

**DISTRICT HEATING PUBLIC SUPPLY
LICENSE
(WITH CONDITIONS)**

GRANTED TO:

“DISTRICT HEATING GJAKOVA” J.S.C

ERO_Li_04/ 06

Registration Number:

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PART I TERMS OF THE LICENSE

1. **The Energy Regulatory Office (hereinafter referred to as "ERO")**, in exercise of the powers granted by Articles 15.2(a), 28.2 (e) and 37 of the Law on the Energy Regulator and article 16.2 of the Law on Energy and Articles 5.2 and 5.3 of the Law on Central Heating hereby issues, to **District Heating "GJAKOVA" J.S.C** (hereinafter referred to as the "Licensee") a license to **supply district heating** to customers, during the period specified in paragraph 6, subject to the Articles and Conditions set out in Part II (hereinafter referred to as the "Conditions"). The territory covered by this License is Pristina, hereinafter referred to as the "territory").
2. The Licensee is obliged to comply with all applicable Legislation, Articles and Conditions stipulated in this license.
3. The Licensee is entitled to:
 - a) sell thermal energy to non-eligible customers at regulated prices;
 - b) sell thermal energy to the traders;
 - c) sell thermal energy to eligible customers in accordance with the procedure established by ERO.
 - d) purchase thermal energy from other producers at an unregulated price;
 - e) bill and collect payment from its customers;
 - f) handle the complaints of its customers;
 - g) receive the remuneration due to them under their contracts.
4. The Licensee shall purchase thermal energy from Producers with installed capacity exceeding 1 MW pursuant to the Law on Central Heating.
5. The Conditions are subject to modification or termination or withdrawal in accordance with their terms and with Articles 35, 36, 37 and 39 of the Rule on Licensing of Energy Activities in Kosovo.
6. This license shall come into force on 04 October 2006 and, unless withdrawn, shall continue in full force and effect until 04 October 2016 with possibility of extension in accordance to the Rule on Licensing of Energy Activities in Kosovo.

Stamped with the common stamp of the Energy Regulatory Office on _____.

Signature (on behalf of the Board of ERO) _____

PART II THE CONDITIONS OF THE LICENSE

Article 1. Definitions and Interpretation

1. For the purpose of this license, the terms and expressions listed below shall have the following meaning:

"Affiliate" means in direct or indirect relation to the Licensee, any Holding Company or Subsidiary of the Licensee, or any Subsidiary of a Holding Company of the Licensee, in each case within the meaning of the legislation applicable in Kosovo;

"Customer" has a meaning given in Article 3.1 of the Law on Central Heating.

"Customers Protection Code" has a meaning given in Article 3.1 of the Law on Central Heating.

"Delivery point" means the thermal substation from which the heat, and possibly the hot tap water for domestic use, is carried to the end user, and where heat is measured with proper metering devices.

"Distribution" has a meaning given in Article 3.1 of the Law on Central Heating.

"Distribution Code" has a meaning given in Article 3.1 of the Law on Central Heating.

"Eligible customer" means a customer who is free to purchase thermal energy from the supplier of his choice.

"Final customer" means a customer purchasing thermal energy for his or her own use.

"Financial year" is the reporting period of the Licensee for regulatory purposes, and usually covers time-period from 15th October of actual year up to 14th October of the subsequent year, unless is otherwise specified in the relevant secondary legislation issued by ERO.

"Heat or Thermal Energy" has a meaning given in Article 3.1 of the Law on Central Heating.

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"Heat Distribution network" means a piping system, transporting heat from producer to customer.

"Heat enterprise" has a meaning given in Article 3.1 of the Law on Central Heating.

"Heat system" means the integrated and connected system of generation, distribution

and supply.

“Legislation” means Law on Energy (2004/8), Law on Energy Regulator (2004/9), Law on Central Heating and any other primary legislation, or secondary legislation to be issued in execution of primary legislation, regulating the heat sector.

“Metering Code” has a meaning given in Article 3.1 of the Law on Central Heating.

“Metering device” has a meaning given in Article 3.1 of the Law on Central Heating.

“Non-eligible customer” means a customer who is obliged to purchase thermal energy from the public supplier.

“Supplier” means a person licensed to supply district heating.

“Supply” means the delivery and sale or resale of thermal energy to customers.

