

Translation disclaimer:

It should be noted that this translation is provided for convenience only. In case of discrepancies, it is necessary to follow the Ukrainian version.

This translation shall be used under no circumstances as the Agreement template on electricity purchase and sale on the DAM for signing with the registration purpose. For registration purpose, it is necessary to use the Agreement on electricity purchase and sale on the DAM, as well as any attached annex, provided by JSC Market operator in Ukrainian only.

**Agreement
on electricity purchase and sale on the day-ahead market**

№ _____

Kyiv _____ 20__

Joint-Stock Company “Market Operator” (hereinafter – the MO), acting under a license for the right to carry out economic activity on fulfilment the MO`s functions, which has a status of income tax payer on common terms, represented by _____, acting on the basis of _____, on the one hand, and _____

_____ (hereinafter – the Participant), acting under a license for the right to carry out economic activity of _____, which is a valid participant of the electricity market, ID № _____, has a status of income tax payer on common terms, represented by _____, acting on the basis of _____, on the other hand, hereinafter collectively referred to as the Parties, and each separately the Party, have entered into this Agreement on electricity purchase and sale on the day-ahead market (hereinafter - the Agreement) on the following.

1. Subject of the Agreement

1.1. Under this Agreement, the Parties shall purchase and sell electricity on the day-ahead market (hereinafter – the DAM).

2. General conditions of the Agreement

2.1. Parties shall recognize their obligations under the Rules of the day-ahead market and the intraday market, approved by the resolution of the National Energy and Utilities Regulatory Commission dated March 14, 2018 №308 (hereinafter – the DAM/IDM Rules), the agreement on participation in the day-ahead market and the intraday market of _____ № _____, the Licensing conditions to carry out economic activity on _____, the Licensing conditions to carry out economic activity on fulfilment the MO`s

functions, approved by the resolution of the National Energy and Utilities Regulatory Commission dated December 27, 2017 № 1466.

2.2. The Parties shall simultaneously accept the rights and obligations on electricity purchase and sale based on the DAM trading results.

2.3. During the DAM trading preparing and under trading results, the Parties shall exchange the documents necessary for execution and registration of the DAM electricity purchase and sale transactions, in the manner and within the time frames, defined in the Chapter 1.6 of Section I and Section III of the DAM/IDM Rules and this Agreement.

2.4. The terms, specified in this Agreement, are used in the definitions mentioned in the DAM/IDM Rules, the Market Rules, approved by the resolution of the National Energy and Utilities Regulatory Commission dated March 14, 2018 № 307 (hereinafter – the Market Rules), and other regulations that ensure the electricity market functioning.

3. Price, volume and cost of electricity purchase and sale

The electricity price, volume and cost are defined by the DAM trading results under this Agreement, in accordance with the DAM/IDM Rules.

4. Settlement procedure

4.1. The settlement for electricity purchased or sold on the DAM shall be made with taking into account the Value Added Tax by monetary contributions and in the national currency of Ukraine.

4.2. Prior to the start of the DAM trading, the Participant shall deposit funds to his (their) escrow account(s) to ensure settlements for the electricity purchased by the Participant under the DAM trading results, and to guarantee the payment of the electricity volumes declared for purchase.

4.3. In accordance with Chapter 4.1 of Section IV of the DAM/IDM Rules, the MO shall determine the Participant's liabilities for this Agreement under the DAM trading results where the Participant's orders will be accepted.

4.4. The settlements for the electricity purchased and sold by the Participant shall be carried out by the MO in accordance with the procedure defined in Chapter 4.3 of Section IV of the DAM/IDM Rules.

4.5. The MO shall provide the Participant with the electricity purchase and sale invoice on the DAM (hereinafter – the Invoice) in the form mentioned in Annex 1 to this Agreement, and other financial documents within the time frames stipulated by the DAM/IDM Rules.

4.6. The Participant and the MO are obliged to provide with tax invoices, compiled and registered in the Unified Tax Invoices Register in accordance with the requirements of current tax legislation.

5. Rights and obligations

5.1. The Participant has the right:

1) to take part in the DAM trading organized by the MO under the procedure defined by the DAM/IDM Rules;

2) to receive payment from the MO for electricity sold on the DAM in the manner and time frames stipulated by the DAM/IDM Rules and this Agreement;

3) to appeal the MO's actions on the DAM orders submitted by the Participant in the manner defined by the DAM/IDM Rules.

