

FRAMEWORK AGREEMENT

FOR SALE AND PURCHASE OF ELECTRICITY

between

ESM PRODAZBA DOOEL Skopje, having its registered office at 11 Oktomvri street no.9, 1000 Skopje, abbreviated name ESM PRODAZBA

Represented by the manager Merita Mustafai,

and

_____, having its registered office at _____

Represented by manager _____.

Article 1

SUBJECT OF THE AGREEMENT

All mutual rights and obligations of the Contracting Parties during sale, delivery, purchase and acceptance of electricity are agreed with this Agreement including the conditions for each separate transaction which will be specified in an Individual Agreement for sale and purchase of electricity hereinafter (Individual Agreement).

Article 2

GOALS AND STRUCTURE OF THE AGREEMENT

Provided Service: The Contracting Parties of this Agreement may perform transactions for supply and sale of electricity quantities, but they are not obliged to act as mentioned. Each transaction will be performed in accordance with this Agreement and it will be additionally specified in an Individual Agreement.

Documentation and Transactions: Before entering in new transaction, the Contracting Parties should define and confirm the details for that transaction in a form of an Individual Agreement.

Article 3

INDIVIDUAL AGREEMENT

The Individual Agreement for sale and purchase of electricity contains:

- information regarding the Contracting Party – Seller of electricity and the contact persons;
- information regarding the Contracting Party - Buyer of electricity and the contact persons;
- Characteristic of the delivery:
 - delivery period;
 - contracted power expressed in MW;
 - contracted electricity quantity in MWh;
 - contracted electricity price expressed for MWh, excluding VAT;
- delivery point;
- EIC code of electricity seller;

- EIC code of electricity buyer;
- flexibility during delivery of contracted power;
- invoicing and payment conditions;
- bank guarantee; other conditions which are not stated in this Agreement.

Article 4

GENERAL OBLIGATIONS

Obligations of the party which sells the electricity: The Seller is obliged to provide, sell and deliver the electricity within time period, quantities and duration defined with the conditions of this Agreement and according to the Individual Agreement, if there is no case of Force Majeure.

The Seller of electricity guarantees the delivery of electricity according to the Agreement and the Individual Agreement, except in a case of Force Majeure.

The Seller bears all risks and it will be responsible for all costs or expenses imposed or connected to providing, transmitting and delivering of the contracted electricity quantity stated in the Individual Agreement to the delivery point.

Obligations of the party which accepts the electricity: The Buyer is obliged to buy and accept the electricity within time period, quantities and duration defined with the conditions of Agreement and according to the Individual Agreement, if there is no case of Force Majeure.

The Buyer of electricity guarantees the accepting of the electricity according to the Agreement and the Individual Agreement, except in a case of Force Majeure and it should pay to the Seller the delivered electricity quantities according to the Contracted price.

The Seller bears all risks and it will be responsible for all costs or expenses imposed or connected to accepting and transmitting of the contracted quantity to and from the delivery point.

Article 5

INVOICING AND PAYMENT

- (1) The Seller, after the delivery period, on the first working day, in accordance with the Individual Agreement, will submit, by fax or by electronic mail to the buyer, data regarding the electricity quantity, which is realized during the reviewed period, in accordance with the adjusted physical schedules. (Adjusting of quantities).
- (2) Within one day after receiving the document from paragraph (1) of this article, The Buyer is obliged to return that document to the Seller by fax or by electronic mail with confirmed quantities.

- (3) If the Contracting Parties do not agree on the realized quantity, the data obtained by the Electricity Transmission System Operator of Republic of North Macedonia (MEPSO) will be considered as valid.
- (4) The Seller, based on the adjusted document for delivered – accepted quantities, will issue invoice.
- (5) The invoice should contain the archive number of the individual agreement as well as the delivery period.

The Buyer, based on the Individual Agreement, is obliged to pay the invoice for the accepted electricity quantity to the Seller on the bank account of the Seller, stated in the invoice within

- (a) latest until 20th day of the calendar month or
- (b) latest until the 5th day of the receipt of the invoice,

Each of the Parties pays to its own bank and settles its own bank commissions. In a case where the due date for payment is not a working day, the payment will be done during the previous working day (“working day” refers to each day, except Saturday or Sunday, when the bank of the payer is open for the public). The delayed settled payment will have interest, including the date of maturity, excluding the date for payment of the unpaid part, with rate equal to the monthly EURIBOR determined on the date of maturity plus six percent (6%) annually.

- (6) The Buyer will pay for the electricity accepted in the following manner in Denars (MKD), according to the official middle exchange rate of the National Bank of the Republic of North Macedonia, on the day of invoicing or in Euro
- (7) Based on the value of the electricity in denars, the VAT will be calculated and included in the invoice. The amount of VAT in denars should be clearly stated in the invoice,
- (8) If the Contracting Parties agree on the electricity sale with advance payment for the successive periods, they will be defined in the Individual Agreement.

