

Consortium Agreement No. ...

"Electronic Volume Converters 2015-2017"

Entered into in accordance with Section 2, paragraph 9 of the Public Procurement Act (137/2006), as in effect (hereinafter referred to as the "PPA"), and Section 1746, paragraph 2 et seq. of the Civil Code (89/2012)

I.

Contracting Parties

RWE GasNet, s.r.o.

Registered office: Klíšská 940, 401 17 Ústí nad Labem
Represented by: Miloslav Zaur, Chairman of the Executive Directors
Thomas Merker, Executive Director
Identification No.: 27295567
VAT No.: CZ27295567
Bank details: Československá obchodní banka, a.s.
Account number: 17722413/0300
Registered under Section C, File 23083 in the Commercial Register maintained by the Ústí nad Labem Regional Court

(Hereinafter referred to as "**RWE GasNet, s.r.o.**")

and

RWE Distribuční služby, s.r.o.

Registered office: Plynárenská 499/1, 657 02 Brno
Represented by: Jan Valenta, Chairman of the Executive Directors
Dušan Malý, Executive Director
Identification No.: 27935311
VAT No.: CZ27935311
Bank details: Československá obchodní banka, a.s.
Account number: 17837923/0300
Registered under Section C, File 57165 in the Commercial Register maintained by the Brno Regional Court

(Hereinafter referred to as "**RWE Distribuční služby, s.r.o.**")

(Hereinafter also referred to jointly as the "Consortium Members")

II.

Purpose of this Agreement

The Consortium Members, where RWE GasNet, s.r.o. has the status of a sectorial contracting entity within the meaning of Section 2, paragraph 6 of the PPA, are associated in a Consortium of contracting entities, which is not a legal entity pursuant to Section 2, paragraph 9 of the PPA, for the purposes of proceeding jointly in entering into a framework agreement within the meaning of Section 11 of the PPA for the performance of a public contract titled, "Gas Volume Converters 2015-2017", where the subject matter shall be the supply of gas volume converters (hereinafter referred to as the "Public Contract"). To fulfill the purpose set forth in this paragraph, the Consortium Members undertake to work together in accordance with the rules set forth under this Agreement.

III.

Specification of the Public Contract

1. The subject of the Public Contract is the procurement of gas volume converters for the Consortium Members.
2. The subject of the Public Contract shall be specified in detail in the Specifications for the Public Contract and in annexes thereto.
3. Because the value of the Public Contract is expected to exceed the financial limit for public supply contracts that applies to sectorial suppliers as per Section 2 paragraph 9 of the PPA, the contract award process shall conform to the applicable provisions of the PPA.

IV.

Consortium and the Consortium Representative

1. The Consortium Members have agreed on the following name of the Consortium: "Electronic Volume Converters 2015-2017".
2. The Consortium shall have its center of operations at the registered office of RWE GasNet, s.r.o. specified in the heading of this Agreement.
3. Unless otherwise specified hereinafter, authorized to carry out any and all actions, legal acts, and activities related to the award of framework agreements and specific contracts on behalf of the Consortium pursuant to this Agreement shall be:
RWE GasNet, s.r.o.
Registered office: Klíšská 940, 401 17 Ústí nad Labem
Represented by: Miloslav Zaur, Chairman of the Executive Directors
Thomas Merker, Executive Director
Identification No. 27295567
VAT No. CZ27295567
Bank details: Československá obchodní banka, a.s.
Account number: 17722413/0300
Registered under Section C, File 23083 in the Commercial Register maintained by the Ústí nad Labem Regional Court
4. Where applicable, the Consortium Representative shall be authorized to act on behalf of the Consortium Members and to complete any and all legal acts vis-à-vis the supervisory authority during a review of the Public Contract pursuant to this Agreement, always subject to the condition that written approval is granted by the Consortium Member's executive directors. The Consortium Representative may appoint an attorney to act on its behalf.
5. The Consortium Representative shall be liable for any and all legal acts completed as part

of the contract award process in accordance with the PPA, without prejudice to the Consortium Representative's right to claim compensation for damage from a Consortium Member that violates duties to which the same is subject under this Agreement.

V.

Duties of RWE GasNet, s.r.o. and of the Consortium Members

1. The rights and duties of the Consortium Representative shall include:
 - a) securing the preparation and drafting of the Specifications, including a draft of the terms of service for the applicable contractual arrangement, both for framework agreements and for contracts entered into on the basis thereof for the performance of the Public Contract,
 - b) initiating and conducting the contract award process in accordance with the PPA; in cases of sub-limit orders where the PPA does not apply and a contract is awarded based on a framework agreement, negotiating the entry into and entering into such a contract for the performance of the Public Contract,
 - c) securing the public announcement of the Public Contract in accordance with the PPA,
 - d) accepting bids submitted by bidders,
 - e) providing bidders with supplementary information where applicable,
 - f) requesting bidders to provide a written explanation regarding unclear parts of a bid,
 - g) recommending the best bid,
 - h) acting on behalf of the Consortium Members in entering into a framework agreement for the subject of the Public Contract,
 - i) canceling the contract award process due to reasons specified in the law (the contract award process may also be cancelled based on a right the contracting entity reserves in the Specifications), and receiving and reviewing bidders' objections against the contracting entity's wrongful actions,
 - j) presenting to a Consortium Member documentation pertaining to the Public Contract at any time upon request,
 - k) delivering to the Consortium Members, following the dissolution of the Consortium as per this Agreement, copies of any and all documents and records pertaining to the award of the Public Contract by means of a framework agreement, to the selection of the best bid, and to the entry into the framework agreement and the contract-award and other selection procedures preceding the same.
2. The Consortium Members shall cooperate with the Consortium Representative during the award of the Public Contract.
3. After being drafted, the Specifications shall be reviewed by all Consortium Members in a consultation procedure conducted in writing.
4. Comments and proposals shall be submitted no later than five days after the review of the Specifications begins. Unless a Consortium Member submits a comment or proposal regarding the Specifications by the above deadline, the Consortium Members shall be deemed to agree with the Specifications.
5. Any comments or proposals made by the individual Consortium Members regarding the Specifications shall be settled by the Consortium Representative no later than within five days after the deadline for submitting comments and proposals as per paragraph 4 of this Article, where information on the settlement of a comment or proposal shall be provided to the applicable Consortium Member immediately. If a Consortium Member disagrees with

