

## **BUSINESS REGULATIONS**

regarding  
the undertaking of surety guarantees related to the  
loans of municipalities and municipality enterprises,  
and bonds issued by municipalities and municipality  
enterprises

**2010**

(in a consolidated format including all amendments)

## **1. OBJECTIVE OF THE SERVICE PROVIDED BY GARANTIQA HITELGARANCIA ZRT.**

As a result of Hungary's accession to the EU, new funding opportunities have arisen for local municipalities. In the coming years, it will be possible for the majority of municipal investment projects to be implemented with the assistance of EU funding. For the purpose of ensuring the share of own contribution required for their investment projects, the local municipalities and contractors of the municipalities may take up loans and issue bonds. The surety guarantees provided by Garantiqa Hitelgarancia Zrt. reduce the lending risk of credit institutions involved in such transactions. With a surety guarantee from Garantiqa Hitelgarancia Zrt. (hereinafter: the Company) it is possible for the credit institutions to grant loans to local municipalities and to the contractors of municipalities that would not otherwise have the collateral security necessary for taking up loans or for issuing bonds.

## **2. ORGANISATIONS ELIGIBLE TO USE THE COMPANY'S SURETY GUARANTEES**

2.1 The Company's surety guarantees are available only to credit institutions or specialised credit institutions with equity of a nominal value of at least HUF 10 million, or co-operative credit institutions with equity of a nominal value of at least HUF 1 million (hereinafter: credit institutions). The surety guarantees are also available to co-operative credit institutions that, at the time of the Company's founding, contributed to the Company's subscribed capital through the savings co-operatives and the National Savings Co-operative Association.

2.2 The Company may, in respect of

- local municipalities,
- municipality associations defined as such under chapter III of Act LXV of 1990 on local municipalities and Act CXXXV of 1997 on the association and co-operation of local municipalities, and,
- multi-purpose small-area associations defined as such in Act CVII of 2004 on the multi-purpose small-area associations of settlement municipalities (hereinafter: local municipalities), and
- the enterprises of local municipalities, assume a surety guarantee for the liabilities of such organisations – originating from credit or loan contracts (hereinafter collectively: credit contracts) with a tenor of at most 25 years, or from private bond issues with a tenor of at most 25 years – towards credit institutions that are owners of the Company, unless the purpose of the loan is the financing of operating costs.

2.3 With respect to the liabilities defined in section 2.2 the Company only undertakes surety guarantees secured by a counter-guarantee from the European Investment Bank (EIB), provided that the surety guarantee application complies with the EIB guidelines contained in the annex to the Business Regulations.

2.4 Further preconditions for the assumption of a surety guarantee are that:

- the credit institution has made available to the Company its regulations pertaining to municipality lending, in advance,
- the credit institution has declared the local municipality or municipality enterprise to be creditworthy,
- the local municipality meets the preconditions defined under § 88 of Act LXV of 1990.

2.5 The Company shall not assume a surety guarantee in respect of the loans of local municipalities that

- have tax, customs, social security and/or credit liabilities which have been overdue for more than 60 days and have not been rescheduled, or overdue liabilities from a bond issue,
- are the subject of debt settlement proceedings.

2.6 The Company shall not assume a surety guarantee in respect of municipal enterprise debtors

- in respect of whose debts, arising from the credit agreement constituting the basis for the surety guarantee request, the Rural Credit Guarantee Foundation or the Hungarian Foundation for Enterprise Promotion has assumed a surety guarantee, or which has submitted a request for such guarantee to these institutions, or in respect of whose above-mentioned transaction a state surety guarantee has been issued
- that have previously made use of a surety guarantee assumed by the Company, and
  - made a false declaration in the surety guarantee request
  - within the five years preceding submission of the new application, has exercised a surety guarantee,
  - a surety guarantee is in the process of being exercised in respect of its outstanding transaction,
- that is subject to bankruptcy, receivership or liquidation proceedings,
- that has been deleted from the company register, or in respect of whom deletion proceedings have been instituted,
- that has not been entered in the company register, insofar as registration is necessary for its establishment
- that has debts, overdue by more than six months, arising from a credit agreement
- that has tax, customs duty or social insurance debts that are overdue by more than 60 days, and have not been rescheduled
- that will use the credit to perform activities that pollute the environment,
- in whose case the risk of the surety guarantee requested for the credit agreement exceeds that which can be assumed.

### **3. EXTENT AND AMOUNT OF THE SURETY GUARANTEE**

3.1 The forms of surety guarantee assumed by the Company:

- proportionate surety guarantee, and
- fixed surety guarantee

3.2 The coverage ratio and amount of the surety guarantees:

- The Company does not set a minimum coverage ratio for its surety guarantees
- The maximum coverage ratio of surety guarantees assumed by the Company is:
  - in the case of a proportionate surety guarantee, 80% of the debtor's liability arising from the credit agreement
  - in the case of a fixed surety guarantee, the amount specified in the surety contract, which cannot be more than 80% of the debtor's liability arising from the credit agreement, but no more than 10% of the Company's guarantee capital calculated from its audited balance sheet for the year prior to the date of the surety guarantee assumption

The risk-taking of the lender credit institution should be at least 20% of the outstanding loan amount during the whole duration of the transaction.

