

Klasa: 340-03/10-01/08

Urbroj: 5030105-11-1

Zagreb, 27. siječnja 2011.

PREDSJEDNIKU HRVATSKOGA SABORA

Predmet: Prijedlog zakona o potvrđivanju Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za "Projekt dovršetka koridora Vc", s Konačnim prijedlogom zakona

Na temelju članka 84. Ustava Republike Hrvatske (Narodne novine, br. 56/90, 135/97, 8/98 – pročišćeni tekst, 113/2000, 124/2000 – pročišćeni tekst, 28/2001, 41/2001 – pročišćeni tekst, 55/2001 – ispravak, 76/2010 i 85/2010 – pročišćeni tekst) i članaka 129. i 159. Poslovnika Hrvatskoga sabora (Narodne novine, br. 71/2000, 129/2000, 117/2001, 6/2002 – pročišćeni tekst, 41/2002, 91/2003, 58/2004, 69/2007, 39/2008 i 86/2008), Vlada Republike Hrvatske podnosi Prijedlog zakona o potvrđivanju Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za "Projekt dovršetka koridora Vc", s Konačnim prijedlogom zakona za hitni postupak.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila Božidara Kalmetu, ministra mora, prometa i infrastrukture, Željka Tufekčića, mr. sc. Danijela Miletu, Tomislava Mihotića i Ivicu Perovića, državne tajnike u Ministarstvu mora, prometa i infrastrukture, te mr. sc. Katarinu Čop Bajde, ravnateljicu u Ministarstvu mora, prometa i infrastrukture.

PREDSJEDNICA

Jadranka Kosor, dipl. iur.

**PRIJEDLOG ZAKONA O POTVRĐIVANJU UGOVORA O JAMSTVU
IZMEĐU REPUBLIKE HRVATSKE I EUROPSKE BANKE ZA
OBNOVU I RAZVOJ ZA "PROJEKT DOVRŠETKA KORIDORA Vc",
S KONAČNIM PRIJEDLOGOM ZAKONA**

PRIJEDLOG ZAKONA O POTVRĐIVANJU UGOVORA O JAMSTVU IZMEĐU REPUBLIKE HRVATSKE I EUROPSKE BANKE ZA OBNOVU I RAZVOJ ZA "PROJEKT DOVRŠETKA KORIDORA Vc"

I. USTAVNA OSNOVA ZA DONOŠENJE ZAKONA

Ustavna osnova za donošenje Zakona o potvrđivanju Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“ sadržana je u odredbi članka 139. stavak 1. Ustava Republike Hrvatske (Narodne novine, br. 56/90, 135/97, 8/98 – pročišćeni tekst, 113/2000, 124/2000 – pročišćeni tekst, 28/2001, 41/2001 – pročišćeni tekst, 55/2001 – ispravak, 76/2010 i 85/2010 – pročišćeni tekst).

II. OCJENA STANJA I CILJ KOJI SE DONOŠENJEM ZAKONA ŽELI POSTIĆI

II.1. Ocjena stanja

II.1.1. O Europskoj banci za obnovu i razvoj

Europska banka za obnovu i razvoj (u daljnjem tekstu: EBRD) je najmlađa međunarodna financijska institucija, osnovana u svibnju 1990. godine kako bi pomogla proces tranzicije država istočne i srednje Europe. EBRD je osnovalo trideset i devet država i dvije institucije - Europska investicijska banka i Europska unija. Danas EBRD broji 63 članice, od čega je 29 država korisnica njenih sredstava. EBRD posluje na komercijalnim načelima poslovanja, međutim Sporazumom o osnivanju EBRD-a se zahtjeva od država korisnica sredstava poštivanje ne samo ekonomskih, nego i određenih političkih principa (kao što je razvoj demokracije i slobodnog tiska, nezavisnost sudstva, višestranačje itd.). Najveći pojedinačni dioničar EBRD-a je SAD (2,1 mlrd. EUR), dok pet država – Francuska, Njemačka, Italija, Japan i Velika Britanija imaju svaka po 1,8 mlrd. EUR kapitala u EBRD-u. Sukladno kapitalu podijeljena je i glasačka snaga.

II.1.2. O uspostavljanju institucionalnih odnosa

Međusobni odnosi Republike Hrvatske i EBRD uređeni su Zakonom o prihvaćanju članstva Republike Hrvatske u EBRD-u (Narodne novine, broj 25/1993). Republika Hrvatska je postala punopravnom članicom EBRD-a 15. travnja 1993. godine, a kao dioničar posjeduje 76,6 mil. EUR, odnosno 0,368% glasačke moći. 1. prosinca 1993. godine Republika Hrvatska pristupila je grupaciji država (tzv. Konstituenci) Mađarske, Češke i Slovačke koje su 15. veljače 1993. godine potpisale ugovor o međusobnoj raspodjeli pozicija unutar Ureda Konstituce. Godine 1994. započinju poslovne aktivnosti EBRD-a u Republici Hrvatskoj. Sredinom 1996. godine EBRD je otvorio Ured u Zagrebu, koji od 1. kolovoza 2010. godine vodi gđa. Zsuzsanna Hargitai. Guverner u EBRD-u je po funkciji ministar financija, a zamjenik guvernera državni tajnik nadležan za međunarodne financijske institucije.

Po iznosu do sada odobrenih zajmova Republici Hrvatskoj i pruženoj tehničkoj pomoći, EBRD je jedan od najznačajnijih stranih financijskih izvora. Ukupna vrijednost odobrenih zajmova/ulaganja u Republiku Hrvatsku od 1994. do danas iznosi oko 2,3 mlrd. EUR za više od 100 projekata, čija ukupna vrijednost prelazi 5,7 mlrd. EUR. Prosječna godišnja vrijednost ulaganja sredstava EBRD-a u Republiku Hrvatsku iznosi oko 150 mil. EUR. Od ukupnog broja financiranih projekata prevladavaju projekti u privatnom sektoru. Za financiranje javnih projekata u Republici Hrvatskoj EBRD je odobrila ukupno 19 zajmova, od čega su zaključena 3 izravna zajma državi, u ukupnom iznosu od 54,9 mil. EUR i 16 zajmova uz državno jamstvo, u ukupnom iznosu od 523,5 mil. EUR.

Vlada Republike Hrvatske je Zaključkom od 19. studenoga 2010. godine, klase: 340-03/10-01/8, urbroja: 5030105-10-6 prihvatila Izvješće o vođenim pregovorima za sklapanje Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za «Projekt dovršetka koridora Vc» (dalje u tekstu: Ugovor o jamstvu) i Ugovora o zajmu između Hrvatskih autocesta d.o.o. i Europske banke za obnovu i razvoj za «Projekt dovršetka koridora Vc» (dalje u tekstu: Ugovor o zajmu), u tekstu koji je Vladi Republike Hrvatske dostavilo Ministarstvo mora, prometa i infrastrukture aktom, klase: 441-01/09-01/32, urbroja: 530-12-10-21, od 6. listopada 2010. godine. Ugovori su potpisani 24. studenoga 2010. godine u Zagrebu. Ugovor o jamstvu za Republiku Hrvatsku potpisao je potpredsjednik Vlade Republike Hrvatske i ministar financija g. Ivan Šuker, a za EBRD g. Peter Reiniger, generalni direktor. Ugovor o zajmu za Hrvatske autoceste d.o.o. potpisao je g. Stjepko Boban, predsjednik Uprave, a za EBRD g. Peter Reiniger, generalni direktor.

II.2. Cilj koji se Zakonom želi postići

Zakonom se potvrđuje Ugovor o jamstvu za zajam ugovoren Ugovorom o zajmu.

Ukupni troškovi povezani sa „Projektom dovršetka koridora Vc“ (u daljnjem tekstu: Projekt), koji se sastoji od izgradnje hrvatskog dijela mreže autocesta u dužini od 12,5 km na koridoru Vc, uz sjevernu i južnu granicu s BiH: (1) Sjeverna dionica, 3.5 km – od čvora Sredanci do Svilaja (granica BiH), uključujući most preko rijeke Save; (2) Južna dionica, 9.0 km – od čvora Ploče do granice BiH, uključujući granični prijelaz "Metković" iznose oko 131,5 mil. EUR.

Prema uvjetima ponuđenim od strane EBRD-a Hrvatskim autocestama d.o.o., zajam je odobren na 15 godina, uključujući početak na otplatu glavnice od 3 godine.

Sredstva zajma bit će na raspolaganju za korištenje odmah nakon što Ugovor o jamstvu stupa na snagu. Korištenje sredstava zajma ugovoreno je do 24. studenoga 2013. godine.

OPIS ZAJMA

zajmoprimac:	Hrvatske autoceste d.o.o.
zajmodavac:	Europska banka za obnovu i razvoj
jamac:	Republika Hrvatska

iznos zajma:	60.630.000 EUR
namjena:	financiranje troškova «Projekta dovršetka koridora Vc»
rok otplate:	15 godina uključujući početak od 3 godine
kamata:	varijabilna kamatna stopa, EURIBOR+1%
dospijeca:	polugodišnja, 15. ožujka i 15. rujna svake godine
naknade:	početna naknada iznosi 1% iznosa glavnice zajma naknada na neiskorišteni iznos zajma iznosi 0,5 %
rok korištenja:	24. studenoga 2013. godine

III. OSNOVNA PITANJA KOJA SE PREDLAŽU UREDITI ZAKONOM

Ovim Zakonom potvrđuje se Ugovor o jamstvu kako bi njegove odredbe u smislu članka 140. Ustava Republike Hrvatske (Narodne novine, br. 56/90, 135/97, 8/98 – pročišćeni tekst, 113/2000, 124/2000 – pročišćeni tekst, 28/2001, 41/2001 – pročišćeni tekst, 55/2001 – ispravak, 76/2010 i 85/2010 – pročišćeni tekst) postale dio unutarnjeg pravnog poretka Republike Hrvatske, propisuje se način podmirivanja financijskih obveza koje mogu nastati za Republiku Hrvatsku kao jamca po Ugovoru o jamstvu te nadležnost za provedbu Zakona.

IV. OCJENA SREDSTAVA POTREBNIH ZA PROVEDBU OVOGA ZAKONA

Hrvatske autoceste d.o.o., temeljem Ugovora o zajmu obvezale se kao zajmoprimac redovito i u potpunosti izvršavati sve financijske obveze prema EBRD-u te sve troškove u svezi s provedbom Projekta.

Izvršavanje Ugovora o jamstvu osim potencijalne financijske obveze otplate zajma u svojstvu jamca, u iznosu cjelokupnog zajma, kamata i drugih troškova koji nastaju na temelju Ugovora o zajmu, ne zahtijeva osiguranje dodatnih financijskih sredstava u Državnom proračunu Republike Hrvatske.

V. PRIJEDLOG ZA DONOŠENJE ZAKONA PO HITNOM POSTUPKU

Temelj za donošenje ovoga Zakona po hitnom postupku nalazi se u članku 159. Poslovnika Hrvatskoga sabora (Narodne novine, br. 71/2000, 129/2000, 117/2001, 6/2002 – pročišćeni tekst, 41/2002, 91/2003, 58/2004, 69/2007, 39/2008 i 86/2008) i to u drugim osobito opravdanim državnim razlozima. Naime, s obzirom na razloge navedene u točkama II. i III. ovoga Prijedloga, te činjenicu da je Ugovor o jamstvu značajan mehanizam za omogućavanje i olakšavanje daljnjeg ostvarivanja i provedbe Projekta, cijeni se da postoji interes da Republika Hrvatska što skorije okonča svoj unutarnji pravni postupak, kako bi se stvorile pretpostavke da Ugovor o jamstvu u skladu sa svojim odredbama, u odnosima između Republike Hrvatske i EBRD-a stupi na snagu.

S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojim država i formalno izražava spremnost da bude vezana već potpisanim međunarodnim ugovorom, kao i na činjenicu da se u ovoj fazi postupka u pravilu ne mogu vršiti izmjene ili dopune teksta međunarodnog ugovora, predlaže se da se ovaj Prijedlog zakona raspravi i prihvati po hitnom postupku, objedinjavajući prvo i drugo čitanje.

**KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU UGOVORA O JAMSTVU
IZMEĐU REPUBLIKE HRVATSKE I EUROPSKE BANKE ZA OBNOVU I RAZVOJ
ZA "PROJEKT DOVRŠETKA KORIDORA Vc"**

Članak 1.

Potvrđuje se Ugovor o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“, potpisan u Zagrebu, 24. studenoga 2010. godine, u izvorniku na engleskom jeziku.

Članak 2.

Tekst Ugovora iz članka 1. ovoga Zakona, u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik, glasi:

IZVRŠNA VERZIJA

(Poslovni broj 41325)

UGOVOR O JAMSTVU
(Projekt dovršetka koridora Vc)

između

REPUBLIKE HRVATSKE

i

EUROPSKE BANKE
ZA OBNOVU I RAZVOJ

Datum 24. studenoga 2010.

UGOVOR O JAMSTVU

UGOVOR od 24. studenoga 2010. između **REPUBLIKE HRVATSKE** ("Jamac") i **EUROPSKE BANKE ZA OBNOVU I RAZVOJ** ("Banka").

PREAMBULA

BUDUĆI DA su Jamac i Hrvatske Autoceste d.o.o. ("Zajmoprimac") zatražili pomoć Banke radi financiranja dijela Projekta;

BUDUĆI DA se temeljem Ugovora o zajmu od današnjeg dana između Zajmoprimca i Banke ("Ugovor o zajmu", kako je određen Standardnim uvjetima), Banka suglasila da odobri zajam Zajmoprimcu u iznosu od šezdeset milijuna šesto trideset tisuća eura (60.630.000,00 EUR), u skladu s uvjetima utvrđenima ili na koje upućuje Ugovor o zajmu, ali samo uz uvjet da Jamac jamči za obveze Zajmoprimca iz Ugovora o zajmu kao što je navedeno u ovom Ugovoru; i

BUDUĆI DA se Jamac, s obzirom na to da je Banka sklopila Ugovor o zajmu s Zajmoprimcem, suglasio jamčiti takve obveze Zajmoprimca.

STOGA stranke ovime ugovaraju sljedeće:

ČLANAK I. – STANDARDNI UVJETI; DEFINICIJE

Odjeljak 1.01. Primjena Standardnih uvjeta

Sve odredbe Standardnih uvjeta Banke od 1. listopada 2007. ovime su uključene i primjenjuju se na ovaj Ugovor s istom snagom i učinkom kao da su u cijelosti sadržane u istom (navedene odredbe se u daljnjem tekstu nazivaju "Standardni uvjeti").

Odjeljak 1.02. Definicije

Kada god se koriste u ovom Ugovoru (uključujući Preambulu), osim ako nije drugačije navedeno ili kontekst ne zahtijeva drugačije, izrazi određeni u Preambuli imaju odnosna značenja koja su im u istoj dana, izrazi određeni u Standardnim uvjetima i Ugovoru o zajmu imaju odnosna značenja koja su im dana istima, a sljedeći izraz ima sljedeće značenje:

"Ovlašteni predstavnik
Jamca"

znači ministra financija Jamca.

Odjeljak 1.03. Tumačenje

U ovom se Ugovoru pozivanje na pojedini članak ili odjeljak, osim kada je drugačije utvrđeno ovim Ugovorom, tumači kao pozivanje na taj određeni članak ili odjeljak ovoga Ugovora.

ČLANAK II. - JAMSTVO; OSTALE OBVEZE

Odjeljak 2.01. Jamstvo

Jamac ovime bezuvjetno jamči, kao glavni dužnik a ne samo kao jamac, uredno i pravodobno plaćanje bilo kojih i svih iznosa dospjelih po Ugovoru o zajmu, bilo po utvrđenom dospijeću, po ubrzanju otplate ili na drugi način, te pravodobno izvršavanje svih ostalih obveza Zajmoprimca, kako je navedeno u Ugovoru o zajmu.

Odjeljak 2.02. Dopršetak Projekta

Kada god postoji opravdani razlog za vjerovati da sredstva dostupna Zajmoprimcu neće biti dovoljna da podmire procijenjene izdatke potrebne za provedbu Projekta, Jamac će odmah poduzeti mjere zadovoljavajuće Banci kako bi osigurao Zajmoprimcu, ili organizirao da se Zajmoprimcu osiguraju, takva sredstva koja su potrebna za namirenje takvih izdataka i zahtjeva.

