

## **ELECTRICITY GENERATION LICENSE (WITH CONDITIONS)**

**GRANTED TO:**

***N.P "IBËR-LEPENC"***

**ERO\_Li\_17/06**

**Registration**

**Number:**

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**Annex 1** Generating stations to which License applies (description of facilities – drawings and a listing of the generation units that offer their capacity to the public supplier in accordance with Article 8 of the Law on Electricity at regulated prices)

**Annex 2** Description of technology and fuel category used for the performance of electricity generation

**Annex 3** Description of the Group of the Licensee (shareholders, affiliates and subsidiaries of the Licensee- diagram, reference to certain percentages of shareholding participation and activities exercised by each one of the companies).

## **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 (a) and Article 37 of the Law on the Energy Regulator (hereinafter referred to as the "Law"), Article 16.2 of the Law on Energy (Law 2004/8), and Article 5 of the Law on Electricity hereby issues to Hydro Power Plant **N.P "IBËR LEPENC"** (hereinafter referred to as the "Licensee") a **license to generate electricity** at the **Hydro Power Plant (HPP) in Ujman (ex Gazivode)** identified in Annex 1 and with description of generation units, technology and fuel category used for the performance of electricity generation in Annex 2 during the period specified in paragraph 7, subject to the Articles and conditions set out in Part II.
2. Installed capacity for the generation facility as described in Annex of this license is 34 MW.
3. The Licensee is obliged to comply with all applicable Legislation, Article and conditions stipulated in this license.
4. The Licensee is required to offer the electricity generated by its power plants to the public supplier at a regulated price if the public supplier needs the electricity.
5. After fulfillment of the criteria for public supply set in Part I, Article 4, the Licensee may sell the electricity generated by it or the capacity of its power plants at freely negotiated prices to:
  - a) local eligible customers through contracts using the charged services of the Transmission and Distribution System Operator providing the Generation holds a Supply/Trade license issued by ERO;
  - b) local traders through contracts using the charged services of the Transmission System Operator;
  - c) foreign Eligible Customers or Traders providing the Generator holds a Supply/Trade license issued by ERO;
  - d) the local or regional power exchange market;
  - e) the public supplier, in the event that the customers' demand for electricity increases beyond the total contracted capacity.
6. The Licensee has the right to operate commercially the electricity generation station and specifically:
  - a) use in their hydro power plant those primary energy sources it deems most suitable, provided that it complies with the outputs, technical characteristics, and environmental conditions contained in their licenses and relevant laws, regulations, codes or rules;
  - b) connect their hydro power plant to the Transmission or Distribution System under the conditions established in the relevant codes and rules;
  - c) conclude contracts for the sale of electricity after fulfillment of the obligation set forth in Article 16 of this license;
  - d) transmit their power through the Transmission and Distribution Systems;
  - e) receive the remuneration due to them under their contracts.

7. The Article and conditions of this license 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.
8. This license shall come into force on 04 October 2006 and, unless withdrawn, shall remain valid for a period of twenty (20) years until 04 October 2026 with possibility of extension based on the Rule on Licensing of Energy Activities in kosovo.

Sealed with the common seal of the Energy Regulatory Office on:\_\_\_\_\_.

Signature (on behalf of the Board of ERO) \_\_\_\_\_

## **PART II: 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 relation directly or indirectly 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.

*"Ancillary services"* has the meaning given in Article 3 of Law on Electricity and in the Grid Code.

*"Distribution System"* has the meaning as provided by Article 3 of the Law on Electricity.

*"Distribution System Operator"* has the meaning as provided by Article 3 of the Law on Electricity.

*"Electricity enterprise"* has a meaning as provided in Article 3 of the Law on Electricity.

*"Financial year"* is the period from 1 January up to 31 December of the same calendar year.

*"Generation business"* means the licensed business of the Licensee and any affiliate or related undertaking in the generation of electricity or the provision of Ancillary Services<sup>1</sup>.

*"Generation unit"* means any plant or apparatus for the production of electricity.

*"Grid Code"* is the set of technical rules issued by the Transmission System Operator pursuant to Law on Electricity and approved by ERO pursuant to Article 15.2 (i) of the Law on the Energy Regulator.

