



# **Auction Rules**

for the  
**Allocation of capacities**  
on the  
interconnection congestion  
between the  
control areas  
of  
**CEPS, a.s. (“CEPS”)**  
and  
**VERBUND-Austrian Power Grid AG (“APG”)**

Version 1.00

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## PREAMBLE

The demand for capacity at the Interconnection between APG and CEPS is usually much higher than the ATC. In order to obtain maximum transparency in the allocation of the ATC and to avoid discrimination in the ATC allocation process, auctions shall be held. The Auction Rules are construed in accordance with the regulations set out by European law, in particular by the EU-Regulation, in accordance with Austrian, Czech and European law and in accordance with regulations issued by the Austrian and the Czech Regulatory Authorities. In order to correspond to these legal requirements the auction covers the reservation of the ATC. The auctioning of the ATC reservation according to the Auction Rules aims at providing a transparent method of congestion management. Moreover this document covers also the intraday procedure.

### 1. Definitions / Terms

In these Auction Rules (including any Annexes and Forms) the terms defined in this Article (where appropriate in plural) shall, for all purposes of these Auction Rules have the meanings specified in this Article (unless the context requires otherwise).

**Allocated Capacity:** for yearly and monthly auctions this is the Promised Capacity after fulfilling the payment conditions according these Auction Rules as stated in Article 7 and 8. In case of daily auctions the Auction Participants directly get notified via CEPS of their Allocated Capacity.

**Assigned PTRs:** the capacity gained by the Auction Participant by notification of the Auction results in form of Physical Transmission Rights.

**Auction Office Austria:** the entity executing the yearly and monthly auction procedures under responsibility and liability of APG.

**Auction Participant:** A person and/or an entity identified with a unique EIC Code taking part in the auction procedures or intraday procedure set out in the Auction Rules and submitting to the Auction Rules.

**Auction Price:** the price in EUR/MWh to be paid by Auction Participants receiving a reservation of capacity in case the total amount of the requested reservation of network capacity exceeds the ATC.

**Auction Rules:** the regulations set out in this document applicable to the allocation of the reservation of capacities at the transmission interconnections between the control areas of APG and CEPS, including General Rules for the Auctioning of the Reservation of Transmission Capacities and Specific Rules for the Yearly, Monthly and Daily Auctions of the Reservation of Transmission Capacities and describing the procedure applied to the Yearly, Monthly and Daily auctions and the intraday procedure.

**Available Transmission Capacity (“ATC”):** the part of the NTC that remains available, after each phase of the allocation procedure, for further commercial activity and which shall be offered in the yearly, monthly and daily auction procedures.

**Bid:** is an offer by an Auction Participant to purchase rights to use capacity submitted in an auction pursuant to and in compliance with these Auction Rules; such an offer consists of two values per product (capacity per direction): a Capacity in MW and a Bid Price in Euros per MWh.

**Bid Price:** the highest price which an Auction Participant is willing to pay for 1 MWh of Capacity. He must be prepared to pay this Bid Price.

**Beneficiary:** an Auction Participant that receives Allocated Capacity as a result of a Transfer.

**Capacity:** cross-border transmission capacity in MW.



**Capacity Auction System:** web based electronic cross border capacity allocation trade portal, provided and operated by Auction Office Austria under responsibility and liability of APG for yearly and monthly auctions.

**CEPS, a.s. (“CEPS”):** with registered office in 101 52 Praha 10, Elektrarenska 774/2, Czech Republic and incorporated in the Commercial Register kept by the Municipal Court in Prague, Section B, Entry 5597 with the Company Identification No. 25702556: The Czech Transmission System Operator responsible and liable for the handling of the daily auction procedures and intraday procedure.

**Curtailement:** is the reduction of Capacity in emergency situations where APG and CEPS must act in an expeditious manner. Curtailment of Allocated Capacity is compensated according to Annex 5 of Auction Rules.

**Daily ATC:** is a part of the ATC which is offered to the Auction Participants for daily auctions.

**Damas ePortal:** electronic web-based trade portal operated by CEPS for daily auctions (<http://market.ceps.cz>).

**EIC-Code:** ETSO identification code serving to clear the identification of Auction Participants in a cross-border trade (see <http://www.etso-net.org/activities/edi/eic/cds/area.htm>).

**ETSO (“European Transmission System Operators”):** an International Association with membership of European Transmission System Operators with the aim to harmonise network access and conditions for usage, especially for cross border electricity trade.

**EU-Regulation:** The English version of the Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity as valid on the day of issuing of the Auction Rules.

**Fill or Kill Order:** orders, submitted in yearly or monthly auction, for which the Auction Participant wants to buy only exactly requested amount of Capacity.

**Force majeure:** operational conditions and/or events and/or circumstances which are beyond the reasonable control of APG and/or CEPS, and which cannot be prevented or overcome with reasonable foresight and diligence, such as, but not limited to, international superimposed Loop Flows, if APG and/or CEPS are only able to counteract them by endangering the security of supply, and/or which cannot be solved by measures which are from a technical, financial and/or economic point of view reasonably possible for APG and/or CEPS.

**Interconnection:** a single and/or double circuit lines between the Austrian and Czech transmission system which connects the control areas of APG and CEPS synchronously. In the year 2008 there are two lines, the first operated at the voltage 220kV (double circuit) between the substation Bisamberg and the substation Sokolnice and the second operated at the voltage 400kV (double circuit) between the substation Dürnrrohr and the substation Slavetice.

**Loop Flow:** the difference between the exchange programs and the physical flows at the transmission interconnections.

**Maximum ATC:** is part of ATC which is at maximum available to the Auction Participants in Intraday procedure. See Article 6.6., Point 2 and 3, Letter h).

**Monthly ATC:** is a part of the ATC which is offered to the Auction Participants for monthly auctions.

**Net Transfer Capacity (“NTC”):** the maximum exchange program between two control areas compatible with security standards applicable in both areas and taking into account the technical uncertainties on future network conditions.

**PTR Holder:** User that has obtained Assigned PTR in the Auction or via Secondary Market.

**Promised Capacity:** the Capacity that the Auction Participant gains by notification of the Auction results.

**Request:** in the intraday procedure, a request is submitted for a specific session and cross-border interconnection as well as direction. A request comprises four values of requested transmission, each for one hour as part of the session.

**Resale of Allocated Capacity:** mechanism set forth in Article 10.2 by which an Auction Participant may resale its rights connected to its Allocated Capacity back to TSOs in exchange for compensation.

**Reservation Period:** – the period for which the Yearly ATC or the Monthly ATCs are offered.

**Reservation Subperiod:** is a part of Reservation Period in which the Available Transmission Capacity, offered for the Reservation Period, cannot be guaranteed due to planned maintenance. In such Reservation Subperiod the Reserved Capacities are proportionally reduced to the amount of the announced reduced ATC. The duration of Reservation Subperiod(s) and the reduced ATC(s) for the relevant Reservation Subperiod(s) are announced at the date of publication of ATC for the relevant auction. Reservation Subperiods are used to maximise the Yearly and Monthly ATC(s).

**Transfer:** the trading of Allocated Capacity purchased in the course of yearly and monthly auctions or transfers between market participants.

**UCTE (“Union for the Co-ordination of Transmission of Electricity”):** an association of transmission system operators in continental Europe, providing a reliable market base by efficient and secure electric "power highways".

**VERBUND-Austrian Power Grid AG (“APG”):** with registered office in A-1220 Wien, Wagramer Straße 19, IZD-Tower and with the number of the commercial register FN 177696 v: The Austrian Transmission System Operator responsible and liable for the handling of the yearly and monthly auction procedures.

**Yearly ATC:** is a part of the ATC which is offered to the Auction Participants for yearly auction.

## **2. General Rules for the Auctioning of the Reservation of ATC on the CEPS - APG Interconnection**

The following provisions shall in general apply equally to yearly, monthly and daily auctions and to intraday procedure.

### **2.1. Scope of the Auction Rules**

1. This document contains the terms and conditions for the auctioning of the reservation of ATC at the Interconnection that is jointly offered by CEPS and APG. CEPS and APG will carry out the auctions of the yearly, monthly and daily ATC and intraday procedure both for the Austrian and for the Czech side.
2. Auctions for yearly, monthly and daily ATC for the year 2009 will be organized in order to ensure that reservations of ATC will be valid for each side of the Interconnection. Auctions for yearly and monthly ATC will be organized by APG by means of "Capacity Auction System" on behalf of both APG and CEPS. Auctions for daily ATC and intraday procedures will be organized by CEPS by means of "Damas ePortal" on behalf of both APG and CEPS.
3. The Auction Rules only deal with the reservation of ATC at the Interconnection. The auction of the reservation of ATC and the financial settlement of the reservation of ATC purchased via an auction do not include energy transports.

### **2.2. General Provisions**

1. The ATC is determined by CEPS and APG in accordance with the applicable technical rules, particularly in accordance with the applicable rules published by the ETSO and the UCTE, applicable laws and regulations in a transparent

and non-discriminatory way. The ATC is published according to the regulations set out in the Auction Rules.

