



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 04/L-239

**ON RATIFICATION OF LOAN AND FINANCING AGREEMENT
MADE BETWEEN KfW FRANKFURT AM MAIN, REPUBLIC OF
KOSOVO AND TRANSMISSION, SYSTEM, AND MARKET
OPERATOR FOR TRANSMISSION NETWORK IMPROVEMENT**

Assembly of Republic of Kosovo;

Based on Article 18 and Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON RATIFICATION OF LOAN AND FINANCING AGREEMENT
MADE BETWEEN KfW FRANKFURT AM MAIN, REPUBLIC OF
KOSOVO AND TRANSMISSION, SYSTEM, AND MARKET
OPERATOR FOR TRANSMISSION NETWORK IMPROVEMENT**

Article 1
Purpose of the law

1. This law aims to ratify the Loan and Financing Agreement made between KfW Frankfurt am Main, the Republic of Kosovo and the Transmission, System and Market Operator KOSST for Transmission Network Improvement.
2. Through this law is ratified the above-mentioned financial agreement which ensures twenty three million and five hundred thousand (23.500.000) Euro , consisting of loans and financial contribution, an amount that will be ensured to the Project Executing Agency (KOSST) for implementation of Network and Transmission Improvement Project under the conditions set forth in the agreement.

Article 2
Ratification of Agreement

Loan and Financing Agreement made between KfW Frankfurt am Main, the Republic of Kosovo and Transmission, System, and Market Operator KOSST for Transmission Network Improvement, signed on September 23, 2013 in Pristina, is ratified.

Article 3
Documents attached

1. In Annex 1 of this law is attached the Loan and Financing Agreement made between KfW Frankfurt am Main, the Republic of Kosovo and Transmission, System, and Market Operator KOSST for Transmission Network improvement, signed on 23 September 2013 in Pristina .

2. In Annex 2 of this law is attached the On- Lending Agreement made between the Republic of Kosovo and the Transmission, System, and Market Operator KOSST for Transmission Network Improvement, signed on 7 October 2013 in Pristina .

Article 4
Entry into force

This law shall enter into force fifteen (15) days after publication on the Official Gazette of the Republic of Kosovo.

Law No. 04/L-239
31 January 2014

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI

Loan and Financing Agreement

dated

23 September 2013

between

KfW, Frankfurt am Main
("KfW")

and

Republic of Kosovo,
represented by the
Ministry of Finance
("Borrower")

and

Operator Sistemi, Transmisioni dhe Tregu sh. a.
KOSTT, Prishtina
("Project-Executing Agency")

for up to

EUR 23,500,000.-

- Improvement of Transmission Network -
(Energy Sector Programme Phase IV and V)
(BMZ ID 2011.65.604, 2012.66.097)

			
REPUBLIKA E KOSOVËS / REPUBLIKA KOSOVA / REPUBLIC OF KOSOVO			
Qeveria e Kosovës / Vlada Kosova / Government of Kosovo			
Ministria e Financave / Ministarstvo za Finansije			
Ministry of Finance			
Arkiva - Arhiva - Archive			
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Preamble

The basis for this Loan and Financing Agreement (the "Agreement") are the Summary Records of the Negotiations on Development Cooperation dated September 30, 2011 and dated September 21, 2012 between the Government of the Federal Republic of Germany and the Government of the Republic of Kosovo ("**Government Agreement**").

The reason for concluding this Agreement is the project **Improvement of Transmission Network ("Project")** being planned by the Borrower and the Project-Executing Agency.

The Project may receive further funding in an amount of EUR 7,350,000 from funds of the European Union. Subject to, inter alia, the conclusion of the respective agreements between KfW and the European Union, KfW will enter into a financing agreement with the Borrower with the purpose to provide the Project with the funds from the European Union.

Provided that a portion of KfW's claims arising from this Agreement is covered by one or more export credit insurance policies satisfactory to KfW (hereinafter jointly referred to as the "**Export Credit Insurance**"), KfW affirms its willingness to finance the Project in accordance with the following provisions.

1. Amount and Purpose of the Loan and the Financial Contribution

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

EUR 23,500,000

consisting of a Financial Contribution of up to

EUR 3,000,000 ("Financial Contribution")

and a Loan of up to

EUR 20,500,000 ("Loan")

in one Portion I of up to

EUR 5,000,000 ("Portion I")

in one Portion II of up to

EUR 15,500,000 ("Portion II")

The Financial Contribution shall not be repayable unless otherwise stipulated in Clause 11.5.

- 1.2 *Purpose.* The Borrower shall channel the Financial Contribution and the Loan in full to the Project-Executing Agency in accordance with the conditions set forth in Clause 2. The Project-Executing Agency shall use the Financial Contribution and the Loan exclusively to pay the costs incurred in connection with the Project ("**Project Costs**") and primarily to finance the foreign exchange costs.

In particular, Portion II of the Loan will be used exclusively to finance supplies and services provided on the basis of an export contract or various export contracts yet to be tendered (hereinafter referred to as "**Export Contract**") and whose financing will be covered by an Export Credit Insurance acceptable to KfW.

In a separate agreement the Project-Executing Agency and KfW will determine the details of the Project, the Project Costs to be financed out of the Financial Contribution and the Loan, the conditions related to the Export Credit Insurance as well as the Export Contract and, if applicable, the covenants resulting from the terms and conditions of the Export Credit Insurance.

- 1.3 *Taxes, Charges, Customs Duties.* Taxes and other public charges to be borne by the Borrower or the Project-Executing Agency as well as import duties shall not be financed from the Financial Contribution and the Loan.

2. **Channelling of the Financial Contribution and the Loan to the Project-Executing Agency**

- 2.1 *On-lending Agreement.* The Borrower shall channel the Financial Contribution and the Loan to the Project-Executing Agency (PEA) under a separate on-lending agreement (the "On-lending Agreement") to be concluded between the Borrower and the PEA at the terms and conditions set forth in Clauses 4, 5 and 6 hereof.

- 2.2 The Borrower shall channel the Financial Contribution to the Project-Executing Agency under a separate loan agreement at an interest rate of 0.75% p. a. and for a term of 40 years inclusive of a grace period of 10 years, beginning at 1.1.2014.

2.3 **Certified Translation.** Prior to the first disbursement from the Financial Contribution and the Loan, the Borrower shall send KfW a certified translation of the On-lending Agreement specified in Clause 2.1 and of the separate loan agreement specified in Clause 2.2.

2.4 **Joint and Several Liability.** The Project-Executing Agency and the Borrower will be jointly and severally liable to KfW for any payment obligations and any other obligations of the Borrower under this Agreement.

3. **Disbursement**

3.1 **Request for disbursement.** As soon as all preconditions for disbursement pursuant to Clause 3.5 are fulfilled, KfW will disburse as follows:

- a) The Financial Contribution and Portion I in accordance with the progress of the Project and upon request of the Project-Executing Agency;
- b) Portion II in accordance with the performance of the supplies and services agreed upon in the Export Contract insured by an Export Credit Agreement.

3.2 **Separate Agreement.** In a separate agreement, the Project-Executing Agency and KfW will specify the disbursement procedure, in particular the evidence to be furnished by the Project-Executing Agency proving that the requested Financial Contribution and Loan amounts are used for the purpose stipulated in this Agreement.

3.3 **Reduction of Project Costs.** In the event that the Project Costs are reduced, the following shall apply:

- a) If the overall price of the goods and services to be provided under the Export Contract and to be financed out of the Financial Contribution and the Loan is reduced during the disbursement period, KfW will reduce the Financial Contribution and the Loan pro rata. If the total price agreed in the Export Contract is reduced and if either the Financial Contribution or the Loan is fully disbursed, KfW may effect transfers in the booking entries so as to re-establish the initial ratio between the Financial Contribution and the Loan as set forth in Clause 1.1.
- b) If the overall price of the goods and services to be provided under the Export Contract and to be financed out of the Financial Contribution and the Loan will be reduced after full disbursement of the Loan and, as the case



may be, of the full disbursement of that part of the Financial Contribution dedicated to financing such goods and services under the Export Contract, the Borrower will repay to KfW without delay upon KfW's demand that percentage share of the amount by which the overall price of the goods and services financed from the Loan will have been reduced which corresponds to the percentage share of financing provided by KfW for the supplies and services under the Export Contract. The repaid amount will be offset in the book entries for the Loan and the Financial Contribution in accordance with the original shares of the Loan and, as the case may be, that part of the Financial Contribution allocated for financing the goods and services to be provided under the Export Contract. Accordingly, to the extent that payments are offset against the Loan, the Borrower will pay prepayment compensation as stipulated in detail in Clause 6.5 f) hereof.

3.4 *Deadline for requesting disbursement.* KfW may deny disbursements after December 31, 2016. If the execution of the Export Contract is delayed KfW will examine whether and under what conditions this deadline may be extended.