*"Holding company"* means any company defined as such in accordance to the legislation applicable in Kosovo.

*"Legislation"* means Law on Energy (2004/8), Law on Energy Regulator (2004/9), Law on Electricity (2004/10) and any other primary legislation, or secondary legislation to be issued in execution of primary legislation, regulating the energy sector.

*"Market Operator"* means a legal person responsible for the organization and administration of trade in electricity and payment settlements among generators, suppliers and customers.

**"Market Rules"** mean the set of rules approved by ERO governing transactions in electrical energy between the Market Operator and other electricity enterprises, including where appropriate the interaction between these parties and the Transmission System Operator for the purposes of maintaining the physical balance of the market. This includes any transitional transaction arrangements that may be approved by ERO.

**"Metering Code"** means the set of technical rules issued by Transmission System Operator pursuant to Law on Electricity approved by ERO, pursuant to Article 15.2 (i) of the Law on Energy Regulator.

**"Modification"** includes addition, amendment and substitution, and cognate expressions shall be construed accordingly.

**"Power Purchase Agreement"** means any agreement referred to in Article 21.3 of the Law on Electricity.

**"Subsidiary"** means any company owned or controlled by another company, defined in accordance to the legislation applicable in Kosovo.

**"Supplier"** means a legal person licensed to sell electricity to eligible consumers in Kosovo, as described in Article 22 of the Law on Electricity.

**"Transmission System"** has the meaning as provided by Article 3 of the Law on Electricity.

**"Transmission System Operator"** has the meaning as provided by Article 3 of the Law on Electricity.

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 after the date when this license comes into force, shall apply.
4. Unless otherwise specified:
  - (a) any reference to a numbered Article 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.
5. The heading or title of any Part, Article, Annex or paragraph shall not affect the construction thereof.
6. Where an obligation is imposed to the Licensee with a specific deadline for performance, that obligation shall continue to be binding and enforceable after that time limit without prejudice to all administrative measures and fines 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 to be submitted or direction notice or service to be performed pursuant to this license and directions issued by ERO.

## **Article 2: Separate Accounts for the Generation 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 accounts in accordance with Regulatory Accounting Guidelines issued by ERO and shall deliver to ERO a copy of the annual audited accounts so prepared as soon as reasonably practicable, and in any event no later than three (3) months after the end of the financial year to which the accounts relate.
2. The Licensee shall, in its internal accounting, keep separate accounts for the Generation business as a whole which when requested from time to time by ERO, must be delivered in the form and at the times specified by ERO. The regulatory accounts shall be in accordance with such Regulatory Accounting Guidelines as may be issued by ERO from time to time.
3. The Regulatory Accounting Guidelines or 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 generation 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 shall previously have issued directions for the purposes of this Article directing the Licensee to change such bases in a manner set out in the directions 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 purpose of this Article.

### **Article 3: Prohibition of Cross-subsidies**

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

### **Article 4: Prohibition of Discrimination**

1. The Licensee should disclose to ERO at any time the circumstances of the sale to such purchasers including (without limitation) volume, load factors, conditions of interruptability, dates and duration of the relevant agreements.
2. In reference to the paragraph 2, the Licensee shall submit to ERO information about:
  - a) the provision of electricity to any public supplier, and
  - b) the provision of electricity through a power purchase agreement / contract to eligible customers.
3. In Reference to paragraph 3, the provision of electricity to any person shall include also the provision of available capacity of any generation unit.

### **Article 5: Compliance with the Distribution Code, Grid Code and Metering Code**

#### **Condition 2:**

In accordance with Article 49.2 of the Rule on Licensing of Energy Activities in Kosovo, following consultation with the Licensee, the Distribution System Operator and Transmission System Operator, ERO will provide the Licensee with a specific time schedule of implementation of this Article. Such time schedule may apply to such parts in the Codes and to such extent, as are specified in such schedule.

1. The Licensee shall comply with the provisions of the Distribution Code, Grid Code and Metering Code insofar as applicable to it.

### **Article 6: Central Dispatch**

1. The Licensee shall submit all available generation units to Central Dispatch by the Transmission System Operator where Central Dispatch is required by the Grid Code and Market Rules and insofar as applicable.
2. The Licensee shall, at such times and in such manner as may be provided under the Grid Code, provide the Transmission System Operator with all information reasonably required by it to enable it to operate the system of Central Dispatch.

