Borrower until the date (inclusively) on which the respective repayments are credited to KfW's account specified in Article 7.3 hereof. Interest will be calculated in accordance with Article 5.1 hereof.

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

- a) prior to the due date of the first repayment instalment, on 30 June and 30 December of each year, for the first time on 30.12.2020; but no earlier than on the Payment Date following the day on which this Agreement enters into force and effect pursuant to Article 14.10 hereof;
- b) on the due date of the first repayment instalment pursuant to Article 6.1 hereof together with such instalment;
- c) thereafter on the due dates of the repayment instalments pursuant to Article 6.1 hereof.

6. Repayment and prepayment

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

Instalment	Date		Amount	
1	December 30,	2020	1,371,428.57	EUR
2	June 30,	2021	1,371,428.57	EUR
3	December 30,	2021	1,371,428.57	EUR
4	June 30,	2022	1,371,428.57	EUR

5	December 30,	2022	1,371,428.57	EUR
6	June 30,	2023	1,371,428.57	EUR
7	December 30,	2023	1,371,428.57	EUR
8	June 30,	2024	1,371,428.57	EUR
9	December 30,	2024	1,371,428.57	EUR
10	June 30,	2025	1,371,428.57	EUR
11	December 30,	2025	1,371,428.57	EUR
12	June 30,	2026	1,371,428.57	EUR
13	December 30,	2026	1,371,428.57	EUR
14	June 30,	2027	1,371,428.57	EUR
15	December 30,	2027	1,371,428.57	EUR
16	June 30,	2028	1,371,428.57	EUR
17	December 30,	2028	1,371,428.57	EUR
18	June 30,	2029	1,371,428.57	EUR
19	December 30,	2029	1,371,428.57	EUR
20	June 30,	2030	1,371,428.57	EUR
21	December 30,	2030	1,371,428.60	EUR

6.2 *Undisbursed Loan amounts.* Undisbursed Loan amounts will be offset against the respective last repayment instalment due pursuant to the repayment schedule set forth in Article 6.1 hereof unless KfW at its own discretion chooses another offsetting alternative in individual cases.

6.3 *Repayments in case of incomplete disbursement.* If a repayment instalment is due before the Loan has been disbursed in full, this will not affect the repayment schedule pursuant to Article 6.1 hereof as long as the repayment instalment due under the repayment schedule is lower than the Loan amount disbursed and not yet repaid ("**Outstanding Loan Amount**"). If the repayment instalment due in accordance with Article 6.1 hereof exceeds the Outstanding Loan Amount, such repayment instalment will be reduced to the level of the Outstanding Loan Amount and the difference will be allocated evenly to the repayment instalments still outstanding. In computing the Outstanding Loan Amount KfW reserves the right to consider disbursements from the Loan that are made within a period of 45 or fewer days before a Payment Date to determine the Outstanding Loan Amount only for the next ensuing Payment Date.

6.4 ***Prepayment.*** The following will apply to prepayments:

- a) *Right to prepayment.* Subject to the following paragraphs 6.4 b) to 6.4 e) hereof, the Borrower has the right to repay Loan amounts before the scheduled due

date if this prepayment is at least in the amount of a repayment instalment pursuant to Article 6.1 hereof.

- b) *Notification.* Prepayment of a Loan amount pursuant to Article 6.4 a) hereof is subject to notification of the prepayment by the Borrower to KfW no later than on the fifteenth **Banking Day** (as defined in Article 14.10 hereof) prior to the intended prepayment date. Such notice is irrevocable; it must specify the date and the amount of the prepayment and obligates the Borrower to pay to KfW the stated amount on the stated date.
- c) *Prepayment Compensation.* If the Borrower prepays a fixed interest Loan amount, the Borrower will immediately pay to KfW on demand such amount as is necessary to compensate for any losses, expenses or costs incurred by KfW as a result of such prepayment. KfW will determine the amount of the Prepayment Compensation and communicate it to the Borrower. At the request of the Borrower KfW will provide the Borrower with an indication of the amount of the prepayment fee prior to the required irrevocable notification of the repayment pursuant to Article 6.4 b) hereof.
- d) *Amounts due.* Together with the prepayment pursuant to Article 6.4 a) hereof, the Borrower will pay the following amounts:
 - (i) any Prepayment Compensation due as a result of the prepayment pursuant to Article 6.4 c) hereof; and
 - (ii) all interest accrued on the prepaid Loan amount and any other payments still outstanding under this Agreement that have accrued until the date of the prepayment.
- e) *Offsetting.* Article 6.3 hereof will apply *mutatis mutandis* to the offsetting of prepayments.