2. For the yearly and monthly auctions, the internet-based Capacity Auction System is used. The document “Cross Border Capacity Manual – Technical Instructions” contains the detailed rules for using the auction system and is published on the website of Auction Office Austria (<http://www.auction-office.at>).
3. The daily ATC is offered for reservation and intraday procedure is organised through the use of the internet-based auction system “Damas ePortal” on the website of CEPS <http://market.ceps.cz>. The document „Damas ePortal Operation Rules“ contains detailed rules for using the system “Damas ePortal”. This document is published on the website of CEPS <http://www.ceps.cz>.
4. If the „Damas ePortal Operation Rules“ or the document “Cross Border Capacity Manual – Technical Instructions” conflict with the Auction Rules, the Auction Rules take priority.
5. Market participants will be informed in due time on the website of Auction Office Austria (<http://www.auction-office.at>) about the ATC for the reservation for the yearly and monthly auction procedure.
6. Market participants will be informed in due time on the website of CEPS <http://www.ceps.cz> about the ATC for the reservation for the daily auction procedure.
7. Market participants will be informed in due time on the website of CEPS <http://www.ceps.cz> about the Maximum ATC for the intraday procedure.
8. The ATC and the purchased capacity can be curtailed in case of unexpected network conditions/emergency situation. In case of Curtailment of the Capacity APG and CEPS will reduce the Capacity according to Annex 5 and will pay a compensation in case of Curtailment of Allocated Capacity to the Auction Participants with exception of Force majeure according to Annex 5.

9. Each purchase of reservation of capacity made pursuant to the Auction Rules shall be deemed to constitute a contract between CEPS and APG on the one hand and the Auction Participant on the other hand ("Contract"). With the purchase of reservation of capacity the Auction Participant assumes the rights and the duties set out in the Auction Rules, especially the full payment of the Auction Price in due time.
10. If the Auction Participant does not fulfil or only partially fulfils any obligation resulting from the Contract in due time, especially if the Auction Participant does not pay the full Auction Price within the time limits set out in the Auction Rules, APG and CEPS are entitled either to enforce the completion of the Contract and hold the Auction Participant liable for the Auction Price, interests, charges and expenses including attorney's fees, arising from the enforcing of the completion of the Contract or to withdraw from the Contract and hold the Auction Participant liable for the total damage resulting from the withdrawal, such as, but not limited to fees, including attorney's fees, expenses and deficiencies caused by lower Auction Prices in the event of a re-auctioning of the capacity.
11. With the delivery of a bid the Auction Participant shall be obliged to pay the Auction Price for the Promised Capacity, independent of the actual use and other transmission fees such as, but not limited to, transmission fees resulting from the cross-border-tariffication. The Auction Participants shall not be entitled to offset and/or withhold any debts arising in connection with obligations resulting from an auction to any claims of APG and/or CEPS, whether or not arising out of an auction.
12. The payment determined in the auction covers only the right for reservation of the Capacity at the bottleneck. Transmission fees, such as, but not limited to, transmission fees resulting from the cross-border-tariffication, including all relevant and allowable charges, will be charged independently from the payment of the Auction Price.
13. Furthermore, with the delivery of a Bid or request for transmission to intraday procedure the Auction Participant accepts the auction regulations set out in

these Auction Rules and submits to the Auction Rules without any reservation. If the Auction Participant does not submit to these Auction Rules, the Auction Participant shall be expressly barred from the participation in the auction process and the bids shall not be accepted by APG or by CEPS.

14. Should the Auction Participant :

- a) declare bankruptcy, become insolvent or be granted suspension of payment,
- b) become object of a petition for bankruptcy, insolvency or suspension of payment then APG and /or CEPS can exclude Auction Participant from further participation in auctions.

Such exclusion can be done after previous warning of Auction Participant and simultaneously under condition that Auction Participant has not proved reliable guarantee, that he is able to fulfil his obligations resulting from the Contract

15. The barring from participation in auctions shall promptly be notified to the Auction Participant by both fax and mail. The Auction Participant shall be obligated to pay the Auction Price for already awarded Promised Capacity.
16. Auction Participants who have been excluded by the APG and /or CEPS according above stated Paragraph 14 may apply for reconsideration.
17. By notification of the Auction result Auction Participant gains promise of APG and CEPS that by settlement of the payment in accordance with the Auction Rules Capacity shall be allocated in accordance with notified Auction results with except of cases of Force majeure and Curtailment of promised Capacity ("Promised Capacity"). By fulfilling the payment conditions in accordance with the Auction Rules Allocated Capacity is guaranteed by APG and CEPS ("Allocated Capacity").
18. Upon allocation of capacity in the course of a yearly, monthly and/or daily auction, APG and CEPS commit themselves to ensure that the Promised Capacity is operationally feasible for the Auction Participant or the new

holder of capacity solely at the Interconnection with the exception of Force majeure and/or unexpected network conditions – emergency situation.

19. APG and CEPS reserve the right to amend and/or adapt the Auction Rules. The actual version of the Auction Rules will be published on the website of APG <http://www.apg.at>, Auction Office Austria (<http://www.auction-office.at>) and on the website of CEPS <http://www.ceps.cz>. By the delivery of a Bid after the amendments and/or the adaptations being published, the Auction Participant submits to the new version of the Auction Rules.

### **3. Participation in Yearly-, Monthly- and/or Daily Auctions**

#### **3.1. Registration Requirements**

In order to participate in yearly and monthly auctions, the Auction Participant must comply with all requirements set forth in these Auction Rules including the “**Cross Border Capacity Manual – Technical Instructions**” published on the website <http://www.auction-office.at>.

In any case the Auction Participant:

- must send the Statement of acceptance/Registration form from Annex 7 to the Auction Operator. The registration form shall be signed by authorized representatives of the Auction Participant and sent to Auction Office Austria by fax.
- must submit to APG an Austrian business account and a direct debit authorization according to Article 7.

In addition the Auction Participant must fulfil the following conditions:

- a) Recognition by the Austrian regulatory authority as representative of a balance group

OR

- b) Holding a valid EIC -Code.

All requested documents have to be provided to the relevant Auction Office at least 5 working days before the start of the first relevant auction by the Auction Participant. If this deadline is missed the relevant Auction Office cannot guarantee the participation of the Auction Participant.

### **3.2. Admission for yearly and monthly auctions**

By signing and submitting the registration form to the Auction Office Austria, the Auction Participant authorizes APG to verify the Auction Participant's respective statements. The Auction Participant shall be informed about the admission or rejection by mail. In case of rejection of its registration request, APG shall inform the Auction Participant of the reasons for the rejection.

An Auction Participant who has been declared bankrupt or insolvent or granted suspension of payment, or against whom a petition for bankruptcy, insolvency or suspension of payment has been filed, does not qualify for participation in yearly and monthly auctions.

Subject to all existing requirements being fulfilled, the original countersigned copy of the registration form and the procedure (password, user ID) for entering the secure yearly and monthly auction website shall be sent to the Auction Participant by registered mail and/or by e-mail and telephone.

The password shall be kept with particular care and may under no circumstances be passed to others or made accessible in any other way (including non-authorized representatives of the Auction Participant). Responsibility for all transactions authorized using the password shall be borne by the Auction Participant.

If, for any reason, the system "Capacity Auction System" and/or the website <http://www.auction-office.at> is interrupted and/or suspended, the allocation of yearly and/or monthly available capacities will be repeated as soon as possible.

The market participants will be informed as soon as possible about the dates of the rerun of the relevant auction.

### **3.2.1. Notification of Changes**

The requirements for participation set forth in these Auction Rules must be fulfilled at all times when participating in the relevant auction proceedings. As a consequence, the Auction Participant shall promptly inform APG in writing of any changes effecting fulfillment of the requirements concerned.

Changes concerning the Auction Participant's contact data and statements set forth in the registration form submitted by the Auction Participant shall be notified to the APG in writing.

### **3.2.2. Deregistration**

Should the Auction Participant not wish to participate in any further yearly and monthly auctions, it **may submit** a written request for deregistration to APG. The request will be granted on condition that

1. the Auction Participant no longer possesses rights to use any Reserved Capacity awarded in yearly and monthly auctions and
2. the Auction Participant has fulfilled all its obligations towards APG and CEPS.

Auction Participants who have been deregistered may apply for readmission by completing the registration process pursuant to Article 3.1

### **3.3. Admission for daily auctions and intraday procedure**

In order to participate in the daily auctions and intraday procedure, the Auction Participants shall fulfil the requirements set out in the Auction Rules and the "Damas ePortal Operation Rules" which are published on the website of CEPS <http://www.ceps.cz> and particularly shall have access to the system "Damas ePortal" operated on the website of CEPS <http://market.ceps.cz> according the "Damas ePortal Operation Rules".

Auction Participants have to fulfil the rules set out for the use of reserved capacity.

