



## BiH REAP:

### SUPPLY AGREEMENT COVER SHEET<sup>1</sup>

#### CURRENT UTILITY AND SERVICE TYPE

- EP \_\_\_\_                       EP \_\_\_\_
- Residential                       Business

Account Number: \_\_\_\_\_

#### SUPPLY PRODUCT\*

- 18 month fixed: \$0.\_\_\_\_/kWh
- 12 month fixed: \$0.\_\_\_\_/kWh
- 6 month fixed: \$0.\_\_\_\_/kWh
- Other:

*\*NOTE: Prices quoted are for electricity supply only; network (distribution) charges are established by the distribution operator under regulated tariffs, and will be a separate "pass-through" item on your bill, along with applicable VAT and other taxes, duties or levies.*

#### NAME AND CONTACT

Name of Utility Account Holder: \_\_\_\_\_

Meter Address: \_\_\_\_\_

Billing Address:  Same as Meter Address

\_\_\_\_\_

#### TERMS OF SERVICE:

- I agree to the terms and conditions of service attached.

Dated:

\_\_\_\_\_  
Customer/Utility Account Holder's Signature

<sup>1</sup> This template is made possible by support from the American People sponsored by the United States Agency for International Development (USAID). The contents are the sole responsibility of the author/s and do not necessarily reflect the views of USAID or the United States Government.

## General Terms and Conditions for the Supply of Energy (Residential and Small Business Customers)

The terms and conditions detailed are applicable to a Supply Agreement between \_\_\_\_\_ (“Supplier”) and a company, entity or party requesting a supply of energy (the “Customer”). Supplier reserves the right to vary the terms and conditions of any Supply Agreement to reflect any new energy market arrangements or Laws, directions of Regulatory Authorities or other competent authorities or otherwise, subject to any notice requirements mandated by law or regulation.

### 1. DEFINITIONS

“Accrued Charges” – Charges as a result of a customer instructing Supplier to forward purchase tradeable commodities on their behalf for any period covered within the Supply Agreement.

“Agreement” means the Supply Agreement Cover Sheet and all its schedules, including these General Terms and Conditions and any Special Conditions.

“Business Day” means any day (other than a Saturday or Sunday) on which banks are open for business in Bosnia and Herzegovina.

“Charges” means the Charges set out in the Supply Agreement Cover Sheet and Special Conditions.

“Conditions Precedent” mean the conditions precedent to this Agreement, if any, set out in the Special Conditions.

“Contract Period Start Date” means the date specified in the Supply Agreement and has the meaning given to it in Section 2.1.

“Customer’s Premises” means the premises served by the meter identified in the Supply Agreement Cover Sheet.

“Energy” means electric power delivered under the Supply Agreement.

“Expiry Date” means the date defined as such in the Supply Agreement Cover Sheet.

“Force Majeure” means any event or circumstance which would constitute force majeure under any applicable connection agreement, network or grid code.

“Law(s)” means all applicable laws, legislation, statutory instrument, directive, rule, regulation, requirement, instruction, order, direction or rule or otherwise of any competent authority of a national or EU character, together with all applicable codes, industry agreements or license conditions.

“Network Operator” shall mean [insert name of relevant EP] and/or the Transmission Company.

“Pass Through Charges” means any third party charges incurred by Supplier from time to time in connection with the supply of Energy under this Agreement, including charges for distribution services and Value Added Tax (VAT) and any other tax, duty or levy imposed in respect of energy supplied.

“Regulatory Authority” means the [insert name of relevant Commission].

“Security” means the security (if any) required by Supplier set out in the Special Conditions.

“Special Conditions” means the special conditions notified by Supplier to the Customer that form part of this Agreement.

“Supply Period” means the period commencing on the Supply Period Start Date and terminating on the Termination Date.

“Supply Period Start Date” means the latest to occur of:

- a) the date of execution of the Supply Agreement Cover Sheet by both parties;
- b) the date of receipt by Supplier of any Security required by Supplier;
- c) the date on which the Conditions Precedent (if any) have been fulfilled to the satisfaction of Supplier or waived by Supplier; and
- d) the Contract Period Start Date.

