

Gross Bidding Agreement

GB Market

[Name of Member]

**NORD
POOL**

THIS GROSS BIDDING AGREEMENT (the “**Agreement**”) is made the _____ day of _____ 20[17] by and between:

1. [**Insert Name of MEMBER**], a company incorporated under the laws of [*insert country*], having its registered office at [*insert registered office address*] with company registration number [*insert number*] (the “**Member**”); and
2. **NORD POOL AS**, a company incorporated under the laws of Norway with company number 984 058 098 whose registered office is at Vollsveien 17B, Postboks 121, 1325 Lysaker, Norway (“**Nord Pool**”),

each a “**Party**” and together the “**Parties**”.

WHEREAS:

- A. Nord Pool operates the GB Day-ahead Market pursuant to the terms of its Rulebook.
- B. The Member is a Participant in Nord Pool’s GB Market.
- C. Under the terms of the Rulebook, Nord Pool offers eligible Members the opportunity to enter a gross bidding arrangement with respect to its Trading in the Day-ahead Market.
- D. The Member wishes to participate in Gross Bidding on the terms and conditions of this Agreement.

1. DEFINITIONS AND INTERPRETATION

- 1.1 Capitalised terms used in this Agreement which are otherwise not defined herein shall have the meanings attributed to them in the Rulebook and the principles of interpretation set out in Schedule 1 to the Rulebook shall apply in interpreting this Agreement.
- 1.2 The following terms shall have the meaning ascribed to them below:
 - (a) “**Annual Generated Electricity Quantity**” means the Member's total annual generation of electricity within Great Britain as stated in its annual report for the applicable calendar year.
 - (b) “**Gross Bidding**” means, with respect to the GB Market only, the placement of Orders on the Day-ahead Market in the Gross Bidding Portfolios, under an arrangement entailing that a reduced fee is paid for a specified amount of purchase and sales volumes that nets to zero whereas standard fees are paid for the remaining volume (and this Agreement constitutes such an arrangement).
 - (c) “**Gross Bidding Date**” means [*insert date on which Gross Bidding is to commence*].
 - (d) “**Gross Bidding Portfolio**” means a Trading Portfolio designated for either purchase or sales Transactions (respectively) under this Agreement in accordance with Appendix 1 hereto, and which may be changed by written and duly signed notice from the Member (in the substantial format of Annex 1) subject to the consent of Nord Pool.

- (e) “**Gross Volume Fee**” means the fees specified as such in the GB Market Fee Schedule.
- (f) “**Minimum Volume**” shall have the meaning given to that term in clause 3.1.
- (g) “**Standard Volume Fee**” means fees in the Fee Schedule not being Gross Volume Fees.

2. GROSS BIDDING

- 2.1 With effect from the Gross Bidding Date, the Member undertakes to conduct Gross Bidding with respect to its Trading in the GB Market in accordance with this Agreement and the Rulebook.
- 2.2 The Member undertakes to carry out Gross Bidding only through the relevant Gross Bidding Portfolios, and acknowledges that any Orders not registered to the Gross Bidding Portfolios will be excluded from application of this Agreement. The Member undertakes in respect of each Gross Bidding Portfolio to:
 - (a) only register Orders for the Day-ahead Market;
 - (b) only register Bids to the “purchase” designated Gross Bidding Portfolios; and
 - (c) only register Offers to the “sales” designated Gross Bidding Portfolios.
- 2.3 Nord Pool may, at its discretion and subject to available functionality of applicable systems, implement technical measures to ensure the Member’s compliance with clause 2.2 above.

3. MINIMUM VOLUME COMMITMENT

- 3.1 In respect of each calendar year the Member shall submit Offers in respect of a minimum of thirty per cent (30%) of its Annual Generated Electricity Quantity (the “**Minimum Volume**”).
- 3.2 If the Gross Bidding Date falls part way through a calendar year the Minimum Volume for the first calendar year will be calculated as 30% of the Annual Generated Electricity Quantity for the remainder of the calendar year during which the Gross Bidding Date falls (e.g. if the Gross Bidding Date falls on day 165, the applicable portion of the Minimum Volume attributable to that calendar year shall be $30\% \times 200/365 = 16.44\%$ of the Annual Generated Electricity Quantity for that calendar year).
- 3.3 In order for Nord Pool to determine whether the Minimum Volume is met, the Member shall forthwith upon finalization of its annual report for each calendar year provide Nord Pool with information on the Annual Generated Electricity Quantity for the applicable calendar year together with a copy of such annual report.
- 3.4 Nord Pool may change the Minimum Volume by unilateral decision, provided that in case the Minimum Volume is increased (i) such increased Minimum Volume shall not become effective until the following calendar year and (ii) the Member shall have written notice no less than two (2) weeks prior to the time which the Member must notify Nord Pool of termination (if it so chooses) pursuant to clause 6 below. Nord Pool may stipulate the specific conditions for any decrease of the Minimum Volume from time to time.
- 3.5 If the Member does not fulfil the Minimum Volume in accordance with clause 3.1 above, or in case of the Member’s breach of clause 3.2 above, Nord Pool shall have the right to charge the Member the Standard Volume Fee in respect of all Transactions in the Gross Bidding Portfolios in that calendar year (and clauses 4.1. – 4.3 will not apply in such case).