## 4. Yearly Auction Procedure

The auction of the reservation of the yearly ATC at the Interconnection in the year 2009 will be organized on behalf of CEPS and APG and executed by APG by means of the Capacity Auction System (<http://www.auction-office.at>).

Separate yearly auctions shall be held for the reservation of capacity in each of both directions:

**Auction Y, CZ→AT:** deals with the direction from the Czech Republic to Austria;

**Auction Y, AT→CZ:** deals with the direction from Austria to the Czech Republic.

Yearly auctions take place on the dates mentioned in Annex 2.

### 4.1. Deadlines for Yearly Auctions

For the yearly auctions the following deadlines are valid and the respective dates are set out in Annex 2:

**Deadline Y1:** deadline for Publishing of Yearly ATC and Reservation Subperiod(s) if applicable;

**Deadline Y2:** deadline for bid submission for awarding Yearly ATC at 12:00 (CET) on the date set out in Annex 2 (auction day);

**Deadline Y3:** deadline for publication of yearly auction results at 18:00 (CET) on the date set out in Annex 2 (auction day).

## 4.2. Determination and Publication of Yearly ATC

The yearly NTC is determined by APG and CEPS in accordance with the applicable technical rules, particularly in accordance with the applicable rules published by the ETSO and the UCTE, applicable laws and regulations.

The relevant Yearly ATC (part of yearly NTC) and – if applicable – the Reservation Subperiod(s) will be published on the websites of APG (<http://www.apg.at>), the Auction Office Austria (<http://www.auction-office.at>) and CEPS (<http://www.ceps.cz>) according to the dates set out in Annex 2.

## 4.3. Bidding for Yearly ATC

The bids for awarding Yearly ATC in the respective direction shall be submitted in electronic form via the Capacity Auction System – in accordance with the “Cross Border Capacity Manual – Technical Instructions” published on the website of the Auction Office Austria (<http://www.auction-office.at>).

Each legitimated (registered) Auction Participant shall deliver his bids for awarding Yearly ATC from deadline Y1, approximately 12:00 (CET) to the deadline for bid submission (deadline Y2). The bids delivered to the Auction Office Austria shall be binding until the end of the relevant yearly auction and cannot be withdrawn or modified after deadline Y2.

The Auction Participant must be prepared to pay these bids.

For further consideration each bid must contain the following unambiguous and legible specifications:

1. The specification of the relevant yearly auction (Auction Y, CZ→AT or Auction Y, AT→CZ).
2. The Bid Price in EUR/MWh (max. two decimals) per Reservation Period.
3. The amount of the transmission capacity to be reserved in MW.

Bids must state the highest Auction Price the Auction Participant is willing to pay.

Bids specifying all the above-mentioned data must be submitted, without any reservation. For each auction number, several bids may be submitted. Such bids submitted are valid independent of each other.

Bids which do not fulfil the above requirements will not be considered in the allocation procedure. The Auction Participant shall be responsible for the evidence of the timeliness of the delivery of the bids to the Auction Office Austria.

With the delivery of a Bid the Auction Participant declares legally binding and irrevocably, that he is in full and complete knowledge of the actually applicable Auction Rules and the “Cross Border Capacity Manual – Technical Instructions”, published on the website of Auction Office Austria (<http://www.auction-office.at>).

The Auction Participant declares legally binding and irrevocably, that he accepts and submits without any reservation/restriction to these actually applicable Auction Rules and the “Cross Border Capacity Manual – Technical Instructions”.

#### **4.4. Awarding of Yearly ATC**

The Capacity Auction System reviews and collects all submitted Bids between the deadline for Publishing of Yearly ATC (deadline Y1) and the deadline for bid submission for awarding Yearly ATC (deadline Y2). After deadline Y2 all valid Bids are listed by the Capacity Auction System in order of decreasing price offers.

For a detailed description regarding the valid deadlines for yearly auctions see Article 4.1.

The details of the awarding process of Yearly ATC to Auction Participants are described Annex 1.

#### 4.5. Notification on the Results of Yearly Auctions

The Auction Office Austria will provide each Auction Participant, whether successful or not, with the following data at the latest 18:00 (CET) at the deadline for publication of yearly auction results (deadline Y3):

1. Specification of the relevant yearly auction,
2. Reservation Period and Reservation Subperiod(s),
3. Amount of the Promised Capacity for the Auction Participant in MW in Reservation Period, and amount of the Promised Capacity for the Auction Participant in MW in Reservation Subperiod (if applicable)
4. Value of payment for the purchased reservation of capacity in EUR for the Reservation Period.

The overall, anonymous results of a yearly auction will be published also on the website of the Auction Office Austria (<http://www.auction-office.at>) at the latest 18:00 (CET) at deadline Y3. For a detailed description regarding the valid deadlines for yearly auctions see Article 4.1

### 5. Monthly Auction Procedure

The auction of the reservation of the monthly ATC at the Interconnection in the year 2009 will be organized on behalf of CEPS and APG and executed by APG by means of Capacity Auction System (<http://www.auction-office.at>).

Separate monthly auctions shall be held for the reservation of capacity in each of both directions:

**Auction M, CZ→AT** :deals with the direction from the Czech Republic to Austria;

**Auction M, AT→CZ** :deals with the direction from Austria to the Czech Republic.

Monthly auctions take place on the dates mentioned in Annex 3.

### **5.1. Deadlines for Monthly Auctions**

For the monthly auctions the following deadlines are valid and the respective dates are set out in Annex 3:

**Deadline M1:** deadline for Publishing of Monthly ATC and Reservation Subperiod(s) if applicable;

**Deadline M2:** deadline for bid submission for awarding Monthly ATC at 12:00 (CET) on the date set out in Annex 3 (auction day);

**Deadline M3:** deadline for publication of monthly auction results at 18:00 (CET) on the date set out in Annex 3 (auction day).

### **5.2. Determination and Publication of Monthly ATC**

The monthly NTC is determined by APG and CEPS in accordance with the applicable technical rules, particularly in accordance with the applicable rules published by the ETSO and the UCTE, applicable laws and regulations.

The relevant Monthly ATC (part of monthly NTC) and – if applicable – the Reservation Subperiod(s) will be published on the websites of the Auction Office Austria (<http://www.auction-office.at>) according to the dates set out in Annex 3.

### **5.3. Bidding for Monthly ATC**

The bids for awarding Monthly ATC in the respective direction shall be submitted in electronic form via the Capacity Auction System – in accordance with the “Cross Border Capacity Manual – Technical Instructions” published on the website of the Auction Office Austria (<http://www.auction-office.at>).

Each legitimated (registered) Auction Participant shall deliver his bids for awarding Monthly ATC from deadline M1 12:00 (CET) to the deadline for bid submission (deadline M2). The bids delivered to the Auction Office Austria shall be binding until the end of the relevant monthly auction and cannot be withdrawn or modified after deadline M2.

The Auction Participant must be prepared to pay these bids.

For further consideration each bid must contain the following unambiguous and legible specifications:

1. The specification of the relevant monthly auction (Auction M, CZ→AT or Auction M, AT→CZ).
2. The Bid Price in EUR/MWh (max. two decimals) per Reservation Period.
3. The amount of the transmission capacity to be reserved in MW.

Bids must state the highest Auction Price the Auction Participant is willing to pay.

Bids specifying all the above-mentioned data must be submitted, without any reservation. For each auction number, several bids may be submitted. Such bids submitted are valid independent of each other.

Bids which do not fulfil the above requirements will not be considered in the allocation procedure. The Auction Participant shall be responsible for the evidence of the timeliness of the delivery of the bids to the Auction Office Austria.

With the delivery of a Bid the Auction Participant declares legally binding and irrevocably, that he is in full and complete knowledge of the actually applicable Auction Rules and the “Cross Border Capacity Manual – Technical Instructions”, published on the website of Auction Office Austria (<http://www.auction-office.at>).

The Auction Participant declares legally binding and irrevocably, that he accepts and submits without any reservation/restriction to these actually applicable Auction Rules and the “Cross Border Capacity Manual – Technical Instructions”.

#### **5.4. Awarding of Monthly ATC**

The Capacity Auction System reviews and collects all submitted Bids between the deadline for Publishing of Monthly ATC (deadline M1) and the deadline for bid submission for awarding Monthly ATC (deadline M2). After deadline M2 all

valid Bids are listed by the Capacity Auction System in order of decreasing price offers.

For a detailed description regarding the valid deadlines for monthly auctions see Article 5.1.

The details of the awarding process of Monthly ATC to Auction Participants are described Annex 1.

### **5.5. Notification on the Results of Monthly Auctions**

The Auction Office will provide each Auction Participant, whether successful or not, with the following data at the latest 18:00 (CET) at the deadline for publication of monthly auction results (deadline M3):

1. Specification of the relevant monthly auction,
2. Reservation Period and Reservation Subperiod(s),
3. Amount of the Promised Capacity for the Auction Participant in MW in Reservation Period, and amount of the Promised Capacity for the Auction Participant in MW in Reservation Subperiod (if applicable)
4. Value of payment for the purchased reservation of capacity in EUR for Reservation Period.