3.5 *Conditions precedent to disbursement.* KfW is obligated to make disbursements of any amount under this Agreement only upon satisfaction of the following conditions precedent:

- a) the Borrower has furnished to KfW evidence satisfactory to KfW proving that the Borrower has met all requirements under its constitutional law and other legal provisions for the valid assumption of all its obligations under this Agreement by presenting a legal opinion in the form and content of Annex 2 and by presenting certified copies (each with an English or German translation) of all documents to which this legal opinion refers;
- b) the specimen signatures referred to in Clause 12.1 (Representation of the Borrower and the Project-Executing Agency) have been received;
- c) an duly executed original of this Agreement has been received;
- d) evidence satisfactory to KfW that this Agreement has been ratified by the Parliament of the Republic of Kosovo;
- e) in the case of a disbursement being made from Portion II of the Loan the Export Credit Insurance for all of KfW's claims under the Loan is in force and effect without any restriction;

- d) the Borrower has paid the management fee mentioned in Clause 4.2;
- e) no reason for termination/Event of Default has occurred;
- f) the Security documents as referred to under Clauses 8.3 and 8.4 have been provided to KfW in form and substance satisfactory to KfW;
- g) the Project-Executing Agency has fulfilled its obligations contained in Clauses 8.3 and 8.4 including, without limitation, its obligation to credit certain amounts to the cash deposit account;
- h) a legal opinion (acceptable to KfW) of a legal adviser (acceptable to KfW) to the Project-Executing Agency who is providing Security, has been furnished to KfW, accompanied by such documents as KfW may reasonably require;
- i) no extraordinary circumstances have arisen that preclude or seriously jeopardise the implementation, the operation, or the purpose of the Project, or the performance of the payment obligations assumed by the Borrower under this Agreement, and
- j) the evidence required pursuant to Clause 9.4 (*Tax exemption*) has been received.

KfW has the right to demand such further documents and evidence as it reasonably deems to be necessary prior to any disbursement from the Loan.

3.6 *Waiver of disbursement.* The Borrower may

- a) renounce the disbursement of undisbursed amounts of the Financial Contribution or of Portion I of the Loan provided the Borrower has fulfilled its obligations under Clause 10, and
- b) renounce the disbursement of amounts of Portion II of the Loan only with KfW's consent and only against payment of non-acceptance compensation pursuant to Clause 3.7.

3.7 *Non-acceptance compensation.* If the Borrower waives disbursement of an amount from Portion II of the Loan for which an interest rate has already been determined or if such a Loan amount is not disbursed at all or is not disbursed by the deadline stated in Clause 3.4 for other reasons for which KfW cannot be held accountable,

the Borrower will promptly pay to KfW upon its request such amount as is necessary to compensate KfW for any losses, expenses or costs incurred by KfW as a result of the non-acceptance of the respective Loan amount. KfW will calculate the non-acceptance compensation and communicate it to the Borrower.

4. Fees

4.1 *Commitment fee.* The Borrower will pay a non-refundable commitment fee of 0.25 % p. a. on undisbursed Loan amounts. The commitment fee will be due three months after this Agreement has entered into force and shall be charged until the date of full disbursement of the Loan. It will be due half-yearly in arrears on the dates specified below (each a "**Payment Date**"): *consistent with the following conditions:*

- a) prior to the due date of the first repayment instalment of Portion I and II of the Loan, on June 30 and December 30 of each year; for the first time on December 30, 2013;
- b) on the due date of the first repayment instalment of Portion I and II of the Loan, together with such instalment;
- c) thereafter on the further due dates of the repayment instalments of Portion I and II as per Clause 6.2.

4.2 *Management fee.* The Borrower will pay KfW a non-refundable one-time lump-sum management fee of 1.0 % of the principal amount of Portion II of the Loan stated in Clause 1.1 (i.e. for the avoidance of doubt an amount of EUR 155,000.00) at the latest upon expiry of a three-month period after this Agreement has entered into force, but in any case prior to the first disbursement from the Loan.

5. Interest

5.1 *Financial Contribution.* The Borrower shall pay no interest on the Financial Contribution.

5.2 *Interest due on the Loan (fixed interest rate set upon commitment of the Loan).*

- a) *Interest rate for Portion I.* The Borrower shall pay interest on Portion I at a rate of % p. a.
- b) *Interest rate for Portion II.* The Borrower shall pay interest on Portion II at a rate of%, in accordance with the following provisions.
- c) *Notification of the interest rate.* The Borrower shall inform KfW immediately once this Agreement has been ratified by the Kosovar parliament and the ratification has been published in the Kosovar official gazette as set out in Clause 13.11. Five Banking Days after this Agreement has entered into force and effect according to Clause 13.11, KfW will determine the interest rate which will apply until the last repayment instalment according to Clause 6.3. has been received and will inform the Borrower respectively.

5.3 *Calculation of interest and interest payment dates.*

- a) *Financial Contribution:* No Interest will be paid on the Financial Contribution.
- b) *Loan:* Interest on an amount disbursed from the Loan will be charged from the date (exclusively) on which the respective amount of the Loan is paid out of the Loan account held with KfW for the Borrower until the date (inclusively) on which the respective repayments of the Loan are credited to KfW's account stated in Clause 7.3. Interest will be calculated in accordance with Clause 7.1 (*Calculation*). Interest will be paid in arrears on the Payment Dates (as defined in Clause 4.1).

6. Repayment and Prepayment

6.1 *Financial Contribution.* The Financial Contribution shall not be repayable unless otherwise stipulated in Clause 11.5.

6.2 Repayment schedule for Portion I. The Borrower will repay Portion I of the Loan as follows:

Payment Date	Repayment Instalment Amount	No.
30.12.2023	81,967.21 EUR	1
30.06.2024	81,967.21 EUR	2
30.12.2024	81,967.21 EUR	3
30.06.2025	81,967.21 EUR	4
30.12.2025	81,967.21 EUR	5
30.06.2026	81,967.21 EUR	6
30.12.2026	81,967.21 EUR	7
30.06.2027	81,967.21 EUR	8
30.12.2027	81,967.21 EUR	9
30.06.2028	81,967.21 EUR	10
30.12.2028	81,967.21 EUR	11
30.06.2029	81,967.21 EUR	12
30.12.2029	81,967.21 EUR	13
30.06.2030	81,967.21 EUR	14
30.12.2030	81,967.21 EUR	15
30.06.2031	81,967.21 EUR	16
30.12.2031	81,967.21 EUR	17
30.06.2032	81,967.21 EUR	18
30.12.2032	81,967.21 EUR	19
30.06.2033	81,967.21 EUR	20
30.12.2033	81,967.21 EUR	21
30.06.2034	81,967.21 EUR	22
30.12.2034	81,967.21 EUR	23
30.06.2035	81,967.21 EUR	24
30.12.2035	81,967.21 EUR	25
30.06.2036	81,967.21 EUR	26
30.12.2036	81,967.21 EUR	27
30.06.2037	81,967.21 EUR	28
30.12.2037	81,967.21 EUR	29
30.06.2038	81,967.21 EUR	30
30.12.2038	81,967.21 EUR	31
30.06.2039	81,967.21 EUR	32
30.12.2039	81,967.21 EUR	33
30.06.2040	81,967.21 EUR	34
30.12.2040	81,967.21 EUR	35
30.06.2041	81,967.21 EUR	36
30.12.2041	81,967.21 EUR	37
30.06.2042	81,967.21 EUR	38
30.12.2042	81,967.21 EUR	39

Payment Date	Repayment Instalment Amount	No.
30.06.2043	81,967.21 EUR	40
30.12.2043	81,967.21 EUR	41
30.06.2044	81,967.21 EUR	42
30.12.2044	81,967.21 EUR	43
30.06.2045	81,967.21 EUR	44
30.12.2045	81,967.21 EUR	45
30.06.2046	81,967.21 EUR	46
30.12.2046	81,967.21 EUR	47
30.06.2047	81,967.21 EUR	48
30.12.2047	81,967.21 EUR	49
30.06.2048	81,967.21 EUR	50
30.12.2048	81,967.21 EUR	51
30.06.2049	81,967.21 EUR	52
30.12.2049	81,967.21 EUR	53
30.06.2050	81,967.21 EUR	54
30.12.2050	81,967.21 EUR	55
30.06.2051	81,967.21 EUR	56
30.12.2051	81,967.21 EUR	57
30.06.2052	81,967.21 EUR	58
30.12.2052	81,967.21 EUR	59
30.06.2053	81,967.21 EUR	60
30.12.2053	81,967.41 EUR	61

6.3 *Repayment schedule for Portion II.* The Borrower shall repay Portion II of the Loan in 19 equal consecutive half-yearly instalments, the first of which will fall due six months after the readiness for operation of the Project but not later than December 30, 2016. If the execution of the Export Contract is delayed KfW will examine whether and under what conditions this deadline may be extended. Documentary evidence of readiness for operation of the Project must be furnished in accordance with the confirmation attached to this Agreement as Annex 1. As soon as the Repayment Schedule for Portion II of the Loan is established, KfW will communicate it to the Borrower, thus making the Repayment Schedule an integral part of this Agreement.