6.5 *Revised repayment schedule.* In the event that Article 6.3 or Article 6.4 hereof applies, KfW will send the Borrower a revised repayment schedule that will become an integral part of this Agreement and will replace the repayment schedule valid until such time.

7. Calculations and payments in general

- 7.1 *Calculation.* Interest, the Commitment Fee, default interest pursuant to Article 7.5 hereof, lump-sum compensation payments for overdue amounts pursuant to Article 7.6 hereof, Non-acceptance Compensation and Prepayment Compensation will be calculated on the basis of a 360-day year with thirty day months.
- 7.2 *Due date.* If a payment to be made in connection with this Agreement falls due on a date that is not a Banking Day (as defined in Article 14.1 hereof) the Borrower must make such payment on the following Banking Day. If the following Banking Day falls within the next calendar month, such payment must be made on the last Banking Day of the current calendar month.
- 7.3 *Account number, time of crediting.* The Borrower will be released from its payment obligations in connection with this Agreement if and to the extent that the respective amounts have been credited to KfW at its free disposal without any deductions in euros and no later than at 10.00 a.m. in Frankfurt am Main, Federal Republic of Germany, to KfW's account in Frankfurt am Main, Federal Republic of Germany, IBAN DE76500204003121990247, stating the due date as an additional reference "Ref. YYYYMMDD").
- 7.4 *Counterclaims of the Borrower.* The Borrower is not entitled to assert any rights of retention or set-off or comparable rights against payment obligations under this Agreement unless such rights are recognised by declaratory judgment or are not being contested by KfW.
- 7.5 *Default interest.* If any repayment instalments or prepayments pursuant to Article 7.3 hereof are not at the disposal of KfW when due, KfW may without prior reminder charge default interest at the rate of 200 basis points above the interest rate *per annum* set out in Article 6.4 hereof for the period beginning on the due date and ending on the date on which such payments are credited to the account of KfW specified in Article 5.1 hereof. Such default interest must be paid immediately upon KfW's first demand.
- 7.6 *Lump-sum compensation.* KfW may without prior reminder request lump-sum compensation on overdue amounts (with the exception of the repayment instalments and prepayments mentioned in Article 7.5 hereof) from the due date until the date of payment at a rate of 200 basis points per annum above the Fixed Interest Rate pursuant to Article 5.1 hereof. The lump-sum compensation must be paid immediately upon KfW's first demand. The Borrower is free to demonstrate that no

damages have occurred or that the damages were less than the lump-sum compensation.

- 7.7 *Offsetting.* KfW has the right to offset payments received against payments due under this Agreement or under other loan agreements concluded between KfW and the Borrower.
- 7.8 *Calculations made by KfW.* Absent manifest errors, the values calculated by KfW and calculations performed by KfW of amounts due in connection with this Loan Agreement constitute *prima-facie* evidence (*Anscheinsbeweis*).

8. Guarantee from the Federal Republic of Germany

KfW will have payment claims under this Agreement guaranteed by the Federal Republic of Germany prior to the first disbursement.

9. Costs and public charges

- 9.1 *No deductions or withholdings.* The Borrower will make all payments under this Agreement without any deductions for taxes, other public charges or other costs. In the event that the Borrower is obligated by law or for other reasons to make any such deductions or withholdings on payments, the payments made by the Borrower will increase by such amount as necessary for KfW to receive in full the amounts due under this Agreement after deduction of taxes and charges.
- 9.2 *Costs.* The Borrower will bear all costs and expenses accruing in connection with the disbursement and repayment of the Loan, in particular remittance and transfer costs (including conversion fees), as well as all costs and expenses accruing in connection with the maintenance or enforcement of this Agreement and of any other document related to this Agreement as well as of all rights resulting therefrom.
- 9.3 *Taxes and other charges.* The Borrower will bear all taxes and other public charges accruing outside the Federal Republic of Germany in connection with the conclusion and execution of this Agreement. If KfW advances such taxes or charges, the

Borrower will transfer them without delay upon request to KfW's account as specified in Article 6.3 hereof or to such other account as specified by KfW.

10. Special obligations

10.1 *Project implementation and special information.* The Borrower shall ensure that the Project-Executing Agency and the Municipalities

- a) will prepare and implement the Project in conformity with sound financial and technical practices and substantially in accordance with the Project conception agreed upon between the Borrower, the Project-Executing Agency and KfW;
- b) will assign the preparation and supervision of construction of the Project to independent, qualified consulting engineers or consultants, and the implementation of the Project to qualified firms;
- c) will award the contracts for the goods and services to be financed from the Loan upon prior international competitive bidding. Notwithstanding the foregoing, any contract for goods and services with a value of under EUR 100,000.00 (in words: one hundred thousand Euro) may be awarded directly;
- d) will keep books and records or have books and records kept that unequivocally show all costs of goods and services required for the Project and clearly identify the goods and services financed from this Loan;
- e) will enable KfW and its agents at any time to inspect such books and records and any and all other documentation relevant to the implementation and operation of the Project, and to visit the Project and all the installations related thereto;
- f) will furnish to KfW any and all such information and records on the Project and its further progress as KfW may request; and
- g) will, immediately and on its own initiative, notify KfW of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Project.