The overall, anonymous results of a monthly auction will be published also on the website of the Auction Office Austria (<http://www.auction-office.at>) at the latest 18:00 (CET) at deadline M3. For a detailed description regarding the valid deadlines for monthly auctions see Article 5.1.

## **6. Daily Auction Procedure and Intraday**

The auction of the reservation of the daily ATC and Intraday procedure at Interconnection in the year 2009 will be organized on behalf of CEPS and APG and executed electronically by CEPS in user environment of the system “Damas ePortal”.

Separate auctions shall be held for the reservation of capacity in each of both directions.

The rules and regulations for the daily auctions and Intraday are principally laid down in these Auction Rules and specifically in the “Damas ePortal Operation Rules” published on the website of CEPS <http://www.ceps.cz>. All detailed instructions concerning the requirements for participating in the daily auction procedures and Intraday and the handling of the system “Damas ePortal” are laid down in the “Damas ePortal Operation Rules”.

By accessing the daily auction and/or the Intraday procedure the Auction Participant shall be obliged to accept the regulations set out in the Auction Rules and in the „Damas ePortal Operation Rules“ published on the website of CEPS <http://www.ceps.cz> without any reservation.

If the Auction Participant does not want to submit to the Auction Rules and the „Damas ePortal Operation Rules“ the Auction Participant shall be expressly barred from the access to the daily auctions and Intraday procedure on APG/CEPS interconnection.

APG and CEPS reserve the right to change operationally a business day regime – i.e. time closures in reasonable cases in accordance with the “Damas ePortal Operation Rules” especially in case of technical problems.

APG and CEPS reserve the right to amend and/or adapt the Auction Rules and CEPS reserve the right to adapt the “Damas ePortal Operation Rules”. The actual version of the Auction Rules will be published on the website of APG <http://www.apg.at>, the Auction Office Austria (<http://www.auction-office.at>), and on the website of CEPS <http://www.ceps.cz>. The actual version of the “Damas ePortal Operation Rules” will be published on the website of CEPS <http://www.ceps.cz>. By accessing the daily auction or Intraday procedure after the amendments and/or adaptations being published, the Auction Participant submits to the valid version of the Auction Rules and/or the “Damas ePortal Operation Rules”.

Daily auctions will be held from Monday to Friday with exception of days when no daily auction is held (Annex 4a and 4b).

Daily ATC values are published at 08:58 AM. Each legitimated Auction Participant shall deliver his bids to daily auction in the period starting by daily auction opening at 9:00 to 09:45 AM in the System „Damas ePortal“. Auction Participant must be prepared to pay these bids.

The bids in the daily auction shall be binding until the end of the auction and cannot be modified after deadline for delivery (09:45 AM)

Maximum ATC values for Intraday procedure are published according to Article 6.6. Point 2.

### **6.1. System „Damas ePortal“**

The system „Damas ePortal“ is an electronic web-based trade portal operated by CEPS at: <http://market.ceps.cz>. APG and/or CEPS shall not be liable for an uninterrupted provision of the system “Damas ePortal” and/or the website <http://market.ceps.cz>.

APG and/or CEPS may suspend, on a preliminary or permanent basis, the internet-based auction system at any time.

In case of major technical problems - e.g. general collapse of the Internet, collapse of all Internet connections of the system “Damas ePortal”, collapse of the system “Damas ePortal” (servers, database or system “Damas ePortal” application error) - daily auction and/or intraday procedure will be not organised and such a case may not be subject of any compensation. In case of technical problems avoiding completion of daily auction and/or Intraday procedure, daily auction/Intraday procedure will be cancelled and such a case may not be subject of any compensation. All relevant users of the system “Damas ePortal” will be informed immediately about the actual operational situation.

The whole communication with the system “Damas ePortal” will be archived. Each message from the system “Damas ePortal” is attached by a time stamp,

both messages leaving the system “Damas ePortal” or messages received by the system “Damas ePortal”. The time stamp used is the time system from the system “Damas ePortal”.

## **6.2. Capacities**

The daily ATC will be published and offered for reservation for each hour of a day for each transmission direction separately.

The auction of daily ATC of weekends and days listed in Annex 4a and 4b until and including the first following day will be held on the day which precedes weekends (Saturday, Sunday) and days listed in Annex 4a and 4b.

The daily ATC for reservation via daily auctions will be published in the system “Damas ePortal” and on the website of CEPS <http://www.ceps.cz> daily at 8:58 AM.

CEPS will publish the intraday Maximum ATC in the system “Damas ePortal”.

## **6.3. Bids for the Reservation of Capacity in a Daily Auction**

In order to participate in the daily auction procedure, bids shall be submitted to the system “Damas ePortal” in accordance with the “Damas ePortal Operation Rules” document.

For further consideration each bid must contain the following unambiguous and legible specifications:

1. Identification of the user,
  2. Specification of the profile,
  3. Specification of the transmission direction,
  4. Day the bid refers to,
  5. For each hour of the day the amount of the transmission capacity to be reserved in MW (natural numbers, maximal the published ATC in each hour.),
- and

6. The value of the bid in EUR/MW in each hour - it has to be equal to zero or bigger than zero.

Bids must state the highest Auction Price the Auction Participant is willing to pay.

Bids specifying all the above mentioned data must be submitted, without any reservation, in the form set out in the “Damas ePortal Operation Rules” document.

The Auction participant is entitled to submit up to 10 offers for one profile and one direction, independent from each other.

Bids, which do not fulfil the above mentioned requirements, will not be considered in the allocation procedure.

After entering the bids, the Auction participants receive a confirmation. In case of any failure the entering of the bids will be refused and the Auction Participant will be informed about the reasons of refusal.

Confirmation receipt of bids at the system “Damas ePortal” is the decisive criterion in meeting the time limit.

#### **6.4. Auction Procedure for the Reservation of Capacity in a Daily Auction**

All received bids are ordered by descending bid price. In case two or more delivered bids offer the same price per MW for the auctioned capacities, the earliest will take priority (the decisive criterion is the time stamp of the bid). Bids are met in that order until a bid exceeds ATC value in sum with all previous accepted bids.

If the total amount of requested reservation of capacity is smaller than the ATC or equals the ATC, payment for congestion management procedure will amount to zero, i.e. each Auction Participant will receive the reserved capacity according to his bid and free of charge at the bottleneck.

If the total amount of the requested reservations of capacity exceeds the available capacity for reservation, the price for the reservation of capacities shall be determined by the bid with the lowest price offer, accepted, even in an reduced amount, by CEPS in the allocation process of the auctioned reservation of capacities (“Auction Price”).

This Auction Price shall be paid by all Auction Participants receiving a reservation of capacity. All Auction Participants receiving a reservation of capacity shall be deemed to have purchased the reservation of capacity.

The following table, figure 6, shows an example:

Auction no. 1		Max. Capacity:			100	Czech->Austria	Date:	10.1.2004	Hour:	1
bidder	amount	bid	time stamp	total						
	MW	EUR/MW	hh:mm:ss	MW						
				0						
a	10	1 000	09:10:03	10					<b>auctioned</b>	
b	20	300	09:15:27	30					10 MW	
c	50	250	09:02:14	80					20 MW	
b	30	200	09:05:52	110	reduced				50 MW	
a	50	200	09:17:08	160	exceeded				20 MW	
d	30	100	09:08:03	190	exceeded				0 MW	
e	20	100	09:10:28	210	exceeded				0 MW	
e	20	100	09:16:34	230	exceeded				0 MW	
a	30	100	09:35:01	260	exceeded				0 MW	
b	110	100	09:43:58	370	exceeded				0 MW	
f	20	100	09:50:03		excluded	gateclosure				

Figure 6: Daily Auctioning Form

In this example, the charge for auctioned daily reservation is determined at 200 EUR/MW. Bidding company "a" receives a total of 10 MW and has to pay 2000 EUR, "b" receives a total of 40 MW and has to pay 8000 EUR – second bid of the bidding company “b” is reduced.

In case all delivered bids offer the same price per MW for the auctioned capacities and the total request for the reservation of capacities is higher than the available capacity auctioned for reservation, the capacity will be allocated according to the principle “first come – first served”. The decisive criterion is the time stamp of each bid.

## 6.5. Publication and Notification of the Results of a Daily Auction

CEPS will publish the results of the daily auction procedure on day of auction by 09:58 AM in the system "Damas ePortal" on the website of CEPS <http://market.ceps.cz>. CEPS will provide Auction Participants of a specific auction with the following data:

1. Date and Period of reservation,
2. Specification of profile and direction,
3. Amount of the Promised Capacity for the Auction Participant for each hour in MW,
4. Value of payment for the purchased reservation of capacity for each hour in EUR/MW.

Summary results (for each hour and direction the offered capacity, total requested capacity, total allocated capacity and Auction Price) will be published in the system "Damas ePortal" and on the website of CEPS <http://www.ceps.cz>.

