

General Trading Terms

# Trading Rules

N2EX Physical Market

Issued by Nord Pool Spot AS – Effective from 1 October 2014

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## 1 INTRODUCTION

- 1.1 NPS operates the N2EX Physical Market, which is a market place for Trading of electricity contracts with physical delivery.
- 1.2 The Physical Market comprises the Prompt Market, the Auction Market and the Spot Market.
  - a) The *Prompt Market* is a market for continuous Trading of Products with Delivery taking place up to 7 days ahead where Transactions are matched automatically when concurring Orders are registered in the ETS. Further provisions governing trading on the Prompt Market are set out in Trading Appendix 2a.
  - b) The *Auction Market* provides the possibility of Trading by means of an Auction for 24 Delivery Hours in respect of each Delivery Day based on all volume and price bids by the Participants received prior to closing of the relevant Auction. Further provisions governing trading on the Auction Market are set out in Trading Appendix 2b.
  - c) The *Spot Market* is a market for continuous Trading of Products with Delivery normally taking place within the next 48 hour period, where Transactions are matched automatically when concurring Orders are registered in the ETS. Further provisions governing trading on the Spot Market are set out in Trading Appendix 2c.
- 1.3 Each Physical Market offers such Products for Trading as set out in the Product Specifications.
- 1.4 These Trading Rules apply to all Trading on the Physical Market, and constitute an agreement between NPS and each Participant in the Physical Market. The Trading Rules comprise these General Trading Terms, the Trading Appendices and the Trading Agreements.
- 1.5 All Transactions entered into on the Physical Market will be automatically and mandatory subject to Clearing with NPS, whereby Participants will become Counterparties to NPS acting as counterparty in all Clearing Transactions as further set out in the Clearing Rules.

## 2 INTERPRETATION, DEFINITIONS AND ABBREVIATIONS

- 2.1 Capitalised terms shall have the meaning assigned to them in Trading Appendix 1 (Definitions) or as specifically defined in the text body of these Trading Rules.
- 2.2 References to any law or statute shall be deemed to include any related amendments, consolidations, re-enactments or replacements of it.
- 2.3 References to an entity include any corporate body, an unincorporated association or any other legal entity or physical person.
- 2.4 References to a Participant shall be deemed to include references to the successors or assignees (immediate or otherwise) of that Participant.
- 2.5 References to points in time refer to UK time (24-hour format), unless otherwise specified.
- 2.6 Any words importing the singular shall admit the plural where the context admits and vice versa. Any words importing the neuter gender shall include the feminine gender and the masculine gender (in respect of a physical person).
- 2.7 The term “including” and its derivatives shall mean “including but not limited to”.
- 2.8 Any reference to NPS having a right to make a decision or determination or to form any opinion or judgement shall unless as otherwise stated mean that NPS has the right to exercise its sole and unfettered discretion in doing so.
- 2.9 The headings in these Trading Rules are for convenience only and shall not affect its interpretation.
- 2.10 References to communications in writing shall unless otherwise specified include fax, e-mail and communications through the ETS.
- 2.11 In case of conflict between these General Trading Terms and the specific regulations for each Physical Market in Trading Appendix 2, the provisions of the applicable specific market regulations in Appendix 2 shall prevail.

### **3 CONDITIONS FOR TRADING**

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

- 3.1.1 Entities wishing to perform Trading on the Physical Market must enter into a Participant Agreement with NPS and be eligible as Counterparty under the Clearing Rules prior to the commencement of Trading on the Physical Market.
- 3.1.2 Entities wishing to perform Client Trading must be Participants and be approved as Client Representatives for such Clearing Clients under the Clearing Rules before Client Trading can commence.
- 3.1.3 In addition to the requirements under Sections 3.1.1 and 3.1.2, each Participant (or its Clearing Clients as applicable) must at all times:
  - a) be eligible as Counterparty to each Transaction and its corresponding Clearing Transaction under the Clearing Rules;
  - b) obtain, maintain and comply with all licences, authorisations and agreements required by Applicable Law to enable it to conduct Trading on the Physical Market and to perform its obligations under the Trading Rules;
  - c) have appointed a Contact Person in accordance with Section 3.3.
- 3.1.4 Further rights and obligations on Participants in respect of Trading are set out in the Trading Agreements and the Market Conduct Rules (Appendix 4) as applicable.

