



General Terms

# Trading Rules

CROATIAN POWER EXCHANGE Ltd.

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## **1. INTRODUCTION**

- 1.1.** CROATIAN POWER EXCHANGE Ltd. (hereinafter: **CROPEX**) is responsible for organizing and operating the Croatian Day Ahead Market in the Republic of Croatia.
- 1.2.** The Croatian Day Ahead Market provides the possibility of day ahead Trading in Products by the Members on the territory of Republic of Croatia by means of an Auction in respect of each Delivery Day based on all volume and price Bids and Offers received prior to closing of the relevant Auction. Further provisions governing Trading on the Croatian Day Ahead Market are set out in Croatian Day Ahead Market Regulations, Membership Agreement and the rest of the Trading Rules.
- 1.3.** Croatian Day Ahead Market offers such Products for Trading as set out in the Products Specifications, under conditions of the Membership Agreement and the Trading Rules.
- 1.4.** CROPEX provides Clearing and Settlement of Transactions in the Croatian Day Ahead Market.
- 1.5.** These Trading Rules apply to all Trading and Transactions on the Croatian Day Ahead Market, and constitute a part of the Membership Agreement between CROPEX and each Member in the Croatian Day Ahead Market. The Trading Rules comprise: (i) these General Terms, (ii) the Trading Appendices and (iii) the Trading Agreements as applicable from time to time (i.e. as entered into with individual Members). These General Terms and all Trading Appendices and all Trading Agreements (as may be entered into by individual Members) are binding and have the same legal force.
- 1.6.** All Transactions entered into on the Croatian Day Ahead Market will be automatically and mandatory subject to Clearing and Settlement, whereby Members will become Counterparties to CROPEX acting as central Counterparty in all Transactions as further set out in the Clearing and Settlement Rules, Membership Agreement and the rest of the Trading Rules.

## **2. INTERPRETATION, DEFINITIONS AND ABBREVIATIONS**

- 2.1.** Capitalised terms shall have the meaning assigned to them in Definitions or as specifically defined in the text body of these Trading Rules.
- 2.2.** References to any law or statute shall be deemed to include any related amendments, consolidations, re-enactments or replacements of it.
- 2.3.** References to an entity include any corporate body, an unincorporated association or any other legal entity or physical person.
- 2.4.** References to a Member shall be deemed to include references to the successors or assignees (immediate or otherwise) of that Member.
- 2.5.** References to points in time refer to Central European Time (24-hour format), unless otherwise specified.
- 2.6.** Any words importing the singular shall admit the plural where the context admits and vice versa. Any words importing the neuter gender shall include the feminine gender and the masculine gender (in respect of a physical person).
- 2.7.** The term “including” shall mean “including but not limited to”.
- 2.8.** Any reference to CROPEX having a right to make a decision or termination or to form any opinion or judgement shall, unless as otherwise stated, mean that CROPEX has the right to exercise its sole and unfettered discretion in doing so.
- 2.9.** The headings in these Trading Rules are for convenience only and shall not affect its interpretation.

- 2.10.** References to communications in writing shall, unless otherwise specified, include e-mail and communications through the Day Ahead Web.
- 2.11.** In case of conflict between these General Terms and the Croatian Day Ahead Market Regulations contained in Trading Appendix 2, the provisions of the applicable specific market regulations in Trading Appendix 2 shall prevail. In case of conflict between these Trading Rules or any of its Trading Appendices on one side and a concluded Trading agreement on the other side, provisions of such agreement shall prevail.

### **3. CONDITIONS FOR TRADING**

#### **3.1. Prerequisites for Trading**

- 3.1.1. Entities wishing to perform Trading on the Croatian Day Ahead Market must enter into a Membership Agreement with CROPEX, be eligible as Counterparty under the Clearing and Settlement Rules and must have the right to participate on the Croatian electricity market under the Croatian Applicable Law regulating the electricity market, prior to the commencement of Trading on the Croatian Day Ahead Market.
- 3.1.2. In addition to the requirements under Section 3.1.1. above, each Member must at all times:
- a.** be eligible as Counterparty to each Transaction and its corresponding Clearing Transaction under the Clearing and Settlement Rules, Membership Agreement and the rest of the Trading Rules;
  - b.** obtain, maintain and comply with all licences, authorisations and agreements required by Applicable Law to enable it to conduct Trading on the Croatian Day Ahead Market and to perform its obligations under the Trading Rules;
  - c.** have appointed a Trading Responsible in accordance with Section 3.3. below.
- 3.1.3. Further rights and obligations of Members in respect of Trading are set out in the applicable Trading agreements, the Market Conduct Rules and the rest of the Trading Rules.