The total amount of the surety guarantees assumed in connection with the various liabilities (borrowings) of the local municipality or municipality enterprise must be aggregated, an exception being when several credit institutions have pledged a credit line for the same development project and, in connection therewith, several credit institutions have applied for a surety guarantee.

3.3 The Company's surety guarantee to municipality loans shall not extend to the fee charged for the surety guarantee, or to any additional interest charged due to default.

## **4. PROCEDURE FOR THE UNDERTAKING OF A SURETY GUARANTEE**

### **SUBMITTING OF A REQUEST FOR A SURETY GUARANTEE**

4.1 The request for the undertaking of a surety guarantee by the Company must be submitted by the credit institution either by post or by courier. If the request is submitted by post, submission shall be understood to mean the posting of the request.

4.2 The surety guarantee request must be submitted on the form issued by the Company for this purpose, with the annexes listed therein attached. A declaration from the credit institution must be attached to the request related to the credit agreement, stating

- that the credit institution intends to provide a loan to the municipality or municipality enterprise,
- that there is no legal obstacle to the disbursement of such loan
- which form of surety guarantee the credit institution requires.

### **RECEIPT OF THE REQUEST FOR A SURETY GUARANTEE, ISSUANCE OF A DECLARATION OF INTENT**

4.3 The Company examines the request submitted for a surety guarantee, and if the request complies with the preconditions stipulated in the Business Regulations, it accepts the request for consideration; otherwise it refuses to do so. If the request is refused for consideration in its then-present form, the Company may require that

missing information be provided, or that data be reconciled, or it may return the entire documentation. The evaluation procedure is extended by the period required for supplying additional information and/or reconciling data.

4.4 If the local municipality's request for a surety guarantee related to a loan used for the financing of the own contribution for developments to be implemented with EU funds complies with the preconditions stipulated in these Business Regulations, the Company – within 5 working days from the date of receipt of the request – must issue a declaration of intent in which it assumes an irrevocable obligation to conclude a surety contract in respect of the credit contract concluded by the credit institution.

The declaration of intent must include:

- the name of the credit institution,
- the name of the local municipality,
- the registered seat (address) of the local municipality,
- the maximum amount of the credit,
- the purpose of the credit,
- the final deadline for repaying the credit,
- the percentage extent (coverage ratio) or the amount of the surety guarantee,
- the expiry date of the declaration of intent,
- the collateral securities accepted by the credit institution.

4.5 The percentage extent (coverage ratio) or the amount of the surety guarantee undertaken by the Company based on section 4.4 shall in all cases be equal to the extent requested by the credit institution, and the Company may not make any exceptions in this regard.

## **5. APPRAISAL OF THE REQUEST FOR A SURETY GUARANTEE, DECISIONS MADE BY THE COMPANY**

5.1 With the exception of sureties undertaken based on section 4.4, the Company shall appraise requests for surety guarantees within 15 working days from the acceptance for consideration of the application. During the appraisal, supplementary information or reconciliation of data may be requested from the credit institution and the debtor, and the time available for appraisal shall be extended by the period of such supplementation or reconciliation.

5.2 The Company decides on whether to undertake the surety guarantee based on the results of the appraisal. The Company shall reject the request for surety if the risk of the transaction and the customer exceeds the level of risk that the Company may undertake. The Company shall only consider changing its decision in the event of a material reduction in the risks involved.

5.3 The Company shall notify the credit institution of its decision within one working day. The notification on acceptance shall represent an irrevocable undertaking by the Company to conclude a surety contract. A notification on the rendering of contract conclusion subject to a condition precedent, or on a proposal for the undertaking of surety in a rate or amount lower than that requested, shall be deemed an irrevocable

undertaking of a commitment if, and only if, the precondition for the conclusion of the contract is met and if the credit institution accepts the proposal.

5.4 If the Company makes the concluding of the surety contract subject to a specific condition precedent, or makes a proposal for the undertaking of surety in a rate or amount lower than that requested, the credit institution shall have a period of 60 calendar days in which to fulfil the precondition and/or accept the proposal.

If the credit institution does not accept the proposal, or does not make a declaration in respect of the proposal, within 60 days, and/or does not fulfil the precondition, the request shall be deemed rejected.

## **6. CONCLUSION OF THE SURETY CONTRACT, CONDITIONS THAT MAY BE STIPULATED IN THE CONTRACT, AMENDMENT AND TERMINATION OF THE CONTRACT**

### **CONCLUDING OF THE SURETY CONTRACT**

6.1 If:

- the Company has accepted the surety request, or
  - the precondition for the concluding of the contract has been fulfilled,
- or
- the credit institution has accepted the proposal, the Company shall conclude a surety contract with the credit institution.