#### **3.2 Approval of Participants**

- 3.2.1 Entities wishing to enter into a Participant Agreement must send NPS a written application for membership in such form as NPS shall prescribe from time to time.
- 3.2.2 As part of the approval procedure, NPS may require additional information from the applicant on the applicant's legal status, financial soundness, organisation, technical systems, level of experience and competence and other relevant matters for evaluating whether the applicant is fit and proper to become a Participant or not.
- 3.2.3 NPS may require an applicant to provide a satisfactory legal opinion on such issues as NPS reasonably considers appropriate including that the applicant is legally entitled and appropriately authorised to conduct Trading in the Products, and that the Trading Agreement has been signed by a duly appointed representative.
- 3.2.4 NPS shall only admit applicants that NPS in its sole discretion considers fit and proper to become Participants. NPS may limit a Participant's membership to certain Products.
- 3.2.5 NPS shall generally admit and treat applicants and Participants on a fair and non-discriminatory basis. Subject to the aforesaid principle, NPS may however impose special terms and conditions on individual entities if this, in the reasonable opinion of NPS, is necessary to reflect special circumstances applying to that entity or to admit an entity which would otherwise be excluded from membership, including terms and conditions required by Applicable Law in the jurisdiction where the entity is domiciled.
- 3.2.6 NPS shall promptly inform the applicant in writing of the outcome of the application process. If the application is approved, the Trading Agreement shall be executed by duly authorised signatories of NPS and the applicant.

#### **3.3 Contact Person and Traders**

- 3.3.1 Each Participant must appoint at least one Contact Person for the Participant's Trading, subject to the approval of NPS not to be unreasonably withheld. The Contact Person(s) and Traders of each Participant are appointed through the use of Annex 2 to the Participant Agreement.
- 3.3.2 Unless otherwise agreed with NPS, Contact Persons will have full access to the ETS in respect of all Trading Portfolios of the Participant, and will have a non-exclusive right to appoint, amend or withdraw the access rights of the Participant's Traders. Each Participant shall ensure that its Contact Person(s) shall be fully authorised to represent the Participant towards NPS in all matters related to the Participant's Trading, and shall be capable of taking such action in a manner consistent with the daily time schedules and other requirements established by or pursuant to the Trading Rules.

- 3.3.3 Traders will get access to ETS for Trading in accordance with Section 7.2 and to the MTS when applicable in accordance with Section 7.3. Unless as otherwise agreed with NPS, a Trader will have corresponding access rights to the ETS and the Clearing Platform in respect of its Orders and Transactions. Each Trader shall be fully authorised to register Transactions on behalf of the Participant and to represent the Participant towards NPS in all matters related to the Orders and/or Transactions registered by the Trader, and is held to have authorised the subsequent Clearing of any Transactions registered by it. Each Participant shall ensure that its Traders shall be fully authorised to represent the Participant towards NPS in all matters related to the Trader, and shall be capable of taking such action in a manner consistent with the daily time schedules and other requirements established by or pursuant to the Trading Rules.
- 3.3.4 Following receipt by NPS of a written notification from the Participant that the appointment of any individual Trader or Contact Person is to be revoked, NPS shall terminate the Trader's or Contact Person's ETS access immediately, and send written confirmation. Notwithstanding such notification, the Participant shall remain bound by and liable for all actions or omissions of the Trader and/or Participant in respect of Trading during the period that the Trader and/or Contact Person has ETS access, until such time as NPS has confirmed in writing that the Trader's and/or Contact Person's ETS access has been terminated.