“Supply Point” means the applicable supply point specified in the Supply Agreement Cover Sheet.

“Termination Date” means the date on which this Agreement is terminated pursuant to Section 8.

In the event of inconsistency between these terms and conditions, the Special Conditions and the signed Supply Agreement Cover Sheet, the following order of precedence shall prevail:

- a) the Special Conditions;
- b) the Supply Agreement Cover Sheet;
- c) these general terms and conditions.

## 2. COMMENCEMENT

(2.1) This Agreement shall start on the date of execution by both parties and shall continue until the Termination Date.

(2.2) Unless otherwise agreed by the parties, Supplier shall supply or procure the supply of Energy to the Customer at the Supply Point during the Supply Period and the Customer shall take delivery of such Energy at the Supply Point and pay for such Energy, in each case on the terms and conditions set out in this Agreement.

(2.3) Supplier shall not be obliged to supply Energy to the Customer prior to the Supply Period Start Date or the earliest date the Supply Point is confirmed as registered to Supplier by the Network Operator. The Customer shall be liable for and shall not claim Supplier is liable in respect of any and all Energy usage by the Customer prior to the Supply Period Start Date, irrespective of the reason or reasons that the Supply Period Start Date has failed to occur and whether such failure was the fault of the Customer, Supplier, a third party or otherwise.

(2.4) Notwithstanding any other provision of this Agreement, if the Conditions Precedent, if any, have not been satisfied by the Customer (or waived by Supplier) by the Contract Period Start Date, Supplier may terminate this Agreement forthwith by notice in writing while any such Condition Precedent remains unsatisfied.

## 3. CHARGES

(3.1) In consideration of Supplier selling energy to the Customer during the Supply Period, the Customer shall pay Supplier the Charges. Supplier shall be entitled to vary the Charges to reflect any change in Law or as a result of any action by Government, a Regulatory Authority or other competent authority. Supplier will notify changes to the schedule of charges as soon as reasonably practicable and, in any

event, no later than the date of receipt of the next invoice. Such changes shall take effect from the date specified by Supplier in such notice. All charges are exclusive of VAT and any other tax, duty or levy imposed in respect of energy supplied, which shall be included in the Pass Through Charges. Invoices will be issued at the end of each billing period.

(3.2) Supplier will pass through Pass Through Charges to the Customer. In the event that any Pass Through Charges are varied from time to time, whether as a result of any change in Law or as a result of any action by the Government, a Regulatory Authority or other competent authority, such variations shall be passed through to the Customer by Supplier.

(3.3) Where a material change in the consumption profile used to calculate the charges applicable to this agreement occurs, Supplier reserves the right to recalculate the charges for the remainder of this agreement using the updated profile consumption.

#### 4. TERMS OF PAYMENT

(4.1) If Supplier receives direct or indirect notification of or determines that the Customer is in financial distress or in threatened or actual bankruptcy, Supplier reserves the right to reassess the terms of payment and Security requirements applicable to the Customer. If the parties fail to reach agreement on the reassessed rates or Security requirements within 15 Business Days, Supplier may terminate this Agreement forthwith by notice in writing.

(4.2) The Customer shall deliver the Security as set forth in the Special Conditions to Supplier prior to the Contract Period Start Date.

(4.3) Supplier will send the Customer for each Billing Period an invoice of the Charges and any other amounts due under this Agreement, including Pass Through Charges, and the Customer will pay such amounts within \_\_ days of the date of the invoice unless otherwise agreed by Supplier at the time of contract execution. The Customer may make such payment directly at a supplier location, by electronic payment, direct debit, or as provided in the Special Conditions.

(4.4) The Customer shall not deduct or set-off any payments to be made under this Agreement against any amounts due to the Customer for other services provided. This clause shall survive the termination of this Agreement.

(4.5) In the event of accurate data being unavailable to Supplier for billing purposes for any reason, the Charges for energy will be based on historical or estimated data. If accurate data subsequently becomes available Supplier reserves the right to recalculate the charges using the accurate data.