Odjeljak 2.03. Ostale obveze

- (a) Jamac će obešteti Banku za bilo koje gubitke, zahtjeve za naknadu štete, obveze i štete u svezi sa štetom za okoliš koja je posljedica prošlog, sadašnjeg ili budućeg zagađenja koje se može pripisati Projektu, uključujući, bez ograničavanja na, zdravstvene i sigurnosne štetne učinke na zaposlenike ili treće osobe i troškove čišćenja.
- (b) Jamac je dužan osigurati da neće poduzeti nikakvu radnju koja bi spriječila ili ometala provedbu Projekta uključujući izvršenje Zajmoprimčevih obveza iz Odjeljka 3.01 Ugovora o Zajmu.
- (c) Jamac je dužan uložiti najbolje napore da pripremi i potpiše, najkasnije tri (3) mjeseca prije Datuma dovršetka Projekta carinski i imigracijski protokol između Jamca i Bosne i Hercegovine kojim se omogućava pojednostavnjena procedura prelaska granice glede graničnih prijelaza primjenjivih na Projekt.

ČLANAK III. - RAZNO**Odjeljak 3.01. Obavijesti**

Sljedeće adrese određene su u svrhu Odjeljka 10.01 Standardnih uvjeta:

Za Jamca:

Ministar financija Republike Hrvatske
Katančićeva 5
10 000 Zagreb
Hrvatska

Na pažnju: Ministar financija Republike Hrvatske

Fax: + 385-1 4591 248

Za Banku:

Europska banka za obnovu i razvoj
1 Exchange Square
London EC2A 2JN
Ujedinjeno Kraljevstvo

Na pržnju: Poslovno upravna jedinica

Fax: +44-20-7338-6100

Telex: 8812161

Povrat: EBRD L G

Odjeljak 3.02. Pravno mišljenje

U svrhu Odjeljka 9.03(b) Standardnih uvjeta i u skladu sa Odjeljkom 6.02(b) Ugovora o zajmu, pravno mišljenje ili mišljenja će u ime Jamca dati ministar pravosuđa.

U POTVRDU NAVEDENOG, stranke, djelujući putem svojih propisno ovlaštenih predstavnika, sklapaju ovaj Ugovor, koji se potpisuje u šest primjeraka i dostavlja u Zagreb, Republika Hrvatska, s naprijed navedenim datumom.

REPUBLIKA HRVATSKA

Od strane: _____

Ime: IVAN ŠUKER, v.r.

Funkcija: potpredsjednik Vlade i ministar financija

**EUROPSKA BANKA
ZA OBNOVU I RAZVOJ**

Od strane: _____

Ime: PETER REINIGER, v.r.

Funkcija: GENERALNI DIREKTOR

EXECUTION VERSION

(Operation Number 41325)

GUARANTEE AGREEMENT
(Corridor Vc Completion Project)

between

REPUBLIC OF CROATIA

and

EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT

Dated 24 November 2010

GUARANTEE AGREEMENT

AGREEMENT dated 24 November 2010 between the **REPUBLIC OF CROATIA** (the "Guarantor") and **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the "Bank").

PREAMBLE

WHEREAS, the Guarantor and Hrvatske Autoceste d.o.o. (the "Borrower") have requested assistance from the Bank in the financing of part of the Project;

WHEREAS, pursuant to a loan agreement dated the date hereof between the Borrower and the Bank (the "Loan Agreement" as defined in the Standard Terms and Conditions), the Bank has agreed to make a loan to the Borrower in the amount of sixty million six hundred and thirty thousand euros (EUR 60,630,000.00), subject to the terms and conditions set forth or referred to in the Loan Agreement, but only on the condition that the Guarantor guarantees the obligations of the Borrower under the Loan Agreement as provided in this Agreement; and

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

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated 1 October 2007 are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein (such provisions are hereinafter called the "Standard Terms and Conditions").

Section 1.02. Definitions

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

"Guarantor's Authorised Representative" means the Minister of Finance of the Guarantor.

Section 1.03. Interpretation

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

ARTICLE II - GUARANTEE; OTHER OBLIGATIONS**Section 2.01. Guarantee**

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

Section 2.02. Project Completion

Whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for the carrying out of the Project, the Guarantor shall promptly take measures satisfactory to the Bank to provide the Borrower, or cause the Borrower to be provided, with such funds as are needed to meet such expenditures and requirements.

Section 2.03. Other Obligations

(a) The Guarantor shall indemnify the Bank for any losses, claims, liabilities and damages in connection with environmental damages resulting from historical, present or future pollution attributable to the Project facilities, including, without limitation, health and safety defects to employees or third persons and clean-up costs.

(b) The Guarantor shall ensure that no action shall be taken on its part which would prevent or interfere with the implementation of the Project including the performance of the Borrower's obligations under Section 3.01 of the Loan Agreement.

(c) The Guarantor shall use best efforts to prepare and sign, by no later than three (3) months prior to the Project Completion Date a customs and immigration protocol between the Guarantor and Bosnia and Herzegovina allowing for simplified border-crossing procedures with respect to the border crossings applicable to the Project.

ARTICLE III - MISCELLANEOUS

Section 3.01. Notices

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

For the Guarantor:

Minister of Finance of the Republic of Croatia
Katančičeva 5
10 000 Zagreb
Croatia

Attention: Minister of Finance of the Republic of Croatia

Fax: + 385-1 4591 248

For the Bank:

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

Attention: Operation Administration Unit

Fax: +44-20-7338-6100

Telex: 8812161

Answerback: EBRD L G

Section 3.02. Legal Opinion

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

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

REPUBLIC OF CROATIA

By: _____
Name: IVAN ŠUKER
Title: Vice Prime Minister and Minister of Finance

**EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

By: _____
Name: PETER REINIGER
Title: MANAGING DIRECTOR

Članak 3.

Tekst Ugovora o zajmu između Hrvatskih autocesta d.o.o. i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“, potpisan u Zagrebu, 24. studenoga 2010. godine, u izvorniku na engleskom i prijevodu na hrvatski jezik, glasi:

IZVRŠNA VERZIJA

(Poslovni broj 41325)

UGOVOR O ZAJMU
(Projekt dovršetka koridora Vc)

između

HRVATSKIH AUTOCESTA D.O.O.

i

**EUROPSKE BANKE
ZA OBNOVU I RAZVOJ**

Datum 24. studenoga 2010.

UGOVOR O ZAJMU

UGOVOR od 24. studenoga 2010. između **HRVATSKIH AUTOCESTA D.O.O.** ("Zajmoprimac") i **EUROPSKE BANKE ZA OBNOVU I RAZVOJ** ("Banka").

PREAMBULA

BUDUĆI DA je Banka osnovana radi financiranja određenih projekata kojima se potiče prijelaz na gospodarstvo orijentirano k otvorenom tržištu i promiče privatna i poduzetnička inicijativa u zemljama Srednje i Istočne Europe koje se zauzimaju za i primjenjuju načela višestranačke demokracije, pluralizma i tržišnog gospodarstva;

BUDUĆI DA Zajmoprimac namjerava provesti Projekt opisan u Prilogu 1 koji je osmišljen kako bi pomogao Zajmoprimcu u izgradnji sljedeće četiri dionice autoputa uz granicu s Bosnom i Hercegovinom ("Dionica"): (1) Dionica od Sredanaca do granice s Bosnom i Hercegovinom – Trasa; (2) dionica od Sredanaca do granice s Bosnom i Hercegovinom – Most iznad rijeke Save – hrvatski dio; (3) dionica od čvora Ploče do Bosne i Hercegovine – Granični prijelaz Metković; i (4) dionica od čvora Ploče do Bosne i Hercegovine – Trasa.

BUDUĆI DA su Republika Hrvatska i Zajmoprimac zatražili pomoć Banke radi financiranja Dijela A ovoga Projekta;

BUDUĆI DA će Banka nastojati dogovoriti sredstva tehničke suradnje na temelju donacije kako bi pomogla Zajmoprimcu u provedbi Dijela B Projekta;

BUDUĆI DA Zajmoprimac namjerava ugovoriti zajam kod Europske investicijske banke ("Su-financijer") u otprilike istom iznosu kao što je i iznos s kojim je Banka suglasna da će ga pozajmiti Zajmoprimcu prema ovom Ugovoru, za pomoć u sufinanciranju Dijela A Projekta, u skladu s odredbama i uvjetima koje će biti uglavljene u ugovoru između Zajmoprimca i Su-financijera ("Ugovor o sufinanciranju");

BUDUĆI DA temeljem Ugovora o jamstvu od današnjeg dana između Republike Hrvatske kao jamca i Banke ("Ugovor o jamstvu", kako je određen Standardnim uvjetima), Jamac jamči za obveze Zajmoprimca iz ovoga Ugovora; te

BUDUĆI DA se Banka suglasila na temelju, između ostalog, prethodno navedenog odobriti zajam Zajmoprimcu u iznosu od šezdeset milijuna šesto trideset tisuća eura (60.630.000,00 EUR), u skladu s uvjetima utvrđenima ili na koje upućuje ovaj Ugovor.

SADA, STOGA stranke ovime ugovaraju sljedeće:

ČLANAK I. – STANDARDNI UVJETI; DEFINICIJE

Odjeljak 1.01. Primjena Standardnih uvjeta

Sve odredbe Standardnih uvjeta Banke od 1. listopada 2007. ovime su uključene i primjenjuju se na ovaj Ugovor s istom snagom i učinkom kao da su u cijelosti sadržane u istom.

Odjeljak 1.02. Definicije

Kada god se koriste u ovom Ugovoru (uključujući Preambulu i Dodatke), osim ako nije drugačije navedeno ili kontekst ne zahtijeva drugačije, izrazi određeni u Preambuli imaju odnosna značenja koja su im u istoj dana, izrazi određeni u Standardnim uvjetima imaju odnosna značenja koja su im dana istima, a sljedeći izrazi imaju sljedeća značenja:

„Primjenjivo pravo“	označava bilo koje pravo (uključujući prethodne sudske odluke ili običajno pravo) i bilo koji međunarodni ugovor, ustav, statut, zakon, uredbu, normativni akt, propis, pravilnik, presudu, naredbu, pravosudnu naredbu, sudsku mjeru, sudsku odluku, rješenje ili drugu zakonsku ili upravnu mjeru ili sudsku ili arbitražnu odluku u Republici Hrvatskoj koja ima zakonsku snagu ili pridržavanje koje je u skladu s općom praksom u Republici Hrvatskoj.
"Skupština Korisnika Zajma"	ima značenje koje joj je pripisano u Statutu.
"Ovlašteni predstavnik Zajmoprimca"	označava svakog Predsjednika i bilo kojeg člana Uprave Zajmoprimca.
"Plan upravljanja biološkom raznolikošću"	označava vremenski ograničeni plan upravljanja za očuvanje prirodnih staništa i staništa prirodnih vrsta koji određuje sljedeće: (i) zahtjeve za očuvanje i zaštitu lokacije, (ii) kompenzacijske mjere nužne za osiguranje zaštite sveukupne koherencije bilo koje lokacije Natura 2000 ili slične lokacije i (iii) odgovornosti za upravljanje bio-raznolikošću.
"Gotovinska sredstva dostupna za servisiranje duga"	označava u odnosu na bilo koju Fiskalnu godinu, Neto prihod od poslovanja plus amortizacija.
"Korporativna strategija"	označava niz strateških akcija koje pripremi Zajmoprimac, u obliku i sadržaju zadovoljavajućih za Banku, koje se odnose na poslovanje, upravljanje i informiranje, računovodstvo i druge potrebne aspekte a sa svrhom izdvajanja djelatnosti Zajmoprimca prikupljanje cestarine i održavanje autoceste

putem odvajanja ili putem drugog načina utvrđenog kao najprikladnijeg za poboljšanje komercijalizacije tih aktivnosti.

- "Kratkotrajna imovina" označava gotovinska sredstva plus svu drugu imovinu, koja bi u redovnom tijeku poslovanja mogla biti pretvorena u gotovinska sredstva unutar razdoblja od dvanaest mjeseci, uključujući dospjela potraživanja, vrijednosnice kojima se može trgovati na tržištu, zalihe i unaprijed plaćene izdatke koji se valjano knjiže kao troškovi poslovanja u sljedeće Fiskalne godine.
- "Kratkotrajne obveze" označava sve obveze koje će dospjeti ili postati plative ili bi u bilo kojim tada postojećim okolnostima mogle biti pozvane na plaćanje unutar razdoblja od dvanaest mjeseci, uključujući dugovanja, avanse kupaca, obveze servisiranja dugovanja, poreze i druga davanja, te dividende.
- "Omjer tekuće likvidnosti" označava, za bilo koju Fiskalnu godinu, omjer ukupne Kratkotrajne imovine i Kratkotrajnih obveza.
- "Omjer pokrića servisiranja duga" označava, za bilo koju Fiskalnu godinu, omjer Gotovinskih sredstava raspoloživih za servisiranje duga Zajmoprimca i Obveze servisiranja duga Zajmoprimca.
- "Obveza servisiranja duga" označava, za bilo koje razdoblje, ukupni iznos otplate glavnice, kamata i drugih naknada dugovanja nastalog u tom razdoblju Zajmoprimcu, a takav dug dopijeva po svojim uvjetima više od godinu dana nakon datuma kada je izvorno nastao.
- "Odabrani Izvedbeni zahtjevi" označava Izvedbene zahtjeve 1 do 8 i 10 (ili, prema zahtjevima konteksta, bilo koji od takvih Izvedbenih zahtjeva) Izvedbenih zahtjeva iz svibnja 2008. a koji se odnose na Okolišnu i socijalnu politiku Banke iz svibnja 2008.
- "Okolišni i socijalni plan djelovanja" označava plan mjera okolišnih i socijalnih ublažavanja i poboljšanja koji odobri Banka u skladu sa Odjeljkom 3.04(b), koji se plan može izmijeniti i dopuniti s vremena na vrijeme uz prethodnu pisanu suglasnost Banke u skladu sa Odjeljkom 3.04(d).
- "Okolišno i socijalno pravo" označava bilo koje primjenjivo pravo ili propise koji se odnose na:
- (a) zagađenje ili zaštitu okoliša, uključujući odnosna prava ili propise koji se odnose na pristup javnosti informacijama i sudjelovanje javnosti u donošenju odluka;
 - (b) opis poslova i uvjete zapošljavanja;

- (c) zdravlje na radu i sigurnost;
- (d) javno zdravlje i sigurnost;
- (e) starosjedilački narodi;
- (f) kulturno nasljeđe; ili
- (g) preseljenje ili ekonomsko izmještanje osoba.

"Okolišno i socijalno pitanje"

označava bilo koju stvar koja je predmetom bilo kojeg Okolišnog ili socijalnog zakona, bilo kojeg Odabranog izvedbenog zahtjeva ili Okolišnog i socijalnog plana djelovanja.

"Fiskalna godina"

označava fiskalnu godinu Zajmoprimca, koja počinje 1. siječnja svake godine.

"MSFI"

označava Međunarodne standarde financijskog izvješćivanja koje je izdao ili prihvatio Odbor za međunarodne računovodstvene standarde i koji se dosljedno primjenjuju.

"Neto prihod od poslovanja"

označava ukupni prihod od poslovanja (kao što je to gorivo, porezi i cestarina) umanjen za ukupne troškove poslovanja (kao što su to troškovi rada, materijala i održavanja).

"JPP"

označava jedinicu za provedbu projekta navedenu u Odjeljku 3.02.

"Savjetnik za nabavu"

označava Deloitte Savjetodavne Usluge d.o.o., društvo s ograničenom odgovornošću osnovanu i koja posluje prema zakonima Republike Hrvatske.

"Početni pregled nabave"

označava pregled procedura i sustava nabave i izvješćivanja koje izvršava nezavisni savjetnik kojega uposli Banka.

„Pravila nabave"

označava sveobuhvatan niz mjera za transparentnost i upravljanje u skladu s Primjenjivim pravom, u obliku i sadržaju zadovoljavajućih za Banku, koje ima prihvatiti Zajmoprimac sa ciljem poboljšanja unutrašnjih pravila i postupaka nabave u skladu s preporukama Savjetnika za nabavu kao dio Početnog pregleda nabave.

"Revizor Pravila nabave"

označava nezavisnog stručnjaka za pravila nabave koji treba biti zaposlen prema dijelu Ugovora o sufinanciranju koji se odnosi na tehničku pomoć a kako bi pomogao i procijenio provođenje Pravila nabave.

"Izvešće o reviziji provedbe Pravila nabave"

označava izvješće koje pripremi Revizor Pravila nabave s procjenom provedbe Pravila nabave od strane Zajmoprimca.

"Projekt"

označava projekt koji će uključivati izgradnju četiri dionice autoceste uz granicu s Bosnom i Hercegovinom, a koji je detaljnije opisan u Prilogu 1.

"Datum dovršetka Projekta" označava 31. prosinca 2013.

"Interni akti"

označava Društveni ugovor Zajmoprimca.