## 6.6. Intraday Procedure

1. Intraday transmission is arranged daily in sessions. The number of sessions and their identification, including the time-schedule (T1 – T5) is defined by Annex 10 and shall be also published by CEPS on [www.ceps.cz](http://www.ceps.cz).
2. CEPS shall publish hourly Maximum ATC values for Intraday session via the "Damas ePortal" by time T1.
3. The transmission requests and the course of the sessions proceed in the following steps:
  - a) The "Damas ePortal" user submits the transmission request via the "Damas ePortal" operated by CEPS.
  - b) The "Damas ePortal" user shall submit a transmission request within times **T1** and **T2**. If the request is submitted both by the "Damas ePortal" user and its counterparty in sense of the 1:1 registration according to "Auction Rules, Art. 6.6.", the requests are considered to be two separate requests and will be evaluated as such.
  - c) A request is submitted by the "Damas ePortal" user in a way specified in the "Damas ePortal Operation Rules", published on [www.ceps.cz](http://www.ceps.cz).

- d) Immediately after the request is received, CEPS checks the formal correctness of the request using the “Damas ePortal”. The request has to meet the following conditions:
  - i. correct identification of the user and its counterparty in sense of the 1:1 registration,
  - ii. correct identification of the session,
  - iii. correct identification of cross-border interconnection and direction
  - iv. the values of the requested transmission in MW have to be specified in positive integers,
  - v. the number of requests from the user received in the session has to be lower than/equal 10.
- e) Any “Damas ePortal” user can qualify for evaluation a maximum of 10 partial transmission requests (a request means 4 values of requested transmission, each for one hour of the session) within one session in the intraday procedure for each individual cross-border interconnection and direction.
- f) Requests are assessed by CEPS via the Damas ePortal in the order in which they were received (“First come, first served” principle). The order is decided based on the timestamp attached to the request upon delivery to the “Damas ePortal” server. The validly received requests can be modified before the **T2** time. Any modification submitted, however, results in losing the time priority of the original request (being modified). A new timestamp is attached to the modified request upon delivery of a valid modification.
- g) The incoming requests are preliminary assessed by CEPS until the **T3** time. If the received request pursuant to Point 3 Letter f) is feasible, CEPS preliminary accepts the input request via the “Damas ePortal”. If the received request pursuant to Point 3 Letter f) is not feasible, CEPS rejects the input request via the “Damas ePortal”. In both these situations, this fact is confirmed to the “Damas ePortal” user by a message in the user account of the “Damas ePortal” user in the “Damas ePortal”.
- h) For each request, CEPS will check:
  - i. if the request is feasible in compliance with the safe and reliable operation of the transmission system in the Czech Republic. In its decision-making, CEPS takes into account primarily the conditions and possible development of the operation of the transmission system,
  - ii. if the received request is feasible with respect to the Maximum ATC value published according to Point 2,

- i) After the technical feasibility has been checked by CEPS according to Point 3 Letter h) the list of accepted requests is available in the "Damas ePortal" for APG. With respect to the safe and reliable operation of the transmission system of APG on the Austrian side, APG is entitled to reject any request preliminary accepted according to Point 3 Letter g) on CEPS/APG border in the order from the latest request according to time stamp.
- j) If CEPS and/or APG refuse requests according to Point 3 Letter h) and/or Letter i), CEPS informs the relevant "Damas ePortal" users about the rejection of the requests via the "Damas ePortal". This fact is confirmed by CEPS to the "Damas ePortal" user by a message in the account of the "Damas ePortal" user in the "Damas ePortal" until time **T4**.
- k) If there is no refusal of requests from CEPS and APG, CEPS informs the "Damas ePortal" user about final acceptance of the requests for transmission via the "Damas ePortal". This fact is confirmed to the "Damas ePortal" user by a message in the account of the "Damas ePortal" user in the "Damas ePortal" until time **T4**. By final acceptance of the request, a contract on arranging cross-border transmission within the scope of accepted requests is concluded between CEPS and the relevant "Damas ePortal" user of Czech transmission system in sense of 1:1 registration. However, it is condition precedent that until the time T5 cross-border transmission shall be notified to APG by the counterpart of the "Damas ePortal" user in sense of 1:1 registration according to Austrian Market Rules ("successful matching") as set forth by Point 3 Letter l).
- l) Counterpart of the relevant "Damas ePortal" user in sense of 1:1 registration shall submit the relevant schedule to APG in the time frame from T4 to T5.
- m) APG and CEPS are entitled to exclude from intraday procedures market participant (represented by "Damas ePortal" user) whose Austrian counterpart in sense of 1:1 registration repeatedly:
  - i. notified APG of different volume of transmission than was accepted by CEPS or
  - ii. did not notify APG of any transmission even on the CEPS side a transmission was accepted by CEPS.Such exclusion may only be done when a situation described occurred three times and after previous warning of the market participant.
- n) In case of different volume of transmission accepted by CEPS and notified to APG by counterpart of "Damas ePortal" user (so called mismatch) the intraday transmission for given session and "Damas ePortal" user is considered as refused.

- o) In case that during repeated matching procedure a different volume of transmission accepted by CEPS and notified to APG is again identified then the entire session shall be cancelled and all requests for transmission shall be considered as refused.
  - p) The "Damas ePortal" users shall be informed without undue delay about such case through message in the "Damas ePortal".
4. Before the final acceptance of the received requests pursuant to Point 3, letter l) and k), CEPS and APG are each entitled to unilaterally cancel any single session or suspend the entire intraday procedure. The "Damas ePortal" user is without undue delay informed about such case through message in the "Damas ePortal".
  5. In case that the "Damas ePortal" or CEPS internet connection is not available or in case of any other problem with data transmission via the "Damas ePortal", the "Damas ePortal" user shall verify by phone whether requests submitted by the "Damas ePortal" user and received by the system will have been accepted or rejected. The substitute way of data transmission specified by the "Damas ePortal Operation Rules" cannot be used within the intraday procedure.
  6. CEPS is not responsible for electronic data transmission between the "Damas ePortal" user and the CEPS server on which the "Damas ePortal" application is running. If, due to any data transmission failure between the "Damas ePortal" user equipment and the CEPS server, a contract or any related provisions pursuant hereto will not be concluded, such a situation shall not constitute any claim for damages for the "Damas ePortal" user or for any other compensation by CEPS in favour of the "Damas ePortal" user and no provision herein shall be construed likewise.
  7. If, for any reason, the system "Damas ePortal" and/or the website <http://market.ceps.cz> is interrupted and/or suspended, the intraday procedure will not be organized.

#### **6.7. Auction Office Address for Daily Auction and Intraday procedure**

Operated by CEPS via System „Damas ePortal“

Damas Operators

E-mail: [helpdesk.trade@ceps.cz](mailto:helpdesk.trade@ceps.cz)

Tel: +420 21104 4507

or

+420 724 601 301

Fax: +420 21104 4545

## 7. Accounting, Losing of Promised Capacity from yearly and monthly auctions

The payment for reservation of yearly and monthly capacity will be handled by APG on its own name on account of CEPS and on account of APG.

APG accepts two following forms of payments for the reservation of capacity:

- direct debit authorization in APG's favour
- advance payment

Auction Participants who would like to pay by means of direct debit authorization in APG's favour:

- has to communicate to APG an Austrian business account within five working days after the publication of the auction results (relevant deadlines Y3 according Article 4.1, see Annex 2 and/or relevant deadlines M3 according Article 5.1, see Annex 3);
- has to enable APG to effectuate automatic collection with a direct debit authorization in APG's favour (the form for the direct debit authorization is shown in Annex 6) and
- has to provide sufficient funds on the account.

If Auction Participant does not notify to APG any Austrian business account, the advance payment for the total amount for all kind of auctions (e.g. yearly and/or monthly auction) is considered to be used.

Payments for the reservation of capacity are settled upon:

- automatic collection of invoiced amount from the Auction Participant's Austrian business account
- credit of invoiced amount to the following account of APG:

Bank Austria – UniCredit Group  
Am Hof 2a  
1010 Vienna  
IBAN: AT06 1200 0506 1660 3600  
BIC: BKAUATWWXXX

VAT and other taxes or levies – if any – shall be invoiced in accordance with the applicable laws. Value added tax will be charged to the payment and will be shown separately on the invoice. APG is entitled to make adjustments of the payment due to increases or introduction of taxes, duties, etc.

If time limits expire on public holidays, payment should be received on the preceding Working Day. Should the time limits expire on Sundays or public holidays following a Sunday, payment should be received on the following Working Day. In case of delayed payment APG is entitled to charge interest rates on a due amount for each commenced day of the delay. The interest rate is set regularly on the first business day of each calendar month of the year as a fixed amount equaling (base rate of the OENB +8 % p.a.) percent. This interest rate is valid for the given month. Base rate of the OENB is defined for the purposes of these Yearly and Monthly Auction Rules as the interest rate. Its value is specified daily by the Austrian National Bank.

