**GUARANTEE AGREEMENT**

**EPS Liquidity Loan**

between

**THE REPUBLIC OF SERBIA,**

**REPRESENTED BY THE GOVERNMENT OF THE REPUBLIC OF SERBIA, ACTING BY AND THROUGH THE MINISTRY OF FINANCE**

and

**CASSA DEPOSITI E PRESTITI S.P.A.**

Dated 23 May 2024

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GUARANTEE AGREEMENT

THIS GUARANTEE AGREEMENT(this “**Agreement**”) is dated 23 May 2024 and is made between THE REPUBLIC OF SERBIA, REPRESENTED BY THE GOVERNMENT OF THE REPUBLIC OF SERBIA, ACTING BY AND THROUGH THE MINISTRY OF FINANCE (the "**Guarantor**") and CASSA DEPOSITI E PRESTITI S.P.A. (the "**Lender**").

**PREAMBLE**

**WHEREAS,** the Guarantor and JOINT STOCK COMPANY “ELEKTROPRIVREDA SRBIJE” BEOGRAD have requested assistance from the Lender in the financing of part of the Project;

**WHEREAS,** pursuant to a loan agreement dated on or about the date hereof between JOINT STOCK COMPANY “ELEKTROPRIVREDA SRBIJE” BEOGRAD as Borrower (the “Borrower”) and the Lender (the "Loan Agreement"), the Lender has agreed to make a loan to the Borrower in the amount of EUR 100,000,000 (one hundred million Euros), subject to the terms and conditions set forth or referred to in the Loan Agreement, including the condition that the Guarantor guarantees the obligations of the Borrower under the Loan Agreement as provided in this Agreement; and

**WHEREAS,** the Guarantor enters into this Agreement in consideration for (among other things) the Lender entering into the Loan Agreement.

**NOW, THEREFORE,** the parties hereby agree as follows:

# ARTICLE I - DEFINITIONS

## Section 1.01. Definitions

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

"**Guarantor's Authorised**

**Representative**" means the Deputy Prime Minister and/or Minister of Finance of the Guarantor or any other person or persons authorized by the Government of the Republic of Serbia.

"**Specified Amendment**" means any amendment to the Loan Agreement that (i) increases the principal amount of any Loan; (ii) amends the rate of interest on any Loan; or (iii) extends any Loan Repayment Date.

## Section 1.02 Interpretation

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

Any reference in this Agreement to the "**Loan Agreement**" is a reference to the Loan Agreement as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under the Loan Agreement.

## Section 1.03 Third party rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

# ARTICLE II – GUARANTEE; OTHER OBLIGATIONS

## Section 2.01 Guarantee

The Guarantor irrevocably and unconditionally:

(a) guarantees to the Lender punctual performance by the Borrower of all the Borrower's obligations under the Loan Agreement;

(b) undertakes with the Lender that whenever the Borrower does not pay any amount when due under or in connection with the Loan Agreement, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and

(c) agrees with the Lender that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Lender immediately on demand against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Loan Agreement on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Section 2.01 if the amount claimed had been recoverable on the basis of a guarantee.

## Section 2.02 Project Support

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

## Section 2.03 Other Obligations

(a) The Guarantor shall ensure that appropriate state budget allocations are made and maintained in sufficient amounts to cover the payment obligations arising under the Loan Agreement and this Agreement in a timely manner, so as to ensure the punctual performance of the obligations under the Loan Agreement and this Agreement.

(b) Where any action, condition or matter required to be performed, complied with, achieved or satisfied under the Loan Agreement requires the taking of any action by, or the approval of, the Guarantor as the sole shareholder of the Borrower, the Guarantor shall promptly take that action, or give that approval and, without prejudice to the generality of the foregoing, the Guarantor shall take all action available to it as the sole shareholder of the Borrower to ensure that the corporate governance objectives set out in Section 3.01(d)(1) and Section 3.01(d)(2)(D) of the Loan Agreement are implemented in a timely manner.

(c) As soon as practicable following the execution of the Loan Agreement and this Agreement, the Guarantor shall announce Serbia’s commitment to phase out the use of coal as soon as possible and in any case not later than by 31 December 2050 and this shall be reflected in new or updated versions of national strategic documents.

(d) The Guarantor shall have committed to working on establishing thermal power plant decommissioning milestones by 31 December 2030.

(e) The Guarantor shall ensure that the Auction 3-Year Plan is issued.

(f) The Guarantor shall adopt a regulatory framework for renewable energy auctions in line with the “Clean Energy Package” adopted by the European Commission and best European practice.