2. Terms used in this license shall have the same meanings as the terms used in the Legislation.
3. In reference to paragraph (2) any modification or re-enactment of the legislation thereof after the date when this license comes into force, shall apply.
4. Unless otherwise specified:
 - a) any reference to a numbered Articles or to a numbered Annex is respectively a reference to the Article or the Annex bearing that number in this license;
 - b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Article or Annex in which the reference occurs;and
5. The heading or title of any Part, Condition, Annex or paragraph shall not affect the construction thereof.
6. Where an obligation is imposed to the Licensee with specific deadline for performance that obligation shall continue to be binding and enforceable after that time limit without prejudice to all rights and remedies that may be imposed against the Licensee if such Licensee fails to perform within the time limit.
7. The provisions of paragraph 6 shall apply in any case of document, direction or notice to be submitted or service to be performed pursuant to this license and directions issued by ERO.

Article 2: Separate Accounts for the Supply Business

Condition 1

In accordance with Article 49.2 of the Rule on Licensing of Energy Activities in Kosovo the Licensee shall fully comply with requirement of this Article within twelve (12) months from the date when this license is issued.

1. The Licensee shall prepare annual regulatory statements / accounts in accordance with the temporary instructions of ERO on regulatory reporting and shall deliver to ERO a copy of the annual audited statements / accounts so prepared, according to the time-schedule / relevant secondary legislation issued by ERO.
2. The Licensee shall, in its internal accounting, keep separate accounts for the Supply business as a whole, as well as separate accounts for supply activities to eligible and non- eligible customers, (as well as for non heat activities), in accordance with Article 6.3 of the Law on Central Heating. The Licensee shall also keep in its internal accounting separate accounts for commercial contracts with its customers for installation, service, maintenance and extension of the secondary network downstream at the delivery point in accordance with article 22 of the Law on Central Heating. When requested from time to time by ERO, the Licensee must deliver all such accounts in the form and at the times specified by ERO.
3. The temporary instructions on regulatory reporting or the directions notified by ERO to the Licensee under paragraph 2 may, inter alia:
 - a) specify the form of the regulatory accounting statements/records, including but not limited to, profit and loss accounts, balance sheets, recognized gains and losses statements, cash flow statements and statements of the amounts of any revenues, costs, assets, liabilities, reserves or provisions which have been either charged from or to any other business or determined by allocation or apportionment between the consolidated Supply business and any other business.
 - b) specify the nature and content of the regulatory accounting statements/records, including information on specified types of revenue, cost, asset or liability and information on the revenues, costs, assets and liabilities attributable to specified activities.
 - c) specify the regulatory accounting principles (including the basis for the allocation of costs).
4. The Licensee shall not, in relation to the regulatory accounting statements in respect of a financial year, change the bases of charge, apportionment or allocation from those applied in respect of the previous financial year, unless ERO has previously issued directions for the purposes of this Condition directing the Licensee to change such bases or ERO gives its prior written approval to the change in such bases.
5. The Licensee shall comply with any directions issued by ERO for the purposes of this Article.

Article 3: Prohibition of Subsidies and Cross-subsidies

1. The Licensee shall ensure that the Supply business (or any part of the Supply business) does not give any subsidy or cross-subsidy (direct or indirect) to, nor receive any subsidy or cross-subsidy (direct or indirect) from any other business of the Licensee and/or any Affiliate or related enterprise of the Licensee and/or any other person.

2. The Licensee shall also ensure that its business of Supply to eligible consumers does not give to or receive from its business of Supply to non-eligible consumers any subsidy or cross-subsidy (direct or indirect).

Article 4: Prohibition of Discrimination

The Licensee shall not supply or offer to supply thermal energy to any purchaser or person seeking to become a purchaser on terms as to price which are materially more or less favorable than those on which it supplies or offers to supply thermal energy to comparable purchasers. For these purposes, regard shall be given to the circumstances of the supply to such purchasers including (without limitation) volumes, load factors, conditions of interpretability and the dates and durations of the relevant agreements.

Article 5: Compliance with the Distribution Code, the Metering Code and the General Conditions of Energy Supply

Condition 2:

In accordance with Article 49.2 of the Rule on Licensing of Energy Activities in Kosovo, following consultation with other relevant licensees, ERO may provide the Licensee with a specific time schedule for implementation of this Article. Such time schedule may apply to such parts in the Codes and to such extent, as specified in such schedule.