#### **3.2. Approval of Members**

- 3.2.1. Entities wishing to enter into a Membership Agreement must send CROPEX a written application for membership in such form as CROPEX shall prescribe and publish on its webpages.
- 3.2.2. As part of the approval procedure, CROPEX may require additional information from the applicant on the applicant's legal status, financial soundness, organisation, technical systems, level of experience and competence and other relevant matters for evaluating whether or not the applicant is fit and proper to become a Member.
- 3.2.3. CROPEX may require an applicant to provide a satisfactory legal opinion on such issues as CROPEX reasonably considers appropriate including that the applicant is legally entitled and appropriately authorised to conduct Trading in the Croatian Day Ahead Market, and that the Membership Agreement has been signed by a duly appointed representative.
- 3.2.4. CROPEX shall only admit applicants that CROPEX in its sole discretion considers fit and proper to become Members. However, applicants will not be unreasonably rejected. In case of rejecting an applicant, CROPEX will provide a written statement of reasons.
- 3.2.5. CROPEX shall generally admit and treat applicants and Members on a fair and non-discriminatory basis. Subject to the aforesaid principle, CROPEX may however impose special terms and conditions on individual entities if this, in the reasonable opinion of CROPEX, is necessary to reflect special circumstances applying to that entity or to admit an entity which would otherwise be excluded from membership, including terms and conditions required by Applicable Law in the jurisdiction where the entity is domiciled.

## TRADING RULES – GENERAL TERMS

3.2.6. CROPEX shall promptly inform the applicant in writing of the outcome of the application process. If the application is approved, one original to each party of the Membership Agreement shall be executed by duly authorised signatories of CROPEX and the applicant. If Membership Agreement is concluded in both English and Croatian language, one original to each party of the Membership Agreement shall be executed in each language. Legal force and relations between English and Croatian version of the executed Membership Agreement and the applicable Trading Rules is governed by stipulations of the Membership Agreement.

### **3.3. Trading Responsible and Traders**

3.3.1. Each Member must appoint one (1) Trading Responsible for the Member's Trading, in the Membership Agreement, subject to the approval of CROPEX not to be unreasonably withheld.

3.3.2. Each Member may appoint additional Traders as authorized to perform Trading in the Croatian Day Ahead Market, subject to the approval of CROPEX not to be unreasonably withheld.

3.3.3. Unless otherwise agreed with CROPEX, the Trading Responsible and the Traders will have full access to the Day Ahead Web in respect of all Trading Portfolios of the respective Member. Each Member shall ensure that its Trading Responsible and Traders shall be fully authorised to represent the Member towards CROPEX in all matters related to the Member's Trading, and shall be capable of taking such action in a manner consistent with the daily time schedules and other requirements established by or pursuant to the Trading Rules in their entirety.

3.3.4. Each Member is granted with two (2) Digipass tokens for the access to the Day Ahead Web. A Member may, upon request, be granted additional Digipass tokens, subject to Additional User Fee set out in the Fee Schedule, payable per granting of each additional Digipass token. Trading Responsibles or a Trader can have only one (1) Digipass token each.

3.3.5. Following receipt by CROPEX of a written notification from the Member that the appointment of any individual Trading Responsible and/or Trader is to be revoked, CROPEX shall send a written confirmation of the receipt of such Member's notification, and terminate the Trading Responsible's and/or Trader's access to the Day Ahead Web immediately as soon as possible. Notwithstanding receipt of CROPEX's written confirmation of the receipt of the Member's notification, the Member shall remain bound by and liable for all actions or omissions of the Member in respect of Trading during the period that the Trading Responsible and/or Trader has Day Ahead Web access, until such time as CROPEX has confirmed in writing that the Trading Responsible's and/or Trader's Day Ahead Web access has been terminated.

3.3.6. In case that Trading Responsible is revoked, the Member must appoint new person under conditions from this Section 3.3. within five (5) days of when previous person was revoked.

### **3.4. Trading Portfolios**

3.4.1. Each Member has the right to request from CROPEX formation of two (2) Trading Portfolios.

3.4.2. A Member may, upon request and subject to CROPEX approval (not to be unreasonably withheld) be granted an additional number of Trading Portfolios. Additional Trading Portfolios are subject to Additional Portfolio Fee as set out in the Fee Schedule, payable per granting of each additional Trading Portfolio.