6.2 In the event of the undertaking of a surety guarantee related to a loan used for the financing of the own contribution for developments to be implemented with EU funds, the Company shall conclude the surety contract guarantee if

- the credit institution sends a notification to the Company confirming that EU funding has been granted,
- the credit institution sends the credit contract concluded with the local municipality, and, if the credit contract has been concluded as part of a public procurement procedure, a letter of confirmation in respect of the public procurement decision,
- the credit contract complies with the preconditions specified in the declaration of intent,
- if the conditions of exclusion defined in the Business Regulations are still absent.

6.3 The Company draws up the surety contract and sends it, signed, to the credit institution. The credit institution is obliged to return the contract, now also signed by it, to the Company within 15 days from the date of the original sending. If the Company does not receive the signed contract by this deadline, and the credit institution does not request an extension of deadline, the Company's proposal for the conclusion of a contract shall become null and void.

### **THE SUBJECT OF THE SURETY CONTRACT, RIGHTS AND OBLIGATIONS OF THE CONTRACTING PARTIES**

6.4 In the surety contract the Company undertakes an obligation to meet, in the extent or the amount of the guarantee assumed, the liabilities of the debtor under the credit contract and outstanding at the given time, if the debtor does not, or does not entirely, fulfil its obligations.

The Company and the credit institution – at the debtor’s request or after discussion with the debtor – may agree on a shorter tenor or on the termination of the surety guarantee prior to the expiry of the tenor.

6.5 The surety contract must include the amount of the loan or the bond issue, the final maturity date, the extent or amount of the guarantee undertaken as well as the preconditions for its taking effect. If the Company, based on section 7.4, commissions the credit institution to collect the debt, then the conditions pertaining to this commission are stipulated in the surety contract.

#### **AMENDMENT OF THE SURETY CONTRACT, REPORTING OBLIGATION OF THE CREDIT INSTITUTION, TERMINATION OF THE CONTRACT**

6.6 If the credit institution requires the continuation of the surety guarantee, the Company’s preliminary and written approval is required for any:

- changes to the (collateral) securities,
- change – due to assignment or the transfer of receivables – in the identity of the credit institution,
- extension of the final maturity date of the credit (prolongation).

6.6.1 The credit institution is not obliged to request permission for a change in the collateral but shall notify the Company in writing within 15 days of the change in the event of:

- a) an extension of the final maturity date not exceeding 30 days (technical prolongation),
- b) a change in the collateral, if based on a general mortgage right, the pledged object will be further encumbered thereby,
  - the credit institution increases the amount of the general mortgage,
  - the credit institution establishes a mortgage on the pledged object that is of a ranking that is subordinate to the ranking of its credit receivable secured by the Company’s surety guarantee,
  - there is a change in the owner of the pledged object,
  - there is a change in the person providing the collateral deposit,
  - the pledgor wishes to offer the pledged object as a non-cash capital contribution in a business entity,
  - the real property encumbered by the mortgage is divided, provided that the encumbrance survives such division and continues to provide sufficient collateral cover.

Directly after a technical prolongation, no additional technical prolongation may be granted.

6.6.2 The credit institution shall submit a request for the authorisation of the prolongation or of the change in collateral by completing the form made available for this purpose by the Company, and in all other cases, in writing. The Company will

make a decision on the matter within 15 working days from receipt of the request, and will send a written notice on whether it has granted the authorisation. If the credit institution fails to request authorisation, the Company may terminate the surety contract with immediate effect or, if it learns about the change in the credit institution at the time that the guarantee is exercised, it will refuse payment. If the Company refuses to grant authorisation, the surety guarantee shall continue to be valid under the original conditions.

An authorisation for the change in the identity of the credit institution may not be granted if the prospective beneficiary credit institution does not meet the preconditions specified under section 2.1 of these Business Regulations.

The request for authorisation for prolongation:

- must be submitted at the latest by the 30<sup>th</sup> working day following the contract-amendment date,
- must be accompanied by a copy of the amended credit contract. If the Company has approved the prolongation, it will send the amended surety contract, together with the invoice for the guarantee fee. With respect to returning the contract, the rules under section 6.3. are to be applied.

6.7 Based on the surety contract, the credit institution is obliged to notify the Company, within 30 days, about:

- any material circumstance that may affect compliance with the obligations set out in the credit contract,
- any such material change in the management of the local municipality, or municipality enterprise, as might jeopardise repayment of the loan,
- any debt settlement proceedings instituted against the local municipality, or bankruptcy, receivership or liquidation proceedings instituted against the local municipality enterprise,
- any change in the legal status of the local municipality or municipality enterprise (name, seat, company form, etc.)
- any such amendments to the contract as affect the scheduling of the repayment of the principal.