10.2 *Special obligations of the Borrower.* The Borrower

- a) will ensure the full financing of the Project and furnish to KfW upon its request evidence proving that the costs not paid from this Loan are covered;
- b) will provide, in accordance with the Law on Value Added Tax, that the supplies and services financed from the Loan will be exempted from value added tax in Montenegro;
- c) will, immediately and on its own initiative,
 - aa) forward to KfW any queries received by the Borrower from the OECD or its members under the so-called "Agreement for Untied ODA Credits Transparency" following the award of the contracts for the supplies and services to be financed from the Loan and will coordinate the reply to any such queries with KfW, and
 - bb) notify KfW of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Project;
- d) will assist the Project-Executing Agency and the Municipalities in conformity with sound engineering and financial practices in the implementation of the Project and, in particular, grant the Project-Executing Agency and the Municipalities any and all applicable permissions necessary for the implementation of the Project.

10.3 *Separate Agreement.* The Borrower, the Project-Executing Agency and KfW will determine the details pertaining to Article 10.1 hereof by the Separate Agreement.

10.4 *Compliance.* The Borrower will ensure itself and will ensure that the Project-Executing Agency and the Municipalities will ensure that the persons entrusted with preparing and implementing of the Project, awarding contracts for the supplies and services to be financed, and requesting the Loan amounts do not demand, accept, make, grant, promise or accept the promise of unlawful payments or other advantages in connection with these tasks.

10.5 *Money laundering.* The Borrower shall ensure that the Project-Executing Agency and the Municipalities will promptly make available to KfW on demand all information and documents which KfW requires to fulfil its obligations to prevent money laundering and terrorism financing as well as for the continuous monitoring of its business relationship with the Borrower, the Project-Executing Agency and the Municipalities which is necessary for this purpose.

By entering into and implementing this Agreement the Borrower shall ensure that the Project-Executing Agency and the Municipalities act in their own name and for their own account. With regard to German law or the law of the country of incorporation of the Borrower, the Borrower shall ensure that

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

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

10.7 *Sale of assets.* The Borrower will ensure that the Municipalities will not sell any Project assets without KfW's prior consent until the full repayment of the Loan.

11. Termination of the Agreement

11.1 *Reasons for termination.* KfW may exercise the rights set out in Article 11.2 hereof (Legal consequences of the occurrence of a cause for termination) if a circumstance arises that constitutes good cause (*Wichtiger Grund*). These include, in particular, the following circumstances:

- a) the Borrower to perform payment obligations to KfW when due;
- b) obligations under this Agreement or under the Separate Agreement as well as any other legally binding additional agreements to this Agreement are violated by the Borrower and/or the Project-Executing Agency;
- c) this Agreement or any part thereof no longer has a binding effect upon the Borrower or can no longer be enforced against the Borrower;
- d) any declaration, confirmation, information, representation or warranty considered by KfW to be essential for the granting and maintaining of the Loan proves to be false, misleading or incomplete;
- e) other extraordinary circumstances occur which delay or preclude the performance of obligations under this Agreement;
- f) the Borrower is unable to prove that the Loan amounts have been used for the stipulated purpose;
- g) the Borrower discontinues its payments to creditors, is insolvent or commences negotiations with one or more of the Borrower's creditors on a moratorium, waiver of debts outstanding, deferment of payments or discontinuation of the debt service.

11.2 *Legal consequences of the occurrence of a cause for termination.* If one of the events mentioned in Article 11.1 hereof has occurred, KfW may immediately suspend disbursements under this Agreement. If this event is not resolved within a period of five days (in the case of Article 11.1 a) hereof) or in all other cases of Article 11.1 hereof within a period determined by KfW which, however, shall be at least 30 days, KfW may cancel this Agreement in whole or in part with the consequence that its obligations under this Agreement cease and KfW may demand the immediate repayment of all or part of the Outstanding Loan Amount together

with the interest accrued and the remaining amounts owed under this Agreement. Articles 7.5 and 7.6 hereof apply to accelerated amounts *mutatis mutandis*.