#### 4. REPRESENTATION AND WARRANTIES

##### 4.1. Representations by the Member

4.1.1. Each Member represents and warrants to CROPEX on each date on which an Order is submitted or a Transaction is entered into that:

- a. **Power.** It has the power to perform its obligations under these Trading Rules, Membership Agreement and each Transaction;
- b. **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, is of good standing);
- c. **Organisation.** It is properly staffed and organised to enable it to carry out Trading, and its personnel have the necessary competence and knowledge for Trading;
- d. **Risk assumption.** It is aware of and understands the characteristics of each of the Products and the risks related thereto, and it has submitted Orders after a full opportunity to review their terms and conditions, and has an adequate understanding of those terms and conditions and of their risks, and is capable of assuming those risks;
- e. **No Violation or Conflict.** The execution, delivery and performance of the relevant Trading Agreements or the Trading Rules do not violate or conflict with any Applicable Law or any provision of its constitutional documents applicable to the Member or any of its assets, or any contractual restriction binding on or affecting it or any of its assets;
- f. **Required Authorisations.** All Required Authorisations under Applicable Law have been obtained and are in full force and effect, and all conditions of any Required Authorisations have been complied with, and there are no further licences or filings with or other acts by or in respect of any Regulatory Body or court that are required to be obtained, made or done by the Member in connection with Trading or Clearing;
- g. **Accurate Information.** All applicable information that is furnished in writing by or on behalf of the Member which is identified as being subject to or connected to the Membership Agreement and Trading Rules is, as of the date it is furnished to CROPEX, true, accurate and complete in every material respect; and
- h. **Compliance.** No Non-Compliance Event, Material Non-Compliance Event or event that with notice or lapse of time or both would constitute a Non-Compliance Event or Material Non-Compliance Event has occurred with respect to it and no such event would occur as a result of it entering into or performing its obligations under the Trading Rules and Membership Agreement.

4.1.2. The Member is, when carrying out Trading, deemed to repeat the Representations specified above as well as any further representations specified as such in the Trading Rules or Membership Agreement.

4.1.3. The Member acknowledges that it is under a duty to notify CROPEX in writing in case of any breach or suspected breach of its Representations, either those stated above or any others, immediately upon the Member becoming aware of the same.

##### 4.2. Representations by CROPEX

4.2.1. CROPEX represents and warrants to each Member in relation to each Transaction which is entered into on its Day Ahead Web that:

- a. **Power.** It has the power to perform its obligations under the Trading Rules and each Transaction;
- b. **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation;
- c. **Organisation.** It is properly staffed and organised to enable it to carry out, and its

personnel have the necessary competence and knowledge to enable it to carry out its obligations under the Trading Rules;

- d. No Violation or Conflict.** The execution, delivery and performance of the relevant Trading Agreements or the Trading Rules do not violate or conflict with any Applicable Law or any provision of its constitutional documents applicable to CROPEX or any of its assets, or any contractual restriction binding on or affecting it or any of its assets;
- e. Required Authorisations.** All Required Authorisations under Applicable Law have been obtained and are in full force and effect, and all conditions of any Required Authorisations have been complied with, and there are no further licences or filings with or other acts by or in respect of any Regulatory Body or court that are required to be obtained, made or done by CROPEX in connection with its performance under the Trading Rules;
- f. Accurate Information.** All applicable information that is furnished in writing by or on behalf of CROPEX which is identified as being subject to or connected to the Trading Rules is, as of the date it is first furnished to Members and unless as otherwise specified in the applicable information, believed to be true and accurate in every material respect; and
- g. Compliance.** No default, or event that with notice or lapse of time or both would constitute a default would occur as a result of it entering into or performing its obligations under the Membership Agreements or Trading Rules.

## **5. LISTING OF PRODUCTS**

- 5.1.** CROPEX decides which Products shall be listed or delisted (removed) from the Croatian Day Ahead Market by enlisting them in Products Specifications document.
- 5.2.** CROPEX is not liable for any costs or expenses directly or indirectly incurred by Members because of the change of the offered Products.