1. The Licensee shall comply with the provisions of the Distribution Code and the Metering Code insofar as applicable to it.
2. The Licensee shall comply with the Rule on General Conditions of Energy Supply issued by ERO.

Article 6: Security and Safety of Supply

1. The Licensee shall keep each of its customers informed of the postal address, telephone number, facsimile number and electronic mail address of an enquiry service established and operated for the purposes of receiving reports from any person about any matter or incident that:
 - a) causes danger or requires urgent attention, or is likely to cause danger or require urgent attention, in relation to the supply or distribution of thermal energy; or
 - b) affects or is likely to affect the security, availability or quality of service of the distribution system through which the relevant customer is supplied with thermal energy.
 - c) is related to any other complaint made by the customer or any information requested by the customer.
2. The enquiry service referred to in paragraph 1 must be:
 - a) provided without charge to the customer;
 - b) available to receive and process telephone reports and enquiries at all

- times on every day of each year; and
- c) operational no later than such date as ERO shall specify.
3. The Licensee may discharge the duty imposed in paragraph 1 by providing the requisite information to each of its customers:
- a) on the occasion of the customer first commencing to take a supply from the Licensee; and thereafter either:
- (i) where bills or statements in respect of charges for the supply of thermal energy are rendered to the customer, on a quarterly or more frequent basis (as long as it is sufficient that the information is included in or with any bill or statement); or
- (ii) in any other case, on an annual basis;
- b) and by publishing such information in such manner as to secure adequate publicity for it.
4. The Licensee shall take all necessary steps to inform each of its customers of any change to the address, telephone number, facsimile number or electronic mail address of the service referred to in paragraph 1 prior to such change becoming effective.

Article 7: Governance of Licensee's Obligations

1. The Licensee shall perform the efficient, economic, and coordinated operation of the licensed activities.
2. The Licensee shall take all reasonable steps in order to secure and implement all obligations arising out or in connection with the applicable legislation, the present license and the agreements where it is a party.
3. The Licensee shall prepare and propose to eligible customers, who have chosen to be supplied by the Public Supplier, a commercial contract in accordance with the General Conditions of Energy Supply and provisions of the Law on Central Heating.
4. The Licensee shall, within deadline set forth in the Law on Central Heating, prepare a draft Customer Protection Code and submit it to ERO for approval.
5. The Licensee shall conclude long-term purchase contracts with producers to the extent required to guarantee sufficient supplies, according to Article 19 of the Law on Central Heating. These contracts are subject to the prior approval and monitoring by ERO.
6. The Licensee shall give purchasing priority to thermal energy for which a Certificate of Origin has been issued, in accordance with article 12.2 and 12.3 of the Law on Central Heating.

Article 8: Metering Provision

1. Thermal energy sold by the Licensee to every customer shall be metered using metering devices due to the procedure set forth in Metering Code and in accordance to the dispositions of the Law on Central Heating.
2. The Metering Code shall be issued by the Distributor and approved by ERO in accordance with the Law on Central Heating.

Article 9: Procedures for the Detection and Prevention of Theft, Damage and Meter Interference

1. The Licensee shall take all reasonable steps to detect and prevent:
 - a) the theft of thermal energy at premises which are supplied by it;
 - b) damage to or fault in any thermal energy meter through which such premises are supplied;
 - c) interference with any thermal energy meter through which such premises are supplied; and
 - d) any unrecorded consumption of thermal energy at premises which are supplied by it.
2. The Licensee shall, as soon as is reasonably practicable, inform the owner of the relevant pipeline or meter of any incident where it has reason to believe:
 - a) there has been damage to or a fault in any pipeline or meter; or
 - b) there has been interference with any meter to alter its register or prevent it from duly registering the quantity of heat supplied; or
 - c) the consumption of thermal energy at premises which are supplied by it has not been recorded.
3. Where the Licensee has reason to believe that any incident reported to the owner in accordance with paragraph 2 has been caused by the criminal act of any person it shall, provide the owner with such information as is reasonably required for the purposes of investigating the incident and resolving any safety concerns arising out of it.
4. The Licensee shall inform the owner of its policy in relation to incidents of the type referred to in paragraph 3, and in particular of the circumstances in which it requires the owner to remedy such incidents by the use of:
 - (a) substitution of alternative meters;and
 - (b) discontinuation of supply to the premises at which the incident occurred.