6.4 *Undisbursed Loan amounts.* Undisbursed amounts of Portion I of the Loan will be credited in equal proportions against all outstanding repayment instalments of this Portion of the Loan unless KfW, at its own discretion, determines a different offsetting mode in a particular case, especially in the case of amounts of lesser volume. Undisbursed amounts of Portion II of the Loan will be offset against the last

repayment instalments of this Portion of the Loan due at any one time pursuant to the Repayment Schedule unless KfW, at its own discretion, chooses another offsetting mode in an individual case.

6.5 *Disbursements after the start of repayment.* If any amounts of Portion I or Portion II are disbursed after their respective repayment period has started this will not affect the Repayment Schedule of the corresponding Portion as long as the repayment instalment due under the Repayment Schedule at any one time is lower than the Loan amount outstanding under the respective Portion. If the repayment instalment due for payment exceeds the Loan amount outstanding under the respective Portion, KfW will reduce the repayment instalment due by the amount representing the difference and increase every remaining repayment instalment still outstanding under the respective Portion by the amount representing the difference divided by the number of repayment instalments still outstanding. For the calculation of the outstanding Loan amount under the respective Portion KfW reserves the right to account for disbursements that are made within 45 days prior to the respective next Payment Date only on the second Payment Date following the disbursement.

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

- a) *Financial Contribution.* The Financial Contribution shall not be repayable unless otherwise stipulated in Clause 11.5.
- b) *Right of prepayment of Portion I.* The Borrower may repay Portion I in full or in part at any time prior to the scheduled due date provided Portion II was previously repaid in full or is repaid at the same date in accordance with the provisions of this Agreement.
- c) *Right of prepayment of Portion II.* The Borrower may repay Portion II of the Loan in full or in part but at least in the amount of one repayment instalment as per Clause 6.3 in advance of maturity against payment of a prepayment fee as per Clause 6.6 f).
- d) *Notice.* A prepayment of a Loan amount pursuant to Clause 6.6 b) and c) is subject to notification of the prepayment by the Borrower to KfW no later than on the fifteenth banking day prior to the intended prepayment date. Such notice is irrevocable; it must specify the date on which the prepayment is to be made, the amount to be prepaid, and it obligates the Borrower to pay to KfW the stated amount on the stated date.

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e) *Amounts due.* Together with the prepayment the Borrower will also pay the following amounts:

aa) any prepayment fee accruing as a result of the prepayment of amounts of Portion II of the Loan; and

bb) all interest accrued on the prepaid Loan amount up until the date of the prepayment.

f) *Prepayment compensation.* If the Borrower repays a Loan amount of Portion II prior to the scheduled repayment date the Borrower will pay to KfW a prepayment fee for this premature repayment. The prepayment fee will be computed on the basis of the difference between (i) the interest which KfW could have charged for an amount under Portion II up until the end of the scheduled remaining maturity applicable to the Borrower if the Borrower had not repaid the corresponding Loan amount and (ii) the interest which KfW can earn by reinvesting the corresponding Loan amount in consideration of the agreed repayments performed up until the end of the scheduled remaining maturity, for which the difference will have to be discounted on the basis of the interest curve for reinvestments. KfW will determine the amount of the prepayment compensation and communicate it to the Borrower.

g) *Offsetting.* Clause 6.4 (*Undisbursed Loan amounts*) will apply mutatis mutandis to the offsetting of prepayments of Loan amounts.

6.7 *Revised Repayment Schedule.* In the event that Clause 6.4 (*Undisbursed Loan Amounts*), Clause 6.5 (*Disbursement After Start of Repayments*) or Clause 6.6 (*Prepayment*) applies, KfW shall send the Borrower a revised repayment schedule that will become an integral part of this Agreement and will replace the repayment schedules applicable until such event.

7. Calculations and Payments in General

7.1 *Calculation.* Interest, the commitment fee, default interest pursuant to Clause 7.5, lump-sum compensation for overdue amounts pursuant to Clause 7.6, non-acceptance compensation and prepayment compensation will be calculated on the basis of a 360-day year with 30-day months.

7.2 *Due date.* If a payment to be made in connection with this Agreement falls due on a date that is not a banking day, the Borrower must make such payment on the following banking day. If the following banking day falls within the next calendar month, such payment must be made on the preceding banking day.

7.3 *Account number, time of crediting.* The Borrower will be released from its payment obligations arising from this Agreement as soon as and to the extent that the corresponding amounts have been credited to KfW and are at KfW's free disposal without any deductions in Euro and not later than at 10:00 a.m. on KfW's account number 31.97252611 with KfW, Frankfurt am Main (BLZ 500 204 00, BIC KFWIDEFF, with the additional indication of the due date "Ref. YYYYMMDD") or to another account specified by KfW.

7.4 *Counterclaims of the Borrower.* The Borrower is not entitled to assert any rights of retention or set-off or comparable rights against payment obligations under this Agreement unless such rights are recognised by declaratory judgment or have not been contested by KfW.

7.5 *Default interest.* The following will apply to any overdue repayment instalments and overdue prepayments:

a) *Portion I.* If any repayment instalments and premature repayments of Portion I pursuant to Clause 6.6 (*Prepayment*) are not at KfW's disposal when due, KfW may without prior reminder charge interest on arrears at the base rate plus 300 basis points p.a. for the period beginning with the due date and ending at the date at which such repayments are credited to the account of KfW specified in Article 7.3. The "**Base Rate**" is the interest rate announced by the German central bank (Deutsche Bundesbank) as base rate prevailing on the respective due date. Such default interest must be paid immediately upon KfW's first demand.

b) *Portion II.* If any repayment instalments or prepayments of Portion II of the Loan pursuant to Clause 6.6 (*Prepayment*) are not at KfW's disposal when due, KfW may without prior reminder increase the rate of interest specified under Clause 5.2 b) on arrears to the Base Rate plus 300 basis points p.a. for the period beginning on the due date and ending on the date on which repayments are credited to the account of KfW specified in Clause 7.3.

7.6 *Lump-sum compensation.* For overdue amounts (with the exception of such repayment instalments and prepayments as mentioned in Clause 7.5 (*Default interest*)) KfW may, without prior reminder, request lump-sum compensation of 300

basis points p.a. above the Base Rate applicable on the respective due date for the period beginning on the due date and ending on the date of payment of such overdue amounts. The lump-sum compensation must be paid immediately upon KfW's first demand. The Borrower shall be free to prove that no damage was in fact incurred or that the damages were not incurred in the amount as stated.

7.7 *Offsetting.* KfW has the right to offset payments received against payments due under this Agreement or under other loan agreements concluded between KfW and the Borrower.

7.8 *Calculations made by KfW.* Unless there are manifest errors KfW's calculation of amounts under this Agreement and in connection with this Agreement shall constitute prima-facie evidence.

8. **Negative Pledge and Pari Passu and Security**

8.1 *Project assets.* The Borrower will not encumber or alienate the project assets, in particular the rights from the Export Contract, the goods supplied and services performed under such Export Contract and the project facilities erected in connection with these until repayment in full of Portion II of the Loan without KfW's prior consent.

8.2 *Pari passu.* To the extent permitted by law, the Borrower undertakes to perform the obligations under this Agreement pari passu with all its other existing or future unsecured and not subordinated payment obligations.

8.3 *Security.* In order to secure all payment obligations of the Borrower vis-à-vis KfW under this Agreement in relation to Portion II of the Loan, the Project-Executing Agency shall furnish the following Security in form and substance satisfactory to KfW:

- a) *Cash Deposit Account.* Prior to the first disbursement under this Agreement the Project-Executing Agency will open an interest bearing cash deposit account with KfW to the satisfaction of KfW (the "Cash Deposit Account"). The Project-Executing-Agency shall promptly inform KfW in writing of the signing of the first Export Contract and shall, within 7 (seven) days after the signing of the first Export Contract, credit EUR 800,000 (in words: eight hundred thousand euros) to the Cash Deposit Account. It shall mention "TMa3, Cash Deposit Account for Project BMZ-no. 2011.65.604, 2012.66.097" as reason for transfer and inform KfW in writing by courier (mentioning "Department TMa" in the address) about

each transfer at the day when the transfer is ordered. The Project-Executing Agency shall further credit EUR 800,000 (in words: eight hundred thousand euros) on the first anniversary and the second anniversary of the signing of the first Export Contract to the Cash Deposit Account (i.e. a total of EUR 1,600,000 (in words: one million and six hundred thousand euros), in total together with the initial payment EUR 2,400,000 (in words: two million and four hundred thousand euros). After the Repayment Schedule for Portion II of the Loan has been communicated to the Borrower according to Clause 6.3, the Project Executing Agency has the right to request from KfW up to three times the repayment of amounts on the Cash Deposit Account in excess of the debt service for Portion II under this Agreement comprising principal and interest in one calendar year for the preceding calendar year. KfW will only be obliged to transfer amounts as mentioned above, if the Borrower has fully fulfilled its payment obligations vis-à-vis KfW under this Agreement in relation to Portion II of the Loan. After the Borrower has repaid Portion II of the Loan in full, KfW will transfer any balance of the Cash Deposit Account to the Project-Executing Agency.