## **6. GENERAL PROVISIONS ON TRADING**

### **6.1. Trading Facilities**

- 6.1.1.** CROPEX maintains Day Ahead Web and a telephone trading system (hereinafter: **TTS**).
- 6.1.2.** CROPEX facilitates Trading in Products between Members by receiving Orders in the Day Ahead Web and determines traded Energy Volumes and its relevant prices according to prevailing rules for price calculations. A Member may on any Trading Day within Trading Hours for the relevant Product submit Orders through the Day Ahead Web. Processing and matching of Orders and Transactions is subject to the Croatian Day Ahead Market Regulation, Membership Agreement and the rest of the Trading Rules.
- 6.1.3.** Members are responsible for setting up electronic communication with CROPEX according to CROPEX's specification. Trading on the Croatian Day Ahead Market is anonymous except between CROPEX and the individual Member entering an Order and entering into a resulting Transaction. Except as necessary to display Orders and Transactions to Members in accordance with this Section 6.1., or as otherwise set out in Section 12. of these Trading Rules - General Terms, Membership Agreement, the rest of the Trading Rules or in accordance with the concluded REMIT Data and Reporting Services Agreement; CROPEX shall treat all Orders and other information from Members communicated to CROPEX in relation to Transactions as confidential. This does not derogate CROPEX's obligation under Applicable Law to provide information to Regulatory Authorities or other bodies, by its own discretion or upon their request; and such provision of information by CROPEX to Regulatory Authorities or other bodies shall under no circumstances be considered a breach of confidentiality.
- 6.1.4.** Last version of Orders and Transactions in the Day Ahead Web will be stored electronically and kept by CROPEX in accordance with the Applicable Law. Transaction Information resulting from such records may be utilised as set out in Section 12. of these Trading

Rules - General Terms. All telephone calls with the Trading Desk and TTS may be recorded and stored in accordance with Applicable Law. Both CROPEX and Members consent to such recordings, and undertake to procure any consent necessary from their employees in order to comply with Applicable Law.

## **6.2. Day Ahead Web**

- 6.2.1. The Day Ahead Web is the principal trading facility for all Members wishing to perform Trading on the Croatian Day Ahead Market. Members may register their Orders in Day Ahead Web, where Orders are ranked and matched in accordance with the Croatian Day Ahead Market Regulations, Membership Agreement and these Trading Rules in their entirety.
- 6.2.2. Access to the Day Ahead Web is organised with Digipass tokens, which are dedicated to the Trading Responsibles and Traders nominated by the Member in the Membership Agreement.
- 6.2.3. Access to the Day Ahead Web for Members is non-exclusive and non-transferable. Members shall have a right of access to and use of the Day Ahead Web subject to:
- a. the Member fulfilling the conditions for Trading as set out in Section 3.1. above;
  - b. the Member not having its trading rights suspended or terminated in accordance with Membership Agreement or these Trading Rules; and
  - c. the Member's compliance with the Day Ahead Web user terms as set out in Membership Agreement and these Trading Rules.
- 6.2.4. Registration of Orders and Transactions in the Day Ahead Web is conditional upon the Member having a corresponding right to Clearing in accordance with the Clearing and Settlement Rules, Membership Agreement and these Trading Rules.

## **6.3. The Telephone Trading System (TTS)**

- 6.3.1. TTS is intended as a backup facility service to Members for the Croatian Day Ahead Market. In situations where Members are not able to access Day Ahead Web, or CROPEX for other reasons deems TTS to be a more viable option than Day Ahead Web, CROPEX may in its sole discretion approve that the Member may call in its Orders, or changes to or cancellations of Orders, by telephone to TTS.
- 6.3.2. Only Trading Responsibles and Traders approved by CROPEX in accordance with Section 3.3. of these Trading Rules - General Terms are authorised to contact the TTS. When contacting the TTS, the Trading Responsible or Trader shall unsolicited, and in any event upon request by the TTS operator, identify itself by full name and which Member it represents, state that the call concerns the submittal of an Order, and why the Member is unable to submit its Order by means of Day Ahead Web.
- 6.3.3. Provided that CROPEX approves the use of TTS, the Member shall provide such information as would be required if using the Day Ahead Web, and in addition all such information which CROPEX may reasonably request to enable CROPEX to accurately register the Order.
- 6.3.4. CROPEX shall register the Order from TTS in Day Ahead Web as soon as possible after receiving the Order, and shall in case of several Orders endeavour to register the Orders received in the same sequence as the Orders were notified to CROPEX.
- 6.3.5. An Order submitted through the TTS is only considered registered when CROPEX confirms the registration of the Order in the Day Ahead Web to the Member through the TTS or otherwise in writing. After receiving such confirmation, the concerned Member's Trading Responsible or Trader must confirm the Order as it is contained in CROPEX's confirmation of registration to CROPEX through TTS or otherwise in writing. If the Member does not confirm the Order in such way until 10 minutes before the Gate Closure, CROPEX has the discretionary right to delete the Order from the Day Ahead Web, and shall in such case



notify the Member. If the Member expressly dis-confirms the Order in such way until 10 minutes before the Gate Closure, CROPEX will delete the Order from the Day Ahead Web and notify the Member. Any Member's late confirmations or dis-confirmations can be taken into consideration depending on sole discretion of CROPEX. The Order becomes binding on the Member from the time of registration regardless of the time of CROPEX's or Member's confirmation.