The Seller is obliged to submit an advance invoice for the first successive period to the Buyer with the signing of the Individual Agreement, and the Buyer is obliged to pay the submitted advance payment for the first successive period latest one working day before the start of the successive period. For each subsequent successive period, the Seller will provide an advance invoice to the Buyer, and the Buyer is obliged to pay it, latest one working day before the start of the respective successive period.

The advance invoice for the planned amount of electricity for the respective successive period will be increased for the corresponding amount of VAT.

After the completed and agreed delivery of the total electricity electrical energy determined in the Individual Agreement, the Seller will issue and submit to the Buyer a final invoice for the total delivered electricity electrical energy.

If electricity electrical energy is delivered more than one month, in that case, the Seller will issue an invoice for each month individually.

The final invoice will contain the total value of the delivered electricity electrical energy, increased by the corresponding amount of VAT.

Article 6

BANK GUARANTEE

Guarantee by the Buyer

In order to ensure timely and complete fulfillment of all payment obligations under the Individual Agreement, the Seller requires the issuance of an unconditional and irrevocable bank guarantee provided by the Buyer.

The bank guarantee is issued in favor of the Seller no later than 2 (working) days before the start of delivery, in the amount of up to 100% of the value of the Individual Agreement and it is valid 25 calendar days after the end of the delivery period. The issuing bank and the bank guarantee form should be approved by the Seller in advance.

If the Buyer does not issue a bank guarantee as stated above, the Seller has no obligation to execute electricity electrical energy deliveries and it has the right to immediately stop further deliveries until the moment of issuing the required bank guarantee or to withdraw from the Agreement without any additional obligations.

Guarantee by the Seller

In order to ensure timely and complete fulfillment of all obligations by the Seller for the delivery of the agreed quantities of electricity according to the Individual Agreement, the Buyer requires the issuance of an unconditional and irrevocable bank guarantee provided by the Seller.

The bank guarantee is issued in favor of the Buyer no later than 2 (working) days before the commencement of the delivery, in the amount of up to 10% of the value of the Individual Agreement and it is valid 7 calendar days after the end of the delivery period. The issuing bank and the bank guarantee form should be approved in advance by the Buyer. If the Seller does not issue a bank guarantee as stated above, the Buyer has no obligation to take over the electricity and has the right to immediately withdraw from the Agreement without any additional obligations.

The parties have the right to charge the guarantee, in case any of the parties acts contrary to any provision of the Agreement, fails to meet any of the obligations of the Individual Agreement within the deadline or in case of termination of this Agreement. The Parties will request payment of the guarantee by written notice indicating that the other party does not act in accordance with the agreed obligations. In addition, the guarantee payment will be made without the need for any further explanation or submission of any documentation.

The guarantee for quality performance of the agreement is returned by any of the Parties to the other party within 2 days counted from the day of the full realization of the Individual Agreement, in case it is not paid off.

The Seller's and Buyer's guarantee may also be submitted as a paid deposit to the account of the other Contracting Party.

The guarantee should be submitted in the original form.

Article 7

FORCE MAJEURE

Force majeure signifies an event that is outside the control of the Party, requesting the determination of Force Majeure ("Requesting Party"), which it could not reasonably avoid or exceed the occurrence and which makes it impossible for the Requesting Party, which refers to Force Majeure, performs its obligations on delivery or takeover, including, but not limited to, the following one or more cases:

- (a) an interruption in communication or a malfunction in the computer systems of the relevant network operators, thereby preventing the "Requesting Party" from complying its obligations with its delivery or accepting; or
- (b) termination of delivery or takeover by the relevant Electricity Network Operator or its disregard for the obligations of the "Requesting Party" in relation to the Schedule in accordance with the Individual Agreement.

"The Requesting Party" shall immediately inform the other Party of the commencement of the Force Majeure, and, to the extent that is available at that moment, shall provide an estimate of the scope and the expected duration of its inability for enforcement.

The "Requesting Party" will exert all commercially reasonable efforts to mitigate the effects of the Force Majeure and, for the duration of the Force Majeure, will provide the other Party with reasonable additional information, when and if available, for the extent and the expected duration of its inability for enforcement. Thus, the "Requesting Party" meets its obligations for reporting and mitigation of the effects of the Force Majeure and it shall not be considered as a breach of the agreement or non-performance, and it shall be released (not with delay) from the delivery or reception of the obligations for the time period and to the extent that such Force Majeure prevents the performance. The "Requesting Party" will not be liable to pay damages in accordance with Article 8 "Non-performance of the Agreement" in respect of the quantities it has not delivered or received. In such a case, and to that extent, the Seller will be exempted from its delivery obligations as a result of a Force Majeure case, and the Buyer will be released from the relevant obligations for takeover and payment. In such a case, and to that extent, the Buyer is exempted from the takeover obligations as a result of the Force Majeure case, and the Seller's delivery obligations are also abolished.