### 3.4 Trading Portfolios

- 3.4.1 Each Participant is granted up to three (3) Trading Portfolios for the Auction Market, and up to three (3) Trading Portfolios for the Spot Market and the Prompt Market (joint for both markets). The Trading Portfolios of each Participant are set out in Annex 1 to the Participant Agreement.
- 3.4.2 Establishment of additional Trading Portfolios is subject to NPS's approval not to be unreasonably withheld, and a fee as set out in the Fee Schedule.

## 4 REPRESENTATION AND WARRANTIES

### 4.1 Representations by the Participant

- 4.1.1 Each Participant represents and warrants to NPS on each date on which an Order is submitted or a Transaction is entered into that:
- a) **Power.** It has the power to perform its obligations under the Trading Rules and each Transaction;
  - b) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, is of good standing);
  - c) **Organisation.** It is properly staffed and organised to enable it to carry out, and its personnel have the necessary competence and knowledge for Trading;
  - d) **Risk Assumption.** It is aware of and understands the characteristics of each of the Products and the risks related thereto, and it has submitted Orders after a full opportunity to review their terms and conditions, and has an adequate understanding of those terms and conditions and of their risks, and is capable of assuming those risks;
  - e) **No Violation or Conflict.** The execution, delivery and performance of the relevant Trading Agreements or the Trading Rules do not violate or conflict with any Applicable Law or any provision of its constitutional documents applicable to the Participant or any of its assets, or any contractual restriction binding on or affecting it or any of its assets;
  - f) **Required Authorisations.** All Required Authorisations under Applicable Law have been obtained and are in full force and effect, and all conditions of any Required Authorisations have been complied with, and there are no further licences or filings with or other acts by or in respect of any Regulatory Body or court that are required to be obtained, made or done by the Participant in connection with Trading or Clearing;
  - g) **Principal.** Save where acting as a Client Representative as provided for in the Clearing Rules or as otherwise allowed by the Trading Rules, it has negotiated, entered into and executed the Orders or Transactions as principal and not as agent or in any other

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capacity, fiduciary or otherwise.

- h) **Accurate Information.** All applicable information that is furnished in writing by or on behalf of the Participant which is identified as being subject to or connected to the Trading Rules is, as of the date it is furnished to NPS, true, accurate and complete in every material respect; and.
  - i) **Compliance.** No Non-Compliance Event, or event that with notice or lapse of time or both would constitute a Non-Compliance Event has occurred with respect to it and no such event would occur as a result of it entering into or performing its obligations under the Trading Rules.
- 4.1.2 The Participant is, when carrying out Trading, deemed to repeat the representations specified above as well as any further representations specified as such in the Trading Rules.
- 4.1.3 The Participant acknowledges that it is under a duty to notify NPS in writing in case of any breach or suspected breach of its representations immediately upon the Participant becoming aware of the same.

## 4.2 Representations by NPS

- 4.2.1 NPS represents and warrants to each Participant that for as long as it is operating the Physical Market:
- a) **Power.** It has the power to perform its obligations under the Trading Rules and each Transaction;
  - b) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, is of good standing);
  - c) **Organisation.** it is properly staffed and organised to enable it to carry out, and its personnel have the necessary competence and knowledge to enable it to carry out its obligations under the Trading Rules;
  - d) **No Violation or Conflict.** The execution, delivery and performance of the relevant Trading Agreements or the Trading Rules do not violate or conflict with any Applicable Law or any provision of its constitutional documents applicable to NPS or any of its assets, or any contractual restriction binding on or affecting it or any of its assets;
  - e) **Required Authorisations.** All Required Authorisations under Applicable Law have been obtained and are in full force and effect, and all conditions of any Required Authorisations have been complied with, and there are no further licences or filings with or other acts by or in respect of any Regulatory Body or court that are required to be obtained, made or done by NPS in connection with its performance under the Trading Rules;
  - f) **Accurate Information.** All applicable information that is furnished in writing by or on behalf of NPS which is identified as being subject to or connected to the Trading Rules is, as of the date it is first furnished to Participants and unless as otherwise specified in the applicable information, believed to be true and accurate in every material respect; and
  - g) **Compliance.** No default, or event that with notice or lapse of time or both would constitute a default has occurred with respect to it and no such event would occur as a result of it entering into or performing its obligations under the Trading Rules.

## 5 PARTICIPANT ROLES AND CATEGORIES

### 5.1 Gross Bidding Participants

- 5.2 A Participant having significant volumes in both sales and purchase Transactions (whether actually or potentially) may apply to NPS to become a Gross Bidding Participant. The rights and obligations of a Gross Bidding Participant will be set out in the Gross Bidding Agreement.
- 5.3 NPS may set standardized and objective criteria for a Participant's eligibility as Gross Bidding Participant.

## **6 LISTING OF PRODUCTS**

- 6.1 NPS decides which Products shall be listed or delisted (removed) from the Physical Market, following consultation with the Market Council and subject to Section 16.
- 6.2 Delisting may not be effected for Products which have an Open Interest with NPS (other than zero).

## **7 GENERAL PROVISIONS ON TRADING**

### **7.1 Trading Facilities**

- 7.1.1 NPS maintains electronic trading systems (“ETS”) and a telephone trading system (“MTS”).
- 7.1.2 NPS facilitates Trading in Products between Participants by receiving Orders in the ETS and determines traded volumes and prices according to prevailing rules for price calculations. A Participant may on any Trading Day within Trading Hours for the relevant Product submit Orders through the Trading Systems. Processing and matching of Orders and Transactions is subject to the applicable regulations for the relevant Physical Market.
- 7.1.3 Trading on the Physical Market is anonymous except between NPS and the individual Participant entering an Order and entering into a resulting Transaction. Except as necessary to display Orders and Transactions to Participants in accordance with this Section 7.1.3 or as otherwise set out in Section 13 of these Trading Rules, NPS shall treat all Orders and other information from Participants communicated to NPS in relation to Transactions as confidential, and shall not disclose such information to other Participants or third parties unless to the extent required by Applicable Law.

### **7.2 The Electronic Trading System (ETS)**

- 7.2.1 The ETS is the principal trading facility for all Participants wishing to perform Trading on the Physical Market. Participants may register their Orders in ETS, where Orders are ranked and matched in accordance with the regulations for the applicable Physical Market.
- 7.2.2 Access to the ETS for Participants is royalty free, non-exclusive and non-transferable. Participants shall have a right of access to and use of the ETS subject to:
  - a) the Participant fulfilling the conditions for Trading as set out in Section 3.1;
  - b) the Participant not having its Trading rights suspended or Terminated in accordance with these Trading Rules; and
  - c) the Participant’s compliance with the ETS User Terms.
- 7.2.3 Registration of Orders and Transactions in the ETS is conditional upon the Participant having a corresponding right to Clearing in accordance with the Clearing Rules.
- 7.2.4 All Orders and Transactions in the ETS will be stored electronically and kept by NPS in accordance with Applicable Law. Transaction Information resulting from such records may be utilised as set out in Section 13.

### **7.3 The Manual Trading System (MTS)**

- 7.3.1 MTS is intended as a backup facility service to Participants only. In situations where ETS is not working, or NPS for other reasons deems MTS to be a more viable option than ETS, NPS may in its sole discretion approve that the Participant may call in its Orders, or changes to or cancellations of Orders, by telephone to MTS.
- 7.3.2 Only Traders approved by NPS in accordance with Section 3.3.3 are authorised to contact the MTS. When contacting the MTS, the Trader shall unsolicited, and in any event upon request by the MTS operator, identify itself by full name and which Participant it represents, state that the call concerns the submittal of an Order, and why the Participant is unable to submit its Order by means of ETS.
- 7.3.3 Provided that NPS approves of the use of MTS, the Participant shall provide such information as would be required if using the ETS, and in addition all such information which NPS may reasonably request to enable NPS to accurately register the Order.
- 7.3.4 NPS shall register the Order from MTS in ETS as soon as possible after receiving the Order, and shall in case of several Orders endeavour to register the Orders received in the same

sequence as the Orders were notified to NPS.