Odjeljak 1.03. Tumačenje

U ovom se Ugovoru, pozivanje na pojedini članak, odjeljak ili prilog, osim ako je drugačije utvrđeno ovim Ugovorom, tumači kao pozivanje na taj određeni članak, odjeljak ili prilog ovoga Ugovora.

ČLANAK II. – GLAVNE ODREDBE ZAJMA

Odjeljak 2.01. Iznos i valuta

Banka je suglasna Zajmoprimcu pozajmiti, prema odredbama i uvjetima određenima ili navedenima u ovom Ugovoru, iznos od šezdeset milijuna šesto trideset tisuća eura (60.630.000,00 EUR).

Odjeljak 2.02. Ostali financijski uvjeti Zajma

- (a) Minimalni iznos povlačenja je 250.000 EUR (dvjesto pedeset tisuća eura), osim u odnosu na Dio C Projekta (kao što je opisan u Prilogu 1), u kojem Minimalni iznos povlačenja iznosi 6.000 EUR (šest tisuća eura).
- (b) Minimalni iznos prijevremene otplate je 5.000.000 EUR (pet milijuna eura).
- (c) Minimalni otkazani iznos je 5.000.000 EUR (pet milijuna eura).
- (d) Datumi plaćanja kamata su 15. ožujka i 15. rujna svake godine.
- (e) (1) Zajmoprimac je dužan otplatiti Zajam u jednakim (ili toliko jednakim koliko je to moguće) polugodišnjim ratama na svaki Datum plaćanja kamata, s time da prvi Datum otplate Zajma nastupa na ili nakon Datum plaćanja kamata koji pada na treću godišnjicu od datuma ovoga Ugovora dočim je zadnji Dan otplate Zajma onaj Datum plaćanja kamata koji pada na ili nakon petnaeste godišnjice od datuma ovoga Ugovora. (2) Bez

obzira na gore navedeno, u slučaju da (i) Zajmoprimac ne povuče cjelokupan iznos zajma prije prvog datuma otplate utvrđenog u ovom Odjeljku 2.02(e), i (ii) Banka produži zadnji datum povlačenja utvrđen u niže navedenom Odjeljku 2.02(f) do datuma koji pada nakon takvog prvog datuma otplate zajma, tada će se svaki iznos podignut na dan ili nakon prvog datuma otplate zajma raspodijeliti za otplatu u jednakim iznosima na nekoliko datuma otplate zajma koji padaju nakon datuma takvog povlačenja (pri čemu će Banka uskladiti tako raspodijeljene iznose prema potrebi kako bi se postigli cijeli brojevi u svakom slučaju). Banka će, s vremena na vrijeme, obavijestiti Zajmoprimca o takvim raspodjelama.

(f) Zadnji datum povlačenja je treća godišnjica datuma ovoga Ugovora ili takav kasniji datum koji Banka može utvrditi odlukom prema vlastitom nahođenju i o istome obavijesti Zajmoprimca i Jamca.

(g) Stopa naknade za preuzetu obvezu iznosi 0,5% godišnje.

(h) Zajam se odobrava uz promjenljivu kamatnu stopu. Bez obzira na gore navedeno, Zajmoprimac može, kao alternativnu plaćanju kamata po promjenljivoj kamatnoj stopi na cjelokupni ili dio zajma koji je do tada nepovučen, odabrati plaćanje kamate po fiksnoj kamatnoj stopi na isti dio zajma u skladu sa Odjeljkom 3.04(c) Standardnih uvjeta.

Odjeljak 2.03. Povlačenja

(a) Raspoloživ iznos se može povlačiti s vremena na vrijeme u skladu s odredbama Priloga 2 radi financiranja (1) plaćenih rashoda (ili, ako se Banka tako suglasi, onih koji će se tek platiti) koji se odnose na razboritu cijenu roba, radova i usluga potrebnih za Projekt i (2) naknade za obradu zajma.

(b) Zajmoprimac ovime ovlašćuje Banku da iz raspoloživog iznosa podigne iznos jednak naknadi za obradu zajma te u ime Zajmoprimca a u korist Banke uplati naknadu za obradu zajma.

ČLANAK III. – IZVRŠENJE PROJEKTA

Odjeljak 3.01. Ostale pozitivne odredbe o Projektu

Pored općih obveza utvrđenih u Članku IV. Standardnih uvjeta, Zajmoprimac će, osim ako se Banka drugačije ne suglasi:

(a) poduzeti sve potrebne radnje da osigura odgovarajuća sredstva za dovršetak Projekta;

(b) najkasnije 30. lipnja 2011. pripremiti i podnijeti Banci konačnu inačicu Pravila nabave, uključujući postupke nadzora i revizije zadovoljavajuće za Banku;

(c) najkasnije 31. listopada 2011., pribaviti odobrenje Uprave za Pravila nabave, te ista prihvatiti;

- (d) najkasnije na dan koji pada dvanaest mjeseci nakon datuma kada su prihvaćena Pravila nabave u skladu sa Odjeljkom 3.01(c), podnijeti Banci Izvješće o reviziji provedbe Pravila nabave;
- (e) najkasnije 60 dana nakon kraja svake Fiskalne godine, podnijeti Banci godišnje nadopune provedbe Pravila nabave;
- (f) najkasnije 30. lipnja 2011., unajmiti uglednog vanjskog savjetnika prema odredbama opisa poslova prihvatljivim za Banku radi pomoći u pripremi daljnje komercijalizacije djelatnosti naplata cestarine i održavanje autocesta („Korporativna strategija“);
- (g) najkasnije 31. ožujka 2012., pripremiti i podnijeti Banci konačni nacrt Korporativne strategije potvrđen od strane Nadzornog odbora i Skupštine Zajmoprimca;
- (h) pod uvjetom odobrenja Korporativne strategije od strane Skupštine Zajmoprimca i u skladu s Primjenjivim pravom, provesti daljnje mjere komercijalizacije djelatnosti naplata cestarine najkasnije 31. prosinca 2014., osim ako drugačije nije određeno u rasporedu navedenom u odobrenoj Korporativnoj strategiji;
- (i) pod uvjetom odobrenja Korporativne strategije od strane Skupštine Zajmoprimca i u skladu s Primjenjivim pravom, provesti daljnje mjere komercijalizacije djelatnosti održavanje autocesta najkasnije 31. prosinca 2015., osim ako drugačije nije određeno u rasporedu navedenom u odobrenoj Korporativnoj strategiji; i
- (j) održati svoje korporativno postojanje u skladu s Primjenjivim pravom.

Odjeljak 3.02. Jedinica za provedbu projekta

Kako bi se koordiniralo, upravljalo, pratilo i procjenjivalo sve aspekte provedbe Projekta, uključujući nabavu roba, radova i usluga za Projekt, Zajmoprimac će, ako drugačije ne dogovori s Bankom, osnovati i u svakom trenutku tijekom izvršenja Projekta održavati jedinicu za provedbu projekta s odgovarajućim resursima i odgovarajuće kvalificiranim djelatnicima, uključujući savjetnike koji će pomoći JPP-u u provedbi Projekta, ako je nužno, prema opisu poslova prihvatljivom za Banku.

Odjeljak 3.03. Nabava

U svrhe Odjeljka 4.03 Standardnih uvjeta, sljedeće odredbe će, osim ako se Banka drugačije ne suglasi, biti važeće za nabavu roba, radova i usluga potrebnih za Projekt, a koja će se financirati iz sredstava zajma:

- (a) Roba, radovi i usluge (različite od savjetničkih usluga koje su uključene u Odjeljak 3.03(c)) nabavljaju se putem otvorenih natječaja.
- (b) U svrhe Odjeljka 3.03(a), postupci za otvoreno prikupljanje ponuda, ograničeno prikupljanje ponuda, izravno ugovaranje i kupovinu kao i standardi za postupke na lokalnim natječajima su utvrđeni u Poglavlju 3 Pravila nabave EBRD-a.

(c) Savjetnici koje će angažirati Zajmoprimac da pomažu u provedbi Projekta bit će odabrani u skladu s postupcima utvrđenima u Poglavlju 5 Pravila nabave EBRD-a.

(d) Svi ugovori podliježu postupcima pregleda utvrđenima u Pravilima nabave EBRD-a. Svi ugovori podliježu prethodnom pregledu.

Odjeljak 3.04. Obveze ispunjavanja okolišnih i socijalnih zahtjeva

Bez ograničavanja općenitosti Odjeljaka 4.02(a), 4.04(a)(iii), i 5.02(c)(iii) Standardnih uvjeta, Zajmoprimac će, osim ako se Banka ne suglasi drugačije:

(a) Osim ako drugačije nije utvrđeno Okolišnim i socijalnim planom djelovanja, Zajmoprimac će, i uzrokovat će da će bilo koji kooperant, provesti Projekt u skladu s Odabranim Izvedbenim zahtjevima.

(b) Bez ograničavanja na prethodno, Zajmoprimac će temeljito provesti Okolišni i socijalni plan djelovanja i pridržavati se istoga te nadgledati provedbu takvog plana u skladu s odredbama o nadgledanju sadržanim u takvom planu.

(c) U svakom trenutku do Datuma dovršetka Projekta, Zajmoprimac će, o svom trošku, osigurati da (1) zasebne okolišne, socijalne, zdravstvene i sigurnosne revizije svakog Odjeljka budu provedene u vrijeme dogovoreno s Bankom od strane nadzornog inženjera Zajmoprimca i (2) rezultati takve revizije budu podnijeti Banci na pregled i komentare.

(d) Zajmoprimac i Banka mogu s vremena na vrijeme ugovoriti izmjene i dopune Okolišnog i socijalnog plana djelovanja kao odgovor na promjene okolnosti Projekta ili Zajmoprimca, nepredviđene događaje i rezultate nadgledanja. Bez ograničenja općenitosti prethodnog,

(1) ako postoji bilo kakav nepovoljni okolišni ili socijalni utjecaj ili problem koji nije bio predviđen ili razmotren u Okolišnom i socijalnom planu djelovanja bilo u cijelosti ili u skladu s njegovom težinom, ili

(2) ako bilo koja mjera za ublažavanje utjecaja utvrđena u Okolišnom i socijalnom planu djelovanja nije dovoljna za odstranjivanje ili smanjivanje bilo kojeg okolišnog ili socijalnog utjecaja do razine razmotrene odgovarajućim Odabranim Izvedbenim zahtjevima u vremenskom okviru utvrđenom u Okolišnom i socijalnom planu djelovanja,

Zajmoprimac će, što je prije razumno praktično i u skladu sa suglasnošću Banke, razviti i uključiti u Okolišni i socijalni plan djelovanja takve dodatne ili revidirane mjere za ublažavanje koje mogu biti nužne za postizanje suglasnosti s Odabranim Izvedbenim zahtjevima, u svakom slučaju na način koji je zadovoljavajući za Banku.

Odjeljak 3.05. Savjetnici

(a) Radi pomoći u provedbi Projekta, Zajmoprimac je dužan, osim ako s Bankom ne dogovori drugačije, zaposliti ili omogućiti zapošljavanje savjetnika, već prema potrebi, te koristiti savjetnike čije su kvalifikacije, iskustvo i opis poslova zadovoljavajući za Banku, uključujući:

- (1) savjetnike za pomoć u provedbi Dijela C Projekta;
- (2) savjetnike za pomoć u provedbi Pravila nabave i procjeni istih; i
- (3) savjetnike za pomoć u pripremi i provedbi Korporativne strategije.

(b) Zajmoprimac je dužan bez naknade osigurati svakom savjetniku angažiranom da pomogne u stvarima koje se odnose na Projekt ili poslovanje Zajmoprimca svu potporu potrebnu za obavljanje njihovih funkcija, uključujući uredski prostor, opremu za fotokopiranje i materijale, tajničke usluge i prijevoz, kao i sve dokumente, materijale i druge informacije koje mogu biti od važnosti u radu.

Odjeljak 3.06. Učestalost izvještavanja i uvjeti podnošenja dokumentacije

(a) Sve dok cjelokupan iznos Zajma nije plaćen ili otkazan, Zajmoprimac će podnositi Banci:

- (i) tromjesečna izvješća (do Datuma dovršetka Projekta) i
- (ii) godišnja izvješća koja im slijede

o Okolišnim i socijalnim pitanjima koja nastaju glede Zajmoprimca ili Projekta, a kao što je navedeno u Odjeljku 5.02(c)(iii) Standardnih uvjeta, u roku od 60 dana nakon isteka tromjesečja o kojoj se izvještava, kako je primjenjivo. Takva izvješća trebaju sadržavati podatke o sljedećim posebnim pitanjima:

- (1) podatke o pridržavanju Zajmoprimca s Odabranim Izvedbenim zahtjevima kao što je to opisano u Odjeljku 3.04(a) i provedbom Okolišnog i socijalnog plana djelovanja;
- (2) podatke o tome kako je Zajmoprimac nadgledao pridržavanje s Odabranim Izvedbenim zahtjevima i Okolišnim i socijalnim planom djelovanja od strane bilo kojeg kooperanta angažiranog za Projekt i sažetak bilo kojeg materijalnog nepridržavanja od strane takvog kooperanta s Odabranim Izvedbenim zahtjevima i Okolišnim i socijalnim planom djelovanja i o bilo kojim mjerama poduzetim za popravlanje takvog nepridržavanja;
- (3) podatke o provođenju plana uključivanja dionika koji zahtijeva Odabrani Izvedbeni zahtjev 10, uključujući sažetak bilo kojih zaprimljenih pritužbi i načina kako su takve pritužbe bile riješene;
- (4) podatke o pridržavanju Zajmoprimca Okolišnih i socijalnih propisa glede Projekta, uključujući status bilo koje dozvole potrebne za Projekt, nalaze bilo koje inspekcije koju su obavila tijela vlasti, bilo koju povredu važećih prava, propisa ili

standarda i bilo koju radnju poduzetu za ispravljanje ili kaznu zbog takvih povreda, te sažetak bilo kojih materijalnih bilješki, izvješća i drugih priopćenja o Okolišnim i socijalnim pitanjima koja se odnose na Projekt podnesena od strane Zajmoprimca bilo kojem tijelu vlasti;

(5) podatke o upravljanju zdravljem na radu i sigurnosti te evidenciji o zdravlju na radu i sigurnosti u okviru Projekta, uključujući i broj nesreća na radu, događaje izgubljenog vremena i slučajeve takvih izbjegnutih događaja, bilo koje preventivne mjere ili mjere ublažavanja koje je Zajmoprimac poduzeo ili planirao, bilo kojoj edukaciji djelatnika o zdravlju na radu i sigurnosti i bilo kojim drugim inicijativama koje se odnose na upravljanje zdravljem na radu i sigurnosti koje je Zajmoprimac proveo ili planirao;

(6) sažetak bilo kojih promjena Okolišnih i socijalnih zakona koji mogu imati materijalni učinak na Projekt; i

(7) primjerke bilo kojih podataka o Okolišnim i socijalnim pitanjima koje Zajmoprimac povremeno dostavlja svojim dioničarima ili javno objavljuje.

(b) Od dana stupanja ovoga Ugovora na snagu pa sve do dovršetka Projekta, Zajmoprimac je dužan polugodišnje podnositi periodična izvješća navedena u Odjeljku 4.04(a)(iv) Standardnih uvjeta, u roku od 60 dana nakon isteka razdoblja o kojem se izvješćuje. Ta izvješća trebaju sadržavati sljedeće posebno obrađene teme:

(1) Sljedeće općenite podatke:

(A) fizički napredak postignut u provedbi Projekta do datuma izvješća i tijekom izvještajnog razdoblja;

(B) stvarne ili očekivane poteškoće ili kašnjenja u provedbi Projekta i njihov učinak na raspored provedbe, te konkretni koraci poduzeti ili planirani za svladavanje tih poteškoća i izbjegavanje kašnjenja;

(C) očekivane promjene Datuma dovršetka Projekta;

(D) promjene ključnih ljudi među djelatnicima uključujući ali bez ograničavanja na JPP, savjetnike ili kooperante;

(E) stvari koje mogu utjecati na troškove Projekta; i

(F) bilo koje promjene ili aktivnosti za koje je vjerojatno da će utjecati na ekonomsku opravdanost bilo kojeg Dijela Projekta.

(2) Financijska izvješća koja prikazuju detalje izdataka nastalih u bilo kojem Dijelu Projekta kao i Povlačenja, zajedno s izvješćem koje prikazuje:

(A) izvorne procjene troškova;

(B) revidirane procjene troškova, ako ih ima, s razlogom promjene;

(C) izvorno procijenjene izdatke i stvarne izdatke do dana izdavanja izvješća;

(D) razloge za promjenu stvarnih izdataka do datuma izdavanja izvješća u odnosu na izvorno procijenjene izdatke do datuma izdavanja izvješća; i

(E) procijenjene izdatke za preostala tromjesečja u godini.