6.8 The Company and the credit institution may, by mutual agreement and at any time, modify the surety contract, although the form (section 3.1) of the surety guarantee may not change, and its percentage extent or amount, and the amount of the loan, may not increase. As a result of the modification of contract the risk-taking of the credit institution may not drop under the minimum rate defined in section 3.2.

6.9 If as a result of a debt assumption, the person of the debtor changes, the surety guarantee shall terminate and a new request for a surety guarantee must be submitted in respect of the credit of the new debtor.

6.10 To facilitate the maintenance of records on the portfolio of surety guarantees, the credit institution must provide information for the Company annually, and in connection with the Company's guarantee monitoring activity – at the Company's request, and in respect of data specified by the Company – it must provide information semi-annually.

6.11 If the debtor has repaid the loan, the credit institution must notify the Company about this at the latest within 30 days from the date of full repayment. Based on the notification, the Company deletes the surety contract from the records. In the case of failure to send such notification, the Company deletes the surety contract from the records on the 60<sup>th</sup> day following the final maturity date.

## **7. USE (EXERCISING) OF THE SURETY GUARANTEE**

### **PRECONDITIONS FOR THE EXERCISING OF THE SURETY GUARANTEE**

7.1 If the debtor falls into arrears for more than 30 days and does not, or does not fully, meet its payment obligations stipulated in the credit contract, the credit institution is obliged to notify the Company about this at the latest within 60 days from the due date or, in the case of cancellation by the debtor, within 15 days from the cancellation date.

7.2 The credit institution is entitled to exercise the surety guarantee if

- it has appropriately cancelled the credit contract pursuant to and in compliance with the provisions of the Civil Code and of the credit contract, or
- in the case of failure to pay the last instalment determined in the credit contract, it has called upon the debtor to make payment, or
- a debt settlement procedure has commenced against the local municipality or
- liquidation proceedings have commenced against the municipality enterprise.

The surety guarantee may be exercised within 6 months

- from the due repayment date of the last instalment determined in the credit contract,

or

- if the credit contract was cancelled prior to this date, from the cancellation date of the credit contract, or from the start of the debt settlement, bankruptcy, receivership, or liquidation proceedings.

### **PARTIAL EXERCISING OF THE SURETY GUARANTEE**

If the debtor fulfils his payment obligations in a manner that does not accord with the provisions of the credit agreement, and the credit institution does not terminate the agreement, in the case of a fixed surety guarantee with a duration of more than one year, the credit institution may request that the Company pay to the credit institution, in place of the debtor, the debts that have fallen due but have not been paid.

### **PROCEDURE FOR EXERCISING THE SURETY GUARANTEE**

7.2.1 The request to exercise the surety guarantee must be submitted on the form issued for this purpose by the Company. The credit institution notifies the debtor about the submission of the request at the same time as the request is submitted. The following must be attached to the request:

- statement of arrears,

- contracts concluded in respect of collaterals as well as the annexes thereto,
- copy of the letter of notice, served to the local municipality or to the municipality enterprise, demanding that the cause of contractual breach be terminated, and of the letter of cancellation, as well as a copy of the return receipt certifying due delivery thereof,
- in the case of partial exercising, the credit institution's declaration, in which it declares that it judges the liquidity problems of the local municipality or municipality enterprise to be temporary, and that it continues to regard the local municipality or municipality enterprise as creditworthy,
- if there has been a failure to pay the final instalment, then a copy of the letter of notice served to the local municipality or to the municipality enterprise,
- a copy, not older than 30 days, of the title deed (or electronic title deed) testifying to the existence of the mortgage,
- written confirmation to the effect that the mortgage on the chattel or on the property has been registered at the Chamber of Notaries Public,
- documents evidencing that the preconditions for the disbursement of the loan have been met,
- confirmation that the guarantor assuming a surety guarantee for the debtor called upon the debtor to settle its debts (insofar as another party, apart from the Company, has assumed a surety guarantee in respect of the debtor's liabilities).

7.2.2 In the case of partial exercising, the credit institution requests payment of the debtor's due principal and interest liabilities. Based on the request to exercise the surety guarantee, the Company concludes an agreement with the debtor, in which the debtor undertakes an obligation – within a predetermined timeframe, the length of which may not exceed two years from the date of first default – to consolidate its financial situation. For the duration of the agreement, the Company undertakes to pay to the credit institution, in place of the debtor, the principal and interest debts that fall due during this period. The debtor may effect payments to the Company at any time, which shall not exempt the debtor from payment of the default interest payable under the statutory provisions. If the agreement expires or the debtor breaches the agreement, then the Company is entitled to implement all the measures necessary for ensuring the recovery of its claim.