### **7.1. Yearly Auction**

Yearly Auction will be invoiced in twelve monthly amounts proportional to the amount of hours and the capacity of the product within the month in question. Each amount is to be paid **two months in advance**. The amount of January 2009 and February 2009 will be invoiced at the same time – directly after the publication of yearly auction results (relevant deadlines Y3, according Article 4.1, see Annex 2) – and the other months will be invoiced month by month (e.g. amount for April 2009 in January 2009). Invoices are to be paid on the first working day of the month for the second month following free of charge and without deduction and/or offsetting.

If the payment is not settled on the 20<sup>th</sup> calendar day of the month for the second month following APG and CEPS withdraw from the obligations resulting from the Auction Rules and the Auction Participant will lose Promised Capacity awarded through an auction for all remaining months of the year 2009 and shall be liable pursuant to the General Provisions set out in Article 2.2 of the Auction Rules. Such released Promised Capacity will be auctioned in monthly auction.

Moreover, the Auction Participant shall be excluded from all following auctions until that date when all payments of the Auction Participant are settled.

## **7.2. Monthly Auctions**

Payment for reservation of capacity will be invoiced directly after the publication of monthly auction results (relevant deadlines M3 according Article 5.1, see Annex 3).

Invoices are to be paid not later than on the last calendar day of the previous month for the month following, free of charge and without deduction and/or offsetting.

If the payment is not settled on the 5<sup>th</sup> calendar day of the following month APG and CEPS withdraw from the obligations resulting from the Auction Rules and the Auction Participant will lose Promised Capacity awarded through an auction and shall be liable pursuant to the General Provisions set out in Article 2.2 of the Auction Rules. Such released Promised Capacity will be auctioned in the daily auction. Moreover, the Auction Participant shall be excluded from all following auctions until that date when all payments of the Auction Participant are settled.

## **8. Accounting, Loosing of Promised Capacity from daily auctions**

The payment for reservation of daily capacity will be handled by CEPS on its own name on account of CEPS and on account of APG.

CEPS will issue a summary invoice for all auction payments for the past calendar month by the 8th calendar day of the following month at latest and will send it to the Auction Participant by mail, copy by fax. The Auction Participant shall credit the invoiced payment to the CEPS onto its account stated on the invoice. The invoice will be mature within 14 days of its issue date. VAT and other taxes – if any – shall be invoiced in accordance with the applicable laws. Value added tax will be charged to the payment and will be shown separately on the invoice.

CEPS is entitled to make adjustments of the payment due to increases or introduction of taxes, duties, etc.

All bank fees have to be paid by the Auction Participant. The date of payment is the date upon which the given amount is credited to the stated account of the CEPS. Invoices have to be paid not later than on the mature date stated on the invoice, free of charge and without deduction and/or offsetting (receipt of payment at the account of the CEPS).

If such a time limit expires on a public holidays, payment is due on the following working day.

In case of delayed payment CEPS is entitled to charge interest rates on a due amount for each commenced day of the delay. The daily interest rate is set regularly on the first working day of each calendar month of the year as a fixed amount equalling  $(3M \text{ EURIBOR} + 3) \text{ percent}/365$ . 3M EURIBOR is defined for the purposes of the Auction Rules as the three-month interest rate at which euro interbank term deposits within the euro zone are offered by one prime bank to another prime bank (see <http://www.euribor.org>)

If the payment is not settled on the **last** day of the following month APG and CEPS will enforce the completion of the Contract and the Auction Participant shall be liable pursuant to the General Provisions set out in Article 2.2 of these Auction Rules.

## 9. Use of Allocated Capacities

General grid access for the use of reserved (purchased) capacity is not covered by the scope of the Auction Rules unless otherwise stipulated in the following provisions.

Generally, Auction Participant has to fulfil the following requirements for the use of reserved (purchased) capacity in both control areas of APG and CEPS:

For APG:

- must be recognized by the Austrian regulatory authority as representative of a balance group. In case the PTR holder is not a recognized Austrian balance group the PTR holder shall sign a membership to an Austrian recognised Balance group (Annex 9), This balance group is from now on responsible for the nomination process.

Annex 9 shall be received from the Austrian Auction Office latest 5 working days till 12:00 before the Allocated Capacity takes effect.

The membership to a balance group can be changed on a monthly basis. The new Annex 9 shall be received from the Auction Office at the latest 5 working days till 12:00 before the first day of the next month.

## **AND**

For CEPS:

- submission to a valid and efficient "Agreement concerning the Accession to Trading Terms and Conditions for Cross-border Transmission through the Transmission System in the Czech Republic in 2009" and at the same time meeting the conditions of financial guarantees resulting from this agreement.

The conditions for the general grid access for the use of reserved (purchased) capacity in both control areas of APG and CEPS can be fulfilled also by two Auction Participants, correctly registered/identified only at one side of the Interconnection in compliance with the legal requirements of grid access in each control area, possible electricity import bans and applicable market rules of APG und CEPS, if they establish an exclusive 1:1 partnership for the exchange of schedules (trading) for at minimum of one calendar month.

In any case, Auction Participant has to notify 1:1 partnership to CEPS and APG at least 5 working days prior to the day the partnership becomes effective.

Partnership notification has to be delivered to CEPS and APG by fax, see Annex 8. This partnership can be established and changed only for whole calendar months.

APG and CEPS will carry out the transmission services according to the respective auction results in compliance with the legal requirements of grid access in each control area.

The use of reserved transmission capacities operates via the delivery of fixed schedules to APG and CEPS in compliance with the legal requirements of grid access in each control area.

### **9.1. Use of Allocated Capacities awarded in yearly- and/or monthly auctions**

The schedules for the following day and before weekends and before the days listed in Annex 4a and 4b for the following days until and including the next working day must be received by:

APG before 8.00AM.

CEPS before 8.00AM.

Modifications of schedules after this time are not possible. Use is generally based on the principle "use it or lose it". This means that reservations which are not used by fixed schedules at the time will be made available to all market participants in the daily auction procedures.

### **9.2. Use of Allocated Capacities awarded in daily auctions**

The schedules for the following day and before weekends and before the days listed in Annex 4a and 4b for the following days until and including the next working day must be received by:

APG before 2.30 PM.

CEPS before 1.00 PM.

Modifications of schedules after this time are not possible. Use is generally based on the principle "use it or lose it". This means that reservations which are not used by fixed schedules at the time will fall back to APG and CEPS.

The transmission capacity which was not allocated in daily auction or the capacity which fall back to APG and CEPS may be used by APG and CEPS to ensure the higher level of security of supply (e.g. to decrease loading of the cross-border interconnection, to decrease system imbalances of transmission system in case of disturbances etc.).

Such a capacity may be used by delivery which will be realised directly between APG and CEPS or between APG or CEPS and market participant supplying emergency delivery. Each market participant, who fulfils applicable market rules of APG and/or CEPS for such a delivery, may ask for transmission. APG and CEPS shall decide individually on by either confirming or refusing the transmission depend on the network conditions. APG and CEPS inform each other about the decision. APG and CEPS take into their consideration especially transmissions on the cross-border interconnection agreed before and expected and possible development of transmission system operation.

### **9.3. Use of Capacities awarded in intraday procedure**

See Article 6.6.

## **10. Secondary Market**

### **10.1. Transfer of Allocated Capacities**

Transfer of Allocated Capacities is performed electronically by Auction Office Austria for both directions. Allocated Capacities awarded in yearly and/or monthly auctions or resulting from transfers can be transferred by the holder of Allocated Capacity under the following conditions:

- Only transfers to Auction Participants are allowed.
- Minimum transfer unit is 1 MW.
- Transfer is allowed only for Allocated Capacity that has been previously paid by Auction Participant.
- Transfer of Allocated Capacity has to be confirmed by both Auction Participants (Transferor and Beneficiary)
- Transfer nomination has to be done latest two Working Days (2), 12:00 CET before day of usage of Allocated Capacities.

The detailed rules of transfer are set forth by “Cross Border Capacity Manual – Technical Instructions” published on the website of Auction Office Austria (<http://www.auction-office.at>).

Any disputes arising between the Transferor and the Beneficiary do not affect the validity of the Transfer after confirmation by Auction Office Austria. A cancellation of a transfer is not possible.

In case of Curtailment, eventual indemnification according to Annex 5 shall be in favour of the Beneficiary who obtained Allocated Capacity via Transfer.

The Beneficiary will be liable for all obligations resulting from the Transfer.

## **10.2. Resale of Allocated Capacities**

Resale of Allocated Capacities is performed electronically via Auction Office Austria.

Resale is allowed only for Allocated Capacity that has been previously paid by Auction Participant.

Allocated Capacities from yearly and/or monthly auctions and/or Transfers can be resold to TSOs via Auction Office by the Auction Participant.

Resale to monthly auctions:

- Allocated Capacities from the yearly auction can be resold via Auction Office Austria to TSOs. The product has to be the same as allocated in the yearly auction (baseload or peak).
- Deadline: four (4) Working Days, at 12:00 CET before publication of Monthly ATC (see Annex 3).