(4.6) Supplier may charge interest on overdue invoices on a daily basis from the due date until the date of payment at a default rate that is [insert allowable interest rate index]. In addition, if any amount due is not paid by the due date, Supplier shall be entitled to draw down the amount due under the Security (if any) and to require Customer to replenish the amount drawn down within 7 days of receipt of notice from Supplier.

#### 5. METERING

The Customer shall ensure that the distribution system operator employees, agents and contractors have reasonable, safe and unobstructed access to metering equipment at all relevant times.

## 6. COMPLIANCE WITH LAWS

Each party must at all times during the term of this Agreement comply with all applicable Laws and regulations relevant to the performance of their obligations under this Agreement.

## 7. LIABILITY AND FORCE MAJEURE

(7.1) Neither party shall be liable to the other for any failure to perform its obligations under this Agreement to the extent that such failure is due to the occurrence of an event of Force Majeure, save that the occurrence of an event of Force Majeure shall not excuse the parties from any obligation to make payments of money under this Agreement.

(7.2) Neither party will be liable to the other for loss of profit or revenue, loss of use, loss of contract or other business opportunity, loss of goodwill, loss or failure of or delay in production or increased cost of working or any other special, indirect or consequential loss or damage whatsoever arising out of or in connection with this Agreement.

(7.3) Notwithstanding this Section 7, Supplier's liability to the Customer for a failure of supply shall be limited to the additional costs (above the Supply Agreement costs) of obtaining replacement supply for the Supply Period.

(7.4) [*"All-Inclusive Contract model" language:* Notwithstanding this Section 7, in the event of a failure of network service, Customer may submit a claim to either Supplier or the Network Operator in accordance with applicable Laws. Supplier's liability to Customer is limited to the Network Operator's liability under applicable Laws. Satisfaction of Customer's claim by the Network Operator shall relieve Supplier from any further liability to Customer for such network failure.] [*"Separate" contract language:* Notwithstanding this Section 7, in the event of a failure in network service, Customer may submit a claim to either Supplier or the Network Operator in accordance with applicable Laws. Supplier will forward any such claim received to the Network Operator and shall not have any liability to the Customer for such network failure.] Supplier will assist customer in communicating with the Network Operator regarding network failures, if the Customer so requests.

(7.5) The exclusions and limitation of liability in this Section 7 shall survive the termination of the Agreement but shall not apply to any claim on account of death or personal injury resulting from the negligence of either party.

(7.6) Nothing in this Section 7 shall release the Customer from its obligation to pay the Charges in accordance with Section 3.

## 8. TERM AND TERMINATION

(8.1) If this Agreement does not terminate on the Expiry Date, it will remain in force on a rolling calendar month basis. Supplier shall be entitled to charge the higher of either the existing rates applicable to the expired contract or revised Charges with effect from the Expiry Date by notice to the Customer. If this Agreement continues after the Expiry Date, the parties shall be bound by this Agreement for the duration of any such extended period and repeat any representations and warranties given under this Agreement as at the commencement of any such extended period.

(8.2) This Agreement may be terminated:

- a) by either party upon the Expiry Date, provided that the party notifies the other in writing at least 30 Business Days in advance of the Expiry Date that it wishes this Agreement to terminate on the Expiry Date;
- b) by either party following the Expiry Date, provided that the party notifies the other party in writing that it wishes this Agreement to terminate, in which case this Agreement will terminate at the end of the calendar month following the month in which such notice was given;
- c) by the Customer in respect of one or more premises by at least 30 Business Days notice in writing to Supplier if, due to relocation, closure, change of use, or cessation of operations usually carried out at such premises, a supply of energy is no longer required by the Customer;
  - (i) If the Customer fails to so notify Supplier of a new occupant of the premises, Customer shall be responsible for all energy supplied by Supplier and consumed at the Customer's premises until the date when a new occupant is registered at the meter point.
- d) by Supplier in the circumstances described in Section 4.1;
- e) by Supplier forthwith by notice in writing to the Customer if the Customer fails to pay any Charges or other amounts due by the due dates outlined in Section 4 or if the Customer fails to comply with Security requirements and does not remedy such failure within 7 days of receipt of a notice to do so;
- f) by Supplier forthwith by notice in writing to the Customer if the Customer has made unauthorized use of energy or committed theft of energy;
- g) by Supplier forthwith by notice in writing to the Customer upon the occurrence of an Insolvency Event; or
- h) In any other circumstance specified in the Special Conditions.

