

# **Client Agreement**

**[Insert name of Client]**

**Nord Pool AS**

This **Client Agreement** (the "**Agreement**") is made the day of \_\_\_\_\_ 20[ ]

**BETWEEN:**

**[Insert Name of CLIENT]**, a company incorporated under the laws of *[insert state]*, having its registered office at *[insert registered address]*, registered in the *[insert name of register]* with the number *[insert registration number]* (the "**Client**");

**[Insert Name of CLIENT REPRESENTATIVE]**, a company incorporated under the laws of *[insert state]*, having its registered office at *[insert registered address]*, registered in the *[insert name of register]* with the number *[insert registration number]* (the "**Client Representative**");

and

**NORD POOL AS**, a company incorporated under the laws of Norway having its registered office at Vollsveien 17B, 1366 Lysaker, Norway and registered in the Register of Business Enterprises with the number 984 058 098 ("**Nord Pool**");

each a "**Party**" and together the "Parties".

## 1. General

- 1.1 Nord Pool operates the Physical Markets and offers Clearing services as set out in the Clearing Rules.
- 1.2 The Client Representative is a Participant and has been approved by Nord Pool to act as a Client Representative.
- 1.3 The Client wishes to appoint the Client Representative as, and the Client Representative has agreed to act as, the agent of the Client for the purposes of the posting of Bids and Offers and the entering into Transactions on behalf of the Client in respect of Portfolios nominated by the Client.
- 1.4 Unless otherwise expressly specified herein, the Client hereby accepts that the Contact Persons nominated by the Client Representative shall have full authority to act on behalf of the Client in matters concerning Trading. The Client shall notify Nord Pool of its contact persons for Collateral, Clearing and Settlement in such manner as may be specified by Nord Pool from time to time.
- 1.5 The Client hereby accepts to be bound by the Rulebook, which are deemed to be incorporated by reference into this Agreement.
- 1.6 In the event of conflict between the Rulebook and this Agreement, the Rulebook shall prevail.
- 1.7 Terms defined in the Rulebook shall have the same meaning in this Client Agreement.

## **2. Clearing**

- 2.1 The Client's Transactions, shall be subject to Clearing with Nord Pool pursuant to the relevant provisions in the Rulebook.

## **3. Market Conduct Rules**

- 3.1 The Client acknowledges that it is under a duty to comply with the applicable Market Conduct Rules, which are deemed to be incorporated into this Agreement by reference.
- 3.2 The Client further acknowledges that the Market Conduct Rules are under surveillance by and sanctioned by Nord Pool and that Nord Pool has the right to enforce the Market Conduct Rules against the Client as provided for in the Market Conduct Rules.
- 3.3 Nord Pool may, notwithstanding any duty of confidentiality owed to the Client but subject to the provisions in the Market Conduct Rules, make public the fact that an investigation of a particular Client(s) has been initiated in respect of a breach of the Market Conduct Rules. Nord Pool may also disclose the results of such investigations, including any sanctions.

## **4. Representations and warranties**

- 4.1 By entering into this Agreement, the Client shall be deemed to have made to Nord Pool the representations and warranties that are set out in Section 4.1 of the General Terms of the Rulebook. Such representations and warranties shall be deemed repeated at such times as are more particularly described in Section 4.1 of the General Terms.
- 4.2 The Client and the Client Representative each hereby represents and warrants that:
- (a) it has all requisite power and authority and legal right to enter into this Agreement under its articles of association, by law or any other document and to perform its obligations under this Agreement;
  - (b) it has taken all necessary actions to authorise the signing of this Agreement;
  - (c) it is not necessary in order to ensure the validity or enforceability of this Agreement that the Rulebook or any agreement or Clearing Transaction be filed, registered or recorded with any public register.
- 4.3 The Client and the Client Representative each acknowledges that it is under a duty to notify Nord Pool immediately in case it becomes aware of any breach of a representation or a warranty, as provided for in the Rulebook.

## **5. Changes to the Agreement**

- 5.1 Unless otherwise expressly provided herein and subject to clause 5.2 below, changes to this Agreement shall require the written agreement of all Parties.
- 5.2 Nord Pool may amend the Rulebook in accordance with the provisions in the Rulebook. The provisions of this Agreement shall be construed and interpreted at all times in a manner that is consistent with the then current terms of the Rulebook from time to time.

## 6. Confidentiality

- 6.1 Subject to the provisions in this clause 6, Nord Pool shall ensure that no third party gains access to or knowledge of any matters relating to the business or personal affairs of the Client of which it becomes aware through its dealings with the Client Representative pursuant to the terms of this Agreement, and Nord Pool shall not make use of such information for any purpose other than such purposes as are related to the Client's Transactions in the Physical Market, the Clearing of such Transactions and related activities of Nord Pool.
- 6.2 Subject to the provisions in this clause 6, both the Client and the Client Representative each undertake that they shall not at any time disclose to any person any confidential information concerning the business, business affairs, customers, clients or suppliers of Nord Pool without Nord Pool's prior written consent.
- 6.3 Notwithstanding the other provisions of this clause 6:
- (a) Nord Pool may provide such information to the Client Representative about the Clearing Accounts and Clearing Transactions of the Client as it considers reasonable from time to time, and the Client consents to such disclosure notwithstanding any obligation of confidentiality, howsoever arising, that may exist between the Client and Nord Pool with respect to such information;
  - (b) Nord Pool may provide such market surveillance information as it considers reasonable from time to time to any regulatory authority or to such other persons or entities as may be advising or assisting Nord Pool in its market surveillance operations, provided such regulatory authorities and/or other persons and/or entities are subject to a corresponding duty of confidentiality with respect to such information;
  - (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; and
  - (e) no Party is required to keep confidential the fact that it has entered into this Agreement or any suspension or termination of this Agreement.
- 6.4 This clause 6 shall not limit any Party's confidentiality obligations under Applicable Law.

## 7. Termination

- 7.1 Any Party may terminate this Agreement upon three (3) months' written notice to the other Parties.
- 7.2 Nord Pool's right to suspend and/or terminate this Agreement in the case of a Collateral deficit or Default Event is set out in the Rulebook.
- 7.3 Subject to clause 7.4 of this Agreement, the Client's Collateral shall be returned as soon as practicable after the date of termination, provided that in each case all open positions and/or pending settlements to Nord Pool by the Client have been fully, finally and unconditionally paid or discharged.
- 7.4 In the event that the Client Representative's Participant Agreement is terminated for any reason, this Agreement will terminate concurrently with such Participant Agreement or, if earlier, immediately on the Client entering into a Client Agreement with a new Client Representative with respect to the same Portfolios as in this Agreement.

7.5 Termination of this Agreement will not affect the Client's or the Client Representative's rights and obligations to Nord Pool, or the rights and obligations of Nord Pool, with respect to Transactions submitted to Nord Pool before the date of such termination. The Client may not enter into any Transactions pursuant to the terms of this Agreement on or after the date of termination of this Agreement.

## 8. Entire Agreement

8.1 This Agreement and the Rulebook contain the whole agreement between the Parties relating to the subject matter of this Agreement and supersede any previous arrangement, understanding or agreement between them relating to that subject matter.

8.2 The Parties 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 Rulebook.

8.3 Nothing in this clause 8 shall limit or exclude any liability for fraud.

## 9. Choice of Law and Dispute Resolution

9.1 This Agreement shall be governed by, construed and take effect in accordance with [ *insert governing law of Client Representative's Participant Agreