

?????? C-572/07

RLRE Tellmer Property sro

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Finan?ní ?editelství v Ústí nad Labem

(?????? ??? Krajský soud v Ústí nad Labem
??? ??? ?????? ?????????????? ??????????)

«?????? ??????? ?????????????? ?????????? – ??? – ??????? ??? ?????????? ?????????? –
????????? ??? ?????????????? ?????? ??? ?????? ? ?????? – ?????????????? ??????????»

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????????????? ?????????? – ?????????? ??? ?????????? – ?????? ?????? ?????????? – ??????
????????? ??? ?????????????? ?????? – ?????????? ?????????????? ??? ??? ??? ?????? –
????????? ??? ?????????? ??????

(?????? 77/388 ??? ??????????, ??? 13, B, ??????? ??)

?????? ?? ?????????? ?????????? ??? ?????????? ?????? ??? ?????????? ?????????? ???
????? ??? ??????, ??? ?????? ???' ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
??? ?????? 13, B, ??????? ??, ??? ?????? ?????? 77/388, ??? ?????????????? ???
????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????.

??????, ?????? ? ?????? ??? ?????????? ??? ?????????? ??? ? ?????????? ??? ?????????????? ???
????????? ??????, ??? ??? ?????????? ??? ?????? ?????????, ?? ?????????? ? ??? ??? ??? ???
??, ?????? ??? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ? ?????? ?????????? ?????? ?? ?????????? ???
??? ?????? ??? ?????? 13, B, ??????? ??, ??? ?????? ??????, ?? ?????????? ?????? ???
????????? ?? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?????????? ???
?? ??? ??????.

(?. ??????? 21, 23-25 ??? ??????.)

?????? ??? ?????????? (?????? ????)

??? 11?? ?????? 2009 (*)

«?????? ?????????? ?????????????? ?????? – ??? – ??????? ??? ?????????? ?????????? –
????????? ??? ?????????? ?????? ??? ?????? ? ?????? – ?????????? ??????????»

???? ??????? C?572/07,

?? ??????????? ?????? ??????? ?????????????? ?????????? ?????? ??? ?????? 234 ??,
??? ?????? ??????? ?? Krajský soud v Ústí nad Labem (?????? ??????????), ?? ?????? ??
20?? ??????? 2007, ??? ??????? ??? ?????????? ??? 24 ??????? 2007, ??? ??????
??? ?????

RLRE Tellmer Property sro

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Finan?ní ?editelství v Ústí nad Labem,

?? ??????? (?????? ???),

?????????? ??? ??? C. W. A. Timmermans, ??????? ???????, J.?C. Bonichot, J. Makarczyk
(??????), P. K?ris ??? L. Bay Larsen, ???????,

?????? ??????????: V. Trstenjak

?????????: K. Sztranc-S?awiczek, ??????? ??????????,

?????? ??? ?? ??????? ??????????? ??? ??????? ??? ??' ??????????? ??????????? ??
6?? ??????? 2008,

?????????? ??? ?? ??????????? ??? ????????:

- ? Finan?ní ?editelství v Ústí nad Labem, ?????????????? ??? ??? J. Janoušková,
- ? RLRE Tellmer Property sro, ?????????????? ??? ??? R. Lan?ík ??? J. Rambousek,
- ? ??????? ???????, ?????????????? ??? ??? M. Smolek,
- ? ??????? ???????, ?????????????? ??? ??? ?. ?????????? ??? ??? ?. ???????????
???. ???, ???,
- ? ??????? ??? ?????????? ??????????, ?????????????? ??? ??? ?. ?????????? ??? ??? ?. ???????????
???. ?? M. Thomannová-Körnerová,

???? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ??? ?? ??????????
???. 9?? ??????? 2008,

?????? ??? ???????

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1 ? ??????? ??????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? 13, B,
????????? ?, ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17?? ?????? 1977, ???
????????????? ??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ?????? ?????? ??????
????????? – ??? ?????? ?????? ?????? ?????????????? ????: ?????????? ?????????? ??? (??
???. ???.. 09/001, ?. 49, ??? ????: ??? ??????).

2 ? ??????? ??? ?????????? ??? ??????? ?????? ?? ?????????? ??? RLRE Tellmer
Property sro (???. ????: RLRE Tellmer Property), ????, ??? ?? Finan?ní ?editelství v Ústí nad

Labem (????????? ??????????? ??? Ústí nad Labem), ????????, ??????? ?? ?? ?????? ?? ??
????? ??????????? ??? ??????????? ?????? ??????????? ?????? ?????????? ???????????, ???
? ???????, ??? ??? ??? ?????????????? ??? (???: ???).