7.2.3 If the submitted documents are complete, and it can be established that they comply with the conditions stipulated in the surety contract, the Business Regulations and the Civil Code, the Company is obliged, within 8 working days from receipt of the request, to transfer to the bank account of the credit institution the amount due to the credit institution. If the due date of payment is a bank holiday, then the deadline shall be the next working day following this. If the submitted documentation is incomplete or inconsistent, the Company may request, in writing, supplementation of the missing information and/or a reconciliation of data, and the payment deadline shall be extended by the time required for this. The opportunity to supplement missing information and/or perform a reconciliation of data lasts for six months from the initiation thereof. If the supplementation and/or data reconciliation occurs on several occasions, then the duration of these occasions shall be added together when calculating the six-month deadline.

7.2.4 The credit institution may, at the time of submission of the request to exercise the guarantee, request the suspension of payment, if it has agreed with the local

municipality or municipality enterprise on the deferred payment or payment-by-installments of the debt. The payment agreement must be attached to the request. If the credit institution requests the suspension of the guarantee payment, then it is not necessary to attach the statement of arrears.

During the period of suspension of the payment, the credit institution is obliged to comply with the rules regarding prior approval (section 5.4), and it must, furthermore, immediately inform the Company if the debtor has paid the entire debt.

The credit institution may request a resumption of the guarantee payment procedure if the local municipality or municipality enterprise violates the agreement on the payment of arrears and if, due to this, the credit institution cancels the agreement.

In the event of the resumption of the guarantee payment process, the statement of arrears must be prepared in respect of the debt at the time of cancellation of the agreement, and it must be attached to the request for the resumption of the guarantee payment procedure. Also to be attached are the copy of the cancellation letter together with the return receipt certifying due delivery thereof.

If the transfer is delayed, the Company is obliged to pay a late-payment interest penalty of a rate determined in the effective statutory provisions.

7.2.5 The Company shall refuse to fulfil the guarantee payment request if

- the declaration of the credit institution contains inaccurate information,
- the credit institution – without the Company's consent – waives the right securing the receivable and based on which the Company could have obtained satisfaction through the transfer to it of the receivable (pursuant to §276 (2) of the Civil Code),
- the credit institution has violated the obligations stipulated under section 6.6 of the Business Regulations or it has failed to fulfil them,
- the credit institution disbursed the credit without fulfilling the preconditions of disbursement stipulated in the credit contract,
- the Company, pursuant to sections 6.10 and 6.11 of the Business Regulations, has deleted the surety contract from the records,
- the credit institution has not complied, within the deadline stipulated under section 7.2.2, with the request for supplementing incomplete information and reconciling data.

7.2.6 If, prior to fulfilment of the guarantee payment, the amount of the debtor's overdue liability decreases, the credit institution does not have to prepare a new statement of arrears, but is obliged – within 8 working days from the date of payment by the Company – to transfer to the Company, from the amount paid by the debtor or another party, or recovered from the debtor or guarantor before the guarantee payment, a portion that corresponds to the extent of the Company's guarantee commitment. If the credit institution fails to transfer the amount due to the Company within the above deadline, it must pay a late-payment interest penalty of an extent determined in the effective statutory provisions.

## **AMOUNT PAYABLE TO THE CREDIT INSTITUTION IN THE COURSE OF EXERCISING THE SURETY GUARANTEE**

7.3 In the course of redemption, the Company shall transfer, of the amount specified in the statement of arrears:

- in the case of a proportionate surety guarantee an amount corresponding to the extent of the guarantee commitment – calculated subject to the adjustment factors under section 3.2
- in the case of a fixed surety guarantee the amount specified in the surety contract.

If the credit institution exercises its purchase right with respect to the real property or the chattel before the guarantee is exercised, the guarantor shall pay an amount that is equal to the liability less the pre-agreed purchase price.

The Company always fulfils its payment obligations in Hungarian forint (HUF).

Within the paid amount, the amount paid towards interest receivables may not exceed 10% of the amount paid to cover the outstanding principal. In the case of surety guarantees related to foreign-currency loans, the guarantee payment is calculated on the basis of the mid foreign-exchange rate quoted by the National Bank of Hungary (NBH) on the date of the statement of arrears, but this amount may not exceed the HUF amount calculated at the mid FX rate quoted by the NBH as at the surety guarantee contract conclusion date, plus 10%.

## **COLLECTION OF THE RECEIVABLES**

7.4 The claims that are transferred to the Company as a result of the fulfilment of the obligations under the surety contract shall be collected by the Company.

The Company is obliged to take the required measures to recover the claim vis-à-vis the debtor by foreclosing on the loan collateral or by any other legal means and methods available to it. In the interest of a more effective collection procedure, the Company may commission the lending credit institution, an organisation established by the Company for this purpose, or an organisation or person specialised in debt collection to recover the receivables. The commissioned party must inform the Company about its progress in fulfilling the commission on a quarterly basis.

Any assignment of the claim is permitted only with the Company's prior consent.