(8.3) Upon termination of the Agreement:

- a) Closing meter readings will be taken at the Customer's Premises in respect of which this Agreement is being terminated;
- b) Supplier will issue the Customer or the Customer's representatives a final account for any outstanding amount which will include any Accrued Charges;
- c) The Customer will also pay any costs incurred by Supplier in disconnecting supply and in procuring a meter lock or meter disconnect as appropriate to the Customer's Premises and such other costs on termination set out in the Special Conditions;
- d) the Customer shall ensure that its employees and agents shall permit Supplier or its agent to enter the Customer's premises to remove Supplier's or its agent's equipment;
- e) Supplier will take such steps to facilitate Customer's switch to a new supplier as required by Law; and
- e) all rights and liabilities, which accrued prior to termination of this Agreement, will survive termination.

(8.4) Action taken under this Section 8 shall be without prejudice to either party's existing rights and to any additional rights specified in the Special Conditions.

## 9. ASSIGNMENT

Supplier may assign the benefit of this Agreement or any part of it. The Customer may assign the Agreement only with written consent of Supplier, which consent shall not be unreasonably withheld. Any assignment in violation of this Section 9 shall be void.

## 10. NOTICE

Any notice from Supplier to Customer shall be sent to the Billing Address provided in the Supply Agreement Cover Sheet. Notices from Customer to Supplier shall be made to:

[Insert Supplier Contact Information]

## 11. DISCONNECTION

(11.1) The customer's premises may be subject to disconnection, in accordance with applicable Laws, if the Customer:

- a) Fails to pay any invoice for charges within the timescale outlined in clause 4 and does not remedy that failure within \_\_ days after notice from Supplier;
- b) Breaches this agreement or the Connection Agreement and does not remedy the breach within a reasonable time after having received written notification from Supplier;
- c) Has made unauthorized use of energy or committed theft of energy;
- d) Is adjudicated bankrupt or becomes subject to proposals for an arrangement with its creditors, receivership, liquidation or is unable to pay its debts (within the meaning of \_\_\_\_ [cite to BiH Bankruptcy laws])

## 12. REPRESENTATIONS AND WARRANTIES

(12.1) The Customer represents and warrants to Supplier that:

- a) The Customer has full legal right, power and authority to enter into this Agreement and at all times throughout the term of this Agreement to execute, deliver and perform all its obligations under this Agreement;
- b) The execution of this Agreement has been duly authorized by all necessary corporate action on behalf of the Customer;
- c) At the date of this Agreement and at all times during the term, the information provided by the Customer and set out in the Supply Agreement Cover Sheet is true and correct in all material particulars; and
- d) At the date of this Agreement and at all times throughout the term of this Agreement, there are no facts or circumstances which have not been notified to Supplier in writing prior to the date of commencement of this Agreement which would prevent Supplier from exercising its rights under Section 8.

(12.2) Supplier represents that it is duly licensed to provide electricity supply services in the [RS/Federation/ Brčko District].

(12.3) Supplier and Customer each hereby indemnifies the other in relation to any breach of its representations and warranties set out in this Section 12.

### 13. DATA PROTECTION

Supplier shall not use the Customer's personal information other than for the purposes directly connected with the supply of energy under the terms of the Agreement without the express authorization of the Customer unless permitted by Law.

### 14. OBLIGATION TO PROVIDE INFORMATION

(14.1) The Customer must notify Supplier immediately upon:

- a) any of the Customer's representations and warranties ceasing to be true in any material particular; or
- b) the occurrence of an Insolvency Event.