- 7.3.5 An Order submitted through the MTS is only considered registered when NPS has confirmed the entry of the Order in ETS through the MTS or otherwise in writing. The Order becomes binding on the Participant from the time of registration regardless of the time of confirmation.
- 7.3.6 The Participant shall be responsible for the correctness of all Orders registered by means of MTS, provided that NPS has acted in good faith when registering the Order.
- 7.3.7 NPS will make commercially reasonable endeavours to run an effective MTS service and maintain the continuity of access to MTS, but the MTS is provided on an "as available" basis and NPS makes no representation or warranty as to the availability of MTS to any Participant at any given time.
- 7.3.8 All communication with the MTS may be recorded, stored and used in connection with the processing of Orders and Transactions, including for market surveillance purposes. This may include personal data relating to individuals to the extent such information is conveyed by the relevant communication. Participants shall inform and procure all necessary consents from relevant individuals prior to such individuals being allowed to communicate with the MTS on behalf of the Participant.

#### **7.4 Availability of Traders and Contact Persons**

- 7.4.1 Once a Trader has submitted an Order, the Trader or the Contact Person of the applicable Participant must be available to be contacted by telephone at all times for as long as the Order is valid. For the purposes of this Section 7.4.1 Orders in the Prompt Market and the Spot Market are deemed valid until they are removed in accordance with the Trading Rules, while Orders in the Auction Market are deemed valid until the relevant auction is finished or the Order is revoked in accordance with the Trading Rules.
- 7.4.2 Whenever a Participant has entered into a Transaction pursuant to the Trading Rules, the relevant Trader or Contact Person shall be available by telephone on the same Trading Day for a period of thirty (30) minutes following the applicable Contact Time.

#### **7.5 Right to Refuse Orders**

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

#### **7.6 Suspension of Trading**

- 7.6.1 NPS may at any time suspend Trading in one or both Trading Systems, for one or several Products, if NPS reasonably determines that:
  - a) a system problem which is likely to affect Trading in such Product(s) has occurred or suspension is necessary to prevent such problem from occurring, including problems which affects the handling of Orders and the determination of prices in the Auction Market; or
  - b) the applicable Trading would contravene the requirements of Applicable Law.
- 7.6.2 Without any prejudice to the above, NPS reserves the right to continue Trading provided that a sufficient number of Participants (in the opinion of NPS) can still participate in the relevant market.
- 7.6.3 A Trading System shall be re-opened with full functions as soon as the event that led to suspension has been rectified and NPS has determined that Trading can be conducted in accordance with Applicable Law and the Trading Rules.
- 7.6.4 NPS shall give the Participants information about a suspension of Trading and re-opening of Trading immediately through the ETS or such other means of communication as NPS deems efficient and appropriate given the circumstances. NPS must provide Participants with at least five minutes' notice of a re-opening of Trading.
- 7.6.5 Notwithstanding this Section 7.6, NPS may suspend Trading for individual Participants due to Non-Compliance in accordance with Section 10 below.

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7.7 Registration of Clearing Transactions

7.7.1 All Transactions will be registered in ETS. The further registration process and completion of the Clearing Transaction is subject to the provisions of the Clearing Rules.

**8 FEES AND SETTLEMENT**

8.1 Fees shall be charged to Participants and invoiced in accordance with the Fee Schedule. Unless as explicitly stated, all fees are stipulated exclusive of VAT.

8.2 Unless as otherwise set out in the Clearing Rules, each Participant is responsible for and shall cause to pay any and all VAT and Relevant Tax arising in connection with its Trading activities and which is payable by that Participant under Applicable Law, with no further charge, reimbursement or indemnification to or from the other Participant to a Transaction or NPS, irrespective of whether the Participant is required by Applicable Law to pay any VAT or Relevant Tax which is properly for the account of the other Participant or NPS.

**9 MARKET CONDUCT AND MARKET SURVEILLANCE**

9.1 All Participants shall at all times be subject to and comply with the provisions of the Market Conduct Rules and Applicable Law when Trading. Subject to Applicable Law, non-compliance with Market Conduct Rules may be sanctioned by NPS in accordance with the provisions of the Market Conduct Rules.