(3) Kratku izjavu o statusu pridržavanja svake obveze sadržane u ovom Ugovoru.

(c) Najkasnije šest mjeseci nakon Datuma dovršetka Projekta, Zajmoprimac je dužan podnijeti Banci izvješće o dovršetku projekta u obliku i sadržaju zadovoljavajućima za Banku.

(d) Odmah nakon nastupanja bilo kojeg incidenta ili nesreće koji se odnosi na Zajmoprimca ili Projekt, koji ima ili je vjerojatno da će imati značajan nepovoljan utjecaj na okoliš, ili na javno zdravlje ili zdravlje na radu ili sigurnost, Zajmoprimac je dužan izvijestiti Banku i odmah nakon toga podnijeti Banci obavijest o istom navodeći prirodu takvog incidenta ili nesreće i bilo kojih koraka koje Zajmoprimac poduzima za njihovo popravljnje. Bez ograničenja općenitosti prethodnog,

(1) incident ili nesreća se odnosi na Projekt ako nastupi na bilo kojoj lokaciji koja se koristi za Projekt ili, ako je prouzročena sredstvima, opremom, vozilima ili plovilima koji se koriste za ili glede Projekta (bez obzira koriste li se na bilo kojoj lokaciji Projekta i bez obzira koristi li ih ovlaštena ili neovlaštena osoba);

(2) smatra se da neki incident ili nesreća ima značajan nepovoljni učinak na okoliš ili na javno zdravlje ili zdravlje na radu ili sigurnost ako:

(A) bilo koje važeće pravo zahtijeva obavještanje bilo kojeg vladinog tijela o takvom incidentu ili nesreći,

(B) takav incident ili nesreća uključuje smrt bilo koje osobe (bez obzira je li takva osoba zaposlena kod Zajmoprimca),

(C) više od jedne osobe (bez obzira je li takva osoba zaposlena kod Zajmoprimca) je zadobilo teške ozljede za koje je potrebna hospitalizacija, ili

(D) takav incident ili nesreća je postala, ili je vjerojatno da će postati, poznata javnosti putem medija ili na drugi način.

ČLANAK IV. - FINANCIJSKE I OPERATIVNE ODREDBE

Odjeljak 4.01. Financijske evidencije i izvješća

(a) Zajmoprimac je dužan održavati postupke, evidencije i račune prikladne za iskazivanje, u skladu s MSFI, uvjeta poslovanja i financijskog položaja Zajmoprimca i njegovih Podružnica, ako ih ima, te prikladne za praćenje i evidenciju napredovanja Projekta (uključujući troškove istoga i koristi koje iz toga proizlaze).

(b) Zajmoprimac je dužan:

(1) podnijeti svoje evidencije, račune i financijska izvješća (uključujući svoje bilance, račune dobiti i gubitka te izvješća o promjeni financijskog položaja, te bilješke uz ista), kao evidencije, račune i financijska izvješća svojih Podružnica, za svaku Fiskalnu godinu na reviziju nezavisnim revizorima prihvatljivima Banci u skladu s MSFI;

(2) dostaviti Banci čim je dostupno, ali u svakom slučaju najkasnije šest mjeseci nakon završetka svake Fiskalne godine, počevši s Fiskalnom godinom koja završava 31. prosinca 2010.:

(A) ovjerene preslike svojih financijskih izvješća za takvu Fiskalnu godinu koja je tako revidirana;

(B) izvješće o takvoj reviziji koju su proveli takvi revizori u onom opsegu i do one razine pojedinosti koje Banka može razumno zahtijevati; i

(C) izvješće o svim financijskim transakcijama između Zajmoprimca i svake njegove Podružnice ili Povezane tvrtke;

te

(3) dostaviti Banci takve druge podatke koji se tiču takvih evidencija, računa i financijskih izvješća, kao i njihove revizije, koje Banka može razumno zatražiti s vremena na vrijeme.

Odjeljak 4.02. Negativne financijske obveze

(a) Zajmoprimac neće poduzimati, osim ako se Banka drugačije ne suglasi, bilo koju od sljedećih radnji i dostavit će Banci sve podatke o istom koje Banka može razumno zatražiti:

(1) sklapati bilo koje ugovore ili aranžmane kojima jamči ili na bilo koji način ili pod bilo kojim uvjetima preuzima obvezu za cjelokupnu financijsku ili drugu obvezu druge osobe ili bilo koji dio te obveze, uključujući bilo koju Podružnicu ili Povezanu tvrtku;

(2) sklapati bilo kakve transakcije s bilo kojom osobom osim u redovnom tijeku poslovanja, po uobičajenim komercijalnim uvjetima i na temelju aranžmana po načelu nepristrane transakcije, niti osnivati bilo kakvu pojedinačnu i ekskluzivnu agenciju za kupnju ili prodaju, niti sklapati bilo koje transakcije u kojima bi Zajmoprimac mogao platiti više od uobičajene komercijalne cijene za bilo koju kupovinu ili bi mogao primiti manje od pune komercijalne cijene na izlasku iz tvornice (uz uobičajene trgovinske popuste) za svoje proizvode ili usluge;

(3) sklapati bilo kakav ugovor o partnerstvu, podjeli dobiti ili autorskim naknadama ili drugi sličan ugovor slijedom kojega se prihodi ili dobit Zajmoprimca dijele, ili se mogu dijeliti, s bilo kojom drugom osobom;

(4) (bilo dobrovoljno ili nedobrovoljno) prijevremeno otplatiti (osim kada je takva prijevremena otpлата u svrhu refinanciranja istog ili sličnog iznosa po istim ili povoljnijim uvjetima), otkupiti ili ranije isplatiti bilo koji dug ili izvršiti otplatu bilo kojeg duga u skladu s bilo kojom odredbom bilo kojeg ugovora ili obavijesti kojima se neposredno ili posredno nameće ubrzanje otplate po vremenu ili po iznosu, osim ako u bilo kojem takvom slučaju, ako Banka tako zatraži, Zajmoprimac istovremeno ne

izvrši razmjernu otplatu iznosa tada neotplaćene glavnice u skladu s odredbama Odjeljka 3.07 Standardnih uvjeta (osim kada iznos bilo koje takve otplate ne podliježe zahtjevima Minimalnog iznosa prijevremene otplate);

(5) Osim kada je tako predviđeno Korporativnom strategijom, prodati, prenijeti, iznajmiti ili na drugi način raspolagati cjelokupnom imovinom ili njenim bitnim dijelom (bilo da se radi o pojedinačnoj transakciji ili nizu transakcija, međusobno povezanim ili nepovezanim); ili

(6) poduzeti ili dopustiti bilo kakvo spajanje, konsolidaciju ili reorganizaciju.

(b) Zajmoprimac ne smije, osim ako ne obavijesti Banku u roku od najmanje 30 dana unaprijed, poduzeti niti jednu od sljedećih radnji i dužan je dobiti Banci sve takve podatke o istom koje Banka može opravdano zatražiti:

(1) sklopiti bilo koji ugovor o upravljanju ili slični dogovor slijedom kojega njegovim poslovanjem upravlja bilo koja druga osoba, uključujući bilo koju Podružnicu ili Povezanu tvrtku; ili

(2) osnovati bilo koju Podružnicu, ili dati zajam ili predujam, ili pologe (osim pologa u uobičajenom tijeku poslovanja kod uglednih banaka) ili dopustiti postojanje istoga glede bilo koje osobe, uključujući bilo koju Podružnicu ili Povezanu tvrtku; pod uvjetom, međutim, da Zajmoprimac ima slobodu ulaganja u kratkoročne kvalitetne utržive vrijednosnice isključivo radi privremenog korištenja neiskorištenih sredstava Zajmoprimca.

Odjeljak 4.03. Ostale financijske obveze

Bez ograničenja općenitosti Odjeljka 4.02, Zajmoprimac se obvezuje da će održavati:

(a) Omjer pokrića servisiranja duga od najmanje 1.0; i

(b) Omjer tekuće likvidnosti od najmanje 1.0.

Odjeljak 4.04. Vođenje poslovanja i aktivnosti

Zajmoprimac se obvezuje, osim ako se Banka drugačije ne suglasi:

(a) Voditi svoje djelatnosti i poslovanje u skladu s međunarodno prihvaćenim normama i standardima dobrog vođenja uprave, financija, inženjerskih i drugih poslova, uz dužnu pozornost čimbenicima ekologije i zaštite okoliša, kao i javnog zdravlja i zdravlja na radu i sigurnosti, te uz dužnu pozornost posvećenu svim svojim glavnim politikama poslovanja;

(b) Odmah poduzeti sve radnje u okviru svojih ovlasti da održi svoje pravno postojanje, provede svoje poslovanje i da stekne, održi i obnovi svoja prava, vlasništvo, ovlasti, privilegije i franšize koji su nužni za vođenje njegovog poslovanja, uključujući i za provedbu ovoga Projekta;

- (c) Neće prodati, dati u zakup ili na drugi način raspolagati bilo kojom svojom imovinom koja je potrebna za učinkovito provođenje njegovog poslovanja ili raspolaganje kojom može predmnijevati njegovu sposobnost da zadovoljavajuće izvrši bilo koju od njegovih obveza iz ovoga Ugovora;
- (d) Odmah će obavijestiti Banku o bilo kojem prijedlogu da izmijeni ili dopuni, obustavi ili ukine bilo koju odredbu svojega Statuta i pružiti Banci odgovarajuću mogućnost da komentira takav prijedlog prije poduzimanja bilo koje radnje glede istoga osim ako takva izmjena ili dopuna, obustava, ukinuće, opoziv ili odricanje nije administrativne ili tehničke prirode;
- (e) Uzeti i održavati osiguranje kod odgovornih osiguravatelja, ili poduzeti druge aranžmane glede istoga zadovoljavajuće Banci, protiv takvih rizika kao što je to gubitak, šteta i obveza naknade štete, i to u takvim iznosima koji su u skladu s odgovarajućom praksom; i
- (f) Stalno poslovati i održavati svoj pogon, strojeve, opremu i drugu imovinu u dobrom radnom stanju i, odmah po potrebi, izvršiti sve njihove potrebne popravke i obnovu, sve u skladu s načelima solidnog poslovanja i financijske prakse.

ČLANAK V. - OBUSTAVA; UBRZAVANJE; OTKAZIVANJE

Odjeljak 5.01. Obustava

Sljedeće se utvrđuje u svrhu Odjeljka 7.01(a)(xvii) Standardnih uvjeta:

- (a) zakonodavni i regulacijski okvir primjenjiv na cestovni sektor na teritoriju Jamca je izmijenjen i dopunjen, obustavljen, ukinut, opozvan ili izuzet na način različit od onog koji je Banka odobrila u pisanom obliku;
- (b) Statut je izmijenjen i dopunjen, obustavljen, ukinut, opozvan ili odbačen osim ako takva izmjena ili dopuna, obustava, ukinuće, opoziv ili odricanje nije administrativne ili tehničke prirode;
- (c) Zajmoprimac je poduzeo bilo koju radnju navedenu u Odjeljku 4.02(b) kako bi utjecao materijalno i nepovoljno na poslovanje ili financijske uvjete Zajmoprimca ili njegovu sposobnost da provede Projekt ili izvrši bilo koju od njegovih obveza iz ovoga Ugovora;
- (d) većinsko vlasništvo ili nadzor Zajmoprimca je preneseno strani različitoj od Republike Hrvatske; i
- (e) pravo Zajmoprimca da povlači sredstva iz Ugovora o sufinanciranju je obustavljeno, otkazano ili dokinuto u cijelosti ili u dijelu u skladu s odredbama Ugovora o sufinanciranju, osim ako Zajmoprimac ne ustvrdi na zadovoljstvo Banke da su odgovarajuća sredstva za Projekt dostupna Zajmoprimcu iz drugih sredstava prema odredbama i uvjetima istovjetnih obvezama Zajmoprimca iz ovoga Ugovora, ili ako takva obustava, otkazivanje ili dokinuća nastupi kao posljedica smanjivanja troškova Projekta.

Odjeljak 5.02. Ubrzavanje dospelosti

Sljedeće se utvrđuje u svrhu Odjeljka 7.06(f) Standardnih uvjeta:

- (a) Bilo koji događaj utvrđen u Odjeljku 5.01 koji će se nastaviti trideset dana nakon što je Banka dala obavijest Zajmoprimcu i Jamcu o tome da je Banka ustvrdila da je nastupio takav događaj, navodeći u istoj želju Banke da djeluje u skladu s odredbama Odjeljka 7.06 Standardnih odredaba i uvjeta.

ČLANAK VI. – STUPANJE NA SNAGU**Odjeljak 6.01. Uvjeti koji prethode stupanju na snagu**

Sljedeće se utvrđuje u svrhu Odjeljka 9.02(c) Standardnih uvjeta kao dodatni uvjeti za stupanje na snagu ovoga ugovora i Ugovora o jamstvu:

- (a) Ugovor o sufinanciranju je potpisan i isporučen i svi uvjeti koji prethode njegovom stupanju na snagu ili pravu Zajmoprimca da povlači sredstva prema tom Ugovoru, osim stupanja na snagu ovoga Ugovora, su ispunjeni;
- (b) JPP je pravovaljano osnovana i posluje u skladu sa Odjeljkom 3.02 ovoga Ugovora;
- (c) Banka je primila zadovoljavajuće rezultate Početnog pregleda nabave; i
- (d) Banka je primila zadovoljavajući Plan o upravljanju biološkom raznolikošću.

Odjeljak 6.02. Pravna mišljenja

- (a) U svrhu Odjeljka 9.03(a) Standardnih uvjeta, pravno mišljenje ili mišljenja će u ime Zajmoprimca dati Hanžeković i Partneri.
- (b) U svrhu Odjeljka 9.03(b) Standardnih uvjeta, pravno mišljenje ili mišljenja će u ime Jamca dati ministar pravosuđa.

Odjeljak 6.03. Raskid zbog nestupanja ugovora na snagu

Datum koji pada 180 dana nakon datuma sklapanja ovoga Ugovora je određen u svrhu Odjeljka 9.04 Standardnih uvjeta.

ČLANAK VII. - RAZNO**Odjeljak 7.01. Obavijesti**

Sljedeće adrese određene su u svrhu Odjeljka 10.01 Standardnih uvjeta:
Za Zajmoprimca:

Hrvatske autoceste d.o.o.
Širolina 4
10 000 Zagreb
Hrvatska

Na pažnju: Gđa. Dijana Stopnišek

Fax: +385 1 46 94 542

Za Banku:

Europska banka za obnovu i razvoj
1 Exchange Square
London EC2A 2JN
Ujedinjeno Kraljevstvo

Na pažnju: Poslovno upravna jedinica

Fax: +44-20-7338-6100

U POTVRDU NAVEDENOG, stranke, djelujući putem svojih propisno ovlaštenih predstavnika, sklapaju ovaj Ugovor, koji se potpisuje u šest primjeraka i dostavlja u Zagreb, Republika Hrvatska s naprijed navedenim datumom.

HRVATSKE AUTOCESTE D.O.O.

Od strane: _____

Ime: STJEPKO BOBAN, v.r.
Funkcija: PREDSJEDNIK UPRAVE

**EUROPSKA BANKA
ZA OBNOVU I RAZVOJ**

Od strane: _____

Ime: PETER REINIGER, v.r.
Funkcija: GENERALNI DIREKTOR

PRILOG 1. – OPIS PROJEKTA

1. Svrha Projekta je pomoći Zajmoprimcu u financiranju prioritetnog razvoja mreže autocesta kako bi se osigurala regionalna povezanost koridora Vc u blizini granice s Bosnom i Hercegovinom.

2. Projekt se sastoji od sljedećih Dijelova, podložnih takvim promjenama istih kao što se Banka i Zajmoprimac mogu usuglasiti s vremenom na vrijeme:

Dio A: Inženjerski radovi za sljedeće četiri dionice autoceste:

1. Dionica Sredanci – granica s Bosnom i Hercegovinom – Trasa;
2. Dionica od Sredanaca do Bosne i Hercegovine – most preko rijeke Save – hrvatski dio;
3. Dionica od čvora Ploče do Bosne i Hercegovine – Granični prijelaz Metković;
i
4. Dionica od čvora Ploče do Bosne i Hercegovine – Trasa.

Dio B: Program institucionalnog jačanja koji će se financirati iz sredstava za tehničku suradnju koja će Banka osigurati uključujući savjetodavne usluge za pomoć Zajmoprimcu u (1) provedbi Pravila nabave i procjeni istih i (2) pripremi i provedbi Korporativne strategije.

Dio C: Savjetodavne usluge za pripremu Plana za upravljanje biološkom raznolikošću.