- 6.3.6. The Member shall be responsible for the correctness of all Orders registered by means of TTS and Parties exclude liability of CROPEX for registration of Orders. A Member cannot invoke mistake in registration of Orders entered by CROPEX if such mistake was evident from confirmation on registration of Order and the Member did not expressly dis-confirm such registration of Order to CROPEX until 10 minutes before the Gate Closure.
- 6.3.7. CROPEX will make commercially reasonable endeavours to run an effective TTS service and maintain the continuity of access to TTS, but the TTS is provided on an "as available" basis and CROPEX makes no representation or warranty as to the availability of TTS to any Member at any given time.
- 6.3.8. TTS will be closed 10 minutes before the Gate Closure.

#### **6.4. Availability of Trading Responsibles and Traders**

- 6.4.1. Once a Trading Responsible or a Trader has submitted an Order, the Trading Responsible or a Trader of the applicable Member must be available to be contacted by telephone at all times for as long as the Order is valid. Orders in the Croatian Day Ahead Market are deemed valid until the relevant Auction is finished or until the Order is removed from the Day Ahead Web (cancelled, deleted, rejected etc.) by the Member or by CROPEX in accordance with these Trading Rules.

#### **6.5. Right to Refuse Orders**

- 6.5.1. Notwithstanding any other provision in the Trading Rules, CROPEX reserves the right, in its sole discretion, and without prior notice to a Member to reject, cancel or refuse to display or match any Order which in CROPEX's determination would contravene the Trading Rules, Membership Agreement or Applicable Law. Any such decision should be reasonably founded and non-discriminatory, and CROPEX shall notify the Member of such decision immediately.

#### **6.6. Suspension of Trading**

- 6.6.1. CROPEX may at any time suspend Trading in the Day Ahead Web with regard to all or some Products if CROPEX reasonably determines that:
  - a. a system problem which is likely to affect Trading in such Product(s) has occurred or suspension is necessary to prevent such problem from occurring; or
  - b. the intended Trading would contravene the requirements of Applicable Law, the Trading Rules in their entirety or Membership Agreement.
- 6.6.2. The Day Ahead Web shall be reopened with full functions as soon as the event that led to suspension has been rectified and CROPEX has determined that Trading can be conducted in accordance with the Applicable Law and the Trading Rules.
- 6.6.3. CROPEX shall give the Members information about a suspension of Trading and Reopening of Trading immediately through the e-mail notification to the Trading Responsibles or Traders or such other means of communication as CROPEX deems efficient and appropriate given the circumstances. CROPEX must provide Members with at least five (5) minutes' notice of a Reopening of Trading.
- 6.6.4. Notwithstanding this Section 6.6., CROPEX may suspend Trading for individual Member due to Non-Compliance Event or Material Non-Compliance Event in accordance with the Membership Agreement and Section 9. below.

## **7. TRADING FEES AND SETTLEMENT**

- 7.1.** Trading Fees as prevailing from time to time shall be charged to Members and invoiced in accordance with the Fee Schedule. Unless as explicitly stated, all Trading Fees are stipulated exclusive of VAT.
- 7.2.** Unless as otherwise set out in the Clearing and Settlement Rules, each Member is responsible for and shall cause to pay any and all VAT and relevant tax arising in connection with its Trading activities and which is payable by that Member under Applicable Law, with no further charge, reimbursement or indemnification to or from CROPEX or the Member of other corresponding Transaction(s), irrespective of whether the Member is required by Applicable Law to pay any VAT or relevant tax for the account of the Member of the other corresponding Transaction(s) or for CROPEX.
- 7.3.** Settlement of Trading Fees shall be carried out by CROPEX in accordance with the Clearing and Settlement Rules, Membership Agreement and these Trading Rules, and shall be included in the Settlement of the respective Transaction(s).
- 7.4.** In case a Member does not pay to CROPEX the required Trading Fees or does not make other payments envisaged under the Trading Rules upon their due dates, CROPEX shall be entitled to charge Statutory Default Interest on the principal of any such unpaid amounts (increased for all applicable VAT and other taxes).