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

12. Representation and statements

- 12.1 *Representation of the Borrower and of the Project-Executing Agency.* The Minister of Finance and such persons as designated by him or her to KfW and authorised by specimen signatures authenticated by him or her will represent the Borrower in the execution of this Agreement. The Ministry of Sustainable Development and Tourism and such persons as designated by him or her to KfW and authorised by specimen signatures authenticated by him or her will represent the Borrower in the implementation of this Agreement. The Executive Director of Vodacom and such persons as designated by him or her to KfW and authorized by specimen signatures authenticated by him or her shall represent the Project Executing Agency in the implementation of this Agreement. The powers of representation will not expire until their express revocation by the representative of the Borrower or Project-Executing Agency authorised at such time has been received by KfW.

- 12.2 *Addresses. Declarations or notifications in connection with this Agreement must be in writing. They must be sent as originals or – with the exception of requests for disbursement - via facsimile. Any and all declarations or notifications made in connection with this Agreement must be sent to the following addresses:*

For KfW:

KfW
Attn.:LEa4
Postfach 11 11 41
60046 Frankfurt am Main / Germany
Germany
Fax: +49 69 7431-2944

For the Borrower:

Ministry of Finance
Stanka Dragojevic br. 2
81000 Podgorica
Montenegro
Fax: +381 81 224-450

13. Publication and transfer of project-related information

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

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

The publication of information (either by KfW or third parties in accordance with Article 13.3 below) about the Project and how it is financed does not include any contractual documentation or any sensitive financial or business-related detailed information about the parties involved in the Project or its financing, such as

- a) information about internal financial data;
- b) business strategies;
- c) internal corporate guidelines and reports;
- d) personal data of natural persons;
- e) KfW's internal rating of the parties' financial position.

- 13.2 *Transfer of project-related information to third parties.* KfW shares selected information about the Project and how it is financed during the Entire Period with the entities mentioned below, particularly to ensure transparency and efficiency:

- a) subsidiaries of KfW;
- b) the Federal Republic of Germany and its competent bodies, authorities, institutions, agencies or entities;
- c) other implementing organisations involved in German bilateral development cooperation, particularly the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH;

- d) international organisations involved in collecting statistical data and their members, especially the Organisation for Economic Cooperation and Development (OECD) and its members.

13.3 *Transfer of project-related information to third parties and publication by these.* Furthermore, the Federal Republic of Germany has requested KfW to share selected information about the Project and how it is financed throughout the Entire Period with the following entities, which publish the sections relevant to the purpose:

- a) Federal Republic of Germany for the purposes of the International Aid Transparency Initiative
(http://www.bmz.de/de/was_wir_machen/wege/transparenz-fuer-mehr-Wirksamkeit/index.html);
- b) Germany Trade & Invest (GTAI) for the purposes of market information
(<http://www.gtai.de/GTAI/Navigation/DE/trade.FOO>)
- c) OECD for the purpose of reporting financial flows in the framework of development cooperation (<http://stats.oecd.org/>);

German Institute for Development Evaluation (DEval) for the purposes of evaluating the overall German development cooperation to ensure transparency and efficiency (<http://www.deval.org/de/>). *Transfer of project-related information to other third parties (including publication by these).* KfW further reserves the right to transfer (including for the purposes of publication) information about the Project and how it is financed during the Entire Period to other third parties so as to safeguard legitimate interests.

The information is not transferred by KfW to other third parties if the legitimate interests of the Borrower in the information not being transferred outweigh KfW's interests in it being transferred. The legitimate interests of the Borrower particularly include the confidentiality of the sensitive information mentioned in Article 13.1, which is excluded from publication.

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

14. General provisions

- 14.1 *Banking day.* Where reference is made in this Agreement to a "Banking Day" this means a day other than a Saturday or Sunday on which commercial banks in Frankfurt am Main, Federal Republic of Germany, are open for general business.
- 14.2 *Place of performance.* The place of performance for all obligations under this Agreement is Frankfurt am Main, Federal Republic of Germany.
- 14.3 *Partial invalidity and gaps.* If any provision of this Agreement is or becomes invalid, or if there is a gap in any of the provisions of this Agreement, this will not affect the validity of the remaining provisions hereof. The parties to this Loan Agreement will replace any invalid provision by a legally valid one which comes as close as possible to the spirit and purpose of the invalid provision. The parties will fill any gap in the provisions with a legally valid provision which comes as close as possible to the spirit and purpose of this Agreement.
- 14.4 *Written form.* Any addenda and amendments to this Agreement must be in writing. The parties may waive the written form requirement only in writing.
- 14.5 *Assignment.* The Borrower may not assign or transfer, pledge or mortgage any claims from this Loan Agreement.
- 14.6 *Applicable law.* This Loan Agreement is governed by German law.
- 14.7 *Limitation period.* All claims of KfW under this Agreement expire after five years from the end of the year in which such claim has arisen and in which KfW has become aware of the circumstances constituting such claim or could have become aware of them without gross negligence.
- 14.8 *Waiver of immunity.* If and to the extent that the Borrower may now or in future in any jurisdiction claim immunity for itself or its assets and to the extent that a jurisdiction grants immunity to the Borrower and its assets from suit, execution, attachment or other legal process the Borrower irrevocably agrees to waive such immunity for claims from and in connection with this Loan Agreement to the fullest extent permitted by the laws of such jurisdiction. The Borrower does not waive any immunity in respect of any present or future (i) property for administrative purposes

