



Trading Agreement 1

# Participant Agreement

[Insert name of Participant]

Nord Pool Spot AS

# Obsolete

## PARTICIPANT AGREEMENT

### Notice

Please ensure that this document when executed does not contain any square brackets, footnotes, explanatory notes etc except those which are intended to remain in the document (if any). Please initial each page in the bottom right hand corner, and ensure that signatures are by duly authorised persons.

entered into between

**Company [Insert name of Participant]**, with reg.no.[insert registration number], in the [insert home state] Company Register (the "**Participant**");

and

**Nord Pool Spot AS**, a Norwegian limited company with reg. no **984 058 098** in the Norwegian Company Register ("**NPS**");

collectively referred to as the "**Parties**",

### 1. GENERAL

- 1.1** NPS operates the Physical Market(s) as set out in the Trading Rules.
- 1.2** The Participant has regular business involving Transactions in Products in the Physical Market.
- 1.3** Upon entering into this agreement and subject to the terms of the Trading Rules, the Participant obtains the right to enter into Transactions in the Physical Market(s) operated by NPS and to have such Transactions subject to Clearing.
- 1.4** The Trading Rules set out the rights and obligations of the Participant in relation to Trading on the Physical Market, and the Participant hereby accepts to be bound by the Trading Rules which are deemed incorporated by reference into this agreement.
- 1.5** The Participant may only conduct Trading on behalf of third parties if it has obtained prior written approval from NPS in accordance with the Trading Rules.

### 2. INTERPRETATION

- 2.1** Terms defined in the Trading Rules of NPS shall have the same meaning in this agreement.
- 2.2** In the event of conflict between the Trading Rules and this agreement, the Trading Rules shall prevail.

### 3. MARKET CONDUCT RULES

- 3.1** The Participant acknowledges that it is under a duty to comply with the Market Conduct Rules.
- 3.2** The Participant further acknowledges that the Market Conduct Rules are under surveillance by and sanctioned by NPS and that NPS has the right to enforce the Market Conduct Rules against the Participant in accordance with and as provided for in the Market Conduct Rules.
- 3.3** NPS may, notwithstanding any duty of confidentiality owed to the Participant but subject to the provisions in the Market Conduct Rules, make public the fact that an investigation of the Participant has been initiated in respect of a breach of the Market Conduct Rules. NPS may also disclose the results of such investigations, including any sanctions.

## **4. REPRESENTATIONS**

### **4.1 Representations by the Participant**

- 4.1.1 By entering into this agreement the Participant hereby represents and warrants to NPS that:
- a. it has taken all necessary actions to authorise the signing of this agreement as supplemented by the Trading Rules; and
  - b. the signing of this agreement and its compliance with this agreement and the Trading Rules does not violate any law, rule, regulation or agreement, document or instrument binding on or applicable to the Participant.
- 4.1.2 In addition to Section 4.1.1 the Participant is deemed to accept and repeat the representations and warranties in the Trading Rules.
- 4.1.3 The Participant acknowledges that it is under a duty to notify NPS immediately in case it becomes aware of any breach of a representation or a warranty, as further provided for in the Trading Rules.

### **4.2 Representations by NPS**

- 4.2.1 By entering into this agreement NPS hereby represents and warrants to the Participant that:
- a. it has taken all necessary actions to authorise the signing of this agreement as supplemented by the Trading Rules; and
  - b. the signing of this agreement and its performance under this agreement and the Trading Rules does not violate any law, rule, regulation or agreement, document or instrument binding on or applicable to NPS.

