



Nordic Imbalance Settlement

**Agreement on Right of Disposal of Cash Account and Cash
Collateral**

between

[name of Balance Responsible Party]

and

eSett Oy

and

[name of Settlement Bank]

based on agreement template dated 11.3.2022

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This agreement (the "Cash Account and Cash Collateral Agreement" or "Agreement") has been entered into on this *[insert the day]* day of *[month]* *[year]* by and between

- 1) *[insert name of BRP, address, reg. no]* (the "Account Holder");
 - 2) *[insert name of the bank, address, reg. no]* (the "Settlement Bank");
- and
- 3) eSett Oy, Lökkisepantie 23, 00620 Helsinki, business ID 2582499-7 ("eSett")

hereinafter collectively referred to as the "Parties" and each a "Party".

This Agreement replaces the Agreement on Pledge and Right of Disposal of Cash Account concluded between the Parties.

1 Introduction

- 1.1 This Agreement relates to the agreement entered into between eSett and the Account Holder regarding imbalance settlement in the Nordic electricity market, including any and all of its appendices, as amended from time to time (the "Imbalance Settlement Agreement"). According to the Imbalance Settlement Agreement, the Account Holder shall, inter alia, be responsible for the financial settlement against eSett of payable amounts arising in the Nordic Imbalance Settlement.
- 1.2 The Account Holder has set up a Cash Account with the Settlement Bank with the account number *[insert IBAN account number]* and BIC code *[insert applicable BIC code]*, hereinafter referred to as the "Cash Account".
- 1.3 The Cash Account may be used for the settlement of payable amounts arising in the Nordic Imbalance Settlement between eSett and the Account Holder as a Settlement Account as referred to in the NBS Handbook. The Cash Account may be an account with a credit limit or be part of Account Holder's cash pool solution (ie. a transaction account). Credit limits on the Cash Accounts are always subject to Bank's approval.
- 1.4 The currency of this Cash Account is
 - DKK
 - EUR
 - NOK
 - SEK
- 1.5 In addition, the Account Holder may under this Agreement provide the Cash Collateral referred to in the Imbalance Settlement Agreement by pledging a separate account, opened in a Settlement Bank, in favour of eSett ("Cash Collateral Account") as described in more detail in section 3.
 - The Account Holder has set up a Cash Collateral Account with the Settlement Bank with the account number *[insert IBAN account number]* and BIC code *[insert applicable BIC code]*. The currency of this Cash Collateral Account is
 - DKK
 - EUR
 - NOK
 - SEK

- 1.6 The Settlement Bank and the Account Holder may agree on the terms and conditions of the Cash Account and Cash Collateral Account separately. However, if the aforementioned separately agreed terms and conditions of the Cash Account and the Cash Collateral Account between the Settlement Bank and the Account Holder should be in discrepancy with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail in case of any discrepancy.
- 1.6 A copy of the Settlement Bank Agreement between the Settlement Bank and eSett is enclosed as Appendix 1 to this Agreement only for the information of the Account Holder.

2 Right of Disposal

- 2.1 The Account Holder hereby grants eSett an unconditional right of disposal over the balance on the Cash Account, to be utilized in accordance with the Imbalance Settlement Agreement (with its Appendices).
- The Account Holder irrevocably instructs and authorises, without any further permission from the Account Holder, the Settlement Bank to comply with the terms of any written notice or instruction relating to the Cash Account issued by eSett.
- 2.2 The Settlement Bank may not oppose such notice or instruction or conduct any investigations regarding the validity of such notices or instructions save for a customary check that the instructions are given by an authorised party and, if applicable, any other checks required by applicable mandatory law, including but not limited to know-your-customer checks.
- 2.3 The right of disposal under Section 2.1 may not be revoked or amended by the Account Holder and shall remain in effect until eSett has confirmed in writing that the account is no longer required for the Nordic Imbalance Settlement and the right of disposal can be revoked.
- 2.4 For avoidance of doubt it is stated that the Account Holder has a parallel right of disposal over the balance on the Cash Account.
- 2.5 In utilizing the funds on the Cash Account, the Account Holder shall follow the obligations set out in the Imbalance Settlement Agreement. The Bank is not required to monitor that said obligations are followed or obligated to indemnify eSett if the Account Holder utilizes the funds from the Cash Account against the Imbalance Settlement Agreement or other agreement made between the Account Holder and eSett.
- 2.6 The Account Holder may not grant a third party a right of disposal, nor pledge the Cash Account or the funds on it to third parties.