Should the Borrower be in a payment default in respect of any interest and/or principal amount due and payable under this Agreement in relation to Portion II of the Loan, KfW has the right to debit the Cash Deposit Account with any outstanding amounts until the balance of the Cash Deposit Account is zero. Details regarding the Cash Deposit Account will be set forth in the Security document providing for the Cash Deposit Account and KfW's rights in relation thereto.

- b) *Revenue Account.* Prior to the first disbursement under this Agreement, the Project-Executing Agency will open an account to the satisfaction of KfW into which all foreign revenues of the Project-Executing Agency are to be paid (the "Revenue Account"). The Project-Executing Agency will ensure by appropriate means that any of its foreign revenues will only be credited to the Revenue Account. The Project-Executing Agency shall be entitled to make drawings from the Revenue Account in its ordinary course of business, provided that the Borrower is not in default with any of its principal and/or interest payment obligations vis-à-vis KfW under this Agreement in relation to Portion II of the Loan. In such an event, and upon receipt by the Project-Executing Agency of a written notice by KfW, the Project-Executing Agency is not entitled to draw any amount from the Revenue Account until KfW has received in full out of the balance of the Revenue Account the amounts with which the Borrower is in payment default. Details regarding the Revenue Account will be set forth in the

Security document providing for the Revenue Account and KfW's rights in relation thereto.

c) *Assignment of Claims.* To the extent KfW has satisfied its payment claims against the Borrower as described in Clauses 8.3 a) and/or 8.3 b) above, KfW shall assign its claims against the Borrower under this Agreement in relation to the Loan to the Project-Executing Agency.

d) *Ranking of Security.* Only when the balance of the Cash Deposit Account is zero, KfW has the right to make a drawing from the Revenue Account as set forth in the Security document providing for the Revenue Account and KfW's rights in relation thereto.

8.4 *Cost.* The costs of preparation by a law firm acceptable to KfW of the corresponding Security documents and of the respective legal opinions will be borne by the Project-Executing Agency.

8.5 *Security Agent.* KfW shall have the right to appoint an agent which on its behalf exercises its rights arising under the Security created in case KfW has to make use of the security. The costs of any such agency shall be borne by the Project-Executing Agency.

9. **Costs and Public Charges**

9.1 *No deductions or withholdings.* The Borrower will make all payments under this Agreement without any deductions for taxes, other public charges or other costs. In the event that the Borrower is obligated by law or for other reasons to effect deductions or withholdings on payments, the payments made by the Borrower will increase by such amount as is necessary in order for KfW to receive in full the amounts due under this Agreement after deduction of taxes and charges.

9.2 *Costs.* The Borrower will bear all costs and expenses accruing in connection with the disbursement and repayment of the Loan, in particular remittance and transfer costs (including conversion fees), as well as all costs and expenses accruing in connection with the maintenance or enforcement of this Agreement, and of all other documents related to this Agreement as well as all rights resulting from this Agreement.

9.3 *Taxes and other charges.* The Borrower will bear all taxes and other public charges accruing outside the Federal Republic of Germany in connection with the conclusion

and execution of this Agreement. If any such taxes and charges accrue within the Federal Republic of Germany, the Borrower will pay them only to the extent that they accrued at the Borrower's initiative. If KfW advances such taxes or charges, the Borrower will transfer them without delay upon request to KfW's account as specified in Clause 7.3. Clause 7 applies mutatis mutandis.

9.4 *Tax exemption.* Prior to the first disbursement from the Financial Contribution and Loan, the Borrower will furnish evidence to KfW proving that KfW is exempted from any and all taxes on income from interest, commissions and similar charges in the Republic of Kosovo when granting the Financial Contribution and the Loan.

10. **Special Obligations**

10.1 *Project implementation and special information.* The Project-Executing Agency

- a) will prepare, implement, operate and maintain the Project in conformity with sound financial and technical practices and substantially in accordance with the Project conception agreed upon between the Borrower and KfW;
- b) will assign the preparation and supervision of construction of the Project to independent, qualified engineering consultants, and the implementation of the Project to qualified firms;
- c) will award the contract for the goods and services to be financed from the Financial Contribution and the Loan upon prior international competitive bidding,
- d) will keep books and records or have books and records kept that unequivocally show all costs of goods and services required for the Project and clearly identify the goods and services financed from the Loan and the Financial Contribution;
- e) will enable the representatives of KfW at any time to inspect such books and records and any and all other documentation relevant to the implementation and operation of the Project, and to visit the Project and all the installations related thereto;
- f) will furnish to KfW any and all such information and records on the Project and its further progress as KfW may request;

- g) will of its own accord
 - aa) forward to KfW any queries received by the Borrower or the Project-Executing Agency from the OECD or its members under the so-called "Agreement for Untied ODA Credits Transparency" following the award of the contracts for the supplies and services to be financed from the Loan and the Financial Contribution and will coordinate the reply to any such queries with KfW, and
 - bb) notify KfW of any and all circumstances that preclude or seriously jeopardise the implementation, the operation or the purpose of the Project.

10.2 *Separate Agreement.* The Project-Executing Agency and KfW will determine the details of Clause 10.1 by a separate agreement.

10.3 The Borrower and the Project-Executing Agency shall

- a) ensure the full financing of the Project and, upon request, furnish to KfW evidence proving that the costs not paid from the Loan or from the Financial Contribution are covered and
- b) of their own accord promptly inform KfW (i) of the occurrence or potential occurrence of an Event of Default and (ii) of any and all circumstances precluding or seriously jeopardizing the implementation, the operation or the purpose of the Project.

10.4 The Borrower shall assist the Project-Executing Agency in conformity with sound engineering and financial practices in the implementation of the Project and in the performance of the Project Executing-Agency's obligations under this agreement and, in particular, grant the Project-Executing Agency any and all permissions necessary for the implementation of the Project.

10.5 *Compliance.* The Borrower and the Project-Executing Agency will ensure that the persons whom they entrust with the preparation and implementation of the Project, the award of any contract for the supplies and services to be financed, and with requesting the Loan amounts and/or the Financial Contribution do not demand, accept, make, grant, promise or accept the promise of unlawful payments or other advantages in connection with these tasks.

10.6 *Transport of goods.* The provisions set forth in the Government Agreement, which are known to the Borrower and the Project-Executing Agency, will apply to the transport of the goods to be financed from the Loan and the Financial Contribution.

11. **Reasons for Termination of the Loan and Suspension of the Financial Contribution**

11.1 *Events of Default.* KfW may exercise the rights set forth under Article 11.2 (*Legal consequences of an Event of Default*) if an event occurs which constitutes a material reason. In particular, the following events shall each constitute a material reason:

- a) the Borrower fails to perform payment obligations towards KfW as and when due;
- b) obligations under this Agreement or under a separate agreement pertaining to this Agreement have been breached by the Borrower and/or the Project-Executing Agency;
- c) the Borrower and/or the Project-Executing Agency are unable to prove that the Financial Contribution and/or Loan amounts have been used for the stipulated purpose;
- d) this Agreement or any agreements entered into separately to this Agreement has ceased in whole or in part to have a binding effect on the Borrower and/or the Project-Executing Agency or is no longer enforceable against the Borrower and /or the Project-Executing Agency;
- e) any declaration, confirmation, information or representation or warranty which is in the opinion of KfW essential for the granting and maintaining of the Loan proves to be incorrect, misleading or incomplete;
- f) the Export Credit Insurance for KfW's claims under Portion II of the Loan is no longer in force and effect without any restriction;
- g) as reasonably estimated by KfW, the assets, financial or earnings situation of the Borrower has worsened considerably or other extraordinary circumstances occur which delay or preclude the fulfilment of obligations under this Agreement;

- h) there is a significant deterioration in the value of any Security or any Security is or becomes invalid or unenforceable, and the Project-Executing Agency fails to provide a valid and economically equivalent substitute security within fourteen days from the time it became aware or should have become aware of the event.

11.2 *Legal consequences of an Event of Default.* If any of the events specified in Clause 11.1 has occurred and has not been resolved within a period of five days (in the case of Clause 11.1a) or, in all other cases specified in Clause 11.1, has not been resolved within a period determined by KfW that may not, however, be less than 30 days, KfW may terminate the Loan in full or in part with the consequence that

- a) its obligations with respect to the Loan terminate, and
- b) KfW may demand full or partial repayment of the outstanding Loan amount together with the interest accrued and any and all other amounts due under this Agreement, with Clauses 7.5 (*Default interest*) and 7.6 (*Lump-sum compensation*) applying to accelerated amounts mutatis mutandis.