of government, (ii) "premises of the mission" as defined in the Vienna Convention on Diplomatic Relations signed in 1961, (iii) "consular premises" as defined in the Vienna Convention on Consular Relations signed in 1963 or (iv) military property or military assets.

14.9 *Legal disputes.*

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

aa) The arbitration tribunal will consist of one or three arbitrators who will be appointed and will act in accordance with the Arbitration Rules of the International Chamber of Commerce (ICC) applicable from time to time.

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

b) *Jurisdiction.* In addition, KfW has the right to institute legal proceedings in the courts of general jurisdiction (*ordentliche Gerichte*) in Frankfurt am Main or in any other court of competent jurisdiction, unless the matter in dispute is already the subject of an arbitration proceeding between the parties. The Borrower irrevocably submits to the jurisdiction of any such court.

14.10 *Entry into force and effect.* This Agreement shall not enter into force until the Borrower has informed KfW in writing that the Budget Law for 2016, which provides for signing of this Loan Agreement, has been passed and published in the Official Gazette of Montenegro. If KfW does not receive this notice until 31 March 2016, KfW may at any time unilaterally cancel the Loan Agreement.

This Loan Agreement is executed in two originals in English.

Signed in _____,

on 2015

KfW

Name:

Title

Name:

Title:

Signed in _____

on 2015

Montenegro, represented by the Ministry of Finance

Name:

Title

Disbursement Schedule

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

Period	until...	Maximum total amount that may be disbursed until end of each disbursement period (accumulated)
		(all figures in EUR)
1	30.12.2015	0,00
2	30.06.2016	1,500,000.00
3	30.12.2016	3,000,000.00
4	30.06.2017	5,800,000.00
5	30.12.2017	10,000,000.00
6	30.06.2018	14,400,000.00
7	30.12.2018	18,800,000.00
8	30.06.2019	23,100,000.00
9	30.12.2019	28,800,000.00

Form of Legal Opinion of the Legal Adviser to the Borrower (State)

[Letterhead of Legal Adviser]

KfW (date)
Department []
Attn: []
Palmengartenstrasse 5 - 9
Postfach 11 11 41
60325 Frankfurt am Main / Germany
Federal Republic of Germany

Loan Agreement dated . . . 2015 and made between KfW and Montenegro("Borrower") for an amount not exceeding in aggregate EUR 28,800,000.00 (in words: thirty million Euro)

Dear Sirs,

I am [Minister of Justice of] [legal adviser to] [head of the legal department of the
(*please specify ministry or other authority*) of] Montenegro.I have acted in that capacity in connection with a Loan Agreement (the "**Loan Agreement**"), dated . . 2015, and made between the Borrower and yourselves with respect to a loan to be granted by yourselves to the Borrower in an amount not exceeding in aggregate EUR 28,800,000.00 (in words thirty million Euro).

1. Documents examined

I have examined:

1.1 an authentic signed original of the Loan Agreement;

1.2 the constitutional documents of the Borrower, in particular:

- (a) the Constitution of Montenegro, dated, duly published in, No., page., as amended;
- (b) Law(s) No dated, duly published in, No., page., as amended [*please insert here, if existing, laws (e.g. budget laws) concerning the borrowing of money by Montenegro*];
- (c) [*please refer here to other documents, e.g. decrees or resolutions by governmental or administrative bodies of Montenegro relating to the conclusion of loan agreements by Montenegro in general or with regard to the conclusion of the Loan Agreement*]; and
- (d) the Financial Cooperation Agreement between the Government of the Montenegro and the Government of the Federal Republic of Germany dated(the “Cooperation Agreement”)

and such other laws, regulations, certificates, records, registrations and documents as I have deemed necessary or desirable to examine. In addition, I have made such investigations as I have deemed necessary or desirable for the purpose of giving this opinion.