(g) The Guarantor shall ensure that Serbia’s first renewable energy auction is launched for not less than 400 MW of wind power capacity, in line with a process and timetable to be agreed between the Guarantor working in good faith with the technical advisory team advising the Ministry of Mining and Energy as part of EBRD’s programme supporting the implementation of renewable energy auctions in Serbia.

(h) The Guarantor shall support any legal and regulatory initiatives (including the adoption of changes to legislation) required to support the development of the intraday electricity market and for electricity market coupling in order to increase market liquidity and competitiveness.

(i) The Guarantor shall adopt a NECP by 30 September 2024, which shall provide for a target of over 45% of renewables in Serbia’s electricity generation mix by 31 December 2030.

(j) The Guarantor shall support the decarbonisation of the Serbian economy by recognizing significant potential for improvement of energy efficiency in Republic of Serbia through improvement of energy efficiency and promoting efficient use of energy sources, in particular (but without limitation), by supporting activities aimed at building and strengthening capacities of the Administration for Financing and Promoting Energy Efficiency for management of European Union funds, development and promotion of support schemes for energy efficiency investments at higher scale with specific focus on building renovation.

## Section 2.04 Continuing guarantee

The guarantee in Section 2.01 is a continuing guarantee and will extend to the ultimate balance of sums payable by the Borrower and/or the Guarantor under the Loan Agreement and this Agreement, regardless of any intermediate payment or discharge in whole or in part.

## Section 2.05 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Borrower or any security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantor under this Article II will continue or be reinstated as if the discharge, release or arrangement had not occurred.

## Section 2.06 Waiver of defences

The obligations of the Guarantor under this Article II will not be affected by an act, omission, matter or thing which, but for this Section 2.06, would reduce, release or prejudice any of its obligations under this Article II (without limitation and whether or not known to it or the Lender) including:

(a) any time, waiver or consent granted to, or composition with, the Borrower, the Guarantor or any other person;

(b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of the Borrower;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over Assets of, the Borrower, the Guarantor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;

(e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the Loan Agreement or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under the Loan Agreement or other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under the Loan Agreement or any other document or security; or

(g) any insolvency or similar proceedings in relation to the Borrower.

## Section 2.07 Immediate recourse

The Guarantor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Article II. This waiver applies irrespective of any law or any provision of any agreement to the contrary.

## Section 2.08 Effectiveness of the Guarantee

This Agreement shall become effective on the date which falls 8 days after its ratification is published in the Serbian Official Gazette – International Agreements.

## Section 2.09 Taxes

All payments to be made by the Guarantor hereunder shall be made free and clear of and without deduction for or on account of tax unless the Guarantor is required to make such a payment subject to the deduction or withholding of tax, in which case the sum payable by the Guarantor (in respect of which such deduction or withholding is required to be made) shall be increased to the extent necessary to ensure that the Lender receives a sum net of any deduction or withholding equal to the sum which it would have received if no such deduction or withholding had been made or required to be made**.**

## Section 2.10 Consents and Notices

(a) The Lender shall not enter into any Specified Amendment without the Guarantor’s prior written consent.

(b) The Lender shall provide to the Guarantor prior written notice of any proposed amendment to the Loan Agreement that is not a Specified Amendment. For the avoidance of doubt, the prior written consent of the Guarantor is not required for any amendment to the Loan Agreement that is not a Specified Amendment.

# ARTICLE III - representations

## Section 3.01 Private and commercial acts; no immunity

The Guarantor represents and warrants to the Lender that:

(a) its execution of this Agreement constitutes, and its exercise of its rights and performance of its obligations under this Agreement will constitute, private and commercial acts done and performed for private and commercial purposes; and

(b) in any proceedings taken in relation to this Agreement, it will not be entitled to claim for itself or any of its Assets immunity from suit, execution, attachment or other legal process, except for immunity from enforcement in respect of any present or future:

(a) "premises of the mission" as such term is defined in the Vienna Convention on Diplomatic Relations signed in 1961;

(b) "consular premises" as such term is defined in the Vienna Convention on Consular Relations signed in 1963;

(c) Assets that cannot be in commerce;

(d) military property or military assets and buildings, weapons or equipment designated for defence, state and public security;

(e) receivables the assignment of which is restricted by law;

(f) natural resources, common use items, grids in public ownership, river basin land and water facilities in public ownership, protected natural heritage in public ownership and cultural heritage in public ownership;

(g) real estate in public ownership which is, partly or entirely, used by the authorities of the Republic of Serbia, autonomous provinces or local self-government for the purpose of exercising their rights and duties;

(h) the state’s, autonomous province’s or local government’s stocks and shares in companies and public enterprises, unless the relevant entity consented to the establishment of a pledge over such stocks or shares; or

(i) movable or immovable assets of health institutions, unless a mortgage was established based on the Government’s decision,

(hereinafter: the “**Excluded Assets**”).