4. GROSS BIDDING FEES

- 4.1 To the extent that the gross volumes traded under the Gross Bidding Portfolios are corresponding (i.e. nets to zero), the Member shall be charged a Gross Volume Fee with respect to the applicable volume. Any net difference in volumes traded under the Gross Bidding Portfolios (i.e. net “surplus” purchase or sales volumes) shall be charged the Standard Volume Fee with respect to the applicable volume.
- 4.2 Subject to clause 3.5 and notwithstanding clause 4.1, the total Trading and Clearing fees for Gross Bidding Portfolios will be calculated on an hourly basis (per hour from the beginning of each hour) as follows:
- Total Fee = (VFs * A) + (VFg * G), where*
- VFs = Standard Volume Fee.*
- VFg = Gross Volume Fee.*
- A = the absolute value of the difference between the applicable sales volume and applicable purchase volume: (= abs (S-P))*
- S = the sales volume*
- P = the purchase volume*
- G = the sum of the sales volume and the purchase volume minus the absolute value of the difference between the two volumes: (S+P – A)*
- 4.3 There shall be a maximum Gross Volume Fee per calendar year stated in the Fee Schedule. The Gross Volume Fee per calendar year may not exceed such maximum volume when calculated pursuant to clause 4.2 (i.e. any exceeding Gross Volume Fee shall not be charged). For the avoidance of doubt, this clause shall not apply to any Standard Volume Fees.
- 4.4 Fees under this Agreement will be calculated as part of the regular invoicing of the Member pursuant to the Rulebook, on the presumption that the Member complies with clause 3 above. To the extent clause 3.5 applies, such revised fees shall be invoiced the Member separately and within three (3) months from the annual report is received pursuant to clause 3.3.

5. TERM AND TERMINATION

- 5.1 This Agreement shall take effect from the Gross Bidding Date.
- 5.2 The initial period of this Agreement is twelve (12) months from the Gross Bidding Date, during which period the Agreement cannot be terminated except where so mandated by law or in the case of material default by either Party (in which case the other Party shall be allowed to terminate). Following the initial period this Agreement will automatically renew for successive twelve (12) month periods on each anniversary of the Gross Bidding Date unless terminated by a Party giving at least two (2) months’ written notice prior to the end of the then current twelve (12) month term, provided that such notice may not be served sooner than the end of the initial period.
- 5.3 Notwithstanding clause 5.2, if the Member’s Participant Agreement terminates prior to the expiry of the three-month notice period, this Agreement terminates concurrently with the Participant Agreement.

6. MISCELLANEOUS

- 6.1 **Notices.** Any notice required to be given under this Agreement or the Rulebook by the Member shall be given by authorised representatives and in writing to authorised representatives of Nord Pool, unless as otherwise prescribed in the Rulebook.
- 6.2 **Entire agreement.** This Agreement and the Rulebook contain the whole agreement between Nord Pool and the Member relating to the subject matter of this Agreement and the Rulebook and supersede any previous arrangement, understanding or agreement between them relating to that subject matter. Each Party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty other than as expressly set out in this Agreement and the Rulebook. Nothing in this Section 6.2 shall limit or exclude any liability for fraud or willful default.
- 6.3 **Inconsistency of terms.** In the event of there being an inconsistency or difference between the terms of this Agreement and the terms of the Rulebook, the terms of this Agreement shall prevail.
- 6.4 **Severability.** In the event that any one or more provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions shall remain valid and enforceable.
- 6.5 **Assignment.** The Member may not transfer, novate or assign this Agreement or its rights under the Rulebook without the prior written consent of Nord Pool.
- 6.6 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when executed shall constitute an original of this Agreement, but all the counterparts shall together constitute the same agreement.
- 6.7 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy.
- 6.8 **Contracts (Rights of Third Parties) Act 1999.** A person who is not a party to this Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 6.9 **Amendments.** Amendments to this Agreement require written agreement of both Parties. However, Nord Pool may amend the Rulebook in accordance with the provisions thereof.

7. CHOICE OF LAW AND DISPUTE RESOLUTION

- 7.1 This Agreement shall be governed by, construed and take effect in accordance with *[insert governing law of Participant Agreement]* law.
- 7.2 The *[insert venue determined in Participant Agreement]* courts shall have exclusive jurisdiction to settle any claim, dispute or difference that may arise out of or in connection with this Agreement, including any question as to its existence, validity or termination.
- 7.3 Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in the *[insert venue determined in Participant Agreement]* courts and any claim that any such proceedings have been brought in an inconvenient forum, and further irrevocably agrees that a judgement in any proceedings brought in the *[insert venue determined in Participant Agreement]* courts shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction in accordance with the law of that jurisdiction.

* * *

IN WITNESS OF THEIR AGREEMENT each Party has caused its duly authorised representative to execute this Agreement effective as of the date of signature by both Parties.

For and on behalf of [Member’s Full Name]

Signature

Name and title (printed letters)

Date:

For and on behalf of Nord Pool AS

Signature

Name and title (printed letters)

Date:

ANNEX 1 GB MARKET GROSS BIDDING PORTFOLIOS

Trading Portfolio	Short Code	Type (sale/purchase)	Termination Date

For and on behalf of [Member's Full Name]

Signature

Name and title (printed letters)

Date: