

TENDER TERMS AND CONDITIONS

for Sale of Fly Ash No. 2017/1

Name: **Fly Ash Sale from 1 December 2017 to 30 November 2019**

Inviter: **ČEZ Energetické produkty, s.r.o.**

Registered office at: **Hostivice, Komenského 534, postal code 253 01**

Registration court: **Municipal Court in Prague, Section C, File No. 135724**

Company Reg. No.: **28255933**

VAT ID No.: **CZ 28255933**

(hereinafter the "Inviter")

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Mailing address: **ČEZ Energetické produkty, s.r.o.**
attention of Ing. Pavel Donát,
Hostivice, Komenského 534,
postal code 253 01

Praha, 1/8/2017

I. INFORMATION ON THE SUBJECT OF TENDER

1. The subject of the tender is the sale of fly ash offered by the Inviter for the period starting on 1/12/2017 and ending on 30/11/2019, with the option of the Inviter applicable to the period from 1/12/2019 to 30/11/2020. Annex No. 1 hereto contains a list of fly ash sources and estimated fly ash production that the Inviter intends to sell through this tender process. Fly ash means fly ash certified according to EN 450. Annex No. 1 and 4 of these Tender Terms and Conditions will be made available to registered purchasers only (see Article V hereof below).
2. Bids will be evaluated separately for fly ash from brown coal power plants (Mělník 1 power plant, Mělník 3 power plant, Tušimice power plant) and fly ash from hard coal power plants (Dětmarovice power plant). This means that a bid may be successful in the part concerning fly ash from brown coal power plants but unsuccessful for fly ash from hard coal power plants.
3. The Inviter will evaluate tenders using the criteria defined herein and rank the submitted tenders of bids according to the results of the evaluation separately for fly ash from brown coal power plants (i.e. the first result and the first compiled list of bid rankings) and separately for fly ash from hard coal power plants (i.e. the second result and the second compiled list of tender rankings). If the estimated production in a given calendar month is lower than the total quantity required by Tenderers for the calendar month, the tenders will be reduced depending on tender rankings during evaluation. By submitting a tender, the Tenderer consents to its reduction, being able to withdraw their consent within five (5) business day of receiving the Inviter's notice of tender reduction.
4. The subject of tender does not involve bids for fly ash purchases under a different sales system that will be organized separately by the Inviter. The Inviter intends to sell approx. 80% of the production of fly ash from the sources concerned through this tender process and approximately 20% of the production of fly ash from the sources concerned through a separate sales system based on monthly sales (hereinafter "**monthly bidding**"). The Inviter currently assumes that the separate sales system will prefer higher unit prices; this is subject to change).

II. TERMS AND CONDITIONS OF THE TENDER PROCESS

1. The Inviter hereby sets down the terms and conditions for the sale of fly ash (hereinafter the "**Tender Terms and Conditions**" only).

The Tender Terms and Conditions, except for Annex No. 1 and 4, will be published at www.cezep.cz for the duration of the tender.

2. The following Annexes form part of these Tender Terms and Conditions:

Annex 1 – List of Fly Ash Sources and Estimated Production to be Sold through a Tender Process

– this Annex will only be provided to registered purchasers;

Annex 2 – Tender Cover Letter Template;

Annex 3 – Solemn Declaration and Non-disclosure Clause Template;

Annex 4 – Sales Contract Sample

– this annex is provided to registered purchasers only;

Annex 5 – Sample of the required fly ash;

Annex 6 – Registration Application Template

III. TENDERER

1. A Tenderer is a person that submits a bid under the Tender process (hereinafter the “**Tenderer**” only).

IV. SALES CONTRACT

1. Sales Contracts for the period from 1/12/2017 to 30/11/2019 (hereinafter the "**Sales Contract**") are to be concluded between the Inviter, company ČEZ, a.s., registered office Prague 4, Duhová 2/1444, postal code 140 53, IČO: 45274649 (as the parent company of the Inviter) and qualified Tenderers whose bids were evaluated, not fully reduced, who received a notice of a bid reduction from the Inviter, and who did not withdraw their consent for bid reduction within the specified time limit.
2. Sales Contracts shall be concluded in accordance with the contract sample / template in Annex 4 of these Terms and Conditions. Before the conclusion of the Sales Contract, the selected Tenderers must increase the security deposit to CZK 750,000.00 (in words: seven hundred and fifty thousand Czech crowns),
3. The Inviter invites persons interested in purchasing fly ash to register with the Inviter and subsequently submit their tenders to the Inviter.
4. The Tenderer's bid may not deviate from the Terms and Conditions.