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3 ??? ?? ??? 2, ?????????? 1, ??? ??? ?????? ???????, ?????????? ??? «??
????????? ??? ?? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ????
??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ????
?????».

4 ?? ????? 6, ?????????? 1, ??? ??? ?????? ??????? ??????:

«?? “????? ??????” ?????????? ????, ? ??? ?????? ??? ?????? ?????? ?????? ???
??? ?????? ??? ?????? 5.

? ??? ?????? ??????? ?? ?????????? ?????? ????, ?:

- ??????? ?????? ???????, ?? ??? ?????? ?????????????? ? ??? ??? ?????,
- ?????????? ??? ?????????? ? ??? ?????? ??????? ? ??????????????,
- ?????????? ?????????? ???' ?????????? ??? ?????????? ?????? ? ??' ?????????? ??? ? ???
????????? ????.»

5 ?? ????? 13, ?, ??????? ??, ??? ??? ?????? ???????, ??? ??????? ?????? X ? ??????
????????? «?????», ??????:

«?? ??? ?????????? ??? ?????? ?????????? ??????????, ?? ??? ?????? ??? ???????????, ??? ??
????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????????? ??? ???????????,
????????? ??? ??????:

[...]

?) ??? ?????????? ???????, ????????:

1. ??? ??????? ??????? ???????????, ??? ?????????? ??? ?? ?????????? ??? ??????
?????, ??? ?????????????? ??? ??????? ??? ?????????? ??? ?????????? ?????? ? ??? ??????
????????? ??? ???????, ?????????????? ??? ??? ?????????? ?????? ?????????? ?????????? ???
??????, ?????????????? ??? ?????????? ??? ??????????.

2. ??? ?????????? ??? ?? ?????????? ??????????.

3. ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??????????.

4. ??? ?????????? ??????????.

?? ?????? ??? ??????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??
????? ????.»

? ?????? ???????

6 ? ??????? ??? ?? ?????? ?????? ?????????? ?????????? ??? ?? ??? ?? 235/2004 ???
????? ?????????????? ????. ?? ?????? 56, ?????????? 4, ??? ?????? ????, ??? ?????? ???
????? «????? ??? ?????? ??????, ??????, ?????????????? ??? ?????? ????, ??????
????? ??????????????», ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???
????? ??? ?? ?????? ????:

«? ??????? ??????, ??????, ?????????????? ??? ?????? ?????? ?????????? ??? ?? ??? ???. ?
????????? ??? ??????? ?? ?????????????? ???????, ?? ??????? ?????? ??? ?? ??
????????? ??????????, ?? ?????? ?????????? ???????, ? ?????????? ?????????? ???????
????????? ??????. ?????????????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???
????????? ??????, ?????????? ??? ?????? ?????????? ???????, ?? ????????, ???
????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
??? 48 ????.»

? ??????? ??? ?????? ??? ?? ?????????? ????????

7 ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ? RLRE Tellmer Property ??? ??
????????? ??? ?????????? ??? ?????? ?????????? . ?????? ??? ?????????? ??? ?????? ???
????? ?????? ??? ??? ?????? ?????????? ?????? ??? ??? ?????????? ??? ?????????? ???
????? ??? ?????????????? ??? ??? ?????? ??????????.

8 ? ?????? ??? ?????? ??? ? RLRE Tellmer Property ??? ?????????? ??????????
????????? ??? ??? ??? ?? ?????? ??????????, ?????????? ?? ?????? ??? ??? ??? ??? ???
????? ??? ??? ??? ??? 2006 ??? 115 911 ?????? ?????? (CZK) ??? ??? ???
????????? ??????????.

9 ?????????? ??? ?????? ??? ?????? ??? Litvínov ??? 20?? ?????????? 2006
????????? ?? ?????? ??? Finan?ní ?editelství v Ústí nad Labem ??? 5?? ??????????
2007, ? RLRE Tellmer Property ?????? ?????? ?????? ??? ?????????? ??????????.

10 ? RLRE Tellmer Property ?????????? ??? ? ?????? ?????????? ?????????? ??? ?? ???
?????????, ??? ? ?????????? ??? ?????????? ??? ?????????? ???, ?????????? ?????????? ??????????
??? ?????????? ?? ?????? ?????????? ???.