5. In this Article:

"Theft" means the dishonest use, waste or diversion of thermal energy.

Article 10: Other Information Given to Customers

1. The Licensee shall keep each of its customers (insofar as the final customer receives an un-metered supply) informed of the amount of thermal energy, which, since the customer was last informed, its records show as having been consumed by that customer, according to the meter through which the final customer is supplied.
2. The Licensee shall inform its customers:
 - a) that ERO can assist in resolving complaints which the Licensee has not resolved to the customer's satisfaction; and
 - b) how ERO can be contacted.
3. The Licensee may discharge its duties under paragraphs 1 and 2 by providing the relevant information in or with each bill or statement given to a customer in respect of charges for the supply of thermal energy, and annually to each customer to whom no such bills or statements are rendered.

Article 11: Health and Safety

The Licensee shall take all reasonable steps to protect persons and property from injury and damage that may be caused by the Licensee when carrying out the licensed business.

Article 12: Labour

The Licensee shall comply with all legislation applicable to labour relation whether in force at the date hereof or in the future.

Article 13: Registration and Disposal of Assets of the Licensee

- 1 The Licensee shall prepare and maintain a register of all relevant assets and shall provide ERO with such a register annually not later than on 31 January of each year.
- 2 The Licensee shall not dispose of, or relinquish operational control over, any relevant asset if the disposal or relinquishment of control would affect its ability to discharge its obligations, or if the asset has replacement value more than 100,000.00 Euro.
- 3 In cases where the Licensee requests to dispose of certain assets owned or used by it, or other resources used to perform the licensed activity, the Licensee is obliged to notify ERO in writing. The Licensee may only realize the disposal of any assets following ERO's written approval.
- 4 The same as set forth in paragraph 1 applies to the outsourcing of assets or other resources used to perform the licensed activity.
- 5 In this Article:

“*Asset*” is considered to be any immovable or movable equipment of important value used for the exercise of the heat Supply activity.

“*Disposal*” means any sale, assignment, gift, lease, licence, loan, transfer, mortgage, charge, restriction on use (whether physical or legal), or the grant of any other encumbrance or the permitting of any encumbrance or any other disposition to any other business of the Licensee and/or a third party, and “dispose” shall be construed accordingly.

Article 14: Change in Control of the Licensee

The Licensee shall notify ERO of any intended change in control of the Licensee at least sixty (60) days in advance of such a change. Change in control may not take place unless ERO has approved it.

Article 15 : Public Services Obligation

The Licensee shall carry out any public service obligation which may be imposed by ERO according to Article 51 of the Law on the Energy Regulator and dispositions of the Law on Central Heating.

Article 16: Provision of Information to ERO

1. The Licensee shall submit to ERO, when and in such manner as ERO may require, such information and such reports as ERO may consider necessary in the light of the Articles of this license or as it may require for the purpose of performing the functions assigned or transferred to it under Article 29 of the Rule on Licensing of Energy Activities in Kosovo or other applicable Legislation.
2. The information shall be prepared to a level of audit as may be required by ERO from time to time.
3. The power of ERO to require information under paragraph 1 is without prejudice to the power of ERO to require even information that are considered confidential under or pursuant to any other Article or Condition of this license or under or pursuant to the applicable Legislation.
4. If the Licensee requests that certain information shall be considered as confidential it is its obligation to mark such information as confidential and justify to ERO such request.
5. The Licensee shall deliver to ERO quarterly and annual reports about its Supply business and compliance with the license’s Articles and Conditions in accordance to the Reporting Manual issued by ERO.
6. The provisions of any supply contract (including long-term purchase contracts referred to in Article 7 paragraph 5, but with the exception of commercial contracts provided in Article 22.1 of the Law on Central Heating) should be notified to ERO before the operation of such agreement in order to be approved and monitored by ERO.

7. The Licensee shall submit to ERO details of any changes to the information submitted with the application to this license.

8. In this Article:

“Information” means material in any form and includes, without limitation, any books, documents, records, contracts, accounts (statutory or otherwise), estimates, returns or reports of any description and any explanations (oral or written) in relation to such information as may be requested by ERO.