V. CONDITIONS OF PARTICIPATION IN THE TENDER PROCESS AND REGISTRATION

1. Any legal entity or regular person 18 years or older with full legal capacity (hereinafter the “**Purchaser**” only) registered with the Inviter may be a Tenderer. A person registered by the Inviter is referred to as the applicant.
2. Registration by the Inviter is conditional upon
 - (i) submitting an application for registration,
 - (ii) proving compliance with qualification requirements as specified in Article VI hereof in the manner defined in Article VIII hereof,
 - (iii) signing a non-disclosure obligation, and
 - (iv) giving security pursuant to Article VII hereof and presenting written proof thereof.

3. Prior to the registration the Purchaser must deliver the following documents to the headquarters of the Inviter:
 - (i) signed application for registration according to the sample/template that forms Annex 6 hereto – the application for registration must be signed by the Purchaser or by a person authorized to act on behalf of the Purchaser; if such authorization is not given by the public register (free of charge) to the Inviter via remote means (hereinafter the “**public register**” only, the Purchaser must submit documents proving the representative’s authorization to act on behalf of the Purchaser,
 - (ii) signed solemn declaration of compliance with qualification requirements as specified in Article VI hereof and non-disclosure clause according to the template that forms Annex 3 hereto – the solemn declaration and non-disclosure obligation must be signed by the Purchaser or a person authorized to act on behalf of the Purchaser; if such authorization is not given by the public register, the Purchaser must submit documents proving the representative’s authorization to act on behalf of the Purchaser. The signature of the Purchaser or the person authorized to act on behalf of the Purchaser must be officially verified, and
 - (iii) proof of security amount payment shall be provided.

Documents must be presented in Czech language except for documents demonstrating the payment of the security amount.

4. The Inviter does not issue any decision on the Inviter’s registering a Purchaser. Within two (2) working days of the receipt of the documents referred to in paragraph 3, the Inviter shall make available to the Purchaser – provided that requirements of the paragraph 2 have been met, the Annex 1 of these Terms and Conditions (List of sources of the fly ash and the estimated production volumes reserved for sale) and also Annex 4) attached to these Terms and Conditions (Sales Contract sample), provided that the Inviter does not proceed in accordance with Article VIII (2) of these Terms and Conditions. By making the Annex 1 and 4 of these Terms and Conditions available to the Purchaser, the Purchaser becomes registered (the Purchaser becomes an interested Tenderer).
5. Only those Tenderers that have proven compliance with qualification requirements pursuant to Article VI hereof and have paid the security amount pursuant to Article VII hereof will have their bids evaluated.

VI. QUALIFICATION REQUIREMENTS

1. The Purchaser will meet qualification requirements for participation in the tender process if they prove that:
 - (i) they have not been lawfully convicted of a crime committed for the benefit of an organized criminal group, the crime of participating in an organized criminal group, money laundering, accessoryship, receiving or giving a bribe, indirect bribery, fraud, or loan fraud, including cases of preparation of, attempt at, or complicity in such a crime, or the conviction of such a crime has been expunged; if the Purchaser is a legal entity, this requirement must be met by both the legal

entity and its statutory governing body and/or every member thereof, and if the Purchaser's statutory body and/or a member thereof is a legal entity, this requirement must be met by both the legal entity and the statutory governing body of the legal entity and/or every member thereof; if the tender is submitted by a foreign legal entity through its organizational unit, the requirement herein must be met by the above as well as by the head of the organizational unit; this qualification requirement must be met by the Purchaser in relation to both the territory of the Czech Republic and the Purchaser's country of registered office, place of business, or residence;