11 ?? ?????? ?????????? ?????????? ?? ??? ?????? ??? ?????? ??? ?? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? . ?????????? ?? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

12 ?????, ?????? ?? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??????????
??? ??? ?????????? ??? ?????????? ??? ?????, ? ?????? ??? ?????? ??? ?????????? ??? ??
?????????, ? ?? ?????? ??? ??? ?????? ??? ?????? ?????? . ???????, ??? ?????? ??? ? ??????
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ??? ?????? ??? ?????, ? ?????? ??? ?????? ??? ?????? ?????? ?? ??????
??? ?????????? ??? ?????? ?????? ?????? . ??????, ?? ?????? ?????? ??? ??
????????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

13 ??? ??? ?????? ????, ?? Krajský soud v Ústí nad Labem, ?????????? ?? ??????????
??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ?? ??? ?????? ??????????
?????????:

«1) ?????? ?? ?????????? ??? ?????? 6 [...] ??? ??? ?????? 13 [...] ??? ??? ?????? [...]
?? ?????????? ??? ??? ?????? ??? ? ?????? ?????????? (?) ??? ??? ??? ???

????? ??? ???? ????????, ?????? ??? ???? ????????, ??? ?????????????? ??? ?????????????? ??? ????? ???? ?????
????? ?? ??????? ?? ?????????? ?? ?????????? ?? ??? ??? ????? ?????? ?????????? ?????????? ?????????? ?????
?????????[:]»

2) ??, ? ??????? ??? ????? ?????? ????? ????????, [...] ?? ????? [13, B, ??????? ??,
??? ????? ?????] ????????, ?????????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ????? ?????? ?????????? ??? ?????????????? ??? ????? ?????????? ?????? ?????????? ???
????????? ???;»

??? ??? ?????????????? ??????????

??? ??? ?????? ??????????

14 ?? ? ? ?????? ???????, ?? ?????? ?????????? ???????????, ?????? ?????????? ??
????? 13, ?, ??????? ??, ??? ????? ???????, ?? ?????? ?? ?????? ?????? ??? ??????????
????????? ??? ??? ?????????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??????????
??????????, ?????? ?? ?? ????? ?????????? ?????????? ??? ?????????? ?????? ??? ?????? ???
????? ??? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?? ??????
????????? ???, ? ?????? ?????????? ??? ???, ?????? ??? ?????? 13, ?, ??????? ??, ??? ??????
??????.

15 ??????, ????????????, ??????, ???, ??? ????? ??????????, ?? ?????????????? ??
????? 13 ??? ????? ?????? ?????????? ?????????? ?????????? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? (?. ?????? ???
25? ?????????? 2007, C?174/06, CO.GE.P., ?????? 2007, ?. I?9359, ????? 26 ??? ???
????????? ??????).

16 ?? ??? ?????? ?????????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??
??? ?????? ?????? ?????? ?? ?????????? ??????, ?????????? ??? ?????????? ?? ?????????? ??
????????? ??? ?????? ?????? ?????????? ??? ?????????????? ?? ?????????? ?????? ???
????????? ??? ?????? (?. , ???, ?????? ??? 18? ?????????? 2001, C?150/99,
Stockholm Lindöpark, ?????? 2001, ?. I?493, ????? 25, ??? ??? 8? ?????????? 2005,
C?280/04, Jyske Finans, ?????? 2005, ?. I?10683, ????? 21 ??? ??? ??????????????
?????????).

17 ??????, ??? ?? ??? 2 ??? ??? ????? ?????? ?????????? ??? ??? ????? ?????? ?????? ???
????? ?? ?????????? ?????? ??? ?????????? (?. ?????? ??? 21? ?????????? 2008,
C?425/06, Part Service, ?????? 2008, ?. I?897, ????? 50 ??? ??? ?????????????? ??????????).

18 ?????? ?? ?????????? ???????????, ?????? ?????? ?????? ?????????? ?????????? ?????? ??????????
??? ?????? ?? ?????????? ?????? ???, ?? ?? ??????, ?? ?????????? ?? ?? ??????????
??? ?????? ???????, ?????? ?? ?????????? ?? ?????? ?????? ???, ??? ??? ?????? ??????????
???? ???????, ??? ??????????, ?????? ?????????? ??? ??? ? ?????????? ?????????? ??????
????????? ??? ?????? ??????, ??? ?? ??? ? ?? ??? ?????? ?????????? ?????????? ??? ?
????????? ?????? ?????????? ??????, ?? ??????, ??? ?????? ?????????? ?????????? ??? ?????????? ???
???? ?? ?????? ??????, ?????? ??? ?????? ??' ?????? ??? ??? ?????? ??? ?????? ??? ??????
????? ??????, ?????? ??? ?????? ???' ?????? ??? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????????
(????????????? ?????? Part Service, ?????? 51 ??? 52 ??? ??? ?????????? ??????????).