3 Pledge in favour of eSett

- 3.1 Hereby the Account Holder chooses to post Cash Collateral as security for the Account Holder's obligations towards eSett under the Imbalance Settlement Agreement by pledging a Cash Collateral Account in favour of eSett.
- 3.2 The Account Holder hereby irrevocably and unconditionally, on the terms and conditions set out herein, grants a security interest in and pledges to eSett, all rights and interests in and to the Cash Collateral Account including both present and future credit balances and any interest accrued but not yet capitalised.
- 3.3 The pledge shall serve as collateral securing any claim eSett has or may have against the Account Holder in connection with performance of obligations of the Account Holder under the Imbalance Settlement Agreement, including but not limited to, charges and fees (both internal and external) related to Imbalance Settlement, interest and delay interest, and all costs and expenses in connection with the protection, preservation and enforcement of eSett's rights against the Account Holder under the Imbalance Settlement Agreement and this Agreement (the "Secured Obligations").
- 3.4 The pledge is established pursuant to the law of the state where the entity (Settlement Bank or its branch) with which the cash is deposited is located, i.e. where the Cash Collateral Account is located.

The perfection acts required to provide validity, enforceability and third party protection for the security interests granted herein shall be established in accordance with such applicable law.

3.5 Enforcement of Security

(i) Full enforcement

Upon the occurrence of a default of a payment or any other obligation of the Account Holder under the Imbalance Settlement Agreement, and for as long as the same is continuing, eSett may enforce the pledge and have the right to debit the balance on the Cash Collateral Account to cover any claims secured under Section 3.3. For this purpose eSett may instruct the Settlement Bank to transfer the funds, in whole or in part, from the Cash Collateral Account to any bank account designated by eSett and/or to apply any proceeds of such enforcement towards payment of the Secured Obligations in accordance with Section 3.5 (iii) (Application of funds). Prior consent of the Account Holder or any advance notice by eSett to the Account Holder is not needed, nor is it necessary for eSett to take any legal or other steps in order to verify or confirm eSett's entitlements (including a judgment or a decision of a competent court) or in order for eSett to exercise any and all of its rights hereunder.

For the purpose of enforcing the pledge created by this Agreement, the Account Holder hereby irrevocably authorises eSett to act in the name of the Account Holder and on behalf of the Account Holder to take any necessary or appropriate steps in respect of the enforcement of rights of pledge granted hereunder. This power of attorney shall remain in full force and effect throughout the validity of this Agreement.

(ii) Waiver of statutory restrictions

The provisions of non-mandatory statutory restrictions shall not be applied in case they are in discrepancy to the terms and conditions of this Agreement. For example, Chapter 10 Section 2 of the Finnish Commercial Code (Fi: Kauppakaari, 3/1734, as amended from time to time), including the requirement to give an advance notice to the Account Holder, shall not apply to the pledge under this Agreement and eSett is hereby authorized to enforce the pledge in any manner it deems appropriate.

(iii) Application of funds

eSett shall be entitled to apply the funds on the Cash Collateral Account (or, as the case may be, funds on such other bank account to which the funds from the Cash Collateral Account have been transferred pursuant to Section 3.5. (i) (Full enforcement)) in or towards payment of the Secured Obligations as is then due and payable in the manner and order determined by eSett and in accordance with the Imbalance Settlement Agreement. Upon the expiry of the validity of this Agreement, the surplus (if any) of such funds shall be promptly released or paid to the Account Holder upon the instructions given by eSett, subject to Section 3.6 and the terms of the Imbalance Settlement Agreement and its Appendix 2.

(iv) In addition, eSett shall be entitled to do all other things in relation to the Cash Collateral Account permitted by applicable law.