9.2 NPS will, via Market Surveillance, monitor the N2EX Market with a view to ensuring that all Trading and other activities on the Market are conducted in accordance with the Market Conduct Rules and Applicable Law. Participants acknowledge that NPS may from time to time provide information on Trading activity to the appropriate Regulatory Body if it reasonably suspects that such Trading activity may have been carried out in breach of Applicable Law.

9.3 All communication with Market Surveillance may be recorded, stored and used in connection with the activities of Market Surveillance. This may include personal data relating to individuals by the consent and information is conveyed by the relevant communication or is otherwise necessary. Participants shall inform and procure all necessary consent from relevant individuals prior to such individuals being allowed to communicate with Market Surveillance on behalf of the Participant.

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**10 NON-COMPLIANCE**

10.1 A Non-Compliance Event exists if a Participant in the reasonable opinion of NPS:

- a) is in breach of the Trading Rules; or
- b) is in breach of Applicable Law

and such breach affects, or will affect, the Participant's ability to comply with the Trading Rules.

10.2 A Material Non-Compliance Event exists if in the reasonable opinion of NPS:

- a) the Participant is not in compliance with the requirements of Section 3.1 of these General Trading Terms;
- b) the Participant is in breach of the Representations contained in Section 4.1.1 (a) to (h) (inclusive) of these General Trading Terms, provided that the Representation in the opinion of NPS is incorrect or misleading in a material respect and has not been remedied within fifteen (15) calendar days following written notice from NPS, or the misrepresentation clearly indicates that the Participant is unfit for further Trading;
- c) the persistence of a Non-Compliance Event may adversely affect Trading in accordance with the Trading Rules and Applicable Law and such Non-Compliance Event is not remedied within fifteen (15) calendar days after NPS having sent written notice to the Participant; or
- d) the Non-Compliance Event is caused by the negligence, wilful default or fraud of the Participant, and such Non-Compliance Event is not remedied within fifteen (15) calendar days after NPS having sent written notice to the Participant.

- 10.3 NPS may for as long as a Non-Compliance Event or Material Non-Compliance Event persists suspend a Participant from Trading with immediate effect. During suspension, the Participant may only carry out Trading following approval by NPS.
- 10.4 NPS's right to terminate a Participant Agreement due to a Material Non-Compliance Event is set out in the Trading Agreement.

## **11 LIABILITIES AND FORCE MAJEURE**

- 11.1 NPS shall not be liable for any loss or damage to a Participant that may arise out of Trading or the Trading Rules as a result of any act or omission by NPS or any other Participant, provided that NPS has not acted negligently, fraudulently or in wilful default.
- 11.2 Except where NPS has acted fraudulently or is in wilful default, NPS shall under no circumstances be liable to the Participant for indirect loss and consequential damage (including loss of profits or contracts).
- 11.3 Notwithstanding Sections 11.1 and 11.2, a Participant will be liable to NPS for all loss or damage suffered (including expenses accrued) which result directly from the Participant's default under a Non-Compliance Event.
- 11.4 Neither NPS nor Participants shall under any circumstances be liable for any loss or damage in respect of any failure on its part to perform any of its obligations under the Trading Rules if a Force Majeure Event prevents performance of its relevant obligations.
- 11.5 Nothing in these Trading Rules shall affect the liability of a party for fraud or for personal injury or death caused by negligence of a party or its employees, officers or other representatives when acting on behalf of the party under or in relation to these Trading Rules.

## **12 INDEMNITIES**

- 12.1 The Participant shall fully and effectively indemnify NPS from and against any and all costs, claims, damages and expenses arising directly out of any breach of its obligations under the Trading Rules, provided that NPS shall use reasonable endeavour to mitigate such costs, claims, damages and expenses without prejudice to its obligations to other Participants and its right to protect the integrity of any Market.