3. Očekuje se da će Projekt biti dovršen 31. prosinca 2013.

PRILOG 2. – KATEGORIJE I POVLAČENJA

1. Tablica u privitku ovog Priloga određuje kategorije, iznos zajma dodijeljen svakoj kategoriji i postotak izdataka koji će se financirati u svakoj kategoriji.
2. Bez obzira na odredbe gornjeg stavka 1, niti jedna tranša zajma neće biti povučena glede izdataka nastalih prije datuma Ugovora o zajmu.
3. Banka ima pravo povući, u ime Zajmoprimca, i platiti sebi samoj, kako i kada dospijeva, naknadu za obradu zajma.

Kategorija	Iznos Zajma raspoređen u Kategoriju (Euro)	Postotak izdataka koji se financiraju (neto bez poreza i nameta)
Dio A: Građevinski radovi	59.993.700,00	50% od vrijednosti ugovora isključujući poreze i namete
Dio C: Savjetodavne usluge za Plan upravljanja biološkom raznolikošću	30.000,00	100%
Dio D: Naknada za obradu zajma	606.300,00	100%
Ukupno	60.630.000,00	

EXECUTION VERSION
(Operation Number 41325)

LOAN AGREEMENT
(Corridor Vc Completion Project)

between

HRVATSKE AUTOCESTE D.O.O.

and

EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT

Dated 24 November 2010

LOAN AGREEMENT

AGREEMENT dated 24 November 2010 between **HRVATSKE AUTOCESTE D.O.O.** (the "Borrower") and **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the "Bank").

PREAMBLE

WHEREAS, the Bank has been established to provide financing for specific projects to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics;

WHEREAS, the Borrower intends to implement the Project as described in Schedule 1 which is designed to assist the Borrower in the construction of the following four sections of motorway adjacent to the border with Bosnia and Herzegovina (each, a "Section"): (1) Section from Sredanci to the border with Bosnia and Herzegovina – Route; (2) section from Sredanci to Bosnia and Herzegovina - Bridge over river Sava – Croatian part; (3) section from the Ploce interchange to Bosnia and Herzegovina – Border crossing Metkovic; and (4) section from the Ploce interchange to Bosnia and Herzegovina – Route.

WHEREAS, the Republic of Croatia and the Borrower have requested assistance from the Bank in financing Part A of the Project;

WHEREAS, the Bank will endeavour to arrange technical cooperation funds on a grant basis to assist the Borrower in implementing Part B of the Project;

WHEREAS, the Borrower intends to contract a loan from the European Investment Bank (the "Co-financier") in the approximately same amount as the amount the Bank has agreed to lend to the Borrower hereunder, to assist in co-financing Part A of the Project, subject to the terms and conditions to be set forth in an agreement between the Borrower and the Co-financier (the "Co-financing Agreement");

WHEREAS, pursuant to a guarantee agreement dated the date hereof between the Republic of Croatia as Guarantor and the Bank (the "Guarantee Agreement", as defined in the Standard Terms and Conditions), the Guarantor has guaranteed the obligations of the Borrower under this Agreement; and

WHEREAS, the Bank has agreed on the basis of, *inter alia*, the foregoing to make a loan to the Borrower in the amount of sixty million six hundred and thirty thousand euros (EUR 60,630,000.00) subject to the terms and conditions set forth or referred to in this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated 1 October 2007 are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Definitions

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

"Applicable Law"	means any law (including any common or customary law) and any treaty, constitution, statute, legislation, decree, normative act, rule, regulation, judgment, order, writ, injunction, determination, award or other legislative or administrative measure or judicial or arbitral decision in the Republic of Croatia which has the force of law or the compliance with which is in accordance with general practice in the Republic of Croatia.
"Borrower's Assembly"	has the meaning ascribed to it in the Statutes.
"Borrower's Authorised Representative"	means each of the President and any member of the Executive Board of Directors of the Borrower.
"Biodiversity Management Plan"	means a time-bound management plan for the conservation of natural habitats and habitats of species defining the following: (i) site conservation and protection requirements, (ii) compensatory measures necessary to ensure that the overall coherence of any Natura 2000 or similar site is protected and (iii) responsibilities for biodiversity management.
"Cash Available for Debt Service"	means with respect to any Fiscal Year, the Net Operating Income plus depreciation.
"Corporate Strategy"	means a set of strategic actions prepared by the Borrower, in form and substance satisfactory to the Bank, related to operations, management and information, accounting and other necessary aspects and aimed at achieving the separation of the Borrower's tolling and motorway maintenance activities either through a spin-off or through another scheme determined to be most appropriate for the enhancement of commercialisation of these activities.

"Current Assets"	means cash plus all other assets, which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next Fiscal Year.
"Current Liabilities"	means all liabilities which will become due and payable or could under the circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.
"Current Ratio"	means, with respect to any Fiscal Year, the ratio of total Current Assets to total Current Liabilities.
"Debt Service Coverage Ratio"	means, with respect to any Fiscal Year, the ratio of Cash Available for Debt Service of the Borrower to the Debt Service Requirement of the Borrower.
"Debt Service Requirement"	means, for any period, the aggregate amount of repayment of principal, interest and other charges on debt incurred in such period by the Borrower, where such debt matures by its terms more than one year after the date on which it was originally incurred.
"Designated Performance Requirements"	means Performance Requirements 1 through 8 and 10 (or, as the context may require, any one of such Performance Requirements) of the Performance Requirements dated May 2008 and related to the Bank's Environmental and Social Policy dated May 2008.
"Environmental and Social Action Plan"	means the plan of environmental and social mitigation and improvement measures approved by the Bank in accordance with Section 3.04(b), as such plan may be amended from time to time with the prior written consent of the Bank in accordance with Section 3.04(d).
"Environmental and Social Law"	means any Applicable Law or regulation which relates to: <ul style="list-style-type: none"> (g) pollution or protection of the environment, including related laws or regulations relating to public access to information and participation in decision-making; (h) labour and employment conditions;

- (i) occupational health and safety;
- (j) public health, safety and security;
- (k) indigenous peoples;
- (l) cultural heritage; or
- (g) resettlement or economic displacement of persons.

"Environmental and Social Matter"	means any matter that is the subject of any Environmental and Social Law, any Designated Performance Requirement or the Environmental and Social Action Plan.
"Fiscal Year"	means the Borrower's fiscal year commencing on 1 January of each year.
"IFRS"	means International Financial Reporting Standards issued or adopted by the International Accounting Standards Board and consistently applied.
"Net Operating Income"	means total revenue from operations (such as fuel, tax and tolls) less total operating costs (such as labour, materials and maintenance costs).
"PIU"	means the project implementation unit referred to in Section 3.02.
"Procurement Advisor"	means Deloitte Savjetodavne Usluge d.o.o., a limited liability company organised and existing under the laws of the Republic of Croatia.
"Procurement Initial Review"	means a review of procurement and reporting procedures and systems performed by an independent consultant engaged by the Bank.
"Procurement Policy"	means a comprehensive set of transparency and governance measures in compliance with the Applicable Law and in form and substance satisfactory to the Bank, to be adopted by the Borrower with the aim of improving internal procurement policies and processes pursuant to the recommendations given by the Procurement Advisor as part of the Procurement Initial Review.

"Procurement Policy Auditor"	means an independent procurement policy expert to be retained under the technical assistance component of the Co-financing Agreement in order to assist in and assess the implementation of the Procurement Policy.
"Procurement Policy Implementation Audit Report"	means the report prepared by the Procurement Policy Auditor assessing the Borrower's implementation of the Procurement Policy.
"Project"	means the project which will include the construction of four sections of motorway adjacent to the border with Bosnia and Herzegovina, as described in more detail in Schedule 1.
"Project Completion Date"	means 31 December 2013.
"Statutes"	means the Articles of Association of the Borrower.

Section 1.03. Interpretation

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

ARTICLE II - PRINCIPAL TERMS OF THE LOAN

Section 2.01. Amount and Currency

The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of sixty million six hundred and thirty thousand euros (EUR 60,630,000.00).

Section 2.02. Other Financial Terms of the Loan

- (a) The Minimum Drawdown Amount shall be EUR 250,000 (two hundred fifty thousand euros), except that with respect to Part C of the Project (as described in Schedule 1), the Minimum Drawdown Amount shall be EUR 6,000 (six thousand euros).
- (b) The Minimum Prepayment Amount shall be EUR 5,000,000 (five million euros).
- (c) The Minimum Cancellation Amount shall be EUR 5,000,000 (five million euros).
- (d) The Interest Payment Dates shall be 15 March and 15 September of each year.

- (e) (1) The Borrower shall repay the Loan in equal (or as nearly equal as possible) semi-annual instalments on each Interest Payment Date, with the first Loan Repayment Date being on or following the Interest Payment Date falling on the third anniversary of the date of this Agreement and the last Loan Repayment Date being the Interest Payment Date falling on or following the fifteenth anniversary of the date of this Agreement. (2) Notwithstanding the foregoing, in the event that (i) the Borrower does not draw down the entire Loan amount prior to the first Loan Repayment Date specified in this Section 2.02(e), and (ii) the Bank extends the Last Availability Date specified in Section 2.02(f) below to a date which falls after such first Loan Repayment Date, then the amount of each drawdown made on or after the first Loan Repayment Date shall be allocated for repayment in equal amounts to the several Loan Repayment Dates which fall after the date of such drawdown (with the Bank adjusting the amounts so allocated as necessary so as to achieve whole numbers in each case). The Bank shall, from time to time, notify the Borrower of such allocations.
- (f) The Last Availability Date shall be the third anniversary of the date of this Agreement or such later date that the Bank may in its discretion establish and notify to the Borrower and the Guarantor.
- (g) The rate of the Commitment Charge shall be 0.5% per annum.
- (h) The Loan is subject to a Variable Interest Rate. Notwithstanding the foregoing, the Borrower may, as an alternative to paying interest at a Variable Interest Rate on all or any portion of the Loan then outstanding, elect to pay interest at a Fixed Interest Rate on such portion of the Loan in accordance with Section 3.04(c) of the Standard Terms and Conditions.

Section 2.03. Drawdowns

- (a) The Available Amount may be drawn down from time to time in accordance with the provisions of Schedule 2 to finance (1) expenditures made (or, if the Bank so agrees, to be made) in respect of the reasonable cost of goods, works and services required for the Project and (2) the Front-end Commission.
- (b) The Borrower hereby authorises the Bank to draw down from the Available Amount an amount equal to the Front-end Commission and pay to itself the Front-end Commission on behalf of the Borrower.

ARTICLE III - EXECUTION OF THE PROJECT

Section 3.01. Other Affirmative Project Covenants

In addition to the general undertakings set forth in Article IV of the Standard Terms and Conditions, the Borrower shall, unless the Bank otherwise agrees:

- (a) take all action necessary to provide adequate funds for the completion of the Project;
- (b) by no later than 30 June 2011 prepare and submit to the Bank final version of the Procurement Policy, including supervision and audit procedures satisfactory to the Bank;

- (c) by no later than 31 October 2011, receive the Executive Board of Directors' approval of, and adopt, the Procurement Policy;
- (d) by no later than the date falling twelve months from the date on which the Procurement Policy was adopted pursuant to Section 3.01(c), submit to the Bank the Procurement Policy Implementation Audit Report;
- (e) by no later than 60 days after the end of each Fiscal Year, submit to the Bank annual updates on the implementation of the Procurement Policy;
- (f) by no later than 30 June 2011, hire reputable external consultants under the terms of reference acceptable to the Bank to assist in the preparation of the further commercialisation of the tolling and motorway maintenance functions (the "Corporate Strategy");
- (g) by no later than 31 March 2012, prepare and submit to the Bank, the Borrower's supervisory board and the Borrower's Assembly final draft of the Corporate Strategy;
- (h) subject to the approval of the Corporate Strategy by the Borrower's Assembly and its compliance with the Applicable Law, implement further commercialisation measures for the tolling activities by no later than 31 December 2014, unless otherwise specified in the time table set forth in the approved Corporate Strategy;
- (i) subject to the approval of the Corporate Strategy by the Borrower's Assembly and its compliance with the Applicable Law, implement further commercialisation measures for the motorway maintenance activities by no later than 31 December 2015, unless otherwise specified in the time table set forth in the approved Corporate Strategy; and
- (j) maintain its corporate existence in compliance with all Applicable Laws.

Section 3.02. Project Implementation Unit

In order to coordinate, manage, monitor and evaluate all aspects of Project implementation, including the procurement of goods, works and services for the Project, the Borrower shall, unless otherwise agreed with the Bank, establish and at all times during execution of the Project operate a project implementation unit with adequate resources and suitably qualified personnel, including consultants to assist the PIU in the implementation of the Project, if necessary, under terms of reference acceptable to the Bank.

Section 3.03. Procurement

For purposes of Section 4.03 of the Standard Terms and Conditions, the following provisions shall, except as the Bank otherwise agrees, govern procurement of goods, works and services required for the Project and to be financed out of the proceeds of the Loan:

- (a) Goods, works and services (other than consultants' services which are included within Section 3.03(c)) shall be procured through open tendering.

(b) For purposes of Section 3.03(a), the procedures for open tendering, selective tendering, direct contracting and shopping and standards for local competitive tendering procedures are set out in Chapter 3 of the EBRD Procurement Rules.

(c) Consultants to be employed by the Borrower to assist in carrying out the Project shall be selected in accordance with the procedures set out in Chapter 5 of the EBRD Procurement Rules.

(d) All contracts shall be subject to the review procedures set out in the EBRD Procurement Rules. All contracts shall be subject to prior review.

Section 3.04. Environmental and Social Compliance Covenants

Without limiting the generality of Sections 4.02(a), 4.04(a)(iii), and 5.02(c)(iii) of the Standard Terms and Conditions, the Borrower shall, unless the Bank otherwise agrees:

(a) Except as otherwise specified in the Environmental and Social Action Plan, the Borrower shall, and shall cause any contractor to, carry out the Project in accordance with the Designated Performance Requirements.

(b) Without limiting the foregoing, the Borrower shall diligently implement and adhere to the Environmental and Social Action Plan and monitor the implementation of such plan in accordance with the monitoring provisions contained in such plan.

(c) At all times until the Project Completion Date, the Borrower shall, at its own expense, procure that (1) separate environmental, social, health and safety audits of each Section be carried out at a time agreed with the Bank by the Borrower's supervisory engineer and (2) the results of such audit be submitted to the Bank for review and comments.

(d) The Borrower and the Bank may from time to time agree to amend the Environmental and Social Action Plan in response to changes in the circumstances of the Project or the Borrower, unforeseen events and the results of monitoring. Without limiting the generality of the foregoing,

(1) if there is any adverse environmental or social impact or issue that was not foreseen by or contemplated in the Environmental and Social Action Plan either entirely or as to its severity, or

(2) if any impact mitigation measure set out in the Environmental and Social Action Plan is not sufficient to eliminate or reduce any environmental or social impact to the level contemplated by the relevant Designated Performance Requirements within the time frame set out in the Environmental and Social Action Plan,

the Borrower shall, as soon as reasonably practicable and subject to the consent of the Bank, develop and incorporate into the Environmental and Social Action Plan such additional or revised mitigation measures as may be necessary to achieve compliance with the Designated Performance Requirements, in each case in a manner satisfactory to the Bank.

Section 3.05. Consultants

(a) In order to assist in the implementation of the Project, the Borrower shall, unless otherwise agreed with the Bank, employ or cause to be employed, as required, and use consultants whose qualifications, experience and terms of reference are satisfactory to the Bank, including:

- (1) consultants to assist in the implementation of Part C of the Project;
- (2) consultants to assist in the implementation of the Procurement Policy and in the assessment thereof; and
- (3) consultants to assist in the preparation and implementation of the Corporate Strategy.

(b) The Borrower shall provide, without charge, to any consultants engaged to assist in matters relating to the Project or the operations of the Borrower all facilities and support necessary for the carrying out of their functions, including office space, photocopying equipment and supplies, secretarial services and transportation, as well as all documents, materials and other information that may be relevant to their work.