11.3 *Compensation for damages.* In the event that the Loan is terminated in full or in part the Borrower will pay non-acceptance compensation in accordance with Clause 3.7 (*Non-acceptance compensation*) and/or prepayment compensation in accordance with Clause 6.5 e) (*Prepayment compensation*).

11.4 *Suspension of Disbursements from the Financial Contribution.* KfW may not suspend disbursements from the Financial Contribution unless

- a) the Borrower has failed to perform its obligations to KfW to make payments when due,
- b) obligations under this Agreement or under separate agreements pertaining to this Agreement have been violated,
- c) the Borrower and/or the Project-Executing Agency is unable to prove that the Financial Contribution and/or Loan amounts have been used for the stipulated purpose, or
- d) extraordinary circumstances arise that preclude or seriously jeopardise the implementation, the operation or the purpose of the Project.

11.5 *Repayment of the Financial Contribution.* If any of the situations specified in Clause 11.4 b) or c) has occurred and has not been eliminated within a period determined by KfW, which shall however, be at least 30 days, KfW may,

- a) in the case specified in Clause 11.4 b), demand the immediate repayment of the Financial Contribution; and
- b) in the case specified in Clause 11.4 c), demand the immediate repayment of such amounts from the Financial Contribution as the Borrower and/or the Project-Executing Agency is unable to prove that the amounts have been used for the stipulated purpose.

12. **Representation and Statements**

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

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

Ministry of Economy and Finance
New Government Building, 10th Floor,
10000 Pristina, Kosovo
Fax: +381 38 217 5621
E-mail: anezrai@mfe-ks.org
ataxus@nde-ks.org

For KfW:

KfW
LEa3
Postfach 11 11 41
60046 Frankfurt am Main
Germany

For the Borrower:

Fax: +49 69 7431-3559
Ministry of Economy and Finance
Ndërtesa e Re Qeveritare
Rr. Nëna Tereze
10000 Prishtinë
Kosovo
Fax: +381 38 21 31 13

For the Project-Executing
Agency:

Operator Sistemi, Transmisioni dhe Tregu sh. a.
(KOSTT)
Iljaz Kodra str. n.n.
10000 Prishtina
Kosovo
Fax: +381 38 500 201

In order to facilitate internal procedures within the administration of the Borrower in relation to this Agreement, KfW will provide the Borrower for information purposes only with payment requests (by e-mail or fax, see below) with respect to payments made from or credited to the Project account held with KfW. This shall not affect the obligations of the Borrower under this Agreement, in particular without limitation its obligation to pay interest on the Loan and repay the Loan on the dates specified in this Agreement.

Treasury – Ministry of Economy and Finance
New Government Building, 10th Floor,
10000 Prishtina, Kosova
Fax: +381 38 212 362|
E-mail: aneziraj@mfe-ks.org,
ahaxhij@mfe-ks.org

13. **General Provisions**

- 13.1 *Banking day.* Where reference is made in this Agreement to a "**banking day**", this means a day, other than a Saturday or Sunday, on which commercial banks are open for general business in Frankfurt am Main.
- 13.2 *Place of performance.* The place of performance for all obligations under this Agreement is Frankfurt am Main.
- 13.3 *Partial invalidity and gaps.* If any provision of this Agreement is or becomes invalid, or if there is a gap in any of the provisions of this Agreement, this will not affect the validity of the remaining provisions hereof. The parties to this Agreement will replace any invalid provision by a legally valid one that comes as close as possible to the spirit and purpose of the invalid provision. The parties will fill any gap in the provisions with a legally valid provision that comes as close as possible to the spirit and purpose of this Agreement.
- 13.4 *Legal independence.* This Agreement and the Export Contract are legally separate agreements. The Borrower may not, in performing its obligations under this Agreement, put forward defences arising in connection with the Export Contract.
- 13.5 *Written form.* Amendments and supplements to this Agreement must be in writing to be effective. Any waiver of this requirement of written form must be declared by the parties in writing.
- 13.6 *Assignment.* The Borrower and/or the Project-Executing Agency may not assign or transfer, pledge or mortgage any claims under this Agreement or the Security documents.
- 13.7 *Applicable law.* This Agreement is governed by the laws of the Federal Republic of Germany.
- 13.8 *Limitation period:* All claims of KfW under this Agreement expire after five years from the end of the year in which any such claim has accrued and in which KfW has become aware of the circumstances constituting such claim or could have become aware of them without gross negligence.

13.9 *Legal disputes.*

- a) *Arbitration.* All disputes arising out of or in connection with the present Agreement shall be settled exclusively and finally by an arbitration tribunal. In this regard, the following will apply:
- aa) The arbitration tribunal will consist of one or three arbitrators who will be appointed and will act in accordance with the Arbitration Rules of the International Chamber of Commerce (ICC) applicable from time to time.
 - bb) The arbitration proceedings will be conducted in Frankfurt am Main. The proceedings will be held in the English language.
- b) *Jurisdiction.* In addition, KfW has the right to institute legal proceedings in the courts of general jurisdiction (ordentliche Gerichte) in Frankfurt am Main or in any other court of competent jurisdiction, unless the matter in dispute is already the subject of arbitration proceedings between the parties. The Borrower irrevocably submits to the jurisdiction of any such court.

13.10 *Transmission of information.* KfW may disclose information in connection with the conclusion and execution of this Agreement to the Export Credit Insurance Agency (including the institutions controlling or regulating such Insurance Agency and its representatives). Both KfW and the Export Credit Insurance Agency have the right to pass on information on the Financial Contribution, the Loan and the Project including the award of the contracts for the supplies and services to be financed from the Financial Contribution and the Loan to international organisations engaged in the collection of statistical data, particularly in connection with aspects of debt service and/or the collection and publication of data related to the award of the contracts for the supplies and services to be financed from the Financial Contribution and Loan. The above right to forward information to international organisations also includes the right to directly pass on such information to members of such organisations.

13.11 *Entry into Force.* This Agreement shall not enter into force and effect until

- a) it has been counter-signed by the Ministry of Finance which counter-signature shall be rendered only upon ratification of this Agreement by the Parliament of the Borrower, and
- b) the ratification has been published in the Kosovar official gazette "GAZETA ZYRTARE e Republikës së Kosovës", Prishtinë, and

- c) (ii) KfW has notified the Borrower that KfW has received any and all governmental authorisations required in relation to this Loan Agreement, whatever occurs latest. Should the abovementioned conditions not be fulfilled by 31.12.2014, this Agreement shall not enter into force and effect.

This Agreement is executed in three originals in the English language.

Ministry of Finance
of the Republic of Kosovo
represented by

Operator Sistem, Transmisori dhe
Trep, Sh.p. (KOS)

Witness

MS

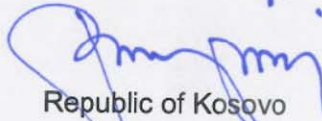
MS

Frankfurt am Main,
this 23 day of Sept 2013

KfW



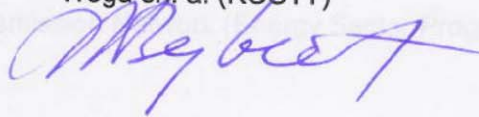
Prishtina,
this 23 day of Sept 2013



Republic of Kosovo
represented by the
Ministry of Finance
of the Republic of Kosovo
represented by

Declaration of Readiness for Operation

Operator Sistemi, Transmisioni dhe
Tregu sh. a. (KOSTT)



Witness



KfW
Department L III a 3
Postfach 11 11 41
60046 Frankfurt am Main
Germany

Confirmation of Readiness for Operation

Brief project description: Improvement of Transmission Network (Energy Sector Programme Phase IV and V)

BMZ ID 2011.65.604, 2012.66.097

Date of the Loan and Financing Agreement: _____

As per Clause 6.2 of the Loan and Financing Agreement we herewith confirm that the Project has been ready for operation since

(Place)

(Date)

(Signature of Borrower)

(Place)

(Date)

[Signature of the relevant parties to the project, e. g. Exporter/Consultant]

Form of Legal Opinion of the Legal Adviser to the Borrower

[Letterhead of Legal Adviser]

KfW
Department L III a 3
Attn: Dr. Wilderich Hörr
Palmengartenstrasse 5 - 9
Postfach 11 11 41
60046 Frankfurt am Main

(date)

Federal Republic of Germany

Loan and Financing Agreement dated and made between KfW, the Republic of Kosovo represented by the Ministry of Economy and Finance ("Borrower") and Operator Sistemi, Transmisioni dhe Tregu sh. a. (KOSTT) ("Project-Executing Agency") for an amount not exceeding in aggregate EUR 23.500.000, consisting of a Financial Contribution in the amount of EUR 3.000.000 and a Loan in the amount of EUR 20.500.000.