## **8. MARKET CONDUCT AND MARKET SURVEILLANCE**

- 8.1.** Members shall at all times comply with the provisions of the Market Conduct Rules when Trading. Non-compliance with Market Conduct Rules may be sanctioned by CROPEX in accordance with the provisions of the Market Conduct Rules.
- 8.2.** CROPEX will monitor the Croatian Day Ahead Market with a view to ensuring that all Trading and other activities on the Croatian Day Ahead Market are in accordance with the Market Conduct Rules and Applicable Law. CROPEX may carry out investigations into the activities of Members as set out in the Market Conduct Rules.
- 8.3.** CROPEX may make request to and collect information from Members concerning their business, and Members agree to deliver any such required information without delay.
- 8.4.** In connection with investigations of Member's business, CROPEX may, directly from the relevant Member, Transmission System Operator or Market Operator gather any data relating to management, electricity market and Settlement of accounts.

## **9. NON-COMPLIANCE**

- 9.1.** A Non-Compliance Event exists if a Member in the reasonable opinion of CROPEX:
- a.** does not discharge its obligation(s) under any of the documents and/or agreement that are part of the Trading Rules or otherwise is in breach of the Trading Rules (including Membership Agreement or other Trading Agreements entered into by such Member); or
  - b.** is in breach of Applicable Law and such breach affects, or will affect, the Member's ability to comply with the Trading Rules (including the Membership Agreement or other Trading Agreements entered into by such Member).
- 9.2.** A Material Non-Compliance Event shall occur if in the reasonable opinion of CROPEX:
- a.** the Member is not in compliance with the requirements of Section 3.1. of these General Terms; or
  - b.** the Member is in breach of the Representations contained in Section 4.1.1. letter a. through g. (inclusive) of these General Terms, provided that the Representation in the opinion of CROPEX is incorrect or misleading in a material respect and has not been remedied within fifteen (15) calendar days after CROPEX sent a written notice

of such Non-Compliance Event to the Member; or

- c.** the misrepresentation clearly indicates that the Member is unfit for further Trading; or
- d.** a Non-Compliance Event occurs which may adversely affect Trading in accordance with these Trading Rules and Applicable Law and Membership Agreement and such Non-Compliance Event is not remedied within fifteen (15) calendar days after CROPEX sent a written notice of such Non-Compliance Event to the Member; or
- e.** the Non-Compliance Event is caused by the negligence, wilful default or fraud of the Member, and such Non-Compliance Event is not remedied within fifteen (15) calendar days after CROPEX sent a written notice of such Non-Compliance Event to the Member; or
- f.** if a Member does not pay to CROPEX any of its due payment obligations arising under the Trading Rules immediately upon or prior to such payment obligation becoming due; or
- g.** a Non-Compliance Event (other than as set-out in points a. to e. of this Section 9.2.) is not remedied within fifteen (15) calendar days after CROPEX sent a written notice of such Non-Compliance Event to the Member.

**9.3.** Before imposing any of the sanction envisaged under this Section 9. for Non-Compliance Event or Material Non-Compliance Event, the Member shall, if possible and appropriate, be given an opportunity to present a rejoinder in order to give an opinion on the facts presented by CROPEX, with the aim of proving that a purported Non-Compliance Event or Material Non-Compliance Event did not occur. Such limitation as described in the first sentence of this Section 9.3. shall not apply for Material Non-Compliance Event envisaged under Section 9.2. point f. of these General Terms.

**9.4.** For as long as a Non-Compliance Event or Material Non-Compliance Event persists, CROPEX may:

- a.** issue a written warning to the Member in question and/or suspend a Member from Trading with immediate effect. During suspension, the Member may only carry out Trading following approval by CROPEX; and
- b.** exercise any of the rights and remedies available to it under other Trading Rules documents or Membership Agreement entered into by such Member.

**9.5.** CROPEX may terminate the Membership Agreement due to a Material Non-Compliance Event. CROPEX's right to terminate a Membership Agreement due to a Material Non-Compliance Event is set out in the Membership Agreement.

## **10. LIABILITIES AND FORCE MAJEURE**

**10.1.** CROPEX shall not be liable for any loss or damage to a Member caused by Member's business decisions regarding Trading on the Croatian Day Ahead Market. It is expected that Member's conduct Trading on the Croatian Day Ahead Market with due attention required from good businessmen.