- (ii) they have not been lawfully convicted of a crime whose subject is related to the Purchaser's purpose under special laws, or the conviction of such a crime has been expunged; if the Purchaser is a legal entity, this condition must be met by both the legal entity and its statutory governing body and/or every member thereof, and if the Purchaser's statutory body and/or a member thereof is a legal entity, this requirement must be met by both the legal entity and the statutory governing body of the legal entity and/or every member thereof; if the tender is submitted by a foreign legal entity through its organizational unit, the requirement herein must be met by the above as well as by the head of the organizational unit; this qualification requirement must be met by the Purchaser in relation to both the territory of the Czech Republic and the Purchaser's country of registered office, place of business, or residence;
- (iii) have not accomplished the elements of unfair competition in the form of bribery under special law in the past 3 years;
- (iv) their assets are not and have not been in the past 3 years subject to insolvency proceedings in which a bankruptcy ruling was issued or the insolvency petition was dismissed due to the estate being insufficient to cover the cost of the insolvency proceedings, or the bankruptcy proceedings were suspended due to the estate being absolutely insufficient, or receivership was introduced under special laws;
- (v) are not in liquidation;
- (vi) have no tax arrears registered in tax records in either the Czech Republic or the Purchaser's country of registered office, place of business, or residence;
- (vii) have no arrears of public health insurance contributions or late payment fees in either the Czech Republic or the Purchaser's country of registered office, place of business, or residence;
- (viii) have no arrears of social security contributions or late payment fees or state labor policy contributions in either the Czech Republic or the Purchaser's country of registered office, place of business, or residence; and
- (ix) is and will be, at least until 31 December 2019, financially and economically capable of paying their debts to the Inviter.

VII. SECURITY DEPOSIT

1. The Inviter requires that only a Purchaser may become an interested Tenderer who has provided the total of CZK 500,000.00 (five hundred thousand Czech crowns) (hereinafter the “**Security** amount” only) to secure the fulfilment of obligations arising from the participation in the tender.
2. The following details are to be used for providing the Security deposit:
 - banking information: Komerční banka, a.s.
 - account No.: 35-6584310287/0100
 - variable code: Purchaser’s Company reg. No.
 - specific code: not applicable
3. The Security must be credited to the Inviter’s account not later than at the moment of registration. The Purchaser will submit proof that the required amount was deducted from their account to the credit of the Inviter’s account together with the application for registration and specify the number of the account to which the Security is to be returned in the application for registration.
4. The Inviter will return the provided Security amount to the Purchaser, if
 - (i) the interested applicant does not submit the bid,
 - (ii) the Tenderer’s bid is not evaluated due to non-compliance with these Tender Terms and Conditions,
 - (iii) the Inviter has notified the Applicant that his offer has been reduced to the full extent (the bid was unsuccessful), and the Inviter does not re-evaluate the bid or reduce the bid within (10) days due to disagreement of another Tenderer with the reduction of the bid,
 - (iv) the Tenderer recalls his consent to reduce the bid within the established time,
 - (v) the Inviter was expelled from the tender, or
 - (vi) the tender process is cancelled.
5. If the Tenderer cancelled or changed the bid in violation of the law or these Terms and Conditions, or if he refused to conclude the Sales Contract or if the Tenderer failed to provide the Inviter with proper cooperation necessary for the conclusion of the Sales Contract, the Inviter is entitled to receive the entire security amount including the interest fees charged by the monetary institution.
6. The Inviter further requests that Tenderers with whom the Sales Contract is to be concluded, increase the security up to the amount specified in Article IV (2) of these Terms and Conditions before the conclusion of the Sales Contract.
7. The security amount deposited by the Tenderers with whom the Inviter will conclude the Sales Contract shall be gradually included in proforma invoices issued by the Inviter before each calendar month. The Inviter is also entitled to set off his claim for the payment of the contractual penalty by the Tenderer with whom the Inviter has entered into the Sales Contract against the claim of the Tenderer to receive the security amount back.

VIII. PROVING COMPLIANCE WITH QUALIFICATION REQUIREMENTS

1. The Purchaser will prove compliance with qualification requirements by submitting a signed solemn declaration according to the template that forms Annex 3 hereto.
2. If the Inviter is having doubts about the correctness or veracity of the declaration, the Inviter may request the Purchaser to provide additional documents to prove compliance with qualification requirements. If the Purchaser fails to provide such documents within the specified time, the Inviter may refuse to register the Purchaser.

IX. CONDITIONS AND REQUIREMENTS FOR TENDER PREPARATION

1. The Tenderer must submit a tender in full compliance with these Tender Terms and Conditions. The tender must be prepared in writing.
2. The bid is to be submitted in a sealed envelope bearing the Tenderer's identification (name, registered office / place of residence, company registration number / personal identification number, phone number, email, and fax number, if available), and shall be labeled "**Fly Ash Sale 1/12/2017 and 30/11/ 2019 – DO NOT OPEN**", and shall have an adhesive closing flap with the Tenderer's stamp or signatures of persons authorized to act on behalf of the Tenderer on it.
3. If delivered in person, the envelope will be marked with the date and time of receipt in the deliverer's presence. When handing over the envelope, the deliverer will be given a receipt bearing the information specified in the previous sentence. Each Tenderer may deliver only one envelope containing one bid only. Multiple tender alternatives are not permissible.
4. The tender must include:
 - (i) tender cover letter with information specified in Annex 2 hereto;
 - (ii) fly ash demand with information specified in Annex 5 hereto. The bid must respect information about estimated fly ash production from individual sources reserved to be sold under this tender process, as specified in Annex 1 hereto.
5. The tender, i.e. all documents it consists of, must be presented in the Czech language. Documents in a foreign language must be presented together with an officially certified Czech translation.
6. The Inviter recommends binding the individual sheets of the tender so that tempering with the tender is prevented. A suitable form is binding with a string that passes through every sheet of the tender and ends on the last sheet of the tender, where it is pasted over with an adhesive paper label with the Tenderer's stamp and/or signatures of persons authorized to act on behalf of or for the Tenderer.
7. The Inviter recommends to those interested applicants to list the factories / plants where the fly ash will be processed each calendar month, provided that the Inviter and ČEZ, a.s. enter into the Sales Contract. That is due to the fulfilment of the conditions of the liberation reason to pay a contractual fine upon failure to take the fly ash (see Article IV of the Sales Contract).

X. TIME FOR TENDER SUBMISSION AND METHOD OF SUBMISSION

1. The time for bid submission starts on the date of invitation to Tender which will be published at www.cezep.cz and ends on 4/9/2017 at 10 AM. Bids may be delivered in person during the time for tender submission, every business day from 9:00 a.m. to 4:00 p.m., to the Inviter's registered office at: Hostivice, Komenského 534, postal code 253 01. Tenders may also be delivered to the same address by means of a postal license holder.
2. Tenders delivered to the Inviter after the specified time will not be evaluated by the Inviter.
3. Once submitted, the tender may not be revoked, modified, or amended, except where modification or amendment is requested by the Inviter.
4. By submitting their tender for the tender process, the Tenderer expressly consents to and accepts the Tender Terms and Conditions, most importantly the provisions concerning the Tenderer's obligations in the tender process and the provisions concerning the handling of Security. By submitting their tender for the tender process, the Tenderer furthermore expressly consents to the information in their tender being made available to other Tenderers after evaluation at the Inviter's discretion.
5. The Tenderer is bound by their bid for ninety (90) days following the end date for the bid submission.

XI. OPENING OF ENVELOPES WITH BIDS; AMENDMENT AND EXPLANATION

1. Envelopes with bids will be opened after the expiration of the time for the bid submission on 4/9/2017 at 11 AM. The opening of envelopes is not public and will take place at the Inviter's registered office. One representative of each Tenderer may be present at the opening of envelopes.
2. The Inviter will check the bids for completeness and compliance with the Tender Terms and Conditions and draw up a record of the check.
3. If the bid is ambiguous or insufficient with regard to its contents, or if it is contradictory, or in order to remove errors in the bid, the Inviter may request the Tenderer to provide a written explanation or submit additional documents to be contained in the bid. In the request, the Inviter will state what the Inviter considers to be the ambiguities, insufficiency, or contradiction in the tender to be explained by the Tenderer or what additional documents should be submitted by the Tenderer. The Inviter's request within the meaning of the previous sentence will be used where such explanation or amendment of the tender is not of such a nature as to affect the evaluation of the tender. If the Tenderer fails to deliver the explanation or the missing documents to the Inviter within three (3) business days, unless a longer time is specified by the Inviter in view of the nature of the explanation or the nature of the missing documents, the tender will be excluded from evaluation.
4. The Inviter may require the Tenderer who is a legal entity to produce documents proving who is the actual owner as required by the Act on Certain Measures Against

the Legalization of Proceeds from Crime and the Financing of Terrorism or documents demonstrating to which group the Tenderer belongs to (see Article XIII (3)).

5. The Inviter may invite the Tenderer to a meeting in order to explain the bid. The Inviter will deliver the invitation to the meeting to the Tenderer at least three (3) business days before the meeting date, unless otherwise agreed with the Tenderer.