19 ??????, ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???

?????? ?????? ????? ???? ????? ?????????????????? ?? ?????????????? ??? ?????? ??? ?????????????? ??????????????
??????, ??? ?????? ? ?????????? ?? ??? ????? ?????? (????????????????? ?????? Part Service,
????? 53).

20 ??????????????? ?? ??? ? ?????? ??????????????, ??? ???? ?????? ??? ?????? 13, B,
????????? ??, ??? ?????? ???????, ???????????, ???' ??????, ??? ?????? ??? ? ??????????
????????? ??? ???????, ??? ??????? ?????????? ??? ?????? ???????????, ?? ??????? ??
????????? ?? ??????? ?? ??? ??? ?????? ?????? ??? ?? ?????????? ??? ?????? ?????? ??? ??
????????? ?? ?????????? ?????? (??., ???????, ?????????? ??? 4?? ?????????? 2001, C?326/99,
«Goed Wonen», ?????? 2001, ?. I?6831, ????? 55- ??? 9?? ??????? 2001, C?409/98, Mirror
Group, ?????? 2001, ?. I?7175, ????? 31- ??? 8?? ????? 2003, C?269/00, Seeling, ??????
2003, ?. I?4101, ????? 49, ??? ??? 18?? ??????? 2004, C?284/03, Temco Europe, ??????
2004, ?. ?-11237, ????? 19).

21 ????????, ?? ???? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ?????? ??????????
????????? ?? ?????? ??? ??????, ??? ?????????? ???' ?????? ??? ?????? ??? ??????
???? ??? ?????? ??? ?????? 13, B, ????????, ?, ??? ?????? ??????.

22 ???????, ? ??????? ?????????? ?? ?????????????? ?????? ??? ?????????? ??
????????? ?? ?????????? ??????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????????? ?? ?????????????? ??
??? ?????????? ?? ?????????? ?? ?????????? ?? ??????????.

23 ?????????? ??? ?? ?????????? ? RLRE Tellmer Property ??????? ??? ??????????
????????? ??? ?????????? ?????? ??? ?? ???????.

24 ???????, ?????? ? ??????? ??? ?????????????? ??? ? ?????????? ??? ??????????????
 ????? ??????? ??????, ??? ??? ?????????? ??? ?????? ???????, ?? ?????????? ? ???
 ??? ??? ?, ? ??????? ??? ? ?????????? ??? ??????? ???? ?????????? ??? ??????????
 ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????.

25 ?????? ??? ????????????????, ??? ?????? ??????? ??????? ? ???????? ? ?????????? ??? ??? ???
????????? ??? ?????? 13, ?, ??????? ??, ??? ????? ??????? ? ?????? ? ?????????? ?????????? ??? ?
????????? ?????????? ??? ?????????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???, ??? ???
????????? ??? ??????? ???, ?? ?????????? ?????? ??? ?????? ??? ?????????? ?? ?????????? ? ???
?? ??? ??? ??? ?????? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????.

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26 ??????? ?? ?????????????? ?? ????? ???????, ?????????? ? ?????????? ?? ??????????.

???? ???? ?????????????? ?????????

27 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ??????? ?????????? ??? ??????? ?????????? ??????????????, ?' ????
?????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ????? ??? ????? ??????????????
???? ?????????? ?????????????? ??? ??????????, ??? ??? ?? ??? ?????????, ??? ??????????.

???? ???? ??????? ???? ???? 13, ?, ??????? ??, ??? ????? ?????? 77/388/??? ???
??????????, ??? 17?? ???? 1977, ??? ?????????????? ??? ?????????????? ??? ?????
?????, ??? ??????? ?? ??? ????? ?????? ?????? ??????? - ??? ????? ?????? ???
????????????? ????: ?????????? ?????????? ???, ? ?????? ?????????? ??? ?
????????? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????, ??? ???
????????? ??? ?????? ????. ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????

? ??? ??? ?? ???? ???? ?????? ? ?????????? ????? ?? ???? ?????? ????? ?? ????
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(???????????)

* ?????? ????????????: ? ??????.