# ARTICLE IV - MISCELLANEOUS

## Section 4.01. Notices

Any notice or request required or permitted to be given or made under this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it has been delivered in legible form to the party to which it is required to be given or made at the party's address specified in this Agreement or at any other address as the party shall have specified in writing to the party giving the notice or making the request. Such delivery may be made by hand, mail or in pdf or similar format by electronic mail at the following addresses:

For the Guarantor:

Ministry of Finance of the Republic of Serbia

20 Kneza Miloša Street

11000 Belgrade

Serbia

Attention: Deputy Prime Minister and Minister of Finance

Email: [kabinet@mfin.gov.rs](mailto:kabinet@mfin.gov.rs)

For the Lender:

Cassa Depositi e Prestiti S.P.A. – International Development Cooperation Department

Via Goito, 4

00185 Rome

Italy

Attention: Portfolio Management - International Cooperation and Development Finance; Lisbi Carina Valdez, Claudio Aceto

Email: [portfoliodevfin@cdp.it](mailto:portfoliodevfin@cdp.it);[lisbi.valdez@cdp.it](mailto:lisbi.valdez@cdp.it);[claudio.aceto@cdp.it](mailto:claudio.aceto@cdp.it); [cdpspa@pec.cdp.it](mailto:cdpspa@pec.cdp.it)

## Section 4.02 English Language

Any document delivered pursuant to this Agreement shall be in the English language. Documents in any other language shall be accompanied by an English translation thereof certified as being an approved translation and such approved translation shall be conclusive.

## Section 4.03 Assignment

The Guarantor may not assign or transfer, in any manner whatsoever, all or any of its rights and obligations under this Agreement without the prior written consent of the Lender.

The Lender may, with prior written notification thereof to the Guarantor, assign or transfer any of its rights or obligations under this Agreement to any other third party.

**Section 4.04 Failure to Exercise Rights**

No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

**Section 4.05 Authority to Act**

Any action required or permitted to be taken and any documents required or permitted to be executed under this Agreement by the Guarantor shall be taken or executed by the Guarantor’s Authorised Representative or such other officer of the Guarantor as such Guarantor’s Authorised Representative shall designate in writing. The Guarantor shall furnish to the Lender sufficient evidence of the authority and the authorised specimen signature of each such officer.

**Section 4.06 Amendment**

This Agreement may be amended by a written instrument signed by the Guarantor’s Authorised Representative and by a duly authorised officer of the Lender.

**Section 4.07 Execution in Counterparts**

This Agreement may be executed in several counterparts, each of which shall be an original.

**Section 4.08 Disclosure**

The Lender may disclose this Agreement and any information related to it (including documents and records regarding the Guarantor and the Project) in accordance with its policy on access to information, in effect at the time of such disclosure, and in connection with any dispute or proceeding in relation to, or involving, the Project or this Agreement, for the purpose of defending, preserving or enforcing any of the Lender’s rights or interests.

# ARTICLE V – ENFORCEMENT

## Section 5.01 Governing Law

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

## Section 5.02 Arbitration

*(a) Arbitration*

Subject to paragraph ‎(e) below (*Lender's option*), any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "**Dispute**") shall be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration (LCIA).

*(b) Formation of arbitral tribunal, seat and language of arbitration*

(i) The arbitral tribunal shall consist of three arbitrators. The claimant(s), irrespective of number, shall nominate jointly one arbitrator; the respondent(s), irrespective of number, shall nominate jointly the second arbitrator, and a third arbitrator (who shall act as presiding arbitrator) shall be nominated by the arbitrators nominated by or on behalf of the claimant(s) and respondent(s) or, in the absence of agreement on the third arbitrator within 30 days of the date of nomination of the later of the two party-nominated arbitrators to be nominated, he shall be chosen by the LCIA Court (as defined in the Arbitration Rules of the LCIA).

(ii) The seat of arbitration shall be London, England.

(iii) The language of the arbitration shall be English.

*(c) Recourse to courts*

For the purposes of arbitration pursuant to this section 5.02 (*Arbitration*), the parties waive any right of application to determine a preliminary point of law or appeal on a point of law under Sections 45 and 69 of the Arbitration Act 1996.