XII. OTHER BID SUBMISSION ROUNDS AND BID NEGOTIATIONS

1. Once the contents of the bids is known, or after the bids that have met the conditions for conducting the evaluation have been evaluated, the Inviter may announce a new round of bidding. The Inviter may do so in particular if the Inviter considers the submitted bids unsatisfactory. In the request the Inviter may advise the Tenderer of content shortcomings in the Tenderer's original bid.
2. When announcing the new round of bidding, the Inviter shall set a new bid submission deadline. The new round is only announced to Tenderers who have submitted bids in one of the previous rounds.
3. A bid submitted in the new round (hereinafter "**new bid**") must meet the requirements set by the Inviter in the announcement of the new round, e.g. price increase, and cannot be less favourable for the Inviter than the original bid. The Inviter recommends to Tenderers to indicate on the envelope with the new bid that it is a bid submitted for the new round and what type of round it is.
4. A new bid that meets the requirements set by the Inviter for the new round of bidding and complies with these Terms and Conditions replaces the original bid of the same Tenderer. If the Tenderer does not submit a new bid or if the new bid does not replace the original bid, the original bid of the Tenderer remains valid and the Tenderer is bound by this bid.
5. Instead of announcing a new round of bidding the Inviter may invite all Tenderers who submitted their bids in time to tender negotiations. In the invitation to negotiations, the Inviter will specify the manner and principles of negotiations with the Tenderers (e.g. whether the negotiations will be held jointly with all Tenderers or separately with each Tenderer, what matter will be negotiated, rules forbid changing during negotiations). The Inviter will draw up a protocol of each negotiation. When the protocol is signed by the Inviter and the Tenderer, arrangements between the Tenderer and the Inviter specified in the record replace differing contents of the original bid.
6. The Inviter may announce a new round of bidding and/or invite Tenderers to repeated meetings to discuss bids.

XIII. BID EVALUATION

1. A bid will be excluded from evaluation in cases set down herein.
2. The Inviter is entitled to disregard partially or entirely any inadequate bids. Upon request of the Inviter the Tenderer is obligated to justify the offered purchase price if the Inviter considers the price too high and present documents required by the Inviter. Should the Tenderer fail to sufficiently justify the amount of the purchase price or if the Tenderer fails to present the required document the Inviter is entitled to disregard the bid submitted by the Tenderer. Tenderers whose tenders will not be evaluated will be notified by the Inviter.
3. Should persons who make up a group of companies in line with Section 79 of the Corporate Act (or similar foreign legal modifications; hereinafter the “**Group**” only) submit several bids (regardless of whether these persons submitted several bids together, or if each bid was submitted by individual person), the Inviter is entitled to select the best bid from all submitted bids after proper evaluation. Should different bids of the same concern be evaluated best in a certain and individual sections only (for example the first bid receives the highest score in terms of fly ash from brown coal power plant and the second bid for fly ash from hard coal power plant), then only the section of the bid submitted under the same Group which was evaluated best will be taken into consideration.
4. The proposed purchase price of fly ash must be quoted in the Czech currency in the tender.
5. Tenders will be evaluated separately for fly ash from brown coal power plants and separately for fly ash from hard coal power plants on the basis of two evaluation criteria:
 - a) total purchase price offered;
 - b) bonus.
6. The total purchase price offered is the total price for the total quantity of fly ash demanded by the Tenderer during the period from 1 December 2017 to 30 November 2019. The total purchase price offered will be determined by multiplying the quantity demanded and the unit price offered for the quantity in each calendar month, and the results for all calendar months from December 2017 to November 2019 will be summed for the individual power plants and then summed separately for the brown coal power plants and separately for the hard coal power plants (because only fly ash from hard coal power plants from the Dětmarovice power plant is offered in the tender process, this will be solely the sum of results for this power plant in the aforementioned calendar months).
7. Bonus calculation rules:
 - a) a bonus will only be allocated during the off-season (that is for fly ash delivered in December 2017, January 2018, February 2018, December 2018, January 2019 and February 2019, hereinafter collectively referred to as the “**off-season**”).