the settlement of its comment or proposal and if no other settlement thereof is agreed with the Consortium Representative, where the comment or proposal is designated to be of fundamental importance, the Consortium Member shall have the right to withdraw from the Consortium. In such a case, the Consortium Representative shall immediately inform the other Consortium Members.

6. Without unnecessary delay after the settlement of all comments and proposals submitted by the Consortium Members with regard to the Specification pursuant to paragraph 5 of this Article, the Consortium Representative shall provide the Consortium Members with a copy of the final version of the Specification for their information.

VI.

Evaluation of Bids

1. For the purpose of opening, assessing, and rating bids, and communicating with bidders regarding bids during the contract award process, each of the Consortium Members may delegate in writing two representatives who will be appointed as members of the committee responsible for opening, assessing, and rating bids, as well as two substitutes.
2. Actions taken by the aforesaid committee shall be compliant with the PPA and with internal regulations of the Consortium Members.
3. The opening, assessing, and rating of bids shall take place at the Consortium's center of operations at a time determined by the Consortium Representative, unless otherwise agreed by the Consortium Members. The same shall apply to communication with bidders regarding bids, where applicable.

VII.

Selection of the Best Bid and Entry into Agreement

1. Based on the rating of bids by the assessment committee, the Consortium Representative shall propose the selection of the best bid in accordance with the PPA. Furthermore, the Consortium Representative shall announce the selection of the best bid to the Consortium Members, no later than on the business day following the selection thereof. The selection of the best bid shall be fully in the competence of the executive directors of the Consortium Members.
2. Following the passing of the deadline for the submission of bids, the Consortium Representative shall organize the entry into a framework agreement as well as specific contracts for the performance of the Public Contract entered into on the basis thereof. The Consortium Representative shall inform the individual Consortium Members of the passing of the deadline for the submission of bids in relation to each public contract separately.

VIII.

Communication Method, Venue for Meetings

1. Electronic form is preferred for communication between the Consortium Members, i.e. communication by e-mail.
2. If necessary, personal communication with Consortium Members during the contract award process shall take place at the center of operations of the Consortium Representative, unless the Parties agree otherwise.

IX.

Contract Validity, Dissolution of the Consortium, and Termination of Consortium Membership

1. The Consortium is established for a fixed term, i.e. for the duration of the contract award process for the entry into a framework agreement for the aforesaid Public Contract and for the term of the framework agreement. The Consortium shall cease to exist after the expiration of the framework agreement for the performance of the Public Contract between the Consortium Members, of the one part, and the winning bidder, of the other part, or after the termination of the last Public Contract. The Consortium Members shall continue to be liable jointly and severally for unfulfilled commitments existing at the time the Consortium ceases to exist.
2. A Consortium Member may withdraw from the Consortium, but only until the time when a contract can be entered into with a bidder whose bid is selected as the best bid. A Consortium Member may be expelled from the Consortium due to serious reasons if the other Consortium Members adopt a unanimous resolution to that effect.
3. Where applicable, the validity of this Agreement and the termination of the Consortium, or membership therein, shall have no effect on the liability of the Consortium Representative for specific legal acts completed as part of the contract award process or any claims for compensation for damage related thereto. The Consortium Members agree to only contribute to the Consortium work performed for the purposes of the Consortium. No assets shall be contributed for the purposes of the Consortium.
4. Any assets obtained through joint activities shall become jointly owned property of all Consortium Members, where shares in such assets shall correspond to the shares of the individual Consortium Members in the performance of the anticipated financial volume of the Public Contract. The same shall apply to shares of the Consortium Members in any losses. In case of doubt regarding the size of shares, the shares of all Consortium Members shall be deemed equal.

X.

Common and Miscellaneous Provisions

1. The rights and duties of the Parties shall be subject to the applicable provisions of the PPA and other laws of general application, particularly the applicable provisions of the Civil Code (89/2012).
2. No changes and additions to this Agreement shall be valid unless in the form of a written annex.
3. Legal issues not defined under this Agreement shall be subject to the applicable provisions of the Civil Code.
4. This Agreement is executed in two (2) counterparts. Each Party shall receive one counterpart hereof.

Agreement Registration Number: _____

In on 2015

In on 2015

RWE GasNet, s.r.o.

RWE Distribuční služby, s.r.o.

.....
Miloslav Zaur
Chairman of the Executive Directors

.....
Jan Valenta
Chairman of the Executive Directors

.....
Thomas Merker
Executive Director

.....
Dušan Malý
Executive Director