3. In this Article:

*"Available"* in relation to any generation unit means a generation unit which is available in accordance with the Grid Code.

*"Central Dispatch"* means the process of scheduling and issuing direct instructions for dispatch of available generation units by the Transmission System Operator.

#### **Article 7: Ancillary Services**

1. If requested by the Transmission System Operator the Licensee shall from time to time offer terms for the provision of ancillary services from its generation units in accordance with the provisions of the Grid Code.
2. Where the terms offered by the Licensee are acceptable to the Transmission System Operator, they shall enter into an agreement.
3. If the Transmission System Operator is questioning the terms offered by the Licensee pursuant to paragraph 1, ERO shall settle any terms in dispute between them in accordance to the Rule on Dispute Settlement Procedure in the Energy Sector.
4. If the Transmission System Operator wishes to proceed on the basis of the terms as settled by ERO, the Licensee shall forthwith enter into an agreement in accordance with the terms.
5. In reference to the paragraph 1, the Licensee shall upon request of ERO, provide to ERO a report containing details of:
  - a) prices offered for the provision of Ancillary Services from each generation unit of the Licensee; and
  - b) details of the Licensee's costs of providing such Ancillary Services.

#### **Article 8: Appointment of Operators**

1. The Licensee shall appoint a suitable qualified and experienced individual to take responsibility for the operation of each generation unit covered by this license. Before any such individual is appointed the Licensee shall obtain a written approval from ERO.
2. If any operator is no longer competent to exercise that function, ERO may, by notice in writing given to the Licensee, revoke its approval.
3. In reference to the paragraph 2, ERO will determine which criteria will be considered in reviewing the "competency" that relates to the professional knowledge and skills, performance, experience, and criteria concerning safety and security requirement of generation.

## **Article 9: Market Rules**

### **Condition 3**

ERO may issue directions relieving the Licensee of its obligation under paragraph 1, 2 and 3 below in respect of such parts of the Market Rules and to such extent as may be specified in those directions.

1. The Licensee shall comply with the Market Rules insofar applicable to it.
2. The Licensee shall establish its generation business prices in accordance with the Tariff Methodology for the Electricity Sector issued by ERO and the market simulation model provided in the Market Rules.
3. Within twelve (12) months from the date of issuance of this license the Licensee shall establish a compliance program, which sets out measures to be taken to ensure non-discriminatory conduct in relation to the Licensee's participation in Market Rules and to provide for adequate monitoring of such conduct.

## **Article 10: Health and Safety**

1. The Licensee shall take all reasonable steps to protect persons and property from injury and damage that may be caused by it when carrying out the licensed activities.
2. The Licensee shall ensure that an independent expert whose appointment is approved by ERO undertakes a technical and safety audit in respect of the generation capacity annually.
3. The Licensee shall provide to ERO the results of such audits within three (3) months of their completion.

## **Article 11: Environment**

### **Condition 4**

In order to comply with this Article, according to the Article 49.2 of the Rule on Licensing of Energy Activities in Kosovo, ERO may issue to the Licensee a direction with a specific time schedule of implementation.

1. Within twenty-four (24) months after issuance of this license the Licensee shall submit to ERO the environmental permit issued by the Ministry of Environment and Spatial Planning and shall comply with all environmental legislation applicable in Kosovo whether in force at the date hereof or in the future.
2. The Licensee shall, not later than such date as ERO may specify, prepare and from time to time modify a written policy setting out the manner in which the Licensee proposes to comply with its duties and obligations under the environmental legislation applicable in Kosovo.

3. The Licensee shall report annually to ERO on its environmental performance.
4. For the purposes of this license:

*"Environmental legislation"* means legislation whose purpose is the protection of the environment including the protection of human health, flora, fauna and the ecosystems on which they depend, and for the avoidance of doubt shall include but shall not be limited to the Law on Environmental Protection and all relevant legislation and Acquis Communautaire as set forth in Chapter III of Treaty Establishing the Energy Community.