An Auction Participant that resold Allocated Capacity to APG and CEPS via Auction Office Austria is entitled to receive per each resold MWh financial compensation in the amount of the Auction Price determined for the same product at the relevant monthly Auction, however the compensation may not exceed the original payment (Auction Price) for reservation of 1 MWh of the resold capacity paid by Auction Participant in yearly auction. In the case that APG and CEPS will decide not to offer any capacity in monthly auction due to technical reasons, Auction Participant that resold Allocated Capacity to APG and CEPS via Auction Office Austria is entitled to receive compensation for each resold MWh in amount equal to original payment (Auction Price) for reservation of the resold capacity paid by Auction Participant in yearly auction. Auction Office Austria shall pay the compensation in 14 days after the delivery of the invoice issued by the Auction Participant.

Resale to daily auctions:

- Allocated Capacities from the yearly and/or monthly auction can be resold via Auction Office Austria to TSOs. The product has to be the same as allocated in the yearly/monthly auction (baseload or peak) for a day.
- Deadline: one (1) Working Day, at 12:00 CET before publication of Daily ATC (see Section 6).

An Auction Participant that resold Allocated Capacity to APG and CEPS via Auction Office Austria is entitled to receive for the resold capacity compensation in the amount of the Auction Price determined for the relevant hours of the day, however the compensation may not exceed the original payment (Auction Price) for reservation of the resold capacity paid by Auction Participant in yearly/monthly auction. In the case that APG and CEPS will decide not to offer any capacity in daily auction due to technical reasons, Auction Participant that resold Allocated

Capacity to APG and CEPS via Auction Office Austria is entitled to receive compensation for each resold MWh in amount equal to original payment (Auction Price) for reservation of the resold capacity paid by Auction Participant in yearly/monthly auction. Settlement of the compensation is done on monthly basis. Auction Office Austria shall pay the compensation in 14 days after the delivery of the invoice issued by the Auction Participant.

## **11. Exceptional circumstances**

Exceptional circumstances shall be serious disturbance to the functioning of the IT System(s) or devices used by Auction Office Austria.

Exceptional circumstances may be the reason for changing, cancelling or suspending an Auction. In case of exceptional circumstances, the Auction Office Austria shall inform all Auction Participants via telephone, fax or e-mail of the cancellation of the relevant auction(s) and inform Auction Participant about the new date of the auction. The TSOs will also publish information on their Auction Websites, if available.

In cases where auctions are cancelled and/or repeated all Bids already submitted to the Auction Tool(s) are deemed as invalid and must be submitted again.

## **12. Limitation of Liability**

APG and/or CEPS shall not be liable for any damage caused by slight negligence. Claims for damages arising out or related to the Auction Rules and/or the Contract are limited to the damages typical and foreseeable, unless APG and/or CEPS have acted willfully or by gross negligence. In no event shall APG and/or CEPS be liable for any loss of profit, loss of business, or any other indirect incidental, special or consequential damages of any kind. In any case the liability for damages arising out or related to the Auction Rules shall be limited to € 100.000,-- in total.

APG and CEPS undertake to carry out the provisions set out in the Auction Rules with the diligence of a careful businessman and control area manager in compliance with the applicable regulations set out by European law, respectively by the EU-Regulation, Austrian and Czech law and regulations set out by the Austrian and Czech Regulatory Authorities.

Deviating from § 1298 ABGB the burden of establishing guilt is fully on the Auction Participant.

### **13. Miscellaneous**

Notwithstanding special provisions set out in the Auction Rules no modification of the Contract between CEPS and APG on the one hand and the Auction Participant on the other hand shall take effect unless it is in writing, by fax or e-mail confirmed, executed and delivered by APG and/or CEPS.

If any part or provision of the Auction Rules and/or its Annexes are or become invalid, illegal, void and/or unenforceable, the remaining part(s) shall continue to be valid and enforceable and shall not be affected thereby. Any invalid, illegal, void and/or unenforceable part(s) or provision(s) shall be replaced by valid, legal and/or enforceable part(s) or provision(s) in order to achieve the intended economic and legal effect as far as possible.

These Auction Rules are deemed to be in place for the entire year 2009. Nevertheless, because of coordination and negotiation efforts of Central Eastern European TSOs these Auction Rules may be replaced by new auction rules for the entire CEE Region. All rights and duties of Auction Participants and TSOs related to promised and/or allocated capacity under the scope of these Auction Rules will remain. The total replacement of these Auction Rules shall be notified to the Auction Participants by means mentioned above 30 days in advance.

## 14. Place of Jurisdiction, Applicable Law, and Place of Performance

The place of jurisdiction for all disputes arising from the auction processes shall be the competent Court at the registered seat of the Auction Office Austria in Vienna.

These rules and its Annexes including the issue of its valid conclusion and its pre- and post contractual effect shall be governed by the laws of Austria with the exclusion of the provisions of Austrian International Private Law, such as the *IPRG* and the *EVÜ*.

In case that court decisions rendered by the competent Austrian Court cannot be executed and/or enforced in the jurisdiction of the opponent/adversary of APG and/or CEPS these rules and all disputes arising out of these rules and its Annexes or related to its violation, termination or nullity shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by 3 arbitrators appointed in accordance with these rules. The substantive law of Austria shall be applicable. The language to be used in the arbitral proceedings shall be English.

## **ANNEX 1: AUCTION PROCEDURE FOR YEARLY AND MONTHLY AUCTIONS**

The Auction Office Austria (via Capacity Auction System) collects all bids. After expiry of the relevant deadline(s) for bid submission (whether yearly and/or monthly auctions) – see article 4.1 for yearly auction deadlines and article 5.1 for monthly auction deadlines – all valid Bids are listed by the Capacity Auction System in order of decreasing price offers. In case two or more delivered bids offer the same price per MW of the NTC for the auctioned capacities, the earliest will take priority (the decisive criterion is the electronic time stamp).

If the sum of all Bids submitted for a given Auction falls short of or equals the total Interconnection Capacity, no clearing price is charged.

If the sum of all Bids submitted for a given Auction exceeds the Interconnection Capacity, a clearing price is charged. Up to the Bid (marginal Bid), which represents the level above which the sum of the Interconnection Capacity requested by the Auction Participants exceeds the Interconnection Capacity, each Auction Participant receives the Interconnection Capacity requested at the price of this marginal Bid. In cases where several Bids have the same price, the priority shall be given to Bids with earlier time stamp.

The clearing price determined according to the above principle is used as a basis for calculating the Auction Price and apply to all holders of Allocated Capacities.

## ANNEX 2: SCHEDULED DATES OF THE YEARLY AUCTION IN 2009

Yearly Auction		Date (indicative)
Year 2009	Publication of Auction Specifications	28.11.2008
	Auction Day	05.12.2008

### ANNEX 3: SCHEDULED DATES OF THE MONTHLY AUCTIONS IN 2009

Monthly Auctions		Date (indicative)
January 2009	Publication of Auction Specifications	11.12.2008
	Auction Day	16.12.2008
February 2009	Publication of Auction Specifications	14.01.2009
	Auction Day	19.01.2009
March 2009	Publication of Auction Specifications	13.02.2009
	Auction Day	18.02.2009
April 2009	Publication of Auction Specifications	13.03.2009
	Auction Day	18.03.2009
May 2009	Publication of Auction Specifications	10.04.2009
	Auction Day	15.04.2009
June 2009	Publication of Auction Specifications	15.05.2009
	Auction Day	20.05.2009
July 2009	Publication of Auction Specifications	12.06.2009
	Auction Day	17.06.2009
August 2009	Publication of Auction Specifications	10.07.2009
	Auction Day	15.07.2009
September 2009	Publication of Auction Specifications	14.08.2009
	Auction Day	19.08.2009
October 2009	Publication of Auction Specifications	11.09.2009
	Auction Day	16.09.2009
November 2009	Publication of Auction Specifications	15.10.2009
	Auction Day	20.10.2009
December 2009	Publication of Auction Specifications	13.11.2009
	Auction Day	18.11.2009

## ANNEX 4A: PUBLIC AUSTRIAN HOLIDAYS 2009

Date:	Description:
01.01.2009 Thu.	New Year's Day / Neujahr
06.01.2009 Tue.	Epiphany / Heilige Drei Könige
13.04.2009 Mon.	Easter Monday / Ostermontag
01.05.2009 Fri.	Labour Day / Tag der Arbeit
21.05.2009 Thu.	Ascension Day / Christi Himmelfahrt
01.06.2009 Mon.	Whit Monday / Pfingstmontag
11.06.2009 Thu.	Corpus Christi / Fronleichnam
15.08.2009 Sat.	Assumption Day / Maria Himmelfahrt
26.10.2009 Mon.	Austria National Day / Nationalfeiertag Österreich
01.11.2009 Sun.	All Saints' Day / Allerheiligen
08.12.2009 Tue.	Immaculate Conception / Maria Empfängnis
25.12.2009 Fri.	Christmas / Christtag / Weihnachtstag
26.12.2009 Sat.	Christmas / Christtag / Weihnachtstag

Daily auctions will be held from Monday to Friday with exception of the dates mentioned above!