5.2. The Participant is obliged:

- 1) to fulfill the obligations defined by the DAM/IDM Rules;
- 2) to ensure the availability of unencumbered funds on his escrow account mentioned in paragraph 4.2 of this Agreement, that are necessary for payment of electricity under this order, in case of the intention to purchase electricity on the DAM;
- 3) to provide the MO with relevant objections and notifications within the time frames defined by the DAM/IDM Rules, if there are any objections to the MO`s decisions on the order exclusion from the DAM trading and/or from trading results specified in the DAM settlement statement;
- 4) to submit the Invoices signed by the Party within the time frames defined in paragraph 4.3.8 of Chapter 4.3 of section IV of the DAM/IDM Rules;
- 5) to submit the DAM trading orders, notifications, Invoices and other documents only with the signature of the Participant`s authorized persons.

5.3. The MO has the right:

- 1) not to allow the Participant`s DAM order for electricity purchase to enter on the DAM trading in case of insufficiency of unencumbered funds on the Participant`s escrow account to make payment of electricity under this order, that is mentioned in paragraph 4.2 of this Agreement;
- 2) not to allow the Participant`s DAM order for electricity sale to enter on the DAM trading if the volume of electricity, declared by the Participant for sale in the trading zone, exceeds the maximum volume of electricity sale on the DAM, which is determined by the TSO and provided by the MO in accordance with the Market Rules;
- 3) not to allow the Participant`s DAM order for electricity purchase or sale to enter on the DAM trading if the declared price exceeds the threshold price, defined for the respective settlement period, in accordance with paragraph 3.1.6 of Chapter 3.1 of Section III of the DAM/IDM Rules.

5.4. The MO is obliged:

- 1) to register the Participant's orders and verify their compliance with the requirements of the DAM/IDM Rules;
- 2) to fulfil the obligations specified in the DAM/IDM Rules;
- 3) to provide the Participant with notifications and documents in accordance with the DAM/IDM Rules;
- 4) to make calculations based on the DAM trading results in the time frames established by the DAM/IDM Rules and this Agreement;
- 5) to provide the Transmission System Operator with information on volumes of sold and/or purchased electricity on the DAM in the time frames and in the manner defined by the DAM/IDM Rules;
- 6) to provide the Participant with the Invoice on the all DAM trading results on monthly basis, held during the previous month, within time frames established by the DAM/IDM Rules;
- 7) to provide payment requirements for the contractual funds write-off from the Participant`s escrow account, mentioned in paragraph 4.2 of this Agreement, in case acceptance of Participant's order for electricity purchase on the DAM.

6. Information exchange

6.1. The documents exchange, necessary for the DAM purchase and sale transactions holding and registration, is carried out in electronic form through the MO software.

6.2. Electronic documents shall be drawn up by the Parties with QES imposition of the authorized persons in the manner prescribed by the legislation of Ukraine.

6.3. The procedure for the QES application by the Parties and the list of persons entitled to sign on their behalf shall be determined by the Parties in accordance with the legislation of Ukraine, taking into account the requirements of the DAM/IDM Rules.

6.4. The document is deemed not to be provided and accepted by the MO for settlement if it was submitted to the MO without QES or QES does not meet the requirements defined in the DAM/IDM Rules.

6.5. The date of an information notification is considered to be the day and time of its posting in the MO's software system, and in case of e-mail using:

the day and time of its sending to the Participant;

the day and time of its sending to the MO.

6.6. The Parties recognize that documents, sent by electronic means with the QES imposition, have a legal force, define the rights and obligations of the Parties, and can be submitted in the court as an appropriate evidence, if the authorized persons of the Parties have sent them to the addresses, specified in the Agreement's requisites.

7. Confidentiality

7.1. Information that has become known to a Party about the activities of another Party under concluding and implementing this Agreement shall be confidential.

7.2. The Parties undertake not to disclose confidential information to third parties without the prior written consent of the other Party, except as provided by the DAM/IDM Rules and the legislation of Ukraine.

7.3. In case of the Agreement termination, the information confidentiality requirement, specified in paragraph 7.2 of this Agreement, shall remain in force for a period of 5 years.

8. Force majeure

8.1. Force majeure is defined as such circumstances that will be recognized according to a document, issued by the Ukrainian Chamber of Commerce and Industry or the relevant territorial branches.

8.2. In case of force majeure that excludes the obligations fulfilment by the Parties, the Parties shall not be liable for non-performance (improper performance) of their obligations for the period of these circumstances duration.

8.3. The only appropriate and sufficient document, confirming the force majeure as a ground for exemption from liability for non-performance (improper performance) of obligations under this Agreement, is a supporting document of the Ukrainian Chamber of Commerce and Industry or the relevant territorial branches.

8.4. The Party that is unable to fulfill its obligations under this Agreement due to force majeure shall be obliged to inform the other Party in writing (by sending a registered letter) on the force majeure and its consequents no later than the third working day from the date of such circumstances have occurred.

The Parties shall follow the same procedure for notification of force majeure termination and their consequents.