2. **Opinion**

For the purposes of Articleof the Loan Agreement, I am of the opinion that under the laws of Montenegro at the date hereof:

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

- (a) Law(s) No(s). dated of the parliament of Montenegro, ratifying the Loan Agreement / approving the execution, delivery and performance of the Loan Agreement by the Borrower / [*please insert as appropriate*];

(b) Resolution(s) No(s) dated of the Cabinet of Ministers / of the state loan committee / [please insert governmental or administrative bodies of Montenegro as appropriate];

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

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

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

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

(a) Approval of the [Central Bank/National Bank/.], dated, No.;

(b) Consent of the [Minister / Ministry of], dated, No.; and

(c) [please list any other official authorisations, licenses and/or consents].

No other official authorisations, consents, licenses, registrations and/or approvals of any governmental authority or agency (including the Central / National Bank of Montenegro) or court are required or advisable in connection with the execution and

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

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

- 2.3** *No official authorisations, consents, licenses, registrations and/or approvals of any governmental authority or agency (including the Central / National Bank of Montenegro) or court are required or advisable in connection with the execution and performance of the Loan Agreement by the Borrower (including without limitation the obtaining and transfer to KfW of all amounts due thereunder in the currencies specified therein) and the validity and enforceability of the Borrower's obligations under the Loan Agreement.*
- 2.4** *No stamp tax or similar tax or duty has to be paid in connection with the validity or enforceability of the Loan Agreement.*
- 2.5** *The choice of German law to govern the Loan Agreement and the submission to arbitration in accordance with Article 14.9 of the Loan Agreement are valid and binding. Arbitration awards against the Borrower will be recognised and enforceable in Montenegro according to the following rules: [please insert applicable treaty (if any), e.g. the 1958 New York Convention, and/or the basic principles regarding recognition and enforcement of arbitration awards in Montenegro].*
- 2.6** *The courts of Montenegro are at liberty to give judgment denominated in the currency or currencies specified in the Loan Agreement.*
- 2.7** *The borrowing by the Borrower under the Loan Agreement and the execution and performance by the Borrower of the Loan Agreement constitute private and commercial acts and not governmental or public acts. Neither the Borrower nor any of its property has any right of immunity from arbitration, suit, execution, attachment or other legal process.*

2.8 *The Cooperation Agreement is in full force and effect under the constitution and laws of Montenegro. [Pursuant to Article 3 of the Cooperation Agreement] [If the Cooperation Agreement has not entered into force but a double-taxation agreement does exist] Pursuant to the [please specify treaty or applicable laws and regulations] / the Borrower will not be required to make any deduction or withholding from any payment the Borrower has to make under the Loan Agreement and should any such deduction or withholding be subsequently imposed, the provisions of Article 10.1 of the Loan Agreement shall operate so as to require the Borrower to indemnify KfW accordingly.*

2.9 *KfW is not and will not be deemed to be resident, domiciled, carrying on business or be subject to taxation in Montenegro by reason only of the execution, performance or enforcement of the Loan Agreement. It is not necessary or advisable that KfW be licensed, qualified or otherwise entitled to carry on business or that KfW appoints agents or representatives in Montenegro.*

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

This legal opinion is limited to the laws of Montenegro.

.....
(place) (date)

[Signature]

Name:

Enclosures:

Note: Please attach certified photocopies of the documents and legal provisions referred to above under Section 1.2(a) through 1.2(c) and Sections 2.1 through 2.3 and 2.8 (with respect to lengthy laws or the Constitution of Montenegro, a copy of the relevant provisions would be sufficient) and also provide KfW with a certified English or German translation of each of the above documents if such document is not issued in English or German as an official language.

Financing Agreement

dated _____

between

KfW, Frankfurt am Main

("KfW")

and

Montenegro,

represented by the Ministry of Finance

("Recipient")

and

Vodacom d.o.o, Tivat

("Project-Executing Agency")

for

EUR 2,000,000.00

**Accompanying Measures for the
Water Supply and Sanitation Programme Adriatic Coast V -
Component 2 (BMZ 2015 701 34)**

On the basis of the exchange of verbal notes dated 21.04.2015 and _____ between the Government of the Federal Republic of Germany and the Government of Montenegro on Financial Cooperation ("Government Agreement"), the Recipient, the Project-Executing Agency and KfW hereby enter into the following Financing and Project Agreement:

Article 1

Amount and Purpose of the Financial Contribution

1.1 KfW shall extend to the Recipient a financial contribution not exceeding

EUR 2,000,000.00.

This financial contribution shall not be repayable unless otherwise stipulated in Article 4.2.