Article 8

NON – PERFORMANCE OF THE AGREEMENT

If the Seller does not succeed to deliver the entire or part of the electricity according to the Agreement and the Individual Agreement and if there is no event of Force Majeure, the Seller will pay amount to the Buyer equal to the product by the difference between contracting price for electricity according to the Agreement and the price for which Buyer can supply electricity on the market (if it is higher) and the entire quantity of undelivered electricity.

That price will be determined on commercially reasonable manner together with the relevant and commercial reasonable transmission costs and remaining commercial reasonable documented costs.

If the Buyer does not succeed to accept the entire or part of the electricity according to the Agreement and the Individual and if there is no event of Force Majeure, Buyer shall pay amount to the Seller equal to the product by the difference between the contracting price for electricity according to the Agreement and the lowest price by which Seller sells the electricity on the market and the quantity of electricity that is not accepted.

That price shall be determined on commercially reasonable manner together with the relevant and commercially reasonable transmission costs and remaining documented costs. In a case when Buyer cannot accept the electricity quantity gained and indicated to the System Operator and Electricity Market Operator for delivery at the delivery point, the penalization predicted by the System Operator and Electricity Market Operator will be entirely borne by the Buyer.

The Contracting Party that requires for the Agreement to be terminated, as a result of some of the reasons stated in article 9, will calculate the compensation of totally contracted and undelivered/unaccepted quantities of electricity appropriately, in accordance with paragraph 1 and paragraph 3 of this article and that amount is invoiced to the Party which did not fulfill the obligation within 5 days after submission of the requirement for termination of the Agreement. The payment of the invoice will be made within 8 days of invoice submission. The invoice is complemented with document that contains data about market purchase/sale price which is used in calculation of damages' compensation.

Article 9

TERMINATION OF THE AGREEMENT

Each of the Contracting Parties has the right to terminate this Agreement in a procedure with information (by fax or registered post) in the following cases:

- if the Seller does not deliver the electricity electrical energy in accordance with this Agreement and the Individual Agreement;
- if the Buyer violates its obligation to accept and/or pay the electricity electrical energy according to this Agreement and the Individual Agreement;
- If one of the Contracting Parties is insolvent or bankrupt or if there is ongoing procedure for payment of receivables by the creditor/creditors and if the Party (due to the height of receivables by creditor) may cause considerable decrease of the assets of the other Party.

Article 10

CONFIDENTIALITY

The Contracting Parties are consent to consider the obligations defined in this Agreement as confidential and they should not to be revealed to any third party nor to be published during the validity of this Agreement, except if it is necessary some information to become public on request by the authorities or executive bodies of competent international organizations where Republic of North Macedonia and/or ESM PRODAZBA DOOEL Skopje are members.

Article 11

TRANSFER OF RIGHTS AND OBLIGATIONS

None of the Contracting Parties has right to transfer its own rights and obligations of this Agreement and the Individual Agreement, without previous written consent by the other Contracting Party, to a third party and they should become effective after the confirmation that written note is received by the other Contracting Party.

Article 12

APPLICABLE LAW, DISPUTES

Applicable law: This Agreement and the Individual Agreement will be applied according to the laws in Republic of North Macedonia.

Disputes: In a case of dispute or misunderstanding which could be result of this Agreement and the Individual Agreement, the Contracting Parties will try to resolve it in contracting manner with negotiations.

All disputes from this Agreement and the Individual Agreement, which will not be settled with negotiations, they will be settled in the Court of First Instance Skopje 2, Skopje.

Article 13

TECHNICAL IMPLEMENTATION

The notes, invoices or other documents sent by one Contracting Party to other, related to the Agreement, will be send by fax on the numbers below in the text and/or to the official email addresses of the persons in charge mentioned below. The documents sent by fax will be considered for received in the moment when the fax machine where they are sent from will confirm the transfer.

Contracting party: **ESM PRODAZBA DOOEL Skopje**

Person in charge:	Merita Mustafai
Fax:	+389 2 3124 446
Tel:	+389 2 3149 233
E-mail:	merita.mustafai@esm-prodazba.mk
Contact person:	Sinisha Ivanovski
Fax:	+389 2 3124 446
Tel:	+389 2 3149 233
E-mail:	sinisa.ivanovski@elem.com.mk

Contracting party: _____

Person in charge:
Fax:
Tel:
Contact person:
Fax:
Tel:
E-mail:

Article 14

AMENDMENTS OF THE AGREEMENT

All amendments and addenda of this Agreement should be prepared in written form with mutual consent in a form of Annex Agreement. If certain provisions of this Agreement are or become invalid, it will not violate the validity of the remaining provisions of this Agreement.

Article 15

VALIDITY OF THE AGREEMENT

This Agreement comes into force on the day of signing by both Contracting Parties and it will be valid until one of the parties requires annulment.

Article 16

FINAL PROVISIONS

This Agreement is written in Macedonian language with Cyrillic letters in four identical copies. Each party will have two copies.

ESM PRODAZBA DOOEL Skopje