## **13 MARKET INFORMATION SERVICES**

### **13.1 Intra-Day Market Information**

- 13.1.1 NPS shall continuously throughout every Trading Day supply Participants with information of all Orders and Transactions registered in ETS on an anonymous basis. Such Transaction Information will be made available through ETS and such other information facilities as NPS in its sole discretion decides, and consideration for such information is included in the membership fees.

### **13.2 Proprietary Rights to Transaction Information**

- 13.2.1 Whenever a Participant provides data relating to Orders or Transactions to NPS;
  - a) such data, as provided by the Participant in its original format, shall belong to the Participant; and
  - b) the Participant irrevocably grants to NPS a perpetual, non-exclusive, royalty-free licence (which shall survive the termination of any Trading Agreement) to include such data in the Transaction Information and to use such data for whatever purpose in accordance with these Trading Rules, provided that NPS shall, subject to Section 15, treat the identity of the Participant as confidential.
- 13.2.2 Participants shall, except as pursuant to these Trading Rules or as may be permitted by mandatory provisions of Applicable Law or other written agreement with or authorisation from NPS:
  - a) use any Transaction Information received only in the ordinary course of business as it relates to its Trading, and not cause any unauthorized third party to access or use the Transaction Information except where such third party is assisting the Participant in relation to its Trading;

- b) ensure that its relevant employees, agents, independent contractors and other recipients of Transaction Information do not act in violation of NPS or its licensors rights to the Transaction Information; and
- c) take all such reasonable steps which shall from time to time be necessary, in the reasonable opinion of NPS, to protect the rights of NPS or its licensors in the Transaction Information.

13.2.3 All copyright and other intellectual property rights or proprietary rights of whatever nature contained in the Transaction Information (including, for the avoidance of doubt, all database rights and similar rights whether or not protected by law) are and shall at all times remain, as between NPS and the Participants, the property of NPS. NPS shall be entitled to use, copy, adapt, sub-license, supply, sell, distribute, assign, transfer, rent, lease, charge or otherwise deal with Transaction Information as it deems fit at all times.

### 13.3 Index Calculation

13.3.1 NPS will on a daily basis calculate reference prices for the following Delivery Day based on the Auction Market and Prompt Market Transactions that have been entered into in the Trading System for the following Delivery Day (including OTC Transactions registered for Clearing), using a standard methodology and algorithms to be decided by NPS following consultation with the Market Council.

13.3.2 Reference prices will be made available to Participants through the ETS and through such other means of communication as NPS deems appropriate. Publication of the reference price based on the Auction Market will take place immediately following the publication of the Auction Price for the relevant Delivery Day, whereas the reference price based on the Prompt Market will be published following the end of the applicable reference price period.

## 14 COMMUNICATIONS

14.1 Communications between Participants and NPS shall be in English.

14.2 Any notice to be given under the Trading Rules shall be in writing and shall be delivered or sent by fax or email to NPS at the addresses and numbers specified on its website at any time (if addressed to NPS) or to the relevant address or telephone number or e-mail address specified in its Trading Agreement, as thereafter changed, by confirmed notice to and from NPS (if addressed to a Participant). NPS and Participants may communicate via ETS in respect of issues that are covered by the functionality of the ETS. NPS may also communicate generally to Participants via the website [www.n2ex.com](http://www.n2ex.com).

14.3 Notices shall be deemed to have been given (in the case of fax or email communication) on the date on which they are sent or (in the case of other communications) on the date of delivery to the appropriate address.

14.4 NPS shall be entitled to act and otherwise rely upon any communication (whether or not in writing) which purports and which NPS believes in good faith:

- a) to be issued by or on behalf of a Participant; or
- b) to have been approved by an individual who is authorised by that Participant, and which (in the case of an electronic communication) satisfies the requirements of any applicable requirements of NPS in relation to the security and integrity of information which is transmitted electronically.