## **5. CONFIDENTIALITY**

- 5.1** Subject to the provisions in this Section 5, NPS shall ensure that no other party gains access to or knowledge of any matters relating to the business or personal affairs of the Participant which it becomes aware of through the Participant's Transactions in the Physical Market, and NPS shall not make use of such information for any other purposes than those related to Transactions in the Physical Market and related activities of NPS.
- 5.2** Subject to the provisions in this Section 5, the Participant undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of NPS.
- 5.3** Notwithstanding the other provisions of this Section 5:
- a. the Participant acknowledges that NPS shall be allowed to provide information to any other person or entity advising or assisting NPS in its operations, provided these persons and entities are subject to a corresponding duty of confidentiality;
  - b. the Participant acknowledges NPS' rights to use and distribute Transaction information as set out in the General Terms;
  - c. the duty of confidentiality shall not extend to information which is or becomes public through no breach of a Party's confidentiality obligations hereunder;
  - d. either Party shall be allowed to disclose any information as may be required by law, court order or any governmental or Regulatory Body; and
  - e. neither Party is required to keep confidential the fact that it has entered into this agreement or any suspension or termination of this agreement.
- 5.4** This Section 5 shall not limit either Party's confidentiality obligations under Applicable Law.

## **6. CHANGES TO THE AGREEMENT**

- 6.1** Amendments to this agreement require the written agreement of both Parties.
- 6.2** Notwithstanding Section 6.1, NPS may amend the Trading Rules in accordance with the provisions in the Trading Rules.

## **7. TERMINATION**

- 7.1** Either Party may upon three (3) months written notice to the other terminate this agreement.
- 7.2** In the case of a Material Non-Compliance Event, NPS may terminate the Trading Agreement with immediate effect and thereby exclude the Participant from further Trading. Such termination will be notified immediately and in writing.

## **8. MISCELLANEOUS**

### **8.1 Notices**

- 8.1.1** Any notice required to be given under this agreement or the Trading Rules by the Participant shall be given by authorised representatives and in writing to authorised representatives of NPS, unless as otherwise prescribed in the Trading Rules.

### **8.2 Entire agreement**

- 8.2.1** This agreement and the Trading Rules contain the whole agreement between NPS and the Participant relating to the subject matter of this agreement and the Trading Rules and supersede any previous arrangement, understanding or agreement between them relating to that subject matter.
- 8.2.2** NPS and the Participant each acknowledge that in entering into this agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty other than as expressly set out in this agreement and the Trading Rules.

- 8.2.3** Nothing in this Section 8.2 shall limit or exclude any liability for fraud.

### **8.3 Severability**

- 8.3.1** In the event that any one or more provisions of this agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions shall remain valid and enforceable.

### **8.4 Assignment**

- 8.4.1** The Participant may not transfer, replace or assign this agreement or its rights under the Trading Rules without the prior written consent of NPS.

### **8.5 Counterparts**

- 8.5.1** This agreement may be executed in any number of counterparts, each of which when executed shall constitute an original of this agreement, but all the counterparts shall together constitute the same agreement.

### **8.6 Waiver**

- 8.6.1** No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy.

## **9. CHOICE OF LAW AND DISPUTE RESOLUTION**

- 9.1** This agreement shall be governed by, construed and take effect in accordance with Norwegian law.

**9.2** The Norwegian courts shall have exclusive jurisdiction to settle any claim, dispute or difference that may arise out of or in connection with this agreement, including any question as to its existence, validity or termination.

**9.3** Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in the Norwegian courts and any claim that any such proceedings have been brought in an inconvenient forum, and further irrevocably agrees that a judgement in any proceedings brought in the Norwegian 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 law of that jurisdiction.

\* \* \*

IN WITNESS OF THEIR AGREEMENT each Party has caused its authorised representative to execute this agreement effective as of the date of signature by both Parties.

This agreement has been made in two (2) originals, and each Party keep one (1).

**For and on behalf of Company**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and title (printed letters)

Date:

**For and on behalf of Nord Pool Spot AS**

**Obsolete**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and title (printed letters)

Date:

**SIGNATURES**

Authorised signatures are required in order to effectuate this Participant Agreement. Authorised signatures are by person(s) having general signing authority for the Member.

- Annex 1:** Contact Details and Authorisations
- Annex 2:** Trading Portfolio Overview