1.2 The Recipient shall channel the financial contribution in full to the Project-Executing Agency in accordance with the conditions set forth in Article 2. The Project-Executing Agency shall use the financial contribution exclusively for institutional support as well as for training and instruction measures and adequate organizational structures to ensure a sustainable operation of the wastewater treatment plants ("Expert Services"). The Project-Executing Agency and KfW shall determine the details and the scope of the Expert Services and the goods and services to be financed from the financial contribution by a separate agreement.

1.3 The Project-Executing Agency and KfW shall determine in detail the counterpart contributions to be rendered by the Project-Executing Agency in a separate agreement. The Project-Executing Agency shall render its counterpart contributions completely and in due time. The Project-Executing Agency shall furnish to KfW upon request evidence proving the measures taken to this end.

1.4 Taxes and other public charges to be borne by the Recipient or the Project-Executing Agency and import duties shall not be financed from the financial contribution.

Article 2

Channelling of the Financial Contribution to the Project-Executing Agency

2.1 The Recipient shall channel the financial contribution to the Project-Executing Agency as a non-repayable grant under a separate financing agreement.

2.2 Prior to the first disbursement from the financial contribution, the Recipient shall furnish to KfW a copy and a certified translation of the agreement referred to in Article 2.1.

2.3 The channelling of the financial contribution shall not constitute any liability of the Project-Executing Agency to KfW for payment obligations under this Agreement.

Article 3

Disbursement

- 3.1 KfW shall disburse the financial contribution in accordance with the progress of the Expert Services and upon request of the Project-Executing Agency. By a separate agreement, the Project-Executing Agency and KfW shall determine the disbursement procedure, in particular the evidence proving that the disbursed funds are used for the stipulated purpose.
- 3.2 KfW shall have the right to refuse to make disbursements after 31 December 2020.

Article 4

Suspension of Disbursements and Repayment

- 4.1 KfW may not suspend disbursements unless
- a) the Recipient fails to perform its obligations to KfW to make payments when due,
 - b) obligations under this Agreement or under separate agreements pertinent to this Agreement have been violated,
 - c) the Project-Executing Agency is unable to prove that the financial contribution has been used for the stipulated purpose, or
 - d) extraordinary circumstances arise that preclude or seriously jeopardize the implementation, the operation, or the purpose of the Expert Services.
- 4.2 KfW may demand the immediate repayment of the financial contribution if any of the situations specified in Article 4.1 b) and c) has occurred and has not been eliminated within a period determined by KfW, which shall, however, be at least 30 days. In the case specified in Article 4.1 c), repayment shall be limited to such amounts as the Recipient is unable to prove to have been used for the stipulated purpose.

Article 5

Costs and Public Charges

The Recipient shall bear all taxes and other public charges accruing outside the Federal Republic of Germany in connection with the conclusion and execution of this Agreement, as well as all transfer and conversion costs accruing in connection with the disbursement of the financial contribution.

Article 6

Contractual Statements and Power of representation

6.1 The Minister of Finance and such persons as designated by him or her to KfW and authorised by specimen signatures authenticated by him or her shall represent the Recipient in the execution of this Agreement. The Executive Director of the Project-Executing Agency and such persons as designated by him or her to KfW and authorised by specimen signatures authenticated by him or her shall represent the Project-Executing Agency in the execution of this Agreement. The powers of representation shall not expire until their express revocation by the representative authorised at the time has been received by KfW.

6.2 Amendments or addenda to this Agreement and any notices and statements delivered by the contracting parties under this Agreement shall be in writing. Any such notice or statement shall have been received once it has arrived at the following address of the corresponding contracting party or at such other address of the corresponding contracting party as notified to the other contracting party:

For KfW:	KfW, Department LEa Postfach 11 11 41 60046 Frankfurt am Main Federal Republic of Germany Fax: +49 69 7431-2944
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For the Recipient:	Ministry of Finance Stanka Dragojevic br. 2 81000 Podgorica Montenegro Fax: +381 81 224-450
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For the Project-Executing Agency:	Vodacom d.o.o. Luke Tomanovica 85320 Tivat Montenegro Fax: +382 32 672 782
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6.3 Amendments of this Agreement that affect only the legal relations between KfW and the Recipient shall not require the consent of the Project-Executing Agency.