## 15 INFORMATION SHARING

15.1 NPS may enter into information-sharing agreements or other arrangements or procedures with other market operators or clearing organizations for the purpose of market surveillance of the Listed Products, or contracts or instruments related to the Listed Products, provided that the receiving entity is subject to materially similar confidentiality obligations and other restrictions as those of NPS in respect of the disclosed information. As part of any such arrangements or procedures NPS may:

- a) provide Market Surveillance reports to other market operators or clearing organizations;
- b) share information and documents concerning current and former Market Conduct Parties with other market operators or clearing organizations;

- c) share information and documents concerning ongoing and completed investigations with other market operators or clearing organizations; and/or
  - d) require its Market Conduct Parties to provide information and documents to NPS at the request of other market operators or clearing organizations with which NPS has entered into such arrangements.
- 15.2 NPS may enter into any arrangement with any entity or body (including any Regulatory Bodies, any market operator or clearing organization) if NPS (i) believes that such entity or body exercises a legal or regulatory function under any law or regulation, or a function comprising or associated with the enforcement of a legal or regulatory function, or (ii) considers such arrangement to be in furtherance of NPS's purpose or duties under Applicable Law. NPS may disclose to any entity information concerning or associated with a Market Conduct Party or other entities that NPS believes is necessary and appropriate in exercising a legal or regulatory function (including, without limitation, information concerning any aspect of any clearing activity or business concerning NPS), whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## 16 AMENDMENTS

- 16.1 The Trading Rules may be amended by NPS with fourteen (14) days written notice to Participants.
- 16.2 Significant amendments to the Trading Rules may only be effected following consultations with the Market Council, with at least one (1) month for the Market Council to consider and comment on such amendments prior to the issue of notice from NPS as set out in Section 16.1.
- 16.3 Notwithstanding Sections 16.1 and **Error! Reference source not found.**, amendments to the Trading Rules may be implemented with immediate effect following notice to affected Participants:
- a) if so required by Applicable Law;
  - b) if such amendments in the opinion of NPS are necessary for either the continued Trading operations or the integrity of the relevant Market;
  - c) if so required in order to facilitate the launch of one or more new Products, provided that such amendments do not directly affect Trading in (or Clearing of) other Products and provided that the Market Council has consented to such amendments;
  - d) if such amendments are necessary to correct errors in the Trading Rules; or
  - e) if such amendments are of editorial nature only and do not entail any substantive changes to the Trading Rules, including clarifications and changes in layout etc.

Obsolete

## 17 MISCELLANEOUS

- 17.1 **Transfer of Rights.** The rights and obligations of a Participant under the Trading Rules are not assignable or otherwise transferable without the prior written consent of NPS.
- 17.2 **Third Party Rights.** No entity who is not NPS or a Participant shall confer any benefit on, or give any right to enforce any provisions of the Trading Rules to any person. Rights of Third Parties to enforce any provision of any of the Trading Rules pursuant to the Contracts (Rights of Third Parties) Act 1999 are expressly excluded.
- 17.3 **Severability.** If at any time any provision of the Trading Rules becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of the Trading Rules nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.
- 17.4 **Binding Effect of Determinations.** Any certification or determination by NPS of a rate or amount under the Trading Rules shall, in the absence of manifest error, be conclusive evidence of the matters to which it relates. In any proceedings arising out of or in

connection with the Trading Rules, the entries made in the trading accounts maintained by NPS will be prima facie evidence of the matters to which they relate.

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

## **18 GOVERNING LAW AND DISPUTE RESOLUTION**

- 18.1 These Trading Rules, all Transactions effected under them, and all non-contractual obligations arising out of or in connection with them, shall be governed by and construed in accordance with English law.
- 18.2 The English courts shall have exclusive jurisdiction to settle any claim, dispute or difference which may arise out of or in connection with these Trading Rules, including any question as to their existence, validity or termination.
- 18.3 Each Participant and NPS irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in the English courts and any claim that any such proceedings have been brought in an inconvenient forum, and further irrevocably agrees that a judgment in any proceedings brought in the English courts shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction in accordance with the enforcement laws of that jurisdiction.
- 18.4 Each Participant and NPS irrevocably waives any right to claim that service of process in any proceedings has not been properly effected where such service of process has been effected by delivery to the address last notified NPS in accordance with Section 14.

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# Obsolete