Dear Sirs,

I am [Minister of Justice of] [legal adviser to] [head of the legal department of the (please specify ministry or other authority) of] the Republic of Kosovo. I have acted in that capacity in connection with a Loan and and Financing Agreement (the "**Agreement**"), dated . . . , and made between the Borrower, the Project-Executing Agency and yourselves with respect to a Financial Contribution to be granted by yourselves to the Borrower in amount of EUR 3.000.000,-- and a Loan in the amount of EUR 20.500.000.

1. Documents examined

I have examined:

- 1.1 an authentic signed original of the Agreement;
- 1.2 the constitutional documents of the Borrower, in particular:

- (a) the Constitution of The Republic of Kosovo, dated, duly published in, No., page., as amended;
- (b) Law(s) No dated, duly published in, No., page., as amended [*please insert here, if existing, laws (e.g. budget laws) concerning the borrowing of money by The Republic of Kosovo*];
- (c) [*please refer here to other documents, e.g. decrees or resolutions by governmental or administrative bodies of Kosovo relating to the conclusion of Loan agreements by Kosovo in general or with regard to the conclusion of the Agreement*]; and
- (d) Summary Record of the Negotiations on Development Cooperation dated September 19, 2008 between the Government of the Federal Republic of Germany and the Government of the Republic of Kosovo.

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

2. Opinion

For the purposes of Clause 3.5 a) and Clause 9.4 of the Agreement, I am of the opinion that under the laws of The Republic of Kosovo at the date hereof:

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

- (a) Law(s) No(s). dated of the parliament of The Republic of Kosovo, ratifying the Agreement / approving the execution, delivery and performance of the Agreement by the Borrower / [*please insert as appropriate*];
- (b) Resolution(s) No(s). dated of the Cabinet of Ministers / of the state Loan committee / [*please insert governmental or administrative bodies of Kosovo as appropriate*];
- (c) [*please refer to other resolutions, decisions etc.*].

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

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

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

- (a) Approval of the [Central Bank/National Bank/], dated, No.;
- (b) Consent of the [Minister / Ministry of], dated , No.; and
- (c) [please list any other official authorizations, licenses and/or consents].

No other official authorizations, consents, licenses, registrations and/or approvals of any governmental authority or agency (including the Central / National Bank of The Republic of Kosovo) or court are required or advisable in connection with the execution and performance of the Agreement by the Borrower (including without limitation the obtaining and transfer to KfW of all amounts due thereunder in the currencies specified therein) and the validity and enforceability of the Borrower's obligations under the Agreement.

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

2.3 No official authorizations, consents, licenses, registrations and/or approvals of any governmental authority or agency (including the Central / National Bank of The Republic of Kosovo) or court are required or advisable in connection with the execution and performance of the Agreement by the Borrower (including without limitation the obtaining and transfer to KfW of all amounts due thereunder in the currencies specified therein) and the validity and enforceability of the Borrower's obligations under the Agreement.

2.2 No stamp tax or similar tax or duty has to be paid in connection with the validity or enforceability of the Agreement.

2.5 The choice of German law to govern the Agreement and the submission to arbitration in accordance with Clause 13.9 of the Agreement are valid and binding. Arbitration awards and judgments obtained in the courts of the Federal Republic of Germany against the Borrower will be recognized and enforceable in The Republic of Kosovo according to the following rules: . . . [please insert applicable treaty (if any), e.g. the 1958 New York Convention, and/or the basic principles regarding recognition and enforcement of arbitration awards in Kosovo].

2.6 The courts of the Republic of Kosovo are at liberty to give judgment denominated in the currency or currencies specified in the Agreement.

2.7 The borrowing by the Borrower under the Agreement and the execution and performance by the Borrower of the Agreement constitute private and commercial acts and not governmental or public acts. Neither the Borrower nor any of its property has any right of immunity from arbitration, suit, execution, attachment or other legal process.

2.8 The Co-operation Agreement is in full force and effect under the constitution and laws of The Republic of Kosovo. [Pursuant to Clause 3 of the Co-operation Agreement]

[Alternatively please specify treaty or applicable laws and regulations] the Borrower will not be required to make any deduction or withholding from any payment the Borrower has to make under the Summary Record of the Negotiations on Development Cooperation dated September 19, 2008 between the Government of the Federal Republic of Germany and the Government of the Republic of Kosovo.

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

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

This legal opinion is limited to the laws of The Republic of Kosovo.

.....
(place) (date)

[Signature]

Name:

Enclosures:

Note: Please attach certified photocopies of the documents and legal provisions referred to above under Section 1.2(a) through 1.2(c) and Sections 2.1 through 2.6 (with respect to lengthy laws or the Constitution of The Republic of Kosovo, a copy of the relevant provisions would be sufficient) and also provide KfW with a certified English or German translation of each of the above documents if such document is not issued in English or German as an official language.

ON-LENDING AGREEMENT

up to
EUR 23,500,000.-

Dated _____

Between
Republic of Kosovo

MINISTRY OF FINANCE
(the "Lender")

and

Transmission System and Market Operator ("KOSTT")
(the "Borrower")

PROJECT:
- Improvement of Transmission Network -
(Energy Sector Programme Phase IV and V)

This On-lending Agreement (“the Agreement”) is executed by and between:

“**Ministry of Finance (“the Lender “)** with its address in Prishtina, Government Building, represented by the Minister of Finance (the “Minister”); and

Transmission System and Market Operator (KOSTT) J.S.C (the “Borrower “) with its address in Prishtina, street Ilaz Kodra pn, represented by its Chief Executive Officer.

Based on Loan and Financing Agreement, dated September 23rd 2013, (the “**Loan and Financing Agreement**”) entered into between Ministry of Finance on behalf of Republic of Kosovo and the KfW, for the **Improvement of Transmission Network** (Energy Sector Programme Phase IV and V) (the “Project”)

The Lender agrees to on-lend the funds from the Financing Agreement, dated September 23rd 2013, (the “**Loan and Financing Agreement**”) entered into between Ministry of Finance on behalf of Republic of Kosovo and the KfW, for the **Improvement of Transmission Network** (Energy Sector Programme Phase IV and V) (BMZ ID 2011.65.604, 2012.66.097).

Article 1 Amount and Purpose of the Loan

- 1.1 The Lender shall extend to the Borrower a Loan not exceeding a total of: EUR **23,500,000** (twenty-three million five hundred thousand):

Loan not to exceed: EUR 23,500,000

- In Portion I of up to EUR 8,000,000 (Portion I)
- In Portion II of up to EUR 15,500,000 (Portion II)

- 1.2 The Borrower shall use the Loan exclusively to pay the costs incurred in connection with the Project (“**Project Costs**”) as described in the “**Loan and Financing Agreement**”) entered into between Ministry of Finance on behalf of Republic of Kosovo, KOSTT (Project Executing Agency) and KfW. The borrower and KfW will determine the details of the Project, the Project Costs to be financed, the conditions related to the Export Credit Insurance as well as the Export Contract and, if applicable, the covenants resulting from the terms and conditions of the Export Credit Insurance.

Portion II of the loan will be used exclusively to finance supplies and services provided on the basis of an export contract or various export contracts yet to be tendered (hereinafter referred to as “**Export Contract**”) and whose financing will be covered by and Export Credit Insurance acceptable to KfW.

- 1.3 *Taxes, Charges, Customs Duties.* Taxes and other public charges to be borne by the Borrower as well as import duties shall not be financed from the Loan.

Article 2 Disbursement

- 2.1 Subject to the conditions set forth in Article 3.5 of **Loan and Financing Agreement**, all disbursements from KfW will be made directly to the Borrower as the Project Executing Agency under the terms of and in accordance with the Loan and Financing Agreement. In a separate agreement, the borrower and KfW will specify the disbursement procedure, in particular the evidence to be furnished by the borrower proving that the requested funds are used for the purpose stipulated in this Agreement or in Loan and Financing Agreement.
- 2.2 All financial implications that may arise from article 3.3, 3.6 and 3.7 of the Loan and Financing Agreement are to be borne by the borrower.
- a. Portion I shall be disbursed in accordance with the progress of the Project and upon request of the Borrower.
 - b. Portion II shall be disbursed in accordance with the performance of the supplies and services agreed upon in the Export Contract by an Export Credit Agency.
- 2.2 The detailed disbursement procedure, disbursement schedule, and in particular the evidence proving that the requested amounts are used for the purpose set out in this Agreement are determined in the Separate Agreement between the KfW and Borrower as per Article 3.2 of the Loan and Financing agreement.
- 2.3 In the event that KfW refuses to make disbursements to the Borrower because the execution of the Contracts for goods and services are delayed, it is the Borrower's responsibility to negotiate with KfW and thereafter to notify the Lender of any agreement upon changes in the Loan and Financing Agreement time deadlines and accordingly, any amendment that is needed under this Agreement.