Article 7

The Expert Services

7.1 The Project-Executing Agency

- a) shall prepare, implement and monitor the Expert Services in accordance with sound financial and engineering practices and substantially in accordance with the conception agreed upon between the Project-Executing Agency and KfW for the Expert Services, and to this end shall avail itself of the services of independent, qualified consulting firms;

- b) shall ensure the full financing of the Expert Services and furnish to KfW upon request evidence proving that all costs not to be paid from the financial contribution are covered;
- c) shall maintain, or cause to be maintained, books and records unequivocally showing all costs incurred in connection with the Expert Services and clearly identifying the goods and services financed from the financial contribution;
- e) shall enable the representatives of KfW at any time to inspect said books and records and any and all other documents relevant to the execution of the Expert Services, f) shall furnish to KfW any and all such information and reports on the Expert Services and on their further progress as KfW may request, and
- g) of its own accord promptly inform KfW of any and all circumstances that preclude or seriously jeopardize the execution of the Expert Services or their purpose.

7.2 The Project-Executing Agency and KfW shall determine the details pertinent to Article 7.1 by a separate agreement.

7.3 The Recipient shall assist the Project-Executing Agency in conformity with sound financial practices in the implementation of the Project and in the performance of the Project-Executing Agency's obligations under this Agreement and, in particular, grant the Project-Executing Agency all applicable permissions necessary for the implementation of the Project.

7.4 The Recipient will provide, in accordance with the Law on Value Added Tax, that the goods and services financed from the financial contribution will be exempted from value added tax in Montenegro.

Article 8

Publication and transfer of expert-services-related information

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

The information is published regularly on KfW's website for its business area "KfW Development Bank" (<http://transparenz.kfw-entwicklungsbank.de/>).

The publication of information (either by KfW or third parties in accordance with Article 8.3 below) about the Expert Services and how they are financed does not include any contractual documentation or any sensitive financial or business-related detailed information about the parties involved in the Project or its financing, such as

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

- c) OECD for the purpose of reporting financial flows in the framework of development cooperation (<http://stats.oecd.org/>);
 - d) German Institute for Development Evaluation (DEval) for the purposes of evaluating the overall German development cooperation to ensure transparency and efficiency (<http://www.deval.org/de/>).
- 8.4 KfW further reserves the right to transfer (including for the purposes of publication) information about the Expert Services and how they are financed during the Entire Period to other third parties so as to safeguard legitimate interests.

The information is not transferred by KfW to other third parties if the legitimate interests of the Recipient and the Project Executing Agency in the information not being transferred outweigh KfW's interests in it being transferred. The legitimate interests of the Recipient and the Project Executing Agency particularly include the confidentiality of the sensitive information mentioned in Article 8.1, which is excluded from publication.

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

Article 9

Miscellaneous Provisions

- 9.1 The Recipient and the Project-Executing Agency shall ensure that the persons charged by the same with the preparation and implementation of the Expert Services, the award of any contract for the Expert Services to be financed and with requesting disbursements of financial contribution amounts do not demand, assume, render, grant, promise or obtain a promise of unlawful payments or other advantages in connection with these tasks.
- 9.2 The Project-Executing Agency shall promptly make available to KfW on demand all information and documents which KfW requires to fulfil its obligations to prevent money laundering and terrorism financing as well as for the continuous monitoring of the business relationship with the Project-Executing Agency, which is necessary for this purpose.
- In entering into and implementing this Agreement the Project-Executing Agency acts in its own name and for its own account. With regard to German law or the law of the country of incorporation of the Project-Executing Agency
- j) the Project-Executing Agency's own resources or the amounts invested in the financing of the Project will not be of illicit origins and, in particular, this list being non-exhaustive, will not be linked to drug trafficking, corruption, organised criminal activity or terrorism;
 - k) the shareholder capital of the Project-Executing Agency will not at any time be of illicit origins and, in particular, this list being non-exhaustive, will not at any time be related to drug trafficking, corruption, organised crime or terrorism;

- l) the Project-Executing Agency will not be engaged in the acquisition, possession or use of property that is of illicit origins and, in particular, this list being non-exhaustive, will not at any time be related to drug trafficking, corruption, organised crime or terrorism; and
- m) the Project-Executing Agency will not be engaged in financing terrorism.

9.3 If any of the provisions of this Agreement is invalid, all other provisions shall remain unaffected thereby. Any gap resulting therefrom shall be filled by a provision consistent with the purpose of this Agreement.

9.4 The Recipient and the Project-Executing Agency may not assign or transfer, pledge or mortgage any claims from this Agreement.

9.5 This Agreement shall be governed by the law of the Federal Republic of Germany. The place of performance shall be Frankfurt am Main.

9.6 The legal relations established by this Agreement between KfW, the Recipient and the Project-Executing Agency shall terminate six years after the final disbursement.

Done in 3 originals in the English language.

Frankfurt am Main,

_____ 2015

KfW

represented by

Podgorica,

_____ 2015

Montenegro

represented by

Ministry of Finance

represented by

Podgorica,

_____ 2015

Vodacom d.o.o.

represented by