**10.2.** CROPEX shall under no circumstances be liable for any loss or damage to a Member caused by any act or omission of other Member, including loss or damage caused to a Member because other Member from the corresponding Transaction fails to deliver or accept the Delivery Amount.

**10.3.** CROPEX shall not be liable for any loss or damage to a Member that may arise out of Trading or the Trading Rules as a result of any act or omission by CROPEX, provided that CROPEX has not acted in gross negligence, fraudulently or in wilful default.

**10.4.** Except where CROPEX has acted fraudulently or is in wilful default, CROPEX shall under no circumstances be liable to the Member for indirect loss and consequential damage including loss of profits or contracts.

**10.5.** Notwithstanding any stipulations in this Section 10., a Member will be liable to CROPEX for all loss or damage suffered, including expenses accrued, which result directly from the Member's default under a Non-Compliance Event or a Material Non-Compliance Event.

**10.6.** Neither CROPEX nor Member shall under any circumstances be liable for any loss or damage in respect of any failure on its part to perform any of its obligations under the Trading Rules or Membership Agreement if a Force Majeure Event prevents performance of its relevant obligations.

## **11. INDEMNITIES**

**11.1.** The Member shall fully and effectively indemnify CROPEX from and against any and all costs, claims, damages and expenses arising directly out of any breach of its obligations under the Trading Rules and Membership Agreement, provided that CROPEX shall use reasonable endeavours to mitigate such costs, claims, damages and expenses without prejudice to its obligations to other Members and its right to protect the integrity of Croatian Day Ahead Market. If CROPEX does not use reasonable endeavours to mitigate such costs, the Member shall not be obliged to indemnify cost which could have been avoided by reasonable endeavours without prejudice to CROPEX's other duties and obligations.

**11.2.** Each Member is obliged to fully indemnify all costs which could arise for CROPEX regarding VAT, customs duties, cross border capacities or other similar giving's for the electricity which was traded on the Croatian Day Ahead Market, as these costs are sole responsibility of the Member in question.

## **12. MARKET INFORMATION SERVICES**

### **12.1. Proprietary Rights to Transaction information**

12.1.1. Whenever a Member provides data in the form of Orders or otherwise to CROPEX via the Day Ahead Web or TTS, such data shall belong to CROPEX. The copyright and all other intellectual property rights or proprietary rights of whatever nature contained in the Transaction Information (including, for the avoidance of doubt, all database rights and similar rights whether or not protected by law) arising from Trading are and shall at all times remain the property of CROPEX. Nothing in this Section 12.1.1. limits CROPEX to freely dispose and use, economically or otherwise, such data and intellectual property or proprietary rights, subject to applicable confidentiality requirements.

### **12.2. Publicity**

12.2.1. CROPEX shall be entitled to use, copy, adapt, sub-license, supply, distribute, publish, sell, assign, transfer, rent, lease, charge or otherwise deal with Transaction Information and other information regarding technical and financial matters, free from any duty of confidentiality to any Member, so long as such information does not identify any individual Member. Members shall have no right of remuneration in relation to such activities.

12.2.2. CROPEX may pass on information to public authorities, Transmission System Operators or Market Operator if so required by Applicable Law or regulation. CROPEX will inform the Member of such provision of information, to the extent it is permitted to do so under Applicable Law or regulation. Such conduct by CROPEX will not in any event be considered a breach of confidentiality or breach of Member's intellectual property rights.

12.2.3. In addition to the provisions of this Section 12.2., CROPEX shall be entitled to disclose and publish information as set out in the Market Conduct Rules or as agreed in the concluded REMIT Data and Reporting Services Agreement.

## **13. COMMUNICATIONS**

**13.1.** Written communications between Members and CROPEX shall be in Croatian or in English.

- 13.2.** Any notice to be given under the Trading Rules and Membership Agreement shall be in writing and shall be delivered or sent by letter or email to CROPEX at the addresses and numbers specified on its website at any time (if addressed to CROPEX) or to the relevant address or telephone number or e-mail address specified in its Trading Agreement or as otherwise changed by confirmed notice to and from CROPEX (if addressed to a Member). CROPEX and Members may communicate via Day Ahead Web in respect of issues that are covered by the functionality of the Day Ahead Web. CROPEX may also communicate generally to Member via the website [www.cropep.hr](http://www.cropep.hr).
- 13.3.** Notices shall be deemed to have been given (in the case of email communication) on the date on which they are validly received by the recipient's service provider or (in the case of other communications) on the date of delivery to the appropriate address.
- 13.4.** CROPEX shall be entitled to act and otherwise rely upon any communication (whether or not in writing) which purports and which CROPEX believes in good faith:
- a.** to be issued by or on behalf of the Member; or
  - b.** to have been approved by an individual who is authorised by that Member, and which (in the case of an electronic communication) satisfies the requirements of any applicable requirements of CROPEX in relation to the security and integrity of information which is transmitted electronically.