#### **Article 12: Labour**

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

#### **Article 13: Disposal and Outsourcing of Relevant Assets of the Licensee**

1. 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 of more than Euro 100,000.00.
2. In cases where the Licensee requests to dispose of certain material property assets owned or used by it, or of other resources used to perform the licensed activity, the Licensee will be obliged to notify ERO in writing. The Licensee may only realize the disposal of assets following ERO's written approval.
3. The same as set forth in paragraph 2 applies to the outsourcing of assets or other resources used to perform the licensed activity.
4. For the purposes of this Article:

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

*"Relevant Asset"* is considered to be any immovable or movable equipment with a replacement value of more than Euro 100,000.00.

#### **Article 14: Insurance Obligations**

##### **Condition 5**

The Licensee shall comply with requirement set forth in paragraph 1 within twelve (12) months from the date of issuance of this license.

1. The Licensee shall conclude and keep in force insurance contracts relating to its generation business, covering such risks as ERO may direct from time to time. Such contracts shall be annually submitted to ERO for review.

#### **Article 15: 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 16: Public Service Obligation**

The Licensee is required to offer the electricity generated by its power plants to the public supplier at a regulated price if the public supplier needs the electricity, in accordance with Article 8 of the Law on Electricity.

#### **Article 17: Provision of Information to ERO**

1. The Licensee shall submit to ERO, in manner and at such times as ERO may require, such information and such reports as ERO may consider necessary in the light of any Article or condition of this license or 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 is 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 request 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 establish the communication link with the Transmission System and Market Operator by assigning the person who will in its name communicate with Transmission System Operator and Market Operator. The address, telephone number, facsimile number or electronic mail address of such person shall be provided to the Transmission System and Market Operator.
6. The Licensee shall provide to ERO any signed contract for cross border trade of electricity, supply contracts, power purchase agreements, and any contract signed pursuant to the Power Purchase Agreement.
7. The Licensee shall deliver to ERO quarterly and annual reports about its generation business and compliance with the license's Articles and conditions in accordance to the Reporting Manual issued by ERO.

8. The Licensee shall submit to ERO details of any changes to the information submitted with the application to this license.
9. 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 18: 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 license;
  - b) a request received from the licensed electricity 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 generation activity due to the Licensee's declaration of liquidation ;
  - e) where the licensed generation activity has not been conducted for more than six (6) months, except where the suspension of activity is at the approval of the ERO;
  - f) where provisions of Article 44 of the Rule on Licensing of Energy Activities in Kosovo are met;
  - g) if any amount payable in respect of a fee for this Licence 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, provided that, no such notice shall be given earlier than the day following the "day" the amount payable was due.
2. ERO may withdraw this license in the cases below as stipulated in Article 44.5 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 withdrawal:
  - a) the Licensee defaults or violates Articles, 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 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. In accordance with Article 35 of the Rule on Licensing of Energy Activities in Kosovo, ERO may modify this license in the following cases:
  - a) at the request of the Licensee;
  - b) increase/decrease of the generation capacity;
  - c) where required to protect the energy system in Kosovo, in connection with security of supply, national security, security of life and health of citizens or protection of environment.
  - d) in order to adhere to new requirements set forth in international agreements and national laws, regulations and other applicable legislation;
  - e) 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 19: Fees**

1. The Licensee shall pay to ERO any initial and annual fees provided by the Schedule of Fees issued and adopted by ERO.
2. Initial fee is determinate based on the capacity of up to 50 MW, as per Part I, Article 2 of this license based on Annex A of the Schedule of Fees.
3. Failure to pay the annual fees at the dates scheduled by the Schedule of Fees may lead to license withdrawal.

#### **Article 20: Administrative Fines and Measures**

1. In case of violation of any provision of the Legislation, any Article or condition of this license and any of ERO's instructions 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 member 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 in order to remedy the violation.
3. A fine shall be imposed on the Licensee in accordance with 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 Licensee's gross revenues from the business conducted under this licence in the previous financial year.

5. If the fine mentioned in paragraph 3 is imposed on a member of the 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 cases of repeated violations, the fine imposed may be three (3) times greater than the amount authorized in paragraphs 4 or 5.
7. When imposing a fine, in accordance with this Article, ERO shall take into account the degree of social harm of the action, the prior behaviour 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 21: 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.