If the available collaterals are of a general or framework nature, and they constitute the security for several loans, the revenues realised from them shall be shared in proportion to the principal debt outstanding as at the cancellation date.

The claim may be collected by way of:

- debt settlement proceedings ordered against the local municipality,
- liquidation proceedings conducted against the municipality enterprise,
- the sale of the claim,
- the sale of the asset(s) pledged as collateral.

## **8. FEE CHARGED FOR THE ASSUMPTION OF THE SURETY GUARANTEE**

8.1 The credit institution is obliged to pay a fee for the surety guarantee undertaken by the Company. The size of such fee and the method used for calculating it are contained in the Announcement. The credit institution may invoice the fee charged for the assumption of the surety guarantee on to the local municipality or municipality enterprise.

8.2 The Company issues an invoice for the fee charged for assuming the surety guarantee and this fee must be paid by the deadline indicated on the invoice. If at the time of transfer of the fee the credit institution does not disclose the data required for identification (the identification number of the surety contract sent by the Company, as well as the serial number of the issued invoice), and, due to this, it cannot be determined which transaction the fee payment is related to, the Company will not accept the fee payment and will transfer back the remitted amount.

8.4 If the credit institution fails to pay the fee before the deadline determined on the invoice, the Company will cancel the surety contract and/or refuse to honour the guarantee.

8.5 If the disbursement of the credit fails to take place either in part or in full, or if the surety guarantee expires before the final maturity date of the credit, the Company shall refund to the credit institution, within 8 days, a portion of the fee for the surety guarantee that corresponds to the nondisbursed credit or the portion of the surety guarantee due in respect of the period following the date of notification on early repayment.

## **9. UNDERTAKING OF SURETY GUARANTEES RELATED TO MUNICIPAL BOND ISSUES**

9.1 With respect to bonds issued privately by local municipalities and their enterprises (hereinafter: issuer), the provisions of these Business Regulations shall be applicable with the exceptions set forth in this section.

9.2 In the case of a fixed surety guarantee, the minimum amount of the surety guarantee assumption shall be the part of the liability arising from the bond issue in the first full year.

9.3. The request for a surety guarantee shall be submitted to the Company by the issuer, the investment services provider that arranges the bond issue and distributes the bonds on behalf of the issuer or – with the permission of the issuer – the investment services provider acting as underwriter. The request for a surety guarantee must be submitted on the form provided by the Company for this purpose, together with the attachments listed therein. A declaration from the issuer must be attached to the request, to the effect that

- there are no legal barriers to the issuing of the bonds, and
- the issuer acknowledges that transfer of the bonds may only take place with the prior written consent of the Company. One of the attachments to the request for a

surety guarantee must be the financing proposal elaborated by the investment service provider for the issuer.

9.4.1 At the issuer's request, prior to inviting offers from financial institutions for the financing of the bond issue, the Company may issue a preliminary, indicative declaration of intent. The indicative declaration of intent obliges the Company to take receipt of the surety guarantee request, and to make a decision regarding the request.

9.4.2 Upon the request of the arranger of the bond issue and the distributor of the bonds, the Company may issue a promissory note in respect of participating in the bond issue. The promissory obligates the Company to participate in the bond issue if the conditions specified in the promissory note are satisfied.

9.5 Based on the submitted documents, following the evaluation of the request, the Company decides on whether to participate in the bond issue, and issues a declaration of intent in this regard. The declaration of intent must contain:

- the name of the municipality or municipality enterprise,
- the registered seat (address) of the municipality or municipality enterprise,
- the total amount of the issue,
- the purpose of the bond issue,
- the maturity (term) of the bonds,
- the extent or amount of coverage of the guarantee
- the expiry date of the declaration of intent,
- the approved collateral securities.

9.6 Following a positive decision on its part, the Company will participate in the bond issue process by assisting in compiling information. The conclusion of the surety contract takes place after the subscription of the bonds.

In the surety contract, the Company undertakes an obligation to meet the issuer's capital and interest repayment obligations arising from the bond – observing the provisions of section 9.9 hereto – if the issuer does not fulfil its obligations, or does so only partially.

9.7 If the issuer does not, or does not fully, meet its payment obligation under the bond within 30 days, the beneficiary of the surety guarantee must inform the Company of this within 60 days at the latest from the debtor's falling into arrears.

9.8 Payout against the surety guarantee may take place in the manner and by the deadline specified in the compiled information, and according to the following provisions:

9.8.1 If the issuer does not meet its payment obligation according to the bond deed, the credit institution, during the first year of the issuer's default, may ask the Company, in the case of a fixed surety guarantee undertaking, to pay the due but unpaid debt, or, in the case of a proportionate surety guarantee undertaking, to pay the part of the due but unpaid debt that is proportional to the surety guarantee part, to the credit institution instead of the issuer.

