

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MoU") is made by and among the representatives of the Ministry of Environment, Spatial Planning and Infrastructure of Kosovo (the "Ministry") and KelKos Energy sh.p.k. (the "Kelkos") also a "Party" and collectively, the "Parties", and Mr Dirk Buschle, Deputy Director of the Energy Community Secretariat and Chair of the Energy Community Secretariat's Dispute Resolution and Negotiation Center (the "Center").

### **I. Subject matter and mediators**

This MoU concerns mediation in a dispute between the Parties on the 3 hydropower projects built on the Deçan river - Lumbardhi II (7 MW), Belaja (7.5 MW) and Deçani (9.5 MW), and the environmental impacts as a result of their construction and operation.

The Parties agree to mediation by Mr Dirk Buschle and Ms Aleksandra Bujaroska (the "Mediators"):

### **II. Conduct of negotiations**

Hereby the Parties wish to confirm their readiness to attempt to resolve the pending dispute with regard to the development consents concerning the 3 hydropower projects built on the Deçan river - Lumbardhi II (7 MW), Belaja (7.5 MW) and Deçani (9.5 MW) and the impacts resulting from their construction and operation in an amicable manner and for the sake of entering into bilateral negotiations regarding the achievement of a potential mutually acceptable settlement in line with the Energy Community law and domestic legislation.

They agree as follows:

1. The Parties shall use their best efforts to conduct the negotiations pursuant to the conditions set out by this MoU in an efficient and expeditious manner and to settle the dispute in a comprehensive and final manner. The Parties commit to comply with any commitments made and formalized in writing as a result of the negotiations.

2. The bilateral negotiation process will commence with a joint session in which both Parties and the Mediators will be present. The date and structure of the session will be proposed by the Mediators for agreement by the Parties.
3. The Parties agree that the mediation shall be conducted until 1 June 2023, and that, in case an agreement is reached, that the agreement be implemented if so allowed by the legal norms and conditions foreseen under Energy Community law and domestic legislation. Should the Parties decide to extend the bilateral negotiations deadline the Parties will jointly inform the Mediators about their decision and the new applicable deadline.
4. The services of the Mediators as well as the services of the Dispute Resolution and Negotiation Centre will be free of charge. The Energy Community Dispute Resolution and Negotiation Centre will provide administrative assistance to the Parties throughout the negotiations.
5. The Mediators' role will be to create an atmosphere appropriate for negotiations, obtain useful information, identify the interests of each Party and help the Parties find common ground for the resolution of their dispute and help with efficient and timely communication and organization of the meetings. To the extent he considers appropriate, and provided that the Parties agree, the Mediators may engage with civil society organisations. Such engagement shall not lead to a delay of the mediation process.
6. The Mediators will be free to meet and discuss with each of the Parties and third parties separately and will be present at all meetings between the Parties related to the dispute subject to these negotiations.
7. During the negotiations, the Mediators shall keep confidential the information given by one party in the absence of the other Party, unless the Party giving the information expressly waives such confidentiality vis-a-vis the other Party. The Parties and the Mediators shall refrain from disclosing information on the bilateral negotiation, including disclosing information to the press, except for information on which it was jointly agreed. In the absence of a contrary agreement between the participants, the negotiations, including the contents of this Memorandum of Understanding and the outcome of the negotiations are private and confidential. Any agreement for resolving the dispute will also be kept confidential, unless otherwise required by applicable law or necessary to its implementation or execution.

8. No document drafted unilaterally by participants, statement or communication which are displayed or made in the context of these discussions by another participant, any views expressed or suggestions made by any participant, any admission (acceptance) made, any proposals made, or that any participant appeared ready to accept a proposal for resolving the dispute will not be used as evidence in any judicial, arbitration or similar proceedings.
9. The language of the negotiations shall be English.
10. Each Party shall bear its own expenses derived from the participation in the negotiations.
11. The Parties hereby nominate the representatives below for the purposes of conducting the negotiations and all related matters:

For the representative of the Ministry:

Mr. Servet Spahiu

Acting General Secretary

For the representative of KelKos:

Mrs. Valon Berisha

Managing Director

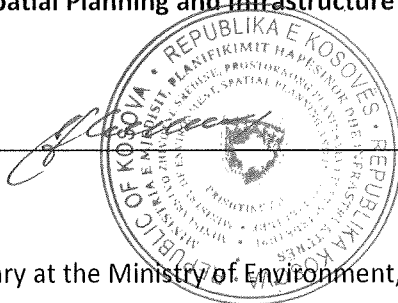
This MoU has been executed in four (4) copies of which each shall be deemed to be an original. Each Party will receive one of the copies and two will be provided to the Center.

**Ministry of Environment, Spatial Planning and Infrastructure**

Date and Signature: \_\_\_\_\_

Name: Servet Spahiu

Title: Acting General Secretary at the Ministry of Environment, Spatial Planning and Infrastructure



**KelKos Energy sh.p.k.**

Date and Signature: \_\_\_\_\_

Name: Mr. Valon Berisha

Title: Managing Director

**Dispute Resolution and Negotiation Centre**

Date and Signature: 18 November 2022

Name: Dr. Dirk Buschle

Title: Deputy Director and Legal Counsel