Section 3.06. Reporting Frequency and Submission Requirements

(a) Until the full amount of the Loan has been repaid or cancelled, the Borrower shall submit to the Bank:

- (i) quarterly reports (until the Project Completion Date) and
- (ii) annual reports thereafter

on Environmental and Social Matters arising in relation to the Borrower or the Project, as referred to in Section 5.02(c)(iii) of the Standard Terms and Conditions, within 60 days after the end of the quarter of the year being reported on, as applicable. Such reports shall include information on the following specific matters:

- (1) information on compliance by the Borrower with the Designated Performance Requirements as described in Section 3.04(a) and the implementation of the Environmental and Social Action Plan;
- (2) information on how the Borrower has monitored the compliance with the Designated Performance Requirements and the Environmental and Social Action Plan by any contractor engaged for the Project and a summary of any material non-compliance by such contractor with the Designated Performance Requirements and the Environmental and Social Action Plan and of any measures taken to remedy such non-compliance;
- (3) information on implementation of the stakeholder engagement plan required by Designated Performance Requirement 10, including a summary of any grievances received and how such grievances were resolved;

- (4) information on compliance by the Borrower with Environmental and Social Laws in relation to the Project, including the status of any Authorisation required for the Project, the results of any inspection carried out by any regulatory authority, any violation of Applicable Laws, regulations or standards and any remedial action or fine relating to such violation, and a summary of any material notice, report and other communication on Environmental and Social Matters relating to the Project submitted by the Borrower to any regulatory authority;
 - (5) information on occupational health and safety management and the occupational health and safety record of the Project, including the rates of accidents, lost time incidents and near-misses, any preventive or mitigative measures taken or planned by the Borrower, any staff training on occupational health and safety and any other initiatives in relation to occupational health and safety management which have been implemented or planned by the Borrower;
 - (6) a summary of any change in Environmental and Social Laws which may have a material effect on the Project; and
 - (7) copies of any information on Environmental and Social Matters periodically submitted by the Borrower to its shareholders or the general public.
- (b) Commencing from the Effective Date, the Borrower shall submit the periodic Project reports referred to in Section 4.04(a)(iv) of the Standard Terms and Conditions semi-annually, within 60 days after the end of the period being reported on, until the Project has been completed. Such reports shall include the following specific features:
- (1) The following general information:
 - (A) the physical progress accomplished in the implementation of the Project to the date of report and during the reporting period;
 - (B) actual or expected difficulties or delays in the implementation of the Project and their effect on the implementation schedule, and the actual steps taken or planned to overcome the difficulties and avoid delays;
 - (C) expected changes to the Project Completion Date;
 - (D) key personnel changes in the staff including but not limited to of the PIU, the consultants or the contractors;
 - (E) matters that may affect the cost of the Project; and
 - (F) any development or activity likely to affect the economic viability of any Part of the Project.
 - (2) Financial statements showing details of the expenditures incurred under each Part of the Project and the Drawdowns, together with a statement showing:
 - (A) original cost estimates;
 - (B) revised cost estimates, if any, with reasons for changes;

- (C) original estimated expenditures and actual expenditures to date;
 - (D) reasons for variations of actual expenditures to date from original estimated expenditures to date; and
 - (E) estimated expenditures for the remaining quarters of the year.
- (3) A brief statement of the status of compliance with each of the covenants contained in this Agreement.
- (c) No later than six months after the Project Completion Date, the Borrower shall submit to the Bank a project completion report in form and substance satisfactory to the Bank.
- (d) Immediately upon the occurrence of any incident or accident relating to the Borrower or the Project which has or is likely to have a significant adverse effect on the environment, or on public or occupational health or safety, the Borrower shall inform the Bank and promptly thereafter give the Bank notice thereof specifying the nature of such incident or accident and any steps the Borrower is taking to remedy the same. Without limiting the generality of the foregoing,
- (1) an incident or accident relates to the Project if it occurs on any site used for the Project or, if it is caused by facilities, equipment, vehicles or vessels used for or relating to the Project (whether or not being used on any site of the Project and whether or not being used by authorised or unauthorised persons);
 - (2) an incident or accident is considered to have a significant adverse effect on the environment or on public or occupational health or safety if:
 - (A) any Applicable Law requires notification of such incident or accident to any Governmental Authority,
 - (B) such incident or accident involves fatality of any person (whether or not such person is employed by the Borrower),
 - (C) more than one person (whether or not such persons are employed by the Borrower) has received serious injury requiring hospitalisation, or
 - (D) such incident or accident has become, or is likely to become, public knowledge whether through media coverage or otherwise.

ARTICLE IV - FINANCIAL AND OPERATIONAL COVENANTS

Section 4.01. Financial Records and Reports

- (a) The Borrower shall maintain procedures, records and accounts adequate to reflect, in accordance with the IFRS, the operations and financial condition of the Borrower and its Subsidiaries, if any, and adequate to monitor and record the progress of the Project (including its costs and the benefits to be derived from it).

(b) The Borrower shall:

(1) have its records, accounts and financial statements (including its balance sheet, income statement and statement of changes in financial position, and notes thereon) and the records, accounts and financial statements of its Subsidiaries, for each Fiscal Year audited by independent auditors acceptable to the Bank in accordance with the IFRS;

(2) furnish to the Bank as soon as available, but in any case not later than six months after the end of each Fiscal Year, starting with the Fiscal Year ending 31 December 2010:

(A) certified copies of its financial statements for such Fiscal Year as so audited;

(B) the report of such audit by such auditors of such scope and in such detail as the Bank may reasonably request; and

(C) a statement of all financial transactions between the Borrower and each of its Subsidiaries and Affiliates;

and

(3) furnish to the Bank such other information concerning such records, accounts and financial statements, and the audit thereof, as the Bank may from time to time reasonably request.

Section 4.02. Negative Financial Covenants

(a) The Borrower shall not, except as the Bank otherwise agrees, take any of the following actions and shall provide to the Bank all such information thereon as the Bank may reasonably request:

(1) enter into any agreement or arrangement to guarantee or in any way or under any condition to become obligated for all or any part of any financial or other obligation of another person, including any Subsidiary or Affiliate;

(2) enter into any transaction with any person except in the ordinary course of business, on ordinary commercial terms and on the basis of arm's length arrangements, or establish any sole and exclusive purchasing or sales agency, or enter into any transaction whereby the Borrower might pay more than the ordinary commercial price for any purchase or might receive less than the full ex-works commercial price (subject to normal trade discounts) for its products or services;

(3) enter into any partnership, profit-sharing or royalty agreement or other similar arrangement whereby the Borrower's income or profits are, or might be, shared with any other person;

(4) (whether voluntarily or involuntarily) make any prepayment (except where such prepayment is for purposes of refinancing of the same or similar amount on the same or more favourable terms), repurchase or early redemption of any debt or make a repayment of any debt pursuant to any provision of any agreement or note which provides directly or indirectly for acceleration of repayment in time or amount, unless in

any such case, if the Bank so requires, the Borrower contemporaneously makes a proportionate prepayment of the principal amount then outstanding of the Loan in accordance with the provisions of Section 3.07 of the Standard Terms and Conditions (except that the amount of any such prepayment shall not be subject to the Minimum Prepayment Amount requirements);

(5) Except as contemplated under the Corporate Strategy, sell, transfer, lease or otherwise dispose of all or a substantial part of its assets (whether in a single transaction or in a series of transactions, related or otherwise); or

(6) undertake or permit any merger, consolidation or reorganisation.

(b) The Borrower shall not, unless it informs the Bank at least 30 days in advance, take any of the following actions and shall provide to the Bank all such information thereon as the Bank may reasonably request:

(1) enter into any management contract or similar arrangement whereby its business or operations are managed by any other person, including any Subsidiary or Affiliate; or

(2) form any Subsidiary, or make or permit to exist loans or advances to, or deposits (except deposits in the ordinary course of business with reputable banks) with, other persons or investments in any person, including any Subsidiary or Affiliate; provided, however, that the Borrower shall be at liberty to invest in short-term investment grade marketable securities solely to give temporary employment to the Borrower's idle resources.

Section 4.03. Other Financial Covenants

Without limiting the generality of Section 4.02, the Borrower shall maintain:

(a) a Debt Service Coverage Ratio of at least 1.0; and

(b) a Current Ratio of at least 1.0.

Section 4.04. Conduct of Business and Operations

The Borrower shall, except as the Bank otherwise agrees:

(a) Conduct its business and operations in accordance with internationally recognised sound administrative, financial, engineering and other relevant standards and practices, with due regard to ecological and environmental factors and public and occupational health and safety, and with due regard to all of its principal operating policies;

(b) Promptly take all action within its powers to maintain its legal existence, to carry on its operations and to acquire, maintain and renew all rights, properties, powers, privileges and franchises that are necessary for the conduct of its business, including the carrying out of the Project;

- (c) Not sell, lease or otherwise dispose of any of its assets that are required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Agreement;
- (d) Promptly notify the Bank of any proposal to amend, suspend or repeal any provision of the Statutes and afford the Bank an adequate opportunity to comment on such proposal prior to taking any action thereon unless such amendment, suspension, abrogation, repeal or waiver is of an administrative or technical nature;
- (e) Take out and maintain with responsible insurers, or make other provisions satisfactory to the Bank in respect of, insurance against such risks of loss, damage and liability and in such amounts as are consistent with appropriate practice; and
- (f) At all times operate and maintain its plant, facilities, equipment and other property in good working order and, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound business and financial practice.

ARTICLE V - SUSPENSION; ACCELERATION; CANCELLATION

Section 5.01. Suspension

The following are specified for purposes of Section 7.01(a)(xvii) of the Standard Terms and Conditions:

- (a) The legislative and regulatory framework applicable to the road sector in the territory of the Guarantor shall have been amended, suspended, abrogated, repealed or waived in a manner other than as approved by the Bank in writing;
- (b) the Statutes shall have been amended, suspended, abrogated, repealed or waived unless such amendment, suspension, abrogation, repeal or waiver is of an administrative or technical nature;
- (c) the Borrower shall have taken any of the actions referred to in Section 4.02(b) so as to affect materially and adversely the operations or the financial condition of the Borrower or its ability to carry out the Project or to perform any of its obligations under this Agreement;
- (d) majority ownership or Control of the Borrower shall have been transferred to a party other than the Republic of Croatia; and
- (e) the right of the Borrower to draw proceeds under the Co-financing Agreement shall have been suspended, cancelled or terminated in whole or in part pursuant to the terms of the Co-financing Agreement, unless the Borrower establishes to the satisfaction of the Bank that adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement, or unless such suspension, cancellation or termination occurs as a result of decrease in Project costs.

Section 5.02. Acceleration of Maturity

The following are specified for purposes of Section 7.06(f) of the Standard Terms and Conditions:

- (a) Any event specified in Section 5.01 which shall have continued for thirty days after notice has been given by the Bank to the Borrower and the Guarantor of the Bank's determination that such event has occurred, citing therein the Bank's willingness to take action in accordance with the terms of Section 7.06 of the Standard Terms and Conditions.

ARTICLE VI - EFFECTIVENESS

Section 6.01. Conditions Precedent to Effectiveness

The following are specified for purposes of Section 9.02(c) of the Standard Terms and Conditions as additional conditions to the effectiveness of this Agreement and the Guarantee Agreement:

- (a) The Co-financing Agreement has been executed and delivered and all conditions precedent to its effectiveness or to the right of the Borrower to make withdrawals thereunder, except only the effectiveness of this Agreement, have been fulfilled;
- (b) PIU has been duly established and in operation in accordance with Section 3.02 hereof;
- (c) the Bank shall have received satisfactory results of the Procurement Initial Review; and
- (d) the Bank shall have received a satisfactory Biodiversity Management Plan.

Section 6.02. Legal Opinions

- (a) For purposes of Section 9.03(a) of the Standard Terms and Conditions, the opinion or opinions of counsel shall be given on behalf of the Borrower by Hanžeković and Partners.
- (b) For purposes of Section 9.03(b) of the Standard Terms and Conditions, the opinion or opinions of counsel shall be given on behalf of the Guarantor by the Minister of Justice.

Section 6.03. Termination for Failure to Become Effective

The date 180 days after the date of this Agreement is specified for purposes of Section 9.04 of the Standard Terms and Conditions.

ARTICLE VII - MISCELLANEOUS**Section 7.01. Notices**

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

For the Borrower:

Hrvatske autoceste d.o.o.
Širolina 4
10 000 Zagreb
Croatia

Attention: Ms Dijana Stopnisek

Fax: +385 1 46 94 542

For the Bank:

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

Attention: Operation Administration Unit

Fax: +44-20-7338-6100

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

HRVATSKE AUTOCESTE D.O.O.

By: _____
Name: STJEPKO BOBAN
Title: PRESIDENT OF THE
MANAGEMENT BOARD

**EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

By: _____
Name: PETER REINIGER
Title: MANAGING DIRECTOR

SCHEDULE 1 - DESCRIPTION OF THE PROJECT

1. The purpose of the Project is to assist the Borrower in financing the priority motorway network development in order to ensure regional connectivity of the Corridor Vc in the vicinity of the border with Bosnia and Herzegovina.

2. The Project consists of the following Parts, subject to such modifications thereof as the Bank and the Borrower may agree upon from time to time:

Part A: Civil works for the following four motorway sections:

1. Section from Sredanci to the border with Bosnia and Herzegovina – Route;
2. Section from Sredanci to Bosnia and Herzegovina – bridge over river Sava – Croatian part;
3. Section from the Ploce interchange to Bosnia and Herzegovina – Border crossing Metkovic; and
4. Section from the Ploce interchangeto Bosnia and Herzegovina – Route.

Part B: Institutional strengthening programme to be funded from the technical cooperation funds mobilised by the Bank including consultancy services to assist the Borrower in (1) the implementation of the Procurement Policy and the assessment thereof and (2) the preparation and implementation of the Corporate Strategy.

Part C: Consulting services for the preparation of the Biodiversity Management Plan.

3. The Project is expected to be completed by 31 December 2013.

SCHEDULE 2 - CATEGORIES AND DRAWDOWNS

1. The table attached to this Schedule sets forth the Categories, the amount of the Loan allocated to each Category and the percentage of expenditures to be financed in each Category.
2. Notwithstanding the provisions of paragraph 1 above, no Drawdown shall be made in respect of expenditures incurred prior to the date of the Loan Agreement.
3. The Bank shall be entitled to draw down, on behalf of the Borrower, and to pay to itself, as and when due, the Front-end Commission.

Category	Amount of the Loan Allocated in the Category (Euro)	Percentage of Expenditures to be Financed (net of taxes and duties)
Part A: Civil Works	59,993,700.00	50% of the contract value excluding taxes and duties
Part C: Consulting services for the Biodiversity Management Plan	30,000.00	100%
Part D: Front-end Commission	606,300.00	100%
Total	60,630,000.00	

Članak 4.

Financijske obveze koje bi mogle nastati za Republiku Hrvatsku kao jamca temeljem Ugovora iz članka 1. ovoga Zakona podmirivat će se u skladu s odredbama propisa o izvršavanju državnih proračuna za godine 2011. do 2026. prema planovima otplate do konačne otplate zajma.

Članak 5.

Provedba ovoga Zakona u djelokrugu je središnjih tijela državne uprave nadležnih za poslove financija i infrastrukture.

Članak 6.

Na dan stupanja na snagu ovoga Zakona Ugovor iz članka 1. ovoga Zakona nije na snazi te će se podaci o njegovom stupanju na snagu objaviti naknadno, u skladu s odredbom članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora.

Članak 7.

Ovaj Zakon stupa na snagu osmoga dana od dana objave u Narodnim novinama.

OBRAZLOŽENJE

Člankom 1. Konačnog prijedloga Zakona utvrđuje se da Hrvatski sabor potvrđuje Ugovor o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“, sukladno članku 139. stavku 1. Ustava Republike Hrvatske (Narodne novine, broj 56/1990, 135/1997, 8/1998 – pročišćeni tekst, 113/2000, 124/2000 - pročišćeni tekst, 28/2001, 41/2001 - pročišćeni tekst, 55/2001 – ispravak, 76/2010 i 85/2010 – pročišćeni tekst) čime se iskazuje formalni pristanak Republike Hrvatske da bude vezana ovim Ugovorom o jamstvu, na temelju čega će ovaj pristanak biti iskazan i u odnosima s drugim ugovornom strankom.

Članak 2. sadrži tekst Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“, u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik.

Članak 3. sadrži tekst Ugovora o zajmu između Hrvatskih autocesta d.o.o. i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“ u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik.

Člankom 4. utvrđeno je da će se potencijalne financijske obveze, koje bi mogle nastati za Republiku Hrvatsku kao jamca temeljem Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“ podmiriti u skladu s odredbama propisa o izvršavanju državnog proračuna od 2011. do 2026. godine, prema planovima otplate do konačne otplate zajma.

Člankom 5. utvrđeno je da je provedba Zakona o potvrđivanju Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“ u djelokrugu središnjih tijela državne uprave nadležnih za poslove financija i infrastrukture.

Člankom 6. utvrđuje se da na dan stupanja na snagu Zakona, Ugovor o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“ nije na snazi te da će se podaci o njegovom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora.

Člankom 7. utvrđuje se stupanje na snagu Zakona o potvrđivanju Ugovora o jamstvu između Republike Hrvatske i Europske banke za obnovu i razvoj za „Projekt dovršetka koridora Vc“.