Article 17: Reasons for License Termination, Withdrawal and Modification

1. ERO may terminate this License, in accordance to Article 39 of the Rule on Licensing of Energy Activities in Kosovo, provided that the obligations of the Licensee shall be carried out by another Licensee or that customers are not at a disadvantage by such termination. Such termination may take place in case of:

- a) expiration of the term of the licence;
- b) a request from the licensed heat enterprise in respect of its own license;
- c) dissolution of the legal person holding the license;
- d) upon decision of a court declaring the insolvency of the Licensee or court decision to terminate the thermal energy supply activity due to the Licensee’s declaration of liquidation;
- e) where the licensed thermal energy supply activity has not been conducted for more than six (6) months, except where the suspension of activity is at the approval of ERO.
- f) where provisions of Article 44 of the Rule on Licensing of Energy Activities in Kosovo are met; and
- g) if any amount payable under a Fee is unpaid thirty (30) days after it has become due and remains unpaid for a period of another thirty (30) days after ERO has given the Licensee notice in writing that the payment is overdue.

2. ERO may withdraw this License in the following cases, stipulated in Article 44.5 of the Rule on Licensing of Energy Activities in Kosovo, provided that another Licensee shall carry out the obligations of the Licensee or that customers are not disadvantage by such withdrawal:

- a) the Licensee defaults or violates material conditions or obligations in the License and such defaults and violations have not been remedied within the deadline given by ERO or seriously damage the quality, safety and reliability of the service that the Licensee was obliged to provide;
- b) License monitoring by ERO or the Inspectorate of Ministry of Energy and Mining finds failure to fulfil administrative requirements and such failure has not been remedied within the deadline provided by ERO;
- c) the Licensee presented materially false information upon which the License grant was based.

3. ERO may modify this License, according to Article 35 of the Rule on Licensing

of Energy Activities in Kosovo, in the following cases:

- a) at the request of the Licensee;
- b) where required to protect the heat system in Kosovo, in connection with security of supply or security of life and health of citizens or protection of environment;
- c) in order to adhere to new requirements set forth in international agreements and national laws, regulations and other applicable legislation;
- d) as a sanction for violation of License terms and conditions, pursuant to article 44 of the Rule on Licensing of Energy Activities in Kosovo.

Article 18: Administrative Measures and Fines

1. In case of violation of any provision of the legislation, of any Article or Condition of this License and of any ERO's instruction to the Licensee, ERO shall have the power, pursuant to article 56.2 of the Law on Energy Regulator and Rule on Administrative Measures and Fines, either to prevent the Licensee from repeating the illegal action or, if the action has stopped, to issue a regulatory decision requiring that a particular action has to be taken or to impose an administrative fine to the Licensee and/or the members of its Board of Directors and/or its executives.
2. Prior to issuance of a fine, ERO shall issue a notice of license violation to the Licensee and shall provide the Licensee with an opportunity to respond to ERO, in writing, within fourteen (14) days of the notification, and to remedy the violation.
3. A fine shall be imposed on the Licensee, in accordance to Article 57 of the Law on Energy Regulator and Rule on Administrative Measures and Fines.
4. The amount of the fine will be evaluated in accordance to the Rule on Administrative Measures and Fines. In any case, if the fine mentioned in paragraph 3 is imposed on the Licensee, it must not exceed 15% of the gross revenues from the business conducted under this license in the previous financial year.
5. If the fine mentioned in paragraph 3 is imposed on a member of Board of Directors or an executive of the Licensee, it must not exceed 300% of the monthly remuneration received by that person from the Licensee.
6. In the case of repeated violations, the fine imposed may be three (3) times greater than the amount authorized in paragraph 4 or 5.
7. When imposing a fine, in accordance to this Article, ERO shall take into account the degree of social harm of the action, the prior behavior of the Licensee or person concerned, and the financial standing of the Licensee or person.
8. If a fine imposed by ERO is not paid, ERO shall initiate court proceedings for the collection of the fine as a civil debt.

Article 19: Settlement of Disputes

1. Any dispute arising out or in connection with the licensed activity shall be settled in accordance with the Rule on Dispute Settlement Procedure in the Energy Sector adopted by ERO.
2. Decisions of ERO regarding the modification, withdrawal or termination of the license, as well as those regarding any fines resulting from breaches of the license or of the applicable legislation, may be appealed by the Licensee to the court of competent jurisdiction.