Article 3
Commitment Charge, Payments of Debt Service, and Prepayment

- 3.1 The Borrower shall, from its own resources, pay a **non-refundable commitment fee** of 0.25% p.a. on undisbursed loan amounts. The commitment fee shall be calculated as per Article 4.1 of the Loan and Financing Agreement. It will be due semi-annually in arrears on the dates specified below (each a "Payment Date"):
- a) Prior to the due date of the first repayment installment of Portion I and II on May 30 and November 30 of each year; for the first time on November 30, 2013.
 - b) On the due date of the first repayment installment of Portion I and II of the Loan, together with such installment;
 - c) Thereafter on the further due dates of the repayment installments as per Article 3.6 and 3.7 of this Agreement.
- 3.2 The Borrower shall, from its own resources, pay to the Lender within 60 days after this Agreement enters into force, but in any case prior to the first disbursement from this Loan a non-refundable **management fee of 1.00 %** of the principal amount of Portion II described in Article 1.1 hereof.
- 3.3 The Borrower shall pay to the Lender **interest** on amount of Portion II of the Loan at a fixed rate. The interest rate shall be determined in accordance with Article 5.2 of the Loan and Financing Agreement and shall be effective upon receipt by the Lender and Borrower of the Interest Notice required to be provided by KfW.
- 3.4 The Borrower shall pay to the Lender interest on the amount of Portion I a fixed rate of 0.75% p.a. and for a term of 40 years inclusive of a grace period of 10 years.
- 3.5 Interest shall accrue from the dates on which disbursements are debited to the dates of the respective repayment installments as mentioned in Article 6.2 and 6.3 of the Loan and Financing Agreement. The Borrower shall pay to the Lender interest in arrears in the following manner and on the following dates (each a "Payment Date"):
- a. prior to the due date of the first repayment installment the Borrower shall pay the commitment charge for the Loan and the interest on the Loan semi-annually on May 30 and on November 30 of each year for the half-year then ending.
 - b. Thereafter on the further due dates of the repayment installments pursuant to Article 3.5.
- 3.6 The Borrower shall repay the amount of Portion II of the Loan to the Lender, in 19 equal consecutive semi-annual installments, the first of which shall fall due six months after the date of readiness for operation of the Project, but not later than on November 30, 2016.

Evidence proving the readiness for operation of the Project shall be furnished through a confirmation letter sent to the Lender and to KfW. As soon as the repayment schedule has been established and provided by KfW and agreed to by the Lender, the Lender shall send it to the Borrower. The repayment schedule thus shall constitute an integral part of this Agreement.

3.7 The Borrower shall repay the amount of the Portion I of the Loan to the Lender as follows:

Payment Date	Repayment Instalment Amount	No.
30.11.2023	131,147.54 EUR	1
30.05.2024	131,147.54 EUR	2
30.11.2024	131,147.54 EUR	3
30.05.2025	131,147.54 EUR	4
30.11.2025	131,147.54 EUR	5
30.05.2026	131,147.54 EUR	6
30.11.2026	131,147.54 EUR	7
30.05.2027	131,147.54 EUR	8
30.11.2027	131,147.54 EUR	9
30.05.2028	131,147.54 EUR	10
30.11.2028	131,147.54 EUR	11
30.05.2029	131,147.54 EUR	12
30.11.2029	131,147.54 EUR	13
30.05.2030	131,147.54 EUR	14
30.11.2030	131,147.54 EUR	15
30.05.2031	131,147.54 EUR	16
30.11.2031	131,147.54 EUR	17
30.05.2032	131,147.54 EUR	18
30.11.2032	131,147.54 EUR	19
30.05.2033	131,147.54 EUR	20
30.11.2033	131,147.54 EUR	21
30.05.2034	131,147.54 EUR	22
30.11.2034	131,147.54 EUR	23
30.05.2035	131,147.54 EUR	24
30.11.2035	131,147.54 EUR	25
30.05.2036	131,147.54 EUR	26
30.11.2036	131,147.54 EUR	27
30.05.2037	131,147.54 EUR	28
30.11.2037	131,147.54 EUR	29

Payment Date	Repayment Instalment Amount	No.
30.05.2038	131,147.54 EUR	30
30.11.2038	131,147.54 EUR	31
30.05.2039	131,147.54 EUR	32
30.11.2039	131,147.54 EUR	33
30.05.2040	131,147.54 EUR	34
30.11.2040	131,147.54 EUR	35
30.05.2041	131,147.54 EUR	36
30.11.2041	131,147.54 EUR	37
30.05.2042	131,147.54 EUR	38
30.11.2042	131,147.54 EUR	39
30.05.2043	131,147.54 EUR	40
30.11.2043	131,147.54 EUR	41
30.05.2044	131,147.54 EUR	42
30.11.2044	131,147.54 EUR	43
30.05.2045	131,147.54 EUR	44
30.11.2045	131,147.54 EUR	45
30.05.2046	131,147.54 EUR	46
30.11.2046	131,147.54 EUR	47
30.05.2047	131,147.54 EUR	48
30.11.2047	131,147.54 EUR	49
30.05.2048	131,147.54 EUR	50
30.11.2048	131,147.54 EUR	51
30.05.2049	131,147.54 EUR	52
30.11.2049	131,147.54 EUR	53
30.05.2050	131,147.54 EUR	54
30.11.2050	131,147.54 EUR	55
30.05.2051	131,147.54 EUR	56
30.11.2051	131,147.54 EUR	57
30.05.2052	131,147.54 EUR	58
30.11.2052	131,147.54 EUR	59
30.05.2053	131,147.54 EUR	60
30.11.2053	131,147.60 EUR	61

- 3.8 *Default interest.* If repayment installments are not carried out as per previous article and in the case of execution of securities by KfW, the Lender shall have the right to increase the rate of interest on arrears to the base rate plus 3% p.a for the period beginning with the due date as stated in Article 7.5 a) and b) and ending as at the date at which such repayments are credited to the account of KfW.
- 3.9 *Non-acceptance compensation.* If the Borrower waives disbursement of an amount from Portion I and II of the Loan for which an interest rate has already been determined or if such a Loan amount is not disbursed at all or is not disbursed by the deadline stated in Clause 3.4 of the Loan and Financing Agreement for other reasons for which the Lender cannot be held accountable, the Borrower will promptly pay to the Lender upon its request such amount as is necessary to compensate the Lender for any losses, expenses or costs incurred by the Lender as a result of the non-acceptance of the respective Loan amount. The Lender will calculate the non-acceptance compensation and communicate it to the Borrower.
- 3.10 Commitment charge, interest, and any additional charges on arrears pursuant to Article 3.6 and 3.7 shall be computed on the basis of a 360-day year and 30-day months.
- 3.12 The Borrower shall remit all payments in Euro to the Lender's account at the Central Bank.
- 3.12 *Prepayment.* The following will apply to prepayments:
- a) *Right of prepayment of Portion I.* The Borrower may repay Portion I in full or in part at any time prior to the scheduled due date provided Portion II was previously repaid in full or is repaid at the same date in accordance with the provisions of this Agreement.
 - b) *Right of prepayment of Portion II.* The Borrower may repay Portion II of the Loan in full or in part but at least in the amount of one repayment instalment as per Clause 3.6 in advance of maturity against payment of a prepayment fee as per Clause 6.6 f).
 - c) *Notice.* A prepayment of a Loan amount pursuant to Clause 6.6 b) and c) is subject to notification of the prepayment by the Borrower to the Lender no later than on the fifteenth banking day prior to the intended prepayment date. Such notice is irrevocable; it must specify the date on which the prepayment is to be made, the amount to be prepaid, and it obligates the Borrower to pay to the Lender the stated amount on the stated date.
 - d) *Amounts due.* Together with the prepayment the Borrower will also pay the following amounts:

aa) any prepayment fee accruing as a result of the prepayment of amounts of Portion I and II of the Loan; and

bb) all interest accrued on the prepaid Loan amount up until the date of the prepayment.

e) *Prepayment compensation.* If the Borrower repays a Loan amount of Portion I or II prior to the scheduled repayment date the Borrower will pay to the Lender a prepayment fee for this premature repayment. The prepayment fee will be computed on the basis of the difference between (i) the interest which the Lender could have charged for an amount under Portion I or II up until the end of the scheduled remaining maturity applicable to the Borrower if the Borrower had not repaid the corresponding Loan amount and (ii) the interest which the Lender can earn by reinvesting the corresponding Loan amount in consideration of the agreed repayments performed up until the end of the scheduled remaining maturity, for which the difference will have to be discounted on the basis of the interest curve for reinvestments. The Lender will determine the amount of the prepayment compensation and communicate it to the Borrower.

f) *Offsetting.* Clause 6.4 (*Undisbursed Loan amounts*) of the Loan and Financing Agreement will apply mutatis mutandis to the offsetting of prepayments of Loan amounts.