- b) The following formula is defined for the calculation of a bonus for fly ash produced by hard coal power plants:

$$B = (100 \times Q) - [(LB/t) \times (Q)]$$

- c) The following formula is defined for the calculation of a bonus for fly ash produced by brown coal power plants:

$$B = (50 \times Q) - [(LB/t) \times (Q)]$$

- d) For both formulas listed under (b) and (c):

B - bonus in CZK
Q - fly ash quantity (tons)
LB/t - logistic bonus (transportation allowance) in CZK per ton, accepted and taken by the Tenderer up to the limit specified by the Inviter

- e) The logistic bonus is specified by the Tenderer on their own, in the range of CZK 0 to CZK 50 per ton for fly ash from brown coal power plants and in the range of CZK 0 to CZK 100 per ton for fly ash from hard coal power plants. The logistic bonus represents a contribution of the Inviter for fly ash taken during off-season.

8. The bonus has been specified only for the purpose of evaluating bids and does not constitute any right of the Tenderer to receive a discount for the taken fly ash or a payment from the Inviter.

9. Tenders will be ranked according to the sum of the two evaluation criteria, i.e. the total purchase price offered and the bonus. If multiple tenders have an identical ranking, any of the following options will be used at the Inviter's discretion:

- a) identical ranking of bids will be preserved and the estimated production will be divided evenly between the identically ranked bids [if there are two bids ranking first, each of the bid will be assigned 40% of the production specified in Annex 1 using the procedure in Article XIV (2) because both these bids are considered as bids which share the first and second place; bid on the third place (i.e. the bid ranking behind the two aforementioned bids) will receive 20% of the production specified in Annex 1 in line with the procedure described in Article XIV (2). If there are two bids ranking second, each of the tenders will be assigned 25% of the production specified in Annex 1 using the procedure in Article XIV(2) because both bids share the second and third place. If there are two bids on third place, each of the bids will be assigned 10% of the production specified in Annex 1 using the procedure in Article XIV(2) because both bids share the third place, or

- b) bids will be ranked according to the total quantity of fly ash demanded by the Tenderers for the off-season (hereinafter the "**secondary criterion**"). If multiple bids still have an identical ranking after the secondary criterion is used, any of the following options will be used at the Inviter's discretion:

- (i.) identical ranking of bids will be preserved and the estimated production will be divided evenly between the identically ranked bids [if there are

two bids ranking first, each of the bid will be assigned 40% of the production specified in Annex 1 using the procedure in Article XIV (2) because both these bids are considered bids which share the first and second place; bid on the third place (i.e. the bid ranking behind the two aforementioned bids) will receive 20% of the production specified in Annex 1 in line with the procedure described in Article XIV (2). If there are two bids ranking second, each of the tenders will be assigned 25% of the production specified in Annex 1 using the procedure in Article XIV(2) because both bids share the second and third place. If there are two bids in third place, each of the bids will be assigned 10% of the production specified in Annex 1 using the procedure in Article XIV(2) because both bids share the third place, or

(ii.) such bids will be ranked according to the total quantity of fly ash demanded by the Tenderers for the period from December 2017 to November 2019 (the “**tertiary criterion**”). If multiple bids still have an identical ranking even after the tertiary criterion is applied, the following options will be used at the Inviter’s discretion:

1. identical ranking of bids will be preserved and the estimated production will be divided evenly between the identically ranked bids [if there are two bids ranking first, each of the bid will be assigned 40% of the production specified in Annex 1 using the procedure in Article XIV (2) because both these bids are considered as bids which share the first and second place; bid on the third place (i.e. the bid ranking behind the two aforementioned bids) will receive 20% of the production specified in Annex 1 in line with the procedure described in Article XIV (2). If there are two bids ranking second, each of the tenders will be assigned 25% of the production specified in Annex 1 using the procedure in Article XIV(2) because both bids share the second and third place. If there are two bids on third place, each of the bids will be assigned 10% of the production specified in Annex 1 using the procedure in Article XIV(2) because both bids share the third place, or
2. the Inviter at his own discretion may invite Tenderers to submit reassessed bids or determine the order of such bids by drawing.

10. Since the evaluation will be carried out separately for fly ash from brown coal power plants and separately for fly ash from hard coal power plants, two ranking lists will be compiled:

- a) the first ranking list will be compiled for fly ash from brown coal power plants (Mělník 1 power plant, Mělník 3 power plant, Tušimice power plant),
- b) the second ranking list will be compiled for fly ash from hard coal power plants (Dětmarovice power plant).