3.5 The Account Holder shall not be entitled to dispose of any of its rights in respect of the Cash Collateral Account, withdraw funds standing to the credit thereof, or otherwise give any instructions in respect of the Cash Collateral Account without the prior written consent of eSett.

3.6 The security constituted by this Agreement shall be a continuing security and shall extend to the ultimate balance of the Secured Obligations and shall continue to be in full force and effect notwithstanding any intermediate payment or discharge in whole or in part of the Secured Obligations and shall be effective until eSett has confirmed in writing that all Secured Obligations have been settled in full and the Balance Obligation of the Account Holder (as defined in the Imbalance Settlement Agreement) has ceased. The security constituted by this Agreement remains valid even if the terms and conditions of the Imbalance Settlement Agreement were amended at any time.

3.7 If the amount standing to the credit of the Cash Collateral Account is higher than what is necessary (as determined by eSett in its full discretion) for the Account Holder to meet the Collateral

Requirement and any other requirement specified by eSett in accordance with the Imbalance Settlement Agreement, the Account Holder shall be entitled, subject to confirmation by eSett, to receive the balance on the account that stands in excess of the aforementioned requirements ("Excess Funds"). Accordingly, eSett shall instruct the Settlement Bank about the Excess Funds to be released and, upon the receipt of such instruction, the Settlement Bank shall make the Excess Funds available to the Account Holder.

4 Information Disclosure

- 4.1 The Account Holder irrevocably authorises the Settlement Bank to inform eSett of the balance on the Cash Account and Cash Collateral Account (if in the scope of this Agreement) and of in- and outgoing transactions whenever requested by eSett, regardless of any duty of confidentiality. The Account Holder furthermore consents to any exemptions from the Settlement Bank's duty of confidentiality which follow from the Settlement Bank Agreement.

5 Governing law and Dispute resolution

- 5.1 This Agreement (including any dispute relating to the relationship between the Account Holder and eSett) is governed by and shall be construed in accordance with the laws of Finland, excluding its conflict of law principles.
- 5.2 Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The arbitration proceedings shall be conducted in Helsinki, Finland, in the English language.

6 Changes to the Agreement

- 6.1 Amendments to this Agreement require a written agreement between all the Parties.
- 6.2 In case the Account Holder has posted the Cash Collateral under Section 3 and it wishes to use on-demand guarantee as defined in the Imbalance Settlement Agreement instead of the pledge of Cash Collateral Account, the Parties shall agree on corresponding amendment to this Agreement in writing.

7 Term of agreement

- 7.1 This agreement shall remain in effect until further notice, and may be terminated by a party upon three (3) months' written notice to the other parties. However, if the pledge under Section 3 above has been posted this Agreement shall continue in force until eSett submits a written statement to the Settlement Bank and the Account Holder on release of the said pledge under this Agreement and eSett has collected all of the Account Holder's payable amounts arising from the Nordic Imbalance Settlement.
- 7.2 In addition, the Settlement Bank has the right to terminate this Agreement upon one (1) month's written notice in case it has terminated or simultaneously terminates the agreement on the Cash Account concluded between the Account Holder and the Settlement Bank based on grounded reason to suspect that the accounts are used in activities which are in breach of the law or instructions given by the authorities, as provided in the terms and conditions of the said agreement. However, if the pledge under Section 3 above has been posted this Agreement shall continue in force until eSett submits a written statement to the Settlement Bank and the Account Holder on release of the said pledge under this Agreement and eSett has collected all of the Account Holder's payable amounts arising from the Nordic Imbalance Settlement.

IN WITNESS WHEREOF, each Party has caused its authorised representative to execute this Agreement effective as of the date of signature by all Parties.

This Agreement is executed in three (3) identical original counterparts, one for each Party.

For and on behalf of the Account Holder

Signature

Name and title (printed letters)

Date:

For and on behalf of the Settlement Bank

Signature

Name and title (printed letters)

Date:

For and on behalf of eSett Oy

Signature

Name and title (printed letters)

Date:

Appendix 1 Settlement Bank Agreement