3.13 *Revised Repayment Schedule.* In the event that Clause 6.4 (*Undisbursed Loan Amounts*), Clause 6.5 (*Disbursement After Start of Repayments*) or Clause 6.6 (*Prepayment*) of the Loan and Financing Agreement applies, the Lender shall send to the Borrower a revised repayment schedule that will become an integral part of this Agreement and will replace the repayment schedules applicable until such event.

Article 4 Costs and Public Charges

4.1 *No deductions or withholdings.* The Borrower will make all payments under this Agreement without any deductions for taxes, other public charges or other costs. In the event that the Borrower is obligated by law or for other reasons to effect deductions or withholdings on payments, the payments made by the Borrower will increase by such amount as is necessary in order for the Lender to receive in full the amounts due under this Agreement after deduction of taxes and charges.

4.2 *Costs.* The Borrower will bear all costs and expenses accruing in connection with the disbursement and repayment of the Loan, in particular remittance and transfer costs (including conversion fees), as well as all costs and expenses accruing in connection with the maintenance or enforcement of this Agreement, and of all other documents related to this Agreement as well as all rights resulting from this Agreement.

- 4.3 *Taxes and other charges.* The Borrower will bear all taxes and other public charges accruing outside the Federal Republic of Germany in connection with the conclusion and execution of this Agreement. If any such taxes and charges accrue within the Federal Republic of Germany, the Borrower will pay them only to the extent that they accrued at the Borrower's initiative. If KfW advances such taxes or charges, the Borrower will transfer them without delay upon request to KfW's account as specified in Clause 7.3. Clause 7 applies mutatis mutandis.

Article 5 Special Obligations

- 5.1 The Borrower shall
- a) ensure the full financing of the Project and, upon request, furnish the Lender with evidence proving that the costs not paid from the Loan are covered and
 - b) of their own accord promptly inform the Lender (i) of the occurrence or potential occurrence of an Event of Default and (ii) of any and all circumstances precluding or seriously jeopardizing the implementation, the operation or the purpose of the Project.
- 5.2 *Compliance.* The Borrower will ensure that the persons whom they entrust with the preparation and implementation of the Project, the award of any contract for the supplies and services to be financed, and with requesting the Loan amounts do not demand, accept, make, grant, promise or accept the promise of unlawful payments or other advantages in connection with these tasks.
- 5.3 *Transport of goods.* The provisions set forth in the Government Agreement, which are known to the Borrower, will apply to the transport of the goods to be financed from the Loan and the Financial Contribution.

Article6
Reasons for Termination of the Loan

- 6.1 *Events of Default.* The Lender may exercise the rights set forth under Article 6.2 (*Legal consequences of an Event of Default*) if an event occurs which constitutes a material reason. In particular, the following events shall each constitute a material reason:
- a) the Borrower fails to perform payment obligations towards the Lender as and when due;
 - b) obligations under this Agreement or under a separate agreement pertaining to this Agreement have been breached by the Borrower;
 - c) the Borrower is unable to prove that the Loan amounts have been used for the stipulated purpose;
 - d) this Agreement or any agreements entered into separately to this Agreement has ceased in whole or in part to have a binding effect on the Borrower or is no longer enforceable against the Borrower;
 - e) any declaration, confirmation, information or representation or warranty which is in the opinion of the Lender essential for the granting and maintaining of the Loan proves to be incorrect, misleading or incomplete;
 - f) the Export Credit Insurance for the Lender's claims under Portion I and II of the Loan is no longer in force and effect without any restriction;
 - g) as reasonably estimated by the Lender, the assets, financial or earnings situation of the Borrower has worsened considerably or other extraordinary circumstances occur which delay or preclude the fulfillment of obligations under this Agreement;
 - h) there is a significant deterioration in the value of any Security or any Security is or becomes invalid or unenforceable, and the Borrower fails to provide a valid and economically equivalent substitute security within fourteen days from the time it became aware or should have become aware of the event.
- 6.2 *Legal consequences of an Event of Default.* If any of the events specified in Clause 6.1 has occurred and has not been resolved within a period of five days (in the case of Clause 6.1a) or, in all other cases specified in Clause 6.1, has not been resolved within a period determined by the Lender that may not, however, be less than 30 days, The Lender may terminate the Loan in full or in part with the consequence that
- a) its obligations with respect to the Loan terminate, and
 - b) The Lender may demand full or partial repayment of the outstanding Loan amount together with the interest accrued and any and all other amounts due under this Agreement, with Clauses 3.8 (*Defaultinterest*) of this agreement and 7.6 (*Lump-sum*

compensation) of the Loan and Financing Agreement applying to accelerated amounts *mutatis mutandis*.

- 6.3 *Compensation for damages.* In the event that the Loan is terminated in full or in part the Borrower will pay non-acceptance compensation in accordance with Clause 3.10 (*Non-acceptance compensation*) and/or prepayment compensation in accordance with Clause 6.5 e) (*Prepayment compensation*).

Article 7 Project Implementation

- 7.1 The Project will be implemented by the Borrower. All key decisions regarding the implementation of the project shall be reached in consensus between the KfW and the Borrower while Lender will be informed accordingly.
- 7.2 The Borrower and Lender agree to undertake the following obligations, which derive from the Financing and Loan Agreement:
- a. the Borrower shall prepare, implement, operate and maintain the Project in conformity with sound financial and engineering practices and substantially in accordance with the Project conception agreed upon between the Lender, the Borrower and KfW;
 - b. The Borrower shall maintain books and records showing all costs of goods and services required for the Project and clearly identifying the goods and services financed from the Loan; such records shall be available to the Borrower upon request.
 - c. The Borrower shall enable the representatives of the Lender at any time to inspect, at reasonable notice, said books and records as well as any and all other documentations relevant to the implementation of the Project, and to visit the Project;
 - e. The Borrower and the Lender shall promptly make each other aware of any and all circumstances precluding or seriously jeopardizing the implementation, the operation or the purpose of the Project;
 - f. The Borrower and the Lender shall preferably after six months but not later than nine months after the closing of each financial year, provide each other with access to their annual reports for each year, together with the respective balance sheet and profit and loss accounts prepared in conformity with generally accepted accounting principles;

Article 8
Miscellaneous Provisions

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

Transmission System and Market Operator - KOSTT

Rr. Ilaz Kodra, pn, 10000 Prishtina, Republic of Kosovo

Fax: + 381 (0) 38 500 201

Ministry of Finance

10000 Prishtina, Republic of Kosovo

New Government Building, Floor XI

Fax: + 381 38 212 362

Tel: +381 (38) 200-34 101

- 8.2 If any of the provisions of this Agreement is invalid, all other provisions shall remain unaffected thereby. Any gap resulting there from shall be filled by a provision consistent with the purpose of this Agreement.
- 8.3 Calculations and Payments in General will be conducted in accordance with Article 7 of the Loan and Financing Agreement.
- 8.4 This On-Lending Agreement is legally independent from the Contracts for goods and services. The Borrower may not, in performing their obligations under this On-Lending Agreement, put forward obligations arising from or in connection with the Contracts for goods and services.
- 8.5 The Borrower and the Lender may not assign or transfer, pledge or mortgage any claims from this Agreement, without written approval from the other party.
- 8.6 Entry into force:
This Agreement shall enter into force on the date of signing of this Agreement.

8.7 Language

This Agreement shall be executed and interpreted in the English and Albanian language and any communications or notices under this Agreement shall be made in English and Albanian.

8.8 Governing law

This Agreement shall be governed by the laws of the Republic of Kosovo. The place of performance shall be Prishtina/Kosovo.

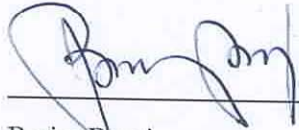
8.9 In case any additional financial obligations occurs that are not foreseen under this agreement and which may arise from the provisions of the Loan and Financing Agreement signed between MoF, KfW, and KOSTT the same obligations will be passed to the Borrower, in cases when such obligations are clearly attributable to the Borrower.

8.10 Dispute Resolution

- a. Should there be any disputes between the Lender and the Borrower in the course of the implementation of this On-Lending Agreement, it shall first be settled amicably. If no agreement can be reached by such amicable way, any party may engage in arbitration proceedings in accordance with the Arbitration Agreement entered into between KfW and the Lender under the Loan and Financing Agreement. In this case the said Agreement shall apply *mutatis mutandis*.
- b. Submission to arbitration is a valid submission and the arbitral award is enforceable under the Laws of the Republic of Kosovo.
- c. the Lender and the Borrower reserve the right to institute any legal action or proceedings arising out of or in connection with this Agreement in the competent Court in the Republic of Kosovo, in Prishtina. The Lender and the Borrower hereby irrevocably submit to the jurisdiction of this Court.

Executed on the 07 day of October, 2013.

THE LENDER



Besim Beqaj
Minister
Ministry of Finance

THE BORROWER



Naim Bejtullahu
Acting Chief Executive Officer
KOSTT