XIV. BID REDUCTION

1. If the total quantity required by Tenderers in bids that are not excluded from tender evaluation from a source in the given calendar month exceeds the estimated production specified in Annex 1 hereto, the tenders will be reduced in the manner described in paragraphs 2 through 4. By submitting a tender, the Tenderer consents to tender reduction; this consent may be withdrawn within five (5) business day of the Inviter's notice of tender reduction pursuant to Article XV(1).
2. The estimated production specified in Annex 1 hereto will be distributed in a given calendar month as follows:
 - a) the bid that ranks first will be assigned 50% of the production specified in Annex 1 but no more than the quantity specified in the tender,
 - b) the bid that ranks second will be assigned 30% of the production specified in Annex No. 1 but no more than the quantity specified in the bid.
 - c) the bid that ranks third will be assigned 20% of the production specified in Annex No. 1 but no more than the quantity specified in the bid.
3. If there is some of the production specified in Annex 1 left after distribution according to paragraph 2, the quantity of production assigned to the tender that ranks first according to paragraph 2 will be increased, up to the quantity specified in the tender. If there is still some of the production specified in Annex 1 left afterward, the quantities assigned to other tenders will be increased similarly, in order of tender rankings.
4. To the extent that tenders cannot be satisfied using the procedure of paragraphs 2 and 3, the tenders will be reduced.

XV. NOTICE OF BID REDUCTION, RECALL OF CONSENT, CONCLUSION OF SALES CONTRACT

1. After reducing tenders according to Article XIV hereof, the Inviter will notify every Tenderer whose tender was evaluated of the extent of reduction.
2. A Tenderer may withdraw their consent to tender reduction within five (5) business days of receiving the notice according to paragraph 1. If a Tenderer withdraws their consent to tender reduction, the Tenderer's tender is disregarded in its part concerning fly ash from the power plant that was subject to reduction by the Inviter; if the Tenderer's tender concerns fly ash from multiple power plants, the quantity of fly ash from each power plant is reduced separately and the Tenderer may also separately withdraw their consent concerning fly ash from each power plant. In this case, the Inviter may, based on the given situation, evaluate the bids again, build a new order of bids and/or make new reductions.
3. After the expiration of the period during which the consent to reduction may be recalled, the Inviter and ČEZ, a. s., will conclude the Sales Contract with the selected tenders. The selected Tenderer is obliged to provide the Inviter and ČEZ, a. s., with the required assistance necessary to conclude the Sales Contract A successful Tenderer is considered the selected Tenderer whose bid has not been reduced within the full

extent and who has not terminated the consent for bid reduction within the specified time limit.

XVI. CHANGE IN TENDER TERMS AND CONDITIONS

1. If the Inviter uses their right to change the Tender Terms and Conditions, such changes will be made by the Inviter by issuing an amendment to the Tender Terms and Conditions.
2. Each amendment will be identified as such in its name, which will also include the number of the amendment. The Inviter will publish all amendments to the Tender Terms and Conditions in the same manner as they published the Tender Terms and Conditions for the public tender process.
3. The Tender Terms and Conditions are to be construed as amended by subsequent amendments and persons preparing tenders must comply with such amendments. If individual amendments contradict one another, the amendment with the higher number is to take priority.

XVII. RESERVED RIGHTS OF THE INVITER

1. The Inviter may change, amend, or revoke the Tender Terms and Conditions during the tender process.
2. The Inviter may reject all submitted tenders or cancel the tender process at any time without giving a reason. The Inviter's decision to cancel the tender process will be:
 - (i) notified in the manner specified in Article II(1) hereof before the end of the time for bid submission;
 - (ii) sent to Tenderers via registered mail with a return receipt after the time for the bid submission expired.
3. The Inviter reserves the right not to return submitted bids to Tenderers.
4. The Inviter reserves the right to verify information contained in the Tenderer's bid with third parties and the Tenderer must provide the Inviter with all necessary cooperation in this respect.
5. The Inviter may exclude from the tender at any time
 - a) a Tenderer who failed to present the documents required by the Inviter or who presented documents that do not comply with the Terms and Conditions,
 - b) a Tenderer who did not explain or justify the bid upon request of the Inviter,
 - c) a Tenderer whose bid was not evaluated,
 - d) a Tenderer whose bid the Inviter will not take into consideration,
 - e) a Tenderer who has withdrawn his approval to reduce the bid,
 - f) a Tenderer who has refused to conclude a Sales Contract or failed to provide the assistance necessary for the conclusion of a Sales Contract,

- g) a Tenderer where the Inviter has reasonable doubts about the Tenderer's ability to fulfill the Sales Contract; such doubts may come into existence if the Tenderer has committed serious long-term misconducts during the last three years before the beginning of the tender, or after the beginning of the tender, related to contractual duties concluded with the Inviter or with another member of the ČEZ Group or made serious professional mistakes which challenge the credibility of the Tenderer.