**PRILOG – PRESLIKA TEKSTA UGOVORA
U IZVORNIKU NA ENGLJESKOM JEZIKU**

EXECUTION VERSION

(Operation Number 41325)

GUARANTEE AGREEMENT
(Corridor Vc Completion Project)

between

REPUBLIC OF CROATIA

and

**EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

Dated 24 November 2010

**PRILOG – PRESLIKA TEKSTA UGOVORA
U IZVORNIKU NA ENGLLESKOM JEZIKU**

GUARANTEE AGREEMENT

AGREEMENT dated 24 November 2010 between the **REPUBLIC OF CROATIA** (the "Guarantor") and **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT** (the "Bank").

PREAMBLE

WHEREAS, the Guarantor and Hrvatske Autoceste d.o.o. (the "Borrower") have requested assistance from the Bank in the financing of part of the Project;

WHEREAS, pursuant to a loan agreement dated the date hereof between the Borrower and the Bank (the "Loan Agreement" as defined in the Standard Terms and Conditions), the Bank has agreed to make a loan to the Borrower in the amount of sixty million six hundred and thirty thousand euros (EUR 60,630,000.00), subject to the terms and conditions set forth or referred to in the Loan Agreement, but only on the condition that the Guarantor guarantees the obligations of the Borrower under the Loan Agreement as provided in this Agreement; and

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

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated 1 October 2007 are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein (such provisions are hereinafter called the "Standard Terms and Conditions").

Section 1.02. Definitions

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

"Guarantor's Authorised Representative"

means the Minister of Finance of the Guarantor.

Section 1.03. Interpretation

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

ARTICLE II - GUARANTEE; OTHER OBLIGATIONS

Section 2.01. Guarantee

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

Section 2.02. Project Completion

Whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for the carrying out of the Project, the Guarantor shall promptly take measures satisfactory to the Bank to provide the Borrower, or cause the Borrower to be provided, with such funds as are needed to meet such expenditures and requirements.

Section 2.03. Other Obligations

- (a) The Guarantor shall indemnify the Bank for any losses, claims, liabilities and damages in connection with environmental damages resulting from historical, present or future pollution attributable to the Project facilities, including, without limitation, health and safety defects to employees or third persons and clean-up costs.
- (b) The Guarantor shall ensure that no action shall be taken on its part which would prevent or interfere with the implementation of the Project including the performance of the Borrower's obligations under Section 3.01 of the Loan Agreement.
- (c) The Guarantor shall use best efforts to prepare and sign, by no later than three (3) months prior to the Project Completion Date a customs and immigration protocol between the Guarantor and Bosnia and Herzegovina allowing for simplified border-crossing procedures with respect to the border crossings applicable to the Project.

ARTICLE III - MISCELLANEOUS

Section 3.01. Notices

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

For the Guarantor:

Minister of Finance of the Republic of Croatia
Katančičeva 5
10 000 Zagreb
Croatia

Attention: Minister of Finance of the Republic of Croatia

Fax: + 385-1 4591 248

For the Bank:

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

Attention: Operation Administration Unit

Fax: +44-20-7338-6100

Telex: 8812161

Answerback: EBRD L G

Section 3.02. Legal Opinion

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

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

REPUBLIC OF CROATIA

By: _____

Name: IVAN SUKER

Title: Vice Prime Minister and Minister of Finance

**EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

By: _____

Name: PETER REINIGER

Title: MANAGING DIRECTOR

EXECUTION VERSION

(Operation Number 41325)

LOAN AGREEMENT

(Corridor Vc Completion Project)

between

HRVATSKE AUTOCESTE D.O.O.

and

**EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

Dated 24 November 2010

LOAN AGREEMENT

THIS AGREEMENT, dated 24 November 2010 between HRVATSKE AUTOCESTE ("the Borrower") and EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (the "Bank").

PREAMBLE

WHEREAS, the Bank has been established to provide financing for specific projects to support the transition towards open market-oriented economies and to promote private enterprise and financial initiative in the Central and Eastern European countries committed to applying the principles of multiparty democracy, pluralism and market economy;

WHEREAS, the Borrower intends to implement the Project as described in Schedule 1 attached hereto, and the Bank is pleased to assist the Borrower in the construction of the following four sections of motorway adjacent to the border with Bosnia and Herzegovina (each, a "Section"): (1) Section from Sredanci to the border with Bosnia and Herzegovina – (2) section from Sredanci to Bosnia and Herzegovina - Bridge over river Sava – (3) section from the Ploce interchange to Bosnia and Herzegovina – (4) section from the Ploce interchange to Bosnia and Herzegovina - Route.

WHEREAS, the Republic of Croatia and the Borrower have requested assistance from the Bank in financing Part A of the Project;

WHEREAS, the Bank will endeavour to arrange technical cooperation funds on a grant basis to assist the Borrower in implementing Part B of the Project;

WHEREAS, the Borrower intends to contract a loan from the European Investment Bank (the "Co-financier") in the approximately same amount as the amount the Bank has agreed to lend to the Borrower hereunder, to assist in co-financing Part A of the Project, subject to the terms and conditions to be set forth in an agreement between the Borrower and the Co-financier (the "Co-financing Agreement");

WHEREAS, pursuant to a guarantee agreement dated the date hereof between the Republic of Croatia as Guarantor and the Bank (the "Guarantee Agreement", as defined in the Standard Terms and Conditions), the Guarantor has guaranteed the obligations of the Borrower under this Agreement; and

WHEREAS, the Bank has agreed on the basis of, *inter alia*, the foregoing to make a loan to the Borrower in the amount of sixty million six hundred and thirty thousand euros (EUR 60,630,000.00) subject to the terms and conditions set forth or referred to in this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

ARTICLE I - STANDARD TERMS AND CONDITIONS; DEFINITIONS

Section 1.01. Incorporation of Standard Terms and Conditions

All of the provisions of the Bank's Standard Terms and Conditions dated 1 October 2007 are hereby incorporated into and made applicable to this Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Definitions

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

- "Applicable Law" means any law (including any common or customary law) and any treaty, constitution, statute, legislation, decree, normative act, rule, regulation, judgment, order, writ, injunction, determination, award or other legislative or administrative measure or judicial or arbitral decision in the Republic of Croatia which has the force of law or the compliance with which is in accordance with general practice in the Republic of Croatia.
- "Borrower's Assembly" has the meaning ascribed to it in the Statutes.
- "Borrower's Authorised Representative" means each of the President and any member of the Executive Board of Directors of the Borrower.
- "Biodiversity Management Plan" means a time-bound management plan for the conservation of natural habitats and habitats of species defining the following: (i) site conservation and protection requirements, (ii) compensatory measures necessary to ensure that the overall coherence of any Natura 2000 or similar site is protected and (iii) responsibilities for biodiversity management.
- "Cash Available for Debt Service" means with respect to any Fiscal Year, the Net Operating Income plus depreciation.
- "Corporate Strategy" means a set of strategic actions prepared by the Borrower, in form and substance satisfactory to the Bank, related to operations, management and information, accounting and other necessary aspects and aimed at achieving the

separation of the Borrower's tolling and motorway maintenance activities either through a spin-off or through another scheme determined to be most appropriate for the enhancement of commercialisation of these activities.

"Current Assets"

means cash plus all other assets, which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next Fiscal Year.

"Current Liabilities"

means all liabilities which will become due and payable or could under the circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.

"Current Ratio"

means, with respect to any Fiscal Year, the ratio of total Current Assets to total Current Liabilities.

"Debt Service Coverage Ratio"

means, with respect to any Fiscal Year, the ratio of Cash Available for Debt Service of the Borrower to the Debt Service Requirement of the Borrower.

"Debt Service Requirement"

means, for any period, the aggregate amount of repayment of principal, interest and other charges on debt incurred in such period by the Borrower, where such debt matures by its terms more than one year after the date on which it was originally incurred.

"Designated Performance Requirements"

means Performance Requirements 1 through 8 and 10 (or, as the context may require, any one of such Performance Requirements) of the Performance Requirements dated May 2008 and related to the Bank's Environmental and Social Policy dated May 2008.

"Environmental and Social Action Plan"

means the plan of environmental and social mitigation and improvement measures approved by the Bank in accordance with Section 3.04(b), as such plan may be amended from time to time with the prior written consent of the Bank in accordance with Section 3.04(d).

"Environmental and Social Law"

means any Applicable Law or regulation which relates to:

- (a) pollution or protection of the environment, including related laws or regulations relating to public access to information and participation in decision-making;
- (b) labour and employment conditions;
- (c) occupational health and safety;
- (d) public health, safety and security;
- (e) indigenous peoples;
- (f) cultural heritage; or
- (g) resettlement or economic displacement of persons.

"Environmental and Social Matter"

means any matter that is the subject of any Environmental and Social Law, any Designated Performance Requirement or the Environmental and Social Action Plan.

"Fiscal Year"

means the Borrower's fiscal year commencing on 1 January of each year.

"IFRS"

means International Financial Reporting Standards issued or adopted by the International Accounting Standards Board and consistently applied.

"Net Operating Income"

means total revenue from operations (such as fuel, tax and tolls) less total operating costs (such as labour, materials and maintenance costs).

"PIU"

means the project implementation unit referred to in Section 3.02.

"Procurement Advisor"

means Deloitte Savjetodavne Usluge d.o.o., a limited liability company organised and existing under the laws of the Republic of Croatia.

"Procurement Initial Review"

means a review of procurement and reporting procedures and systems performed by an independent consultant engaged by the Bank.

"Procurement Policy"

means a comprehensive set of transparency and governance measures in compliance with the Applicable Law and in form and substance satisfactory to the Bank, to be adopted by the Borrower with the aim of improving

internal procurement policies and processes pursuant to the recommendations given by the Procurement Advisor as part of the Procurement Initial Review.

"Procurement Policy Auditor"

means an independent procurement policy expert to be retained under the technical assistance component of the Co-financing Agreement in order to assist in and assess the implementation of the Procurement Policy.

"Procurement Policy Implementation Audit Report"

means the report prepared by the Procurement Policy Auditor assessing the Borrower's implementation of the Procurement Policy.

"Project"

means the project which will include the construction of four sections of motorway adjacent to the border with Bosnia and Herzegovina, as described in more detail in Schedule 1.

"Project Completion Date" means 31 December 2013.

"Statutes" means the Articles of Association of the Borrower.

Section 1.03. Interpretation

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

ARTICLE II - PRINCIPAL TERMS OF THE LOAN

Section 2.01. Amount and Currency

The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of sixty million six hundred and thirty thousand euros (EUR 60,630,000.00).

Section 2.02. Other Financial Terms of the Loan

(a) The Minimum Drawdown Amount shall be EUR 250,000 (two hundred fifty thousand euros), except that with respect to Part C of the Project (as described in Schedule 1), the Minimum Drawdown Amount shall be EUR 6,000 (six thousand euros).

(b) The Minimum Prepayment Amount shall be EUR 5,000,000 (five million euros).

- (c) The Minimum Cancellation Amount shall be EUR 5,000,000 (five million euros).
- (d) The Interest Payment Dates shall be 15 March and 15 September of each year.
- (e) (1) The Borrower shall repay the Loan in equal (or as nearly equal as possible) semi-annual instalments on each Interest Payment Date, with the first Loan Repayment Date being on or following the Interest Payment Date falling on the third anniversary of the date of this Agreement and the last Loan Repayment Date being the Interest Payment Date falling on or following the fifteenth anniversary of the date of this Agreement. (2) Notwithstanding the foregoing, in the event that (i) the Borrower does not draw down the entire Loan amount prior to the first Loan Repayment Date specified in this Section 2.02(e), and (ii) the Bank extends the Last Availability Date specified in Section 2.02(f) below to a date which falls after such first Loan Repayment Date, then the amount of each drawdown made on or after the first Loan Repayment Date shall be allocated for repayment in equal amounts to the several Loan Repayment Dates which fall after the date of such drawdown (with the Bank adjusting the amounts so allocated as necessary so as to achieve whole numbers in each case). The Bank shall, from time to time, notify the Borrower of such allocations.
- (f) The Last Availability Date shall be the third anniversary of the date of this Agreement or such later date that the Bank may in its discretion establish and notify to the Borrower and the Guarantor.
- (g) The rate of the Commitment Charge shall be 0.5% per annum.
- (h) The Loan is subject to a Variable Interest Rate. Notwithstanding the foregoing, the Borrower may, as an alternative to paying interest at a Variable Interest Rate on all or any portion of the Loan then outstanding, elect to pay interest at a Fixed Interest Rate on such portion of the Loan in accordance with Section 3.04(c) of the Standard Terms and Conditions.

Section 2.03. Drawdowns

- (a) The Available Amount may be drawn down from time to time in accordance with the provisions of Schedule 2 to finance (1) expenditures made (or, if the Bank so agrees, to be made) in respect of the reasonable cost of goods, works and services required for the Project and (2) the Front-end Commission.
- (b) The Borrower hereby authorises the Bank to draw down from the Available Amount an amount equal to the Front-end Commission and pay to itself the Front-end Commission on behalf of the Borrower.

ARTICLE III - EXECUTION OF THE PROJECT

Section 3.01. Other Affirmative Project Covenants

In addition to the general undertakings set forth in Article IV of the Standard Terms and Conditions, the Borrower shall, unless the Bank otherwise agrees:

- (a) take all action necessary to provide adequate funds for the completion of the Project;
- (b) by no later than 30 June 2011 prepare and submit to the Bank final version of the Procurement Policy, including supervision and audit procedures satisfactory to the Bank;
- (c) by no later than 31 October 2011, receive the Executive Board of Directors' approval of, and adopt, the Procurement Policy;
- (d) by no later than the date falling twelve months from the date on which the Procurement Policy was adopted pursuant to Section 3.01(c), submit to the Bank the Procurement Policy Implementation Audit Report;
- (e) by no later than 60 days after the end of each Fiscal Year, submit to the Bank annual updates on the implementation of the Procurement Policy;
- (f) by no later than 30 June 2011, hire reputable external consultants under the terms of reference acceptable to the Bank to assist in the preparation of the further commercialisation of the tolling and motorway maintenance functions (the "Corporate Strategy");
- (g) by no later than 31 March 2012, prepare and submit to the Bank, the Borrower's supervisory board and the Borrower's Assembly final draft of the Corporate Strategy;
- (h) subject to the approval of the Corporate Strategy by the Borrower's Assembly and its compliance with the Applicable Law, implement further commercialisation measures for the tolling activities by no later than 31 December 2014, unless otherwise specified in the time table set forth in the approved Corporate Strategy;
- (i) subject to the approval of the Corporate Strategy by the Borrower's Assembly and its compliance with the Applicable Law, implement further commercialisation measures for the motorway maintenance activities by no later than 31 December 2015, unless otherwise specified in the time table set forth in the approved Corporate Strategy; and
- (j) maintain its corporate existence in compliance with all Applicable Laws.

Section 3.02. Project Implementation Unit

In order to coordinate, manage, monitor and evaluate all aspects of Project implementation, including the procurement of goods, works and services for the Project, the Borrower shall, unless otherwise agreed with the Bank, establish and at all times during execution of the Project operate a project implementation unit with adequate

resources and suitably qualified personnel, including consultants to assist the PIU in the implementation of the Project, if necessary, under terms of reference acceptable to the Bank.

Section 3.03. Procurement

For purposes of Section 4.03 of the Standard Terms and Conditions, the following provisions shall, except as the Bank otherwise agrees, govern procurement of goods, works and services required for the Project and to be financed out of the proceeds of the Loan:

- (a) Goods, works and services (other than consultants' services which are included within Section 3.03(c)) shall be procured through open tendering.
- (b) For purposes of Section 3.03(a), the procedures for open tendering, selective tendering, direct contracting and shopping and standards for local competitive tendering procedures are set out in Chapter 3 of the EBRD Procurement Rules.
- (c) Consultants to be employed by the Borrower to assist in carrying out the Project shall be selected in accordance with the procedures set out in Chapter 5 of the EBRD Procurement Rules.
- (d) All contracts shall be subject to the review procedures set out in the EBRD Procurement Rules. All contracts shall be subject to prior review.