*(d) Consolidation of arbitrations*

(i) The following shall apply to any disputes arising out of or in connection with this Agreement and out of or in connection with the Loan Agreement in respect of which a Request for Arbitration has been delivered (or, where impossible, effectively notified) to all other parties to the arbitration. In relation to any such disputes if, in the absolute discretion of the first arbitral tribunal to be appointed in any of the disputes, they are so closely connected that it is expedient for them to be resolved in the same proceedings, that arbitral tribunal shall have the power to order that the proceedings to resolve that dispute shall be consolidated with those to resolve any of the other disputes, provided that no date for the final hearing of the first arbitration has been fixed. If that arbitral tribunal so orders, the parties to each dispute which is a subject of its order shall be treated as having consented to that dispute being finally decided:

(A) by the arbitral tribunal that ordered the consolidation unless the LCIA decides that that arbitral tribunal would not be suitable or impartial; and

(B) in accordance with the procedure, at the seat and in the language specified in the Loan Agreement, save as otherwise agreed by all parties to the consolidated proceedings or, in the absence of any such agreement, ordered by the arbitral tribunal in the consolidated proceedings.

Any dispute which is subject to a contractual option to litigate shall only be capable of consolidation pursuant to this paragraph ‎(i) if:

(C) exercise of the option to which the dispute is subject is no longer permitted pursuant to the terms upon which the option was granted; or

(D) the right of the option-holder to exercise the option has otherwise been validly waived.

(ii) Paragraph ‎(i) above shall apply even where powers to consolidate proceedings exist under any applicable arbitration rules (including those of an arbitral institution) and, in such circumstances, the provisions of paragraph ‎(i) above shall apply in addition to those powers.

*(e) Lender's option*

Before the Lender has delivered to the Registrar of the LCIA Court a Request for Arbitration or Response as defined in the Arbitration Rules of the LCIA (as the case may be), the Lender may by notice in writing to the Guarantor require that all Disputes or a specific Dispute be heard by a court of law. If the Lender gives such notice, the Dispute to which such notice refers shall be determined in accordance with section 5.03 (*Jurisdiction*).

## Section 5.03 Jurisdiction

If the Lender issues a notice pursuant to section 5.02(e) (*Lender's option*), the provisions of this section 5.03 (*Jurisdiction*) shall apply.

(a) The courts of England have exclusive jurisdiction to settle any Dispute.

(b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

(c) Notwithstanding paragraphs ‎(a) and ‎(b) above, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

**Section 5.04 Service of process**

Without prejudice to any other mode of service allowed under any relevant law, the Guarantor:

(a) irrevocably appoints the Embassy of the Republic of Serbia to the Court of St. James’s at 28 Belgrave Square, London SW1X 8QB as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement; and

(b) agrees that failure by a process agent to notify the Guarantor of the process will not invalidate the proceedings concerned.

#### If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Guarantor shall immediately (and in any event within five (5) days of such event taking place) appoint another agent on terms acceptable to the Lender. Failing this, the Lender may appoint another agent for this purpose.

## Section 5.05 Waiver Of Immunity

(a) The Guarantor irrevocably waives generally all immunity it or its Assets may otherwise have in any jurisdiction, including, without limitation, immunity in respect of:

(i) jurisdiction of any court or tribunal;

(ii) service of process;

(iii) the giving of any relief by way of injunction or order for specific performance or for the recovery of any of its Assets;

(iv) the issue of any process against any of its Assets for the enforcement of a judgement or, in an action *in rem*, for the arrest, detention or sale of any of its Assets; and

(v) any process for execution of any award or judgment against any of its Assets.

(b) The Guarantor agrees that in any proceedings in England this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of the English State Immunity Act 1978.

(c) Without limitation to paragraphs (a) and (b) above, in respect of any proceedings arising out of or in connection with the enforcement and/or execution of any award or judgement made against it, the Guarantor hereby submits to the jurisdiction of any court in which any such proceedings are brought.

The Guarantor does not waive any immunity from enforcement in respect of any Excluded Assets.

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

**THE REPUBLIC OF SERBIA, REPRESENTED BY THE GOVERNMENT OF THE REPUBLIC OF SERBIA, ACTING BY AND THROUGH THE MINISTRY OF FINANCE**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: SINIŠA MALI

Title: FIRST DEPUTY PRIME MINISTER

AND MINISTER OF FINANCE

**CASSA DEPOSITI E PRESTITI S.P.A.**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: PAOLO LOMBARDO

Title: DIRECTOR OF INTERNATIONAL DEVELOPMENT COOPERATION