8.5. Failure to notify on the force majeure occurrence or its termination by one of the Parties shall lead to the loss of the right to invoke such circumstances as a ground to exempt from liability for non-performance/late performance of obligations by that Party under this Agreement.

9. Responsibility

9.1. The Parties shall bear responsibility in accordance with the current legislation of Ukraine and the DAM/IDM Rules and shall take all necessary measures for the proper fulfillment of their obligations under this Agreement.

9.2. If the Participant or the MO fails to provide the signed Invoice in the time frames defined by the Chapter 5 of this Agreement, the MO/Participant may claim for a payment of UAH 2000,00 (two thousand UAH 00 kopecks) as a penalty.

The penalty shall be paid within six banking days from the date of receipt by the Participant/MO a written notification on an requirements infringement of Chapter 5 of this Agreement with the MO/Participant`s claim for penalty payment.

9.3. In case of penalties non-payment by the Participant within the determined period, the MO has the right to suspend his participation in the DAM and/or IDM in the manner defined by the DAM/IDM Rules.

9.4. In case of tax invoices late registration and calculations adjustment to them in the Unified Registry of Tax Invoices that led to the MO`s tax credit loss, the Participant shall pay a penalty equal to the MO`s tax credit loss amount, on the basis of the MO`s penalty claim. The Participant shall pay penalty within six banking days from the date of Participant`s written notification receipt from the MO on an infringement of the above-mentioned requirements of the Agreement.

10. Disputes settlement

10.1. All disputes and disagreements arising from the terms of this Agreement fulfilment or in connection therewith shall be settled by negotiations between the Parties in the manner, defined by the DAM/IDM Rules.

10.2. If disputes and disagreements couldn`t be settled by negotiations, they shall be settled in accordance with the law.

11. Other conditions

11.1. This Agreement shall be concluded electronically through the MO`s software.

11.2. The Parties recognize that this Agreement has legal force, defines the rights and obligations of the Parties, and may be submitted in the court as appropriate evidence.

11.3. The Annexes are integral parts to this Agreement.

11.4. In case of amendments to the existing legislation of Ukraine and the DAM/IDM Rules, the Parties shall put the necessary amendments to the Agreement to remove contradictions in the manner and within the time frames defined by paragraph 2.3.7 of Chapter 2.3 of Section II of the DAM/IDM Rules.

11.5. The Party shall not be liable under the obligations of the other Party of this Agreement to the third parties or for damages that may be caused by the other Party to a third party.

11.6. Rights and obligations arising under this Agreement from one of the Parties cannot be transferred to the third parties.

11.7. This Agreement shall enter into force from the moment of its signing by the parties and shall remain in force until the termination date of this Agreement or the participation cancellation on the DAM/IDM by the Participant take place.

11.8. This Agreement may be terminated in case of written notification sent by one Party to the other Party in 20 calendar days prior the date of termination of this

Agreement or the situation occurrence, stipulated by subparagraph 5 of paragraph 2.3.7 of Chapter 2.3 of Section II of the DAM/IDM Rules. In this case, the validity of this Agreement shall be terminated in terms of the purchase and sale of electricity, and in terms of the settlements - upon fully satisfaction of the Parties` obligations.

11.9. This Agreement may be terminated by the MO in accordance with the DAM/IDM Rules requirements.

12. Annexes

Annex 1. Form of the electricity purchase and sale invoice on the DAM.

13. Legal addresses of the Parties

Joint-Stock Company

“Market Operator”

location and postal address:
01032, Kyiv, Symona Petliury Str., 27

location and postal address:

Identification code 43064445
CA № UA073004650000026038303699888
Phone: (044) 205-01-61

Identification code _____
CA № _____
Phone: _____

(Position)

(Position)

_____/_____
(Signature) (Full name)

_____/_____
(Signature) (Full name)

**Invoice
of electricity purchase and sale on the DAM**

between _____ **(Identification code _____)** and
(the Market Operator)
_____ **(Identification code / Individual Tax Number _____)**
(the DAM Participant)
for _____ **20__**
(date)

Kyiv

"__" _____ 20__

Type of the DAM activity: _____ (specify one operation: purchase or sale)

| № of Agreement | Date of Agreement | Volume of electricity, MWh | Cost of electricity, (net of VAT), UAH | Price (net of VAT), UAH/MWh | Value Added Tax, UAH | Total cost of electricity (including VAT), UAH |
|----------------|-------------------|----------------------------|--|-----------------------------|----------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | | | | | | |

(Title of the MO)

(Position of the Head)
_____/_____
(Signature) (Full name)

the Market Operator

(Position)
_____/_____
(Signature) (Full name)

(Title of the DAM Participant)

(Position of the Head)
_____/_____
(Signature) (Full name)

the DAM Participant

(Position)
_____/_____
(Signature) (Full name)