

## MEMORANDUM OF COOPERATION

THIS MEMORANDUM OF COOPERATION (hereinafter referred to as the "**Memorandum**") is made and entered into as of ..... (hereinafter "**Effective Date**") by and between:

### **POWER EXCHANGE CENTRAL EUROPE, a.s.**

Represented by: David Kučera, Secretary General  
Registered office at: Rybná 682/14, 110 05 Prague 1, Czech Republic  
Id. No. (IČO): 27865444  
Tax Id. No.: CZ 699000864  
Registered in: Commercial register kept by Městský soud Praha (Municipal court in Prague) paragraph B, entry no. 15362

Hereinafter referred to as the „**PXE**“ or „**Exchange**“

and

.....

Represented by:  
Registered office at:  
Id. No./Date of birth:  
Tax Id. No.:  
Registered in:

Hereinafter referred to as the „**Broker**“

(Broker and Exchange together referred to as "**Parties**")

### **RECITALS**

WHEREAS, PXE is a company that operates a business platform for trading with electricity in the Czech Republic; this platform operates also as a place for registering OTC transactions made by PXE Market Participants and,

WHEREAS, the Broker works as an agent negotiating OTC contracts between PXE Market Participants and these Market Participants may wish to settle these transactions via PXE clearing mechanism,

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto hereby agree as follows:

### **1. DEFINITIONS**

1.1 In this Memorandum including the Recitals unless the context otherwise requires:

“**Exchange Trade**“ means purchase and sale of a commodity or a commodity derivative by a person authorized to trade on the Exchange;

“**Market Participant**“ means a person licensed to manufacture, produce, generate or process a commodity which is the subject of Exchange Trades and/or to trade in such commodity and to provide services related directly to such trading in this commodity, and who is authorized to trade on the Exchange.

### **2. OTC CLEARING**

2.1 If Broker negotiates a deal between two Market participants and these Market Participants decide to use PXE's OTC Clearing mechanism, the Broker will provide the Market Participants with its

identification number and transaction number as defined in Annex 1 to this Memorandum and will ask one of the Market participants to enter the transaction and the other Market Participant to confirm the transaction in(to) the PXE's system.

2.2 PXE shall provide the Broker with a list of all Over-The-Counter (OTC) transactions registered on the Prague Energy Exchange and negotiated by the Broker (hereinafter referred to as "**List**").

2.3 For the purposes of this Memorandum the List means a list containing the OTC transactions codes and dates of OTC transactions without revealing further transaction details.

2.4 The list shall be sent in writing or electronically to the Broker each business day on which trading is conducted on the Exchange.

2.5 PXE is entitled to reject providing the List to the Broker for justifiable cause, especially if PXE is prevented from providing the List by an obligation arising from a contract or legal rules.

### **3. REPRESENTATIONS OF THE BROKER**

3.1 The Broker acknowledges that

- PXE will register the OTC transactions only if both Market Participants of respective transactions fulfill (i) a margin requirement limit or spot limit set for the Market Participants by a subject responsible for the clearing of Exchange Trades and (ii) all other conditions for registration of the transaction according to the PXE trading rules and settlement rules of Centrální depozitář cenných papírů, a.s. (CSD), and
- PXE has a right to refuse, suspend and/or eject deposits of Market Participant's orders (i) in case the margin requirement limit or spot limit has been exceeded and (ii) in other cases stipulated by PXE trading rules or settlement rules of Centrální depozitář cenných papírů, a.s. (CSD).

### **4. NONDISCLOSURE**

4.1 Broker and PXE understands that, in connection with the relationship between the Parties hereto based on this Memorandum, a Party ("receiving party") may receive, produce, or otherwise be exposed to the other Party's ("disclosing party") trade secrets, business, proprietary and/or technical information, including, without limitation, information concerning customer lists, customer support strategies, employees, research and development, financial information (including sales, costs, profits, and pricing methods), manufacturing, marketing, proprietary software, hardware, and related documentation, know-how, and other information considered to be confidential by the disclosing party, in addition to all information disclosing party receives from others under an obligation of confidentiality (individually and collectively "Confidential Information"). For the avoidance of doubt the List shall be considered Confidential Information.

4.2 Receiving party acknowledges that the Confidential Information may be the sole and exclusive property of the disclosing party. Accordingly, receiving party agrees to segregate all Confidential Information from information of other companies or individuals and agrees not to reproduce any Confidential Information without disclosing party's prior written consent, not to use the Confidential Information except in the performance of this Memorandum, and not to divulge all or any part of the Confidential Information in any form to any third party, either during or after the term of this Memorandum.

4.3 In case the receiving party divulges all or any part of the Confidential Information in any form to any third party the receiving party shall pay to the disclosing party a contractual fine amounting to EUR 100.000. In addition to payment of a contractual fine the disclosing party is entitled to claim compensation of damage incurred due to a breach of the receiving party's obligation to which the contractual fine applies, even if the amount of the compensation exceeds the contractual fine.

### **5. NOTICES**

5.1 Unless agreed otherwise by the Parties, all communications under this Memorandum shall be in writing in Czech or in English and shall be delivered or sent to the respective representatives of the parties, as set out below in this article:

**5.1.1 POWER EXCHANGE CENTRAL EUROPE, a.s.**

Address: Rybná 682/14  
110 05 Prague 1

Contact: David Kučera  
Tel. No.: +420.....  
Fax No.: + 420.....

**5.1.2 .....**

Address:  
Contact:  
Fax No.:

Komentář [s1]: K doplnění..

5.2 Any notice shall be deemed duly given and delivered:

- 5.2.1 if delivered in person, upon its delivery to the appropriate address;
- 5.2.2 if sent by registered mail, five business days of the date of its posting; or
- 5.2.3 if sent by fax, at the moment of its entry in the transmission log of the sender's facsimile machine, confirmation that the facsimile was sent in its entirety to the facsimile number of the recipient.

**6. TERM OF AGREEMENT AND TERMINATION**

6.1 This Memorandum shall be in full force and effect as of the Effective Date. The Memorandum is concluded for indefinite period of time. Either party is entitled to terminate this Memorandum by a notice in writing with immediate effect upon delivery of the notice.

**7. MISCELLANEOUS**

- (a) GOVERNING LAW. The parties have agreed that their mutual rights and obligations arising out of this Memorandum shall be governed by the Czech law.
- (b) AMENDMENTS This Memorandum may be amended or modified only in writing.
- (c) COUNTERPARTS. This Memorandum has been executed in two counterparts in English, each of which has the validity of the original. Each Party shall receive one counterpart.

IN WITNESS WHEREOF, the parties hereto have placed their signatures hereon on the day and year first above written.

On behalf of PXE:

Broker:

David Kučera, Secretary General  
POWER EXCHANGE CENTRAL EUROPE, a.s.

.....

Komentář [s2]: Doplnit identifikaci brokera.

**ANNEX 1 to MEMORANDUM OF COOPERATION**

**Identification number of Broker:**

**Identification number of a transaction negotiated by Broker:**