Section 3.04. Environmental and Social Compliance Covenants

Without limiting the generality of Sections 4.02(a), 4.04(a)(iii), and 5.02(c)(iii) of the Standard Terms and Conditions, the Borrower shall, unless the Bank otherwise agrees:

- (a) Except as otherwise specified in the Environmental and Social Action Plan, the Borrower shall, and shall cause any contractor to, carry out the Project in accordance with the Designated Performance Requirements.
- (b) Without limiting the foregoing, the Borrower shall diligently implement and adhere to the Environmental and Social Action Plan and monitor the implementation of such plan in accordance with the monitoring provisions contained in such plan.
- (c) At all times until the Project Completion Date, the Borrower shall, at its own expense, procure that (1) separate environmental, social, health and safety audits of each Section be carried out at a time agreed with the Bank by the Borrower's supervisory engineer and (2) the results of such audit be submitted to the Bank for review and comments.
- (d) The Borrower and the Bank may from time to time agree to amend the Environmental and Social Action Plan in response to changes in the circumstances of the Project or the Borrower, unforeseen events and the results of monitoring. Without limiting the generality of the foregoing,

(1) if there is any adverse environmental or social impact or issue that was not foreseen by or contemplated in the Environmental and Social Action Plan either entirely or as to its severity, or

(2) if any impact mitigation measure set out in the Environmental and Social Action Plan is not sufficient to eliminate or reduce any environmental or social impact to the level contemplated by the relevant Designated Performance Requirements within the time frame set out in the Environmental and Social Action Plan,

the Borrower shall, as soon as reasonably practicable and subject to the consent of the Bank, develop and incorporate into the Environmental and Social Action Plan such additional or revised mitigation measures as may be necessary to achieve compliance with the Designated Performance Requirements, in each case in a manner satisfactory to the Bank.

Section 3.05. Consultants

(a) In order to assist in the implementation of the Project, the Borrower shall, unless otherwise agreed with the Bank, employ or cause to be employed, as required, and use consultants whose qualifications, experience and terms of reference are satisfactory to the Bank, including:

- (1) consultants to assist in the implementation of Part C of the Project;
- (2) consultants to assist in the implementation of the Procurement Policy and in the assessment thereof; and
- (3) consultants to assist in the preparation and implementation of the Corporate Strategy.

(b) The Borrower shall provide, without charge, to any consultants engaged to assist in matters relating to the Project or the operations of the Borrower all facilities and support necessary for the carrying out of their functions, including office space, photocopying equipment and supplies, secretarial services and transportation, as well as all documents, materials and other information that may be relevant to their work.

Section 3.06. Reporting Frequency and Submission Requirements

(a) Until the full amount of the Loan has been repaid or cancelled, the Borrower shall submit to the Bank:

- (i) quarterly reports (until the Project Completion Date) and
- (ii) annual reports thereafter

on Environmental and Social Matters arising in relation to the Borrower or the Project, as referred to in Section 5.02(c)(iii) of the Standard Terms and Conditions, within 60 days after the end of the quarter of the year being reported on, as applicable. Such reports shall include information on the following specific matters:

- (1) information on compliance by the Borrower with the Designated Performance Requirements as described in Section 3.04(a) and the implementation of the Environmental and Social Action Plan;
 - (2) information on how the Borrower has monitored the compliance with the Designated Performance Requirements and the Environmental and Social Action Plan by any contractor engaged for the Project and a summary of any material non-compliance by such contractor with the Designated Performance Requirements and the Environmental and Social Action Plan and of any measures taken to remedy such non-compliance;
 - (3) information on implementation of the stakeholder engagement plan required by Designated Performance Requirement 10, including a summary of any grievances received and how such grievances were resolved;
 - (4) information on compliance by the Borrower with Environmental and Social Laws in relation to the Project, including the status of any Authorisation required for the Project, the results of any inspection carried out by any regulatory authority, any violation of Applicable Laws, regulations or standards and any remedial action or fine relating to such violation, and a summary of any material notice, report and other communication on Environmental and Social Matters relating to the Project submitted by the Borrower to any regulatory authority;
 - (5) information on occupational health and safety management and the occupational health and safety record of the Project, including the rates of accidents, lost time incidents and near-misses, any preventive or mitigative measures taken or planned by the Borrower, any staff training on occupational health and safety and any other initiatives in relation to occupational health and safety management which have been implemented or planned by the Borrower;
 - (6) a summary of any change in Environmental and Social Laws which may have a material effect on the Project; and
 - (7) copies of any information on Environmental and Social Matters periodically submitted by the Borrower to its shareholders or the general public.
- (b) Commencing from the Effective Date, the Borrower shall submit the periodic Project reports referred to in Section 4.04(a)(iv) of the Standard Terms and Conditions semi-annually, within 60 days after the end of the period being reported on, until the Project has been completed. Such reports shall include the following specific features:

- (1) The following general information:
 - (A) the physical progress accomplished in the implementation of the Project to the date of report and during the reporting period;
 - (B) actual or expected difficulties or delays in the implementation of the Project and their effect on the implementation schedule, and the actual steps taken or planned to overcome the difficulties and avoid delays;

- (C) expected changes to the Project Completion Date;
- (D) key personnel changes in the staff including but not limited to of the PIU, the consultants or the contractors;
- (E) matters that may affect the cost of the Project; and
- (F) any development or activity likely to affect the economic viability of any Part of the Project.

(2) Financial statements showing details of the expenditures incurred under each Part of the Project and the Drawdowns, together with a statement showing:

- (A) original cost estimates;
- (B) revised cost estimates, if any, with reasons for changes;
- (C) original estimated expenditures and actual expenditures to date;
- (D) reasons for variations of actual expenditures to date from original estimated expenditures to date; and
- (E) estimated expenditures for the remaining quarters of the year.

(3) A brief statement of the status of compliance with each of the covenants contained in this Agreement.

(c) No later than six months after the Project Completion Date, the Borrower shall submit to the Bank a project completion report in form and substance satisfactory to the Bank.

(d) Immediately upon the occurrence of any incident or accident relating to the Borrower or the Project which has or is likely to have a significant adverse effect on the environment, or on public or occupational health or safety, the Borrower shall inform the Bank and promptly thereafter give the Bank notice thereof specifying the nature of such incident or accident and any steps the Borrower is taking to remedy the same. Without limiting the generality of the foregoing,

(1) an incident or accident relates to the Project if it occurs on any site used for the Project or, if it is caused by facilities, equipment, vehicles or vessels used for or relating to the Project (whether or not being used on any site of the Project and whether or not being used by authorised or unauthorised persons);

(2) an incident or accident is considered to have a significant adverse effect on the environment or on public or occupational health or safety if:

(A) any Applicable Law requires notification of such incident or accident to any Governmental Authority,

(B) such incident or accident involves fatality of any person (whether or not such person is employed by the Borrower),

(C) more than one person (whether or not such persons are employed by the Borrower) has received serious injury requiring hospitalisation, or

(D) such incident or accident has become, or is likely to become, public knowledge whether through media coverage or otherwise.

ARTICLE IV - FINANCIAL AND OPERATIONAL COVENANTS

Section 4.01. Financial Records and Reports

(a) The Borrower shall maintain procedures, records and accounts adequate to reflect, in accordance with the IFRS, the operations and financial condition of the Borrower and its Subsidiaries, if any, and adequate to monitor and record the progress of the Project (including its costs and the benefits to be derived from it).

(b) The Borrower shall:

(1) have its records, accounts and financial statements (including its balance sheet, income statement and statement of changes in financial position, and notes thereon) and the records, accounts and financial statements of its Subsidiaries, for each Fiscal Year audited by independent auditors acceptable to the Bank in accordance with the IFRS;

(2) furnish to the Bank as soon as available, but in any case not later than six months after the end of each Fiscal Year, starting with the Fiscal Year ending 31 December 2010:

(A) certified copies of its financial statements for such Fiscal Year as so audited;

(B) the report of such audit by such auditors of such scope and in such detail as the Bank may reasonably request; and

(C) a statement of all financial transactions between the Borrower and each of its Subsidiaries and Affiliates;

and

(3) furnish to the Bank such other information concerning such records, accounts and financial statements, and the audit thereof, as the Bank may from time to time reasonably request.

Section 4.02. Negative Financial Covenants

(a) The Borrower shall not, except as the Bank otherwise agrees, take any of the following actions and shall provide to the Bank all such information thereon as the Bank may reasonably request:

(1) enter into any agreement or arrangement to guarantee or in any way or under any condition to become obligated for all or any part of any financial or other obligation of another person, including any Subsidiary or Affiliate;

(2) enter into any transaction with any person except in the ordinary course of business, on ordinary commercial terms and on the basis of arm's length arrangements, or establish any sole and exclusive purchasing or sales agency, or enter into any transaction whereby the Borrower might pay more than the ordinary commercial price for any purchase or might receive less than the full ex-works commercial price (subject to normal trade discounts) for its products or services;

(3) enter into any partnership, profit-sharing or royalty agreement or other similar arrangement whereby the Borrower's income or profits are, or might be, shared with any other person;

(4) (whether voluntarily or involuntarily) make any prepayment (except where such prepayment is for purposes of refinancing of the same or similar amount on the same or more favourable terms), repurchase or early redemption of any debt or make a repayment of any debt pursuant to any provision of any agreement or note which provides directly or indirectly for acceleration of repayment in time or amount, unless in any such case, if the Bank so requires, the Borrower contemporaneously makes a proportionate prepayment of the principal amount then outstanding of the Loan in accordance with the provisions of Section 3.07 of the Standard Terms and Conditions (except that the amount of any such prepayment shall not be subject to the Minimum Prepayment Amount requirements);

(5) Except as contemplated under the Corporate Strategy, sell, transfer, lease or otherwise dispose of all or a substantial part of its assets (whether in a single transaction or in a series of transactions, related or otherwise); or

(6) undertake or permit any merger, consolidation or reorganisation.

(b) The Borrower shall not, unless it informs the Bank at least 30 days in advance, take any of the following actions and shall provide to the Bank all such information thereon as the Bank may reasonably request:

(1) enter into any management contract or similar arrangement whereby its business or operations are managed by any other person, including any Subsidiary or Affiliate; or

(2) form any Subsidiary, or make or permit to exist loans or advances to, or deposits (except deposits in the ordinary course of business with reputable banks) with, other persons or investments in any person, including any Subsidiary or Affiliate; provided, however, that the Borrower shall be at liberty to invest in short-term investment grade marketable securities solely to give temporary employment to the Borrower's idle resources.

Section 4.03. Other Financial Covenants

Without limiting the generality of Section 4.02, the Borrower shall maintain:

- (a) a Debt Service Coverage Ratio of at least 1.0; and
- (b) a Current Ratio of at least 1.0.

Section 4.04. Conduct of Business and Operations

The Borrower shall, except as the Bank otherwise agrees:

- (a) Conduct its business and operations in accordance with internationally recognised sound administrative, financial, engineering and other relevant standards and practices, with due regard to ecological and environmental factors and public and occupational health and safety, and with due regard to all of its principal operating policies;
- (b) Promptly take all action within its powers to maintain its legal existence, to carry on its operations and to acquire, maintain and renew all rights, properties, powers, privileges and franchises that are necessary for the conduct of its business, including the carrying out of the Project;
- (c) Not sell, lease or otherwise dispose of any of its assets that are required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Agreement;
- (d) Promptly notify the Bank of any proposal to amend, suspend or repeal any provision of the Statutes and afford the Bank an adequate opportunity to comment on such proposal prior to taking any action thereon unless such amendment, suspension, abrogation, repeal or waiver is of an administrative or technical nature;
- (e) Take out and maintain with responsible insurers, or make other provisions satisfactory to the Bank in respect of, insurance against such risks of loss, damage and liability and in such amounts as are consistent with appropriate practice; and
- (f) At all times operate and maintain its plant, facilities, equipment and other property in good working order and, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound business and financial practice.

ARTICLE V - SUSPENSION; ACCELERATION; CANCELLATION

Section 5.01. Suspension

The following are specified for purposes of Section 7.01(a)(xvii) of the Standard Terms and Conditions:

(a) The legislative and regulatory framework applicable to the road sector in the territory of the Guarantor shall have been amended, suspended, abrogated, repealed or waived in a manner other than as approved by the Bank in writing;

(b) the Statutes shall have been amended, suspended, abrogated, repealed or waived unless such amendment, suspension, abrogation, repeal or waiver is of an administrative or technical nature;

(c) the Borrower shall have taken any of the actions referred to in Section 4.02(b) so as to affect materially and adversely the operations or the financial condition of the Borrower or its ability to carry out the Project or to perform any of its obligations under this Agreement;

(d) majority ownership or Control of the Borrower shall have been transferred to a party other than the Republic of Croatia; and

(e) the right of the Borrower to draw proceeds under the Co-financing Agreement shall have been suspended, cancelled or terminated in whole or in part pursuant to the terms of the Co-financing Agreement, unless the Borrower establishes to the satisfaction of the Bank that adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement, or unless such suspension, cancellation or termination occurs as a result of decrease in Project costs.

Section 5.02. Acceleration of Maturity

The following are specified for purposes of Section 7.06(f) of the Standard Terms and Conditions:

(a) Any event specified in Section 5.01 which shall have continued for thirty days after notice has been given by the Bank to the Borrower and the Guarantor of the Bank's determination that such event has occurred, citing therein the Bank's willingness to take action in accordance with the terms of Section 7.06 of the Standard Terms and Conditions.

ARTICLE VI - EFFECTIVENESS

Section 6.01. Conditions Precedent to Effectiveness

The following are specified for purposes of Section 9.02(c) of the Standard Terms and Conditions as additional conditions to the effectiveness of this Agreement and the Guarantee Agreement:

(a) The Co-financing Agreement has been executed and delivered and all conditions precedent to its effectiveness or to the right of the Borrower to make withdrawals thereunder, except only the effectiveness of this Agreement, have been fulfilled;

(b) PIU has been duly established and in operation in accordance with Section 3.02 hereof;

(c) the Bank shall have received satisfactory results of the Procurement Initial Review; and

(d) the Bank shall have received a satisfactory Biodiversity Management Plan.

Section 6.02. Legal Opinions

(a) For purposes of Section 9.03(a) of the Standard Terms and Conditions, the opinion or opinions of counsel shall be given on behalf of the Borrower by Hanzeković and Partners.

(b) For purposes of Section 9.03(b) of the Standard Terms and Conditions, the opinion or opinions of counsel shall be given on behalf of the Guarantor by the Minister of Justice.

Section 6.03. Termination for Failure to Become Effective

The date 180 days after the date of this Agreement is specified for purposes of Section 9.04 of the Standard Terms and Conditions.

ARTICLE VII - MISCELLANEOUS

Section 7.01. Notices

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

For the Borrower:

Hrvatske autoceste d.o.o.
Širolina 4
10 000 Zagreb
Croatia

Attention: Ms Dijana Stopnisek

Fax: +385 1 46 94 542

For the Bank:

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

Attention: Operation Administration Unit

Fax: +44-20-7338-6100

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

HRVATSKE AUTOCESTE D.O.O.

By: 

Name: STJEPKO BOBAN
Title: PRESIDENT OF THE
MANAGEMENT BOARD

**EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

By: 

Name: PETER REINIGER
Title: MANAGING DIRECTOR

SCHEDULE 1 - DESCRIPTION OF THE PROJECT

1. The purpose of the Project is to assist the Borrower in financing the priority motorway network development in order to ensure regional connectivity of the Corridor Vc in the vicinity of the border with Bosnia and Herzegovina.

2. The Project consists of the following Parts, subject to such modifications thereof as the Bank and the Borrower may agree upon from time to time:

Part A: Civil works for the following four motorway sections:

1. Section from Sredanci to the border with Bosnia and Herzegovina – Route;
2. Section from Sredanci to Bosnia and Herzegovina – bridge over river Sava – Croatian part;
3. Section from the Ploce interchange to Bosnia and Herzegovina – Border crossing Metkovic; and
4. Section from the Ploce interchange to Bosnia and Herzegovina – Route.

Part B: Institutional strengthening programme to be funded from the technical cooperation funds mobilised by the Bank including consultancy services to assist the Borrower in (1) the implementation of the Procurement Policy and the assessment thereof and (2) the preparation and implementation of the Corporate Strategy.

Part C: Consulting services for the preparation of the Biodiversity Management Plan.

3. The Project is expected to be completed by 31 December 2013.

SCHEDULE 2 - CATEGORIES AND DRAWDOWNS

1. The table attached to this Schedule sets forth the Categories, the amount of the Loan allocated to each Category and the percentage of expenditures to be financed in each Category.
2. Notwithstanding the provisions of paragraph 1 above, no Drawdown shall be made in respect of expenditures incurred prior to the date of the Loan Agreement.
3. The Bank shall be entitled to draw down, on behalf of the Borrower, and to pay to itself, as and when due, the Front-end Commission.

Category	Amount of the Loan Allocated in the Category (Euro)	Percentage of Expenditures to be Financed (net of taxes and duties)
Part A: Civil Works	59,993,700.00	50% of the contract value excluding taxes and duties
Part C: Consulting services for the Biodiversity Management Plan	30,000.00	100%
Part D: Front-end Commission	606,300.00	100%
Total	60,630,000.00	