9.8.2 If the issuer defaults on its payment obligation set by the bond deed also during the following year, the credit institution must attempt to reach an agreement with the issuer in order to settle the debt. The credit institution sends the one-sidedly signed copy of the agreement to the Company and verifies that it has appealed to the issuer to sign the agreement.

9.8.3 If the agreement in section 9.8.2 does not come into existence, or if the issuer breaches the agreement at a later time, the credit institution notifies the Company about this. In this case, the credit institution may ask the Company's consent to the redemption of the bonds before the maturity date. If the Company agrees to the redemption, the base of its payment obligation is the bond redemption price, which cannot exceed the nominal value of the bond.

9.8.4 If the Company does not agree to the redemption of the bonds before the maturity date, the Company must pay the expired debt, in the case of a fixed surety guarantee undertaking, up to the surety guarantee amount, and in the case of a proportionate guarantee undertaking, in accordance with the proportion of the guarantee, based on the maturity dates specified in the bond deed, to the credit institution instead of the issuer, according to specifications of the bond deed.

9.9 When making payments against the surety guarantee, the maximum sum payable by the Company, per occasion, may not result in the municipality's debt towards the Company – including any existing debts – exceeding 10% of the Company's regulatory capital. Following performance by the Company – during the term of the bond – the amount of the surety guarantee payable by the Company shall be repaid from the amount paid by the Issuer to the Company, up to the contractual amount.

9.10 If the Issuer has repaid its debt arising from the bond, then – within 30 days from repayment at the latest – the Issuer or the credit institution subscribing the bond shall notify the Company of this fact. Based on this notification, the Company shall delete the surety contract from its records. In the event of a failure to notify, the Company shall delete the surety contract from its records on the 60<sup>th</sup> day from the final maturity of the bond.

## **10. INSPECTION OF DOCUMENTS, CONFIDENTIALITY**

10.1 Documents of the Company that are related to the surety undertaking may be inspected by persons that are authorised to do so under the law, as well as by the Company's employees and agents.

10.2 Persons listed under section 10.1 are subject to an obligation of confidentiality with respect to all data and information on the Company's operations. The statutory regulations on confidentiality, bank secrets, trade secrets and the handling of personal data shall be applied.

## **11. DELIVERY, RECEIVING CLIENTS**

11.1 The consignments and communications of the Company are delivered by mail. Mailed items shall be regarded as having been delivered by the 3<sup>rd</sup> working day from

the date of mailing unless a different date of delivery is certified by return receipt or other notice of receipt.

11.2 Items sent to the Company by mail shall be regarded as delivered as at the date of postal delivery.

11.3 In the case of items delivered to the Company by courier or otherwise in person, business hours are 8 a.m. to 3 p.m. Monday through Thursday and 8 a.m. to 1 p.m. on Fridays. Items reaching the Company after these business hours shall be regarded as having been submitted on the following working day. The Company decides on whether to accept the submitted material on the following working day.

11.4 If the credit institution cannot meet a deadline – as determined in the Business Regulations – due to a delay in postal delivery, it may request an extension of the deadline in writing.

## **12. ENTRY INTO FORCE**

12.1 These Business Regulations shall enter into force on 1 November 2010. Its provisions must be applied in respect of applications submitted following its entry into force.

12.2 The Company may conclude an agreement with the financial institution regarding the application of procedural rules other than those contained in the Business Regulations.

12.3 The Company shall provide a copy of these Business Regulations, set out in consolidated format with the amendments hereto, to the financial institution, which shall ensure that debtors are familiarised with them.

Garantiqa Hitelgarancia Zrt.

## ANNEX

To the business regulations regarding the undertaking of surety guarantees related to the loans of municipalities and municipality enterprises, and bonds issued by municipalities and municipality enterprises

### The EIB Guidelines

1. EIB is prepared to consider Projects which are situated on the territory of Hungary.
2. EIB is prepared to counter guarantee small and medium scale Projects mounted by the following promoters:
  - local municipalities;
  - municipality associations with legal personality pursuant to Chapter III of Act LXV of 1990 on local municipalities and section 16 of Act CXXXV of 1997 on the association and cooperation of local municipalities;
  - multi-purpose small area associations pursuant to Act CVII of 2004 on the multi-purpose small-area associations of local municipalities; and
  - limited liability companies majority owned by a local municipality, provided that that such municipality is confirmed creditworthy by the Beneficiary in accordance with the Credit Policies and Monitoring Procedures.

For associations, EIB will only provide a counter-guarantee on the condition that their members participating in the Project provide a joint and several direct suretyship (*készfizető kezesség* in Hungarian) in favour of the Project.

For limited liability companies majority owned by a municipality, EIB will only provide a counterguarantee on the condition that the relevant municipality provides a joint and several direct suretyship (*készfizető kezesség* in Hungarian) in favour of the Financial Intermediary in relation to any and all liabilities of the Promoter arising out of or in connection with the Loan Agreement) or (y) a debt service guarantee (in Hungarian, *adósságszolgálati garancia*) securing any and all overdue and outstanding liabilities of the Promoter arising out of or in connection with the Loan Agreement (the term "Loan Agreement" includes, for the avoidance of doubt, bond documentation) in favour of the Financial Intermediary.