XVIII. OPTIONAL RIGHTS OF THE INVITER

1. The Inviter would like to advise any potential purchasers of the fly ash that if the tender is not completed before 31 October 2019 which deals with **the period from 1/12/2019 to 30/11/2020** for the sale of fly ash from **the sources listed in Annex 1**, the fly ash from these sources may be allocated during the period from 1/12/2019 to 30/11/2020 based on the order of the submitted bids while applying similar ash distribution rules even though the bids in this tender were submitted only for the production of fly ash between 1/12/2017 and 30/11/2019 whereas the Inviter will use the unit prices of the Tenderers submitted for this tender.
2. The Inviter warns any potential purchasers that between 1/12/2017 and 30/11/2019, and possibly also between 1/12/2019 and 30/11/2020, **the fly ash may also be sold from other sources**, such as the Prunéřov power plant, Ledvice power plant and Počerady power plant (providing that the Inviter utilizes the procedure under paragraph 1). In such a case, the Inviter may at his own discretion
 - a) allocate the fly ash from these sources until 30/11/2019 or possibly until 30/11/2020, provided that the Inviter uses the procedure under paragraph 1, on the basis of the order of Tenderers' bids while applying similar ash distribution rules, even though the bids under this tender were submitted only for fly ash produced between 1/12/2017 and 30/11/2019 and from sources listed in Annex 1, whereas the Inviter will use unit prices of the Tenderers submitted under this tender,
 - b) call a new tender for the sale of fly ash from these sources, or possibly, for portion of the year until 30/11,
 - c) use fly ash from these sources in the monthly tender, or
 - d) decide to apply different procedure which best suits the interests of the Inviter.
3. The Inviter would like to notify any potential purchasers that between 1/12/2017 and 30/11/2019, and possibly also between 1/12/2019 and 30/11/2020, there may be a situation where there will be **a surplus of the fly ash for which purchasers will need to be found immediately** (providing that the Inviter utilizes the procedure under paragraph 1 or 2). In such scenario the Inviter may allocate the fly ash based on the order of the bids submitted for this tender while applying similar ash distribution rules, even though the bids under this tender were submitted only for fly ash produced between 1/12/2017 and 30/11/2019 and from sources listed in Annex 1.

XIX. FINAL AND COMMON PROVISIONS

1. Where the Tender Terms and Conditions enable or entitle the Inviter to carry out a certain legal act, this may not be interpreted as the Inviter's obligation to carry out such a legal act. For example, if the Tender Terms and Conditions stipulate that the Inviter may request a Tenderer to remedy tender shortcomings, the Inviter is not obliged to make such a request.
2. A request for additional information concerning the tender process may be delivered to the Inviter, for the attention of the contact person, no later than five (5) business days before the expiration of the time for tender submission. Such additional information will be published in the same manner as these Tender Terms and Conditions.
3. Any communication concerning the tender procedure must be solely with the Inviter's contact person identified on the title page of these Tender Terms and Conditions.
4. No provision herein may be interpreted contrary to the purpose of the tender process or the principles the tender process is based on. The interpretation of any provision herein may not result in harm to the Inviter's legitimate interests. The Purchaser may not abuse any provision herein to gain unjust advantage or derive unjust detriment to the Inviter or another Purchaser.

ČEZ Energetické produkty, s.r.o.
Ing. Pavel Donát,
Company Executive Head

ČEZ Energetické produkty, s.r.o.
Mgr. Ing. Lubomír Kučera,
Company Executive Head

Annexes:

- Annex 1 – List of Fly Ash Sources and Estimated Production to be Sold through a Tender Process,
 - will be made available to registered purchasers only
- Annex 2 – Tender Cover Letter Template
- Annex 3 – Solemn Declaration and Non-disclosure Clause Template
- Annex 4 – Sales Contract Template
 - will be made available to registered purchasers only
- Annex 5 – Fly Ash Demand Template
- Annex 6 – Registration Application Template