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Serapis N° 2006-0319

TEŠ – Thermal Power Plant Šoštanj / B

Guarantee Agreement

between the

Republic of Slovenia

and the

European Investment Bank

Ljubljana, 6 December 2012
Luxembourg, 4 December 2012

THIS AGREEMENT IS MADE BETWEEN:

The Republic of Slovenia, acting through the Ministry of Finance, represented by the Minister of Finance, Mr Janez Šušteršič,

hereinafter called:

the "Guarantor"

of the first part, and

European Investment Bank having its Head Office at 100, Boulevard Konrad Adenauer, Luxembourg-Kirchberg, Grand Duchy of Luxembourg, represented by the Head of Division, Mr Dominique Courbin, and by the Legal Counsel, Mr Lawrence Walsh,

hereinafter called:

the "Bank"

of the second part.

WHEREAS :

- By an agreement named "TES – Thermal Power Plant Šoštanj / B" (hereinafter called the "Finance Contract") signed on 22 April 2010 in Ljubljana between the Bank and Termoelektrarna Šoštanj d.o.o., (hereinafter called the "Borrower"), the Bank has agreed to establish in favour of the Borrower a second tranche to be guaranteed by the Republic of Slovenia for a credit in an amount equivalent to EUR 440,000,000.00 (four hundred and forty million euros) to be used to finance a project aimed at the design, construction and commissioning of a new 600 MW super critical, lignite-fired steam turbine power plant and associated cooling tower, stack, flue gas desulphurization, wastewater treatment and control systems and connection to an existing substation (hereinafter called the "Project"). The supported Project is more particularly described in the Technical Description set out in schedule A.1 to the Finance Contract.
- The obligations of the Bank under the Finance Contract are conditional upon the execution, delivery by the Guarantor and continuing operation of a guarantee of performance by the Borrower of its financial obligations under the Finance Contract (hereinafter this "Guarantee Agreement") and the delivery of a favourable legal opinion thereon.
- Execution of this Guarantee Agreement has been authorised by the Parliament of the Republic of Slovenia and a certified English translation of the relevant provisions of the relevant law is attached hereto as Annex I.

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- A duly authorised officer of the office of the Attorney General's Office of the Guarantor will issue a legal opinion on this Guarantee Agreement in form and substance satisfactory to the Bank (as set out in Annex II), as a condition to disbursement by the Bank under the Finance Contract.

NOW THEREFORE it is hereby agreed as follows:

ARTICLE 1

Finance Contract

- 1.01** The Guarantor declares that it is well acquainted with the terms, conditions and clauses of the Finance Contract, a copy of which, as signed by the parties thereto, has been delivered to the Guarantor by the Bank.
- 1.02** Terms defined in the Finance Contract shall have the same meaning in this Guarantee Agreement. References herein to Articles, Paragraphs, Recitals, Schedules and Annexes are, save if explicitly stipulated otherwise, references respectively to articles and paragraphs of, recitals, schedules and annexes to, this Guarantee Agreement. Furthermore, it is expressly agreed that references herein to the Finance Contract shall not be construed, in any circumstances, as affecting the unconditional and irrevocable nature of the present Guarantee.

ARTICLE 2

Undertakings by the Guarantor

- 2.01** The Guarantor, as primary obligor and not merely as surety, guarantees entirely the full, punctual and irrevocable performance of all the monetary obligations of the Borrower to the Bank under the Finance Contract and irrevocably and unconditionally undertakes to pay to the Bank, on the Bank's first written demand in the form of Schedule 1 (the "Demand"), and in accordance with the conditions set out herein, all sums which the Bank may claim under the Finance Contract including in respect of principal monies, interest without any limitation, commissions, incidental charges, and other expenses and all the sums being due by the Borrower to the Bank under any provision of the Finance Contract (up to a maximum amount of EUR 572,000,000.00 (five hundred and seventy two million Euros) (each amount so guaranteed being a "Guaranteed Sum" and together the a "Guaranteed Sums") (the "Guarantee").
- 2.02** Any settlement or discharge given by the Bank to the Guarantor in respect of the Guarantor's obligations under this Guarantee Agreement or any other agreement reached between the Bank and the Guarantor in relation to it shall be, and be deemed always to have been, void if any act on the faith of which the Bank gave the Guarantor that settlement or discharge or entered into that agreement is subsequently avoided by or in pursuance of any provision of law. As a result the Bank's right to serve a Demand and to recover from the Guarantor to the full extent of this Guarantee Agreement at any time shall not be prejudiced or affected.