**ANNEX 4B: DAYS WHEN NO DAILY AUCTION IS HELD (INDICATIVE)**

<b>Date:</b>	<b>Description:</b>
01.01.2009 Thu.	New Year's Day / Neujahr
02.01.2009 Fri.	New Year's Day / Neujahr
06.01.2009 Tue.	Epiphany / Heilige Drei Könige
13.04.2009 Mon.	Easter Monday / Ostermontag
01.05.2009 Fri.	Labour Day / Tag der Arbeit
02.05.2009 Sat.	Labour Day / Tag der Arbeit
21.05.2009 Thu	Ascension Day / Christi Himmelfahrt
01.06.2009 Mon.	Whit Monday / Pfingstmontag
11.06.2009 Thu.	Corpus Christi / Fronleichnam
15.08.2009 Sat.	Assumption Day / Maria Himmelfahrt
26.10.2009 Mon.	Austria National Day / Nationalfeiertag Österreich
31.10.2009 Sat.	Reformation Day
01.11.2009 Sun.	All Saints' Day / Allerheiligen
08.12.2009 Tue.	Immaculate Conception / Maria Empfängnis
24.12.2009 Thu.	Christmas / HI. Abend
25.12.2009 Fri.	Christmas / Christtag / Weihnachtstag
26.12.2009 Sat.	St. Stephen's Day / Stefanitag / Stephanstag
31.12.2009 Thu.	Sylvester

Daily auctions will be held from Monday to Friday with exception of the dates mentioned above

## ANNEX 4c: PUBLIC CZECH HOLIDAYS (STARTING WITH DECEMBER 2008)

Date:	Description:
24.12.2008 Wed.	Christmas Eve
25.12.2008 Thu.	Christmas
26.12.2008 Fri.	St. Stephen's Day
01.01.2009 Thu.	New Year's Day
12.04.2009 Sun.	Easter Sunday
13.04.2009 Mon.	Easter Monday
01.05.2009 Fri.	Labour Day
08.05.2009 Fri.	Liberation Day
05.07.2009 Sun.	Day of the Apostles St. Cyril and St. Methodius
06.07.2009 Mon.	Anniversary of the Martyrdom of Jan Hus
28.09.2009 Mon.	Czech Statehood Day
28.10.2009 Wed.	The Day of Establishment of the Independent Czechoslovak Republic
17.11.2009 Tue.	Struggle for Freedom and Democracy Day
24.12.2009 Thu.	Christmas Eve
25.12.2009 Fri.	Christmas
26.12.2009 Sat.	St. Stephen's Day

## ANNEX 5: CAPACITY CURTAILMENT

In cases of capacity Curtailment following priority order is used:

1. Capacity offered for daily and/or monthly Auction.
2. Capacity promised and/or allocated in daily Auction.
3. Capacity promised and/or allocated in monthly Auction.
4. Capacity promised and/or allocated in yearly Auction.

Within each of the above listed groups of Capacities there will be used proportional curtailment of capacity.

Auction Participants who have Allocated Capacity shall be compensated as follows:

Compensation for Capacity Curtailment:

Compensation price for Curtailment of the Allocated Capacity for given hour and direction is based on the previously paid Auction Price by the Auction Participant. In the case of Curtailment of the Allocated Capacity each Auction Participant whose Allocated Capacity have been curtailed shall be compensated by the originally paid Auction Price for each MWh the Capacity which have not been available.

APG and CEPS shall inform immediately each Auction Participant whose Allocated Capacity is curtailed about such case and by the 5<sup>th</sup> calendar day of the month following CEPS shall notify him the evaluation of compensation amount. APG and CEPS shall pay the compensation in an evaluated and notified amount to Auction Participant based on invoice.

In the case of Force Majeure the Auction Participant has no right to get any compensation.

**ANNEX 6: FORM FOR THE DIRECT DEBIT AUTHORIZATION**

name:  
street:  
zipcode/city:  
phone:  
fax:  
email:



Verbund Austrian Power Grid AG  
A-1220 Wien, Wagramer Straße 19, IZD-Tower  
Phone: +43-(0)-50313-56159  
Fax: +43-(0)-50313-52089  
Mail: Engelbert.Freiler@verbund.at

**Authorization for direct debit collection**

Hereby we revocably authorize you to collect debts at maturity from our bank account by debit advice. Herewith our bank shall be authorized to cash the debit advice, whereas there is no obligation for redemption, particularly if our bank account offers insufficient coverage. We reserve the right to revoke the debts collection within 42 days after the date of debts collection without stating the reason.

Account number:                      Name of bank:                      Bank code:

To (payee):  
Verbund Austrian Power Grid AG  
A- 1220 Wien, Wagramer Straße 19

location, date:

signature:

## ANNEX 7: REGISTRATION FORM FOR YEARLY AND MONTHLY AUCTIONS

A-1090 Wien, Alserbachstrasse 14-16  
 Phone: +43 1 253 7272 90 Fax: +43 1 253 7272 96  
[www.auction-office.at](http://www.auction-office.at)

Company	
Name according to commercial register	
Department	
No. of Commercial Register	
Address	
Post Code	
Country	

Balance Group Information	
Name of Balance Group	
Nomination will be performed with this BG?*	YES <input type="checkbox"/> NO <input type="checkbox"/>
EIC Code	
E-Mail	

Member data	
Commercial Representative	
Telephone	
Fax	
E-mail	

Auction Participant	
Name (User)	
Telephone	
E-mail	
Name (User)	
Telephone	
E-mail	
Name (User)	
Telephone	
E-mail	

\* If "NO" the Auction Participant needs to submit a valid "Membership of recognized Austrian Balance Group" (ANNEX 7) form in due time for the final usage of Allocated Capacities!

\_\_\_\_\_  
 date, signature

**ANNEX 8: FORM FOR “1:1” – SYSTEM NOTIFICATION**

This form shall be delivered to the following fax numbers:

To CEPS +420 21104 4401

To APG +431 53113 – 53219

	APG	CEPS
Name of the company		
Address		
VAT No. (if available)		
EIC-Code		
Contact Person		
Telephone No.		
Fax No.		
E-mail address		

	From	To
Period		

Confirmation done by nominated companies		
	Name of the company registered/identified by APG	Name of the company registered/identified by CEPS
Date		
Signature and stamp		

	APG’s approval	CEPS’s approval
Date		
Signature		

**ANNEX 9: FORM OF ACKNOWLEDGEMENT OF “MEMBERSHIP OF RECOGNIZED AUSTRIAN BALANCE GROUP”**

This form shall be delivered to the following fax number:

Auction-Office  
A-1090 Wien, Alserbachstrasse 14-16  
Phone: +43 1 253 7272 90 Fax: +43 1 253 7272 96

	Auction Participant	Austrian Balance Group
<b>Name of the company/ Austrian Balance Group:</b>		
<b>Address:</b>		
<b>EIC-Code</b>		
<b>Contact Person/ Representative:</b>		
<b>Telephone No.:</b>		
<b>Fax No.:</b>		
<b>E-mail address:</b>		

	From	To
Period:		

By signing this acknowledgement the representative of the Austrian Balance Group confirms that the Auction Participant is a member of its balance group during the above given period and commits itself to handle the corresponding cross border schedule for the Auction Participant.

Confirmation		
	<i>Auction Participant registered/identified by APG:</i>	<i>Name of the Austrian Balance Group:</i>
Date:		
Signature:		

## ANNEX 10: INTRADAY CEPS/APG TIMELINE

### Number of Intraday Sessions

Serial No. of the session S	Session running		Requests submission opened	Requests submission closed	Preliminary evaluation	Final evaluation	Nomination of schedules to APG
	From	To					
			T1	T2	T3	T4	T5
1	00:00	04:00	18:00 (D-1)	21:30 (D-1)	21:55 (D-1)	22:15 (D-1)	22:30 (D-1)
2	04:00	08:00	22:00 (D-1)	01:30 (D)	01:55 (D)	02:15 (D)	02:30 (D)
3	08:00	12:00	02:00 (D)	05:30 (D)	05:55 (D)	06:15 (D)	06:30 (D)
4	12:00	16:00	06:00 (D)	09:30 (D)	09:55 (D)	10:15 (D)	10:30 (D)
5	16:00	20:00	10:00 (D)	13:30 (D)	13:55 (D)	14:15 (D)	14:30 (D)
6	20:00	24:00	14:00 (D)	17:30 (D)	17:55 (D)	18:15 (D)	18:30 (D)

There are planned offline times of the Damas ePortal due to maintenance on every Tuesday or if Tuesday is a public holiday in the Czech Republic (see Annex 4C) then the planned outage will take place on the following working day. The intraday procedure will not be organized for session 6 of the day of planned outage and session 1 of the following day.