3. EIB will only accept automatic allocation for Projects whose cost does not exceed EUR 25 million. EIB's agreement must be sought for a Project where the total cost exceeds EUR 25 million.

4. EIB will only accept allocation for projects which are financed by a Loan (including, for the avoidance of doubt, municipal bonds or other debt instruments) with a maturity of a minimum of four but a maximum of 25 years with a grace period of up to 8 years.
5. Project investments will target activities in Eligible Sectors. All sectors are Eligible Sectors except as set out below:

The following sectors are not Eligible Sectors:

- a) manufacture and distribution of weapons and ammunition, arms and military equipment;
- b) manufacture and distribution of tobacco or alcohol products;
- c) housing, except for social housing in connection with programmes for urban renewal and/or urban regeneration schemes;
- d) waste incineration and processing of toxic waste;
- e) gambling and betting activities; and
- f) detention facilities e.g. prisons, police stations, schools with custodian functions.

The following sectors may be Eligible Sectors subject to the prior written approval of EIB:

- a) health or research projects involving human embryo testing or cloning;
- b) genetically modified plants;
- c) religious organisations;
- d) psychiatric hospitals involving custodial facilities;
- e) abortion clinics, euthanasia services; and
- f) crematoria.

6. In addition Financial Intermediaries are recommended to give appropriate attention to EIB's usual allocation criteria for small- and medium sized projects, which should in the framework of this Agreement be considered as guidelines:

6.1 In general, Projects must be economically, technically and financially sound.

6.2 Projects must comply with EU and national legislation with regard to environmental protection (save for any derogations agreed between Hungary and the EU).

6.3 Projects must comply with national and EU requirements in force with regard to procurement for works, supplies and services<sup>1</sup>. In addition, in case of Projects where – due to their limited size or for other reasons – public tendering is not required by national or EU regulations, EIB recommends that international competitive bidding should nevertheless be carried out at least accessible to the signatory states of the Agreement on the European Economic Area (EU member states and Norway, Iceland and Liechtenstein).

6.4 Projects should be implemented within a period of not more than five years.

6.5 EIB accepts only allocation in relation to Projects the implementation of which has not been completed more than six months before the date of the Allocation Notice.

6.6 Projects must be individually identifiable, new Projects in terms of location, design and benefits, and may also involve expansion or modernisation. Mere repair or maintenance activities cannot be considered. Several allocations to one large Project with different phases of implementation are possible if each phase is self-contained and independent from previous or consecutive phases.

6.7 Projects must have obtained all other administrative approvals as necessary and applicable.

6.8 Project cost:

Tangible and intangible assets and working capital

All costs directly associated with the capital investment can be taken into account in calculating the Project costs of ventures, provided that they constitute a significant addition enabling the ventures to accomplish their economic purpose, and provided that the durable or permanent nature of the assets in question requires medium- or long-term financing, in particular:

- the purchase of tangible assets, land<sup>2</sup> or intangible assets (e.g. development, planning and financing costs during the construction phase) which are directly associated with the Project. For financings for research and technical development programmes, labour costs directly associated with the Project are part of eligible Project cost.
- a permanent increase in working capital required to expand business activity as a result of the Project. Working capital is defined as value of raw materials, work-in-progress, finished stock and debtors less creditors.

As far as intangible assets are concerned, the purchase of goodwill, the acquisition of patents and licences for telecoms, agriculture/food production rights or quotas, other production or distribution rights (such as for media and services) and licences or rights

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<sup>1</sup> For further information on EU tendering requirements:

<http://www.eib.org/publications/thematic/publication.asp?publ=44>

<sup>2</sup> The financing of land purchase is excluded unless it is technically absolutely essential for the sub-project, in which case it should never exceed 50% of total project cost. Financing of purchase of farmland is entirely excluded.

for mineral resource exploitation are excluded. Where a Project's focus is on intangibles, the cost of patents and licences should not be more than 50% of total Project cost.

Pure financial transactions (such as the purchase of shares or of the assets of an existing company), short-term financing for property developers and financing of recoverable Value Added Tax (VAT) are expressly excluded.

Used fixed assets (buildings, plant and equipment)

Projects involving used fixed assets (plant and equipment should not be older than 10 years) are subject to the following conditions:

- the used assets must be essential for the new Project;
- they must help to create or maintain jobs in the long term;
- buildings and equipment which have already been financed by EIB or by the Promoter are expressly excluded;
- the costs of the used fixed assets must correspond to their current market value;
- in the case of Projects whose total project costs are above EUR 250,000, the costs of land acquisition, used buildings, plant and equipment may not exceed 50% of the total costs of the Project.