(14.2) The Customer must provide Supplier within 7 days of request (or in the case of emergency such shorter time as Supplier may request) such information as Supplier may request to enable it to comply with applicable Laws and must continue to provide Supplier with all such information as soon as is reasonably practicable.

### 15. DISPUTE RESOLUTION

In the event of any dispute or difference of whatever nature in connection with this Agreement the parties will use reasonable endeavors to resolve the matters in dispute in good faith by mutual discussion. If the dispute has not been resolved by such mutual discussions within 15 days, the dispute may be referred to the [relevant Commission]. Except in respect to a dispute regarding termination of this Agreement, performance of the Agreement by both parties will continue during the dispute resolution process.

### 16. CONFIDENTIALITY

This Agreement and all information provided in connection with this Agreement shall be treated as confidential and shall not be disclosed without the prior written consent of the other party, save that consent shall not be required for disclosure:

- a) to directors, employees, consultants, professional advisors or affiliates of either party, provided that they in turn are required by that party to treat the information disclosed as confidential;
- b) to any financial institution in relation to the financing of either party's business activities, provided that the financial institution is required by that party to treat the information disclosed as confidential;
- c) to the extent required by any Law, judicial process or the rules and regulations of any recognized stock exchange;



d) to the extent necessary to enable Supplier to perform its obligations and supply or procure the supply of energy under this Agreement; or

e) to any intending assignee of the rights and interests of either party or any potential purchaser of either party, provided that such intending assignee is required by that party to treat the information disclosed as confidential.

## 17. MISCELLANEOUS

(17.1) This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements between the parties in relation to the subject matter of this Agreement. Each party acknowledges that it has not entered into this Agreement on the basis of any representation or warranty other than those set out herein.

(17.2) Any waiver under this Agreement must be in writing. No waiver of any power or right shall be construed as a waiver of any other power or right. A waiver of a breach will not operate or be construed as a waiver of any other or further breach.

(17.3) If any court of competent jurisdiction declares any provision of this Agreement void, that provision will be severed and the remainder of this Agreement will remain in full force and effect. If any provision of this Agreement becomes invalid or unenforceable or requires variation as a result of any change in any Law or trading arrangements, this Agreement will be amended by agreement between the parties, or failing such agreement, as determined by Supplier acting in good faith, in such a way as to give effect to the commercial intent of the parties as set out in this Agreement.

(17.4) The laws of Bosnia and Herzegovina will govern this Agreement and the parties accept the non-exclusive jurisdiction of the courts of Bosnia and Herzegovina.

## SPECIAL CONDITIONS

### CONDITIONS PRECEDENT

1. Supplier is not under any obligation to commence supply until Supplier receives confirmation that the System Operator approves the request for connection and use of the distribution network in accordance with the Rulebook on Eligible Customers adopted by the Regulatory Authority.
2. Customer must have meters at the premises of the type suitable for the payment options selected. [Provision re in absence of meters, Supplier may elect to waive this condition upon receipt of recent load profile prepared by the Network Operator – add reconciliation option.]
3. Upon execution of the Supply Agreement, Customer shall deposit \$\_\_\_ as Security.
  - Supplier waives this requirement but reserves the right to request a Security deposit at any time, in accordance with applicable Laws.
4. [*If “All-Inclusive Contract” model:* Supplier will enter into necessary contracts with the Network Operator(s) to fulfill its supply obligations to Customer, including network connection and access contracts. Customer shall comply with all applicable network requirements that are available on the Network Operator’s website or on request. Noncompliance with such requirements shall be grounds for termination of this Agreement under Section 8.]

[*If “Separate” contract:* Customer authorizes Supplier to enter into necessary contracts on Customer’s behalf with the Network Operator for transmission and/or distribution of Energy. Customer shall be responsible for fulfilling Customer’s obligations under any such contract.]

### OTHER

5. Supplier shall calculate Customer’s Charges based on consumption data provided to Supplier by the Network.
6. Supplier will bill Customer monthly and Customer agrees to pay in the following manner:
  - [insert payment options – by check, electronically, in advance etc.]
  - 
  -