## **14. AMENDMENTS**

- 14.1.** CROPEX has the right to amend these Trading Rules.
- 14.2.** CROPEX shall notify the Member about amendments to Trading Rules at least fourteen (14) days before the amendments come into force, by publication on CROPEX's web site and by an e-mail notification with the confirmation of the delivery to the recipient; for avoidance of doubt publication on CROPEX's web site will serve as conclusive proof of the publication of the amendments.
- 14.3.** If the Member does not agree with the amendments, the Member has the right to terminate the Membership Agreement by written notification on termination which has to be delivered to CROPEX within ten (10) days after the amendments to the Trading Rules have been published on CROPEX's website.
- 14.4.** The Member does not have the right to terminate Membership Agreement according to this Section 14. if the amendments to Trading Rules offer the same conditions of membership (i.e. when the amendments to Trading Rules do not create disadvantages to Member in comparison to previous version of the Trading Rules) or when the amendments give the Member more favourable conditions of membership.
- 14.5.** If CROPEX does not receive the Member's written notification on termination of the Membership Agreement within ten (10) days as of the publication of the amendments on CROPEX's web page, it shall be considered that the Member agrees with the proposed amendments to the Trading Rules.
- 14.6.** If the Member validly terminates the Membership Agreement in accordance with this clause, Membership Agreement shall be terminated immediately upon receipt of the termination notification.
- 14.7.** Amendments to the Trading Rules shall come into force fourteen (14) days after their publication on CROPEX's web site.
- 14.8.** Amendments to the templates of the Trading Agreements which are not applicable to Members which have already concluded relevant Trading Agreements (i.e. which do not amend the concluded Trading agreements) are not considered an amendment of Trading Rules in the meaning of this Section 14., and the stipulations of this Section 14. do not apply to such change of templates. CROPEX has the right to amend templates of the Trading Agreements by publishing them on CROPEX's website, and they are applicable for

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all Members entering into relevant Trading Agreements after such templates are published.

- 14.9.** In case of any discrepancies between the English and Croatian language version of any part of this Trading Rules, including the published or concluded Trading Agreements, the English language version shall be amended and modified accordingly to correspond with the Croatian language version of the Trading Rules and published or concluded Trading Agreements. Such amendments and modifications of the English language version shall not be considered an amendment in accordance with this Section 14. and shall not give rise to Member's right to terminate the Membership agreement based on Section 14.3. of these General Terms.

## **15. MISCELLANEOUS**

### **15.1. Transfer of Rights**

- 15.1.1. The rights of a Member under the Trading Rules are not assignable or otherwise transferable without the prior written consent of CROPEX.

### **15.2. Severability**

- 15.2.1. If at any time any provision of the Trading Rules becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of the Trading Rules nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

### **15.3. Non-Waiver of Rights**

- 15.3.1. No failure of a party to exercise, nor any delay on its part in exercising, any of its rights (in whole or in part) under the Trading Rules shall operate as a waiver of the party's rights or remedies upon that or any subsequent occasion.

## **16. GOVERNING LAW AND DISPUTE RESOLUTION**

- 16.1.** These Trading Rules, all Transactions, Settlement and Clearing effected under them, and all contractual and non-contractual obligations arising out of or in connection with them, including all concluded Trading Agreements, shall be governed by and construed in accordance with Croatian law.

- 16.2.** The competent Croatian court in Zagreb shall have exclusive jurisdiction to settle any claim, dispute or difference which may arise out of or in connection with these Trading Rules, Membership Agreement and other Trading Agreements, including any question as to their existence, validity or termination.

- 16.3.** Each Member and CROPEX irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in the competent Croatian court in Zagreb 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 competent Croatian court in Zagreb (or in any appellate court having jurisdiction under the applicable procedural rules) shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction in accordance with the enforcement laws of that jurisdiction.

Zagreb, 01.09.2016.

Director  
Silvio Brkić