If a payment made to the Bank in respect of a Guaranteed Sum is avoided, set aside, clawed back or revoked or must be restored in pursuance of any provision of law or of any enactment relating to the insolvency, liquidation or administration (or other proceedings of a similar nature) of the person by whom such amount was paid, for the purposes of this Guarantee Agreement such amount shall be regarded as not having been paid and the Guarantor shall not be discharged in respect of such payment.

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- 2.03 The Guarantor undertakes to promptly furnish information to the Bank on legislation or the regulatory framework affecting the Borrower, which may have an impact on the implementation of the Finance Contract.

ARTICLE 3

Enforcement of guarantee

- 3.01 The Bank may issue a Demand under this Guarantee Agreement after having made a demand for the relevant payment from the Borrower pursuant to the Finance Contract and evidence of such demand to the Borrower shall be attached to the Demand. The Demand shall be made in writing, stating that the Borrower has not performed or fulfilled its payment obligations under the Finance Contract, whether on a Payment Date, upon demand for early repayment or otherwise, in respect of all or part of the Guaranteed Sums and specifying the amount due and payable under the Guarantee. The Demand (together with the attachments) shall constitute conclusive evidence. The Bank shall not have to provide any other justification or evidence and the Guarantor shall not have the right to discuss its content nor to invoke the benefit of a condition or a justification whatsoever.

The Guarantee under this Guarantee Agreement shall remain in full force until all Guaranteed Sums have been fully and unconditionally paid or discharged.

- 3.02 The payment by the Guarantor shall fall due on the fifteenth (15th) Business Day following the date of the Demand.

For the purpose of this Guarantee Agreement "Business Day" means a day on which banks are open for business in Luxembourg and Ljubljana.

- 3.03 In the event of the Bank making a Demand, the Guarantor shall have the right to discharge immediately, under the conditions set out in the Finance Contract, all the monetary obligations of the Borrower under the Finance Contract which are still outstanding at the time of such discharge (including the indemnity under article 10 of the Finance Contract).

ARTICLE 4

Autonomy of the Guarantee

- 4.01 This Guarantee is an unconditional and irrevocable first demand guarantee, autonomous from the Finance Contract which cannot be construed in any circumstances and for whatever reason as a surety (*cautionnement*) within the meaning of Article 2011 of the Luxembourg Civil Code or as any other ancillary undertaking.

- 4.02 The Guarantor hereby waives irrevocably any objection or exception in law to the total or partial enforcement of this Guarantee Agreement and to refuse or delay the performance of its obligations under the Guarantee and/or any payment to be made under the Guarantee. It undertakes to perform its obligations upon Demand by the Bank in accordance with Article 3.01 whenever such Demand is made and to pay the sums due without any limitation, retention or condition, without the Bank having to furnish any special evidence in support of its request other than the reason for the Demand under this Guarantee Agreement. In particular, the Bank is not obliged, prior to the enforcement of this Guarantee Agreement, to realise securities or to enforce any other security that the Borrower or a third party may have constituted.

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The Guarantor acknowledges that its obligations to make payments hereunder are independent from (i) the validity, regularity and/or enforceability of the Finance Contract, (ii) the occurrence of any event whatsoever which could prevent the Borrower from performing his obligations, including his payment obligations, under the Finance Contract, or (iii) any other circumstances which might otherwise in relation to the Finance Contract constitute a legal discharge of or a defence for the Guarantor.

4.03 The Guarantee is in addition to any other rights, which the Bank has, or may have, against the Borrower or any other entity which becomes the legal and/or universal successor of the Borrower in relation to or in connection with the transactions contemplated by the Finance Contract or against the Guarantor.

4.04 The Guarantor accepts and acknowledges that the Bank will not be required to proceed or enforce any rights against the Borrower or any other entity which becomes the legal and/or universal successor of the Borrower in relation to or in connection with the transactions contemplated by the Finance Contract before making a claim under the Guarantee.

ARTICLE 5

Subrogation

When the Guarantor has made a payment to the Bank and provided the Guarantor has exercised its rights under Article 3.03, it is subrogated, to the extent of such payment, to the rights and actions relating to the said payment that the Bank has against the Borrower; this right of subrogation shall not be invoked to the detriment of the Bank.

ARTICLE 6

Information

6.01 The Guarantor shall inform the Bank forthwith of any fact or event likely to affect the performance of its obligations under this Guarantee Agreement.

6.02 The Guarantor shall notify the Bank of the completion of the procedures necessary in the Republic of Slovenia for the entry into force of the Guarantee Agreement.

ARTICLE 7

Modification of the Finance Contract

7.01 The Bank may agree any modification of the Finance Contract that has the effect of improving or strengthening the position of the Bank vis-à-vis the Borrower without increasing the obligations of the Guarantor; any such modification shall be notified to the Guarantor.

7.02 Any other modification of the Finance Contract shall be conditional upon the prior written consent of the Guarantor, which shall not be withheld unless the Guarantor reasonably considers that its obligations thereunder would be materially increased or extended thereby.

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ARTICLE 8

Taxes, Charges and Expenses

Taxes or fiscal charges, legal costs and other expenses incurred in the execution or implementation of this Guarantee Agreement shall be borne by the Guarantor. The Guarantor shall make payments hereunder without withholding or deduction on account of tax or fiscal charges.

ARTICLE 9

Legal regime of this Guarantee Agreement

- 9.01 The legal relations between the parties to this Guarantee Agreement, its formation and validity shall be governed by the laws of the Grand Duchy of Luxembourg.
- 9.02 The place of performance of this Guarantee Agreement is the head office of the Bank.
- 9.03 The parties hereto submit to the exclusive jurisdiction of the Court of Justice of the European ~~Communities~~ ^{Union} and all disputes concerning the Guarantee Agreement shall be submitted to such court.
- The decision of the Court of Justice of the European ~~Communities~~ ^{Union} shall be conclusive and shall be accepted as such by the parties without restriction or reservation.
- 9.04 The parties hereto agree that this Guarantee Agreement is of a commercial nature and hereby undertake to waive any immunities, which they may now or hereafter enjoy in any country from the jurisdiction of the Court of Justice of the European ~~Communities~~ ^{Union}.
- 9.05 In any legal action arising out of this Guarantee Agreement the certificate of the Bank as to any amount due to the Bank under this Guarantee Agreement shall be prima facie evidence of such amount.
- 9.06 This Guarantee Agreement shall enter into force on the date when the Bank issues a written notice to the Guarantor confirming that the Bank has received a written notice pursuant to Article 6.02 of this Guarantee Agreement and a legal opinion issued by a duly authorised officer of the Attorney General's Office of the Guarantor in the form and substance satisfactory to the Bank, as set out in Annex II.

ARTICLE 10

Final Clauses

- 10.01 Notices and other communications given hereunder shall be sent to the respective address set out below:
- for the Guarantor: Ministry of Finance
Župančičeva 3
1502 Ljubljana
Slovenia
 - for the Bank: 100 Boulevard Konrad Adenauer
L-2950 Luxembourg
Grand Duchy of Luxembourg.

Each party may, by notice to the other, change its addresses as set out above.

10.02 Notices and other communications, for which fixed periods are laid down in this Guarantee Agreement or which themselves fix periods binding on the addressee, shall be served by hand delivery, registered letter, telegram, telex, confirmed fax or any other means of transmission which affords evidence of receipt by the addressee. The date of registration or, as the case may be, the stated date of receipt of transmission shall be conclusive for the determination of a period.

10.03 The Recitals forms part of this Guarantee Agreement.

The following Annex is attached hereto:

Annex I Certified English translation of the relevant provisions of the Slovenian Law on the guarantee.

Annex II Form of legal opinion on this Guarantee Agreement

IN WITNESS WHEREOF the parties hereto have caused this Guarantee Agreement to be executed in four (4) originals in the English language.

This Guarantee Agreement has been initialled on behalf of the Guarantor by Mr Mitja Mavko, and on behalf of the Bank by Mr Lawrence Walsh.

Ljubljana, 6 December 2012


Luxembourg, 4 December 2012

Signed for and on behalf of
REPUBLIC OF SLOVENIA

Signed for and on behalf of
EUROPEAN INVESTMENT BANK

The Minister of Finance

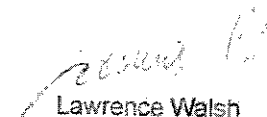
The Head of Division The Legal Counsel



Janez Šušteršič



Dominique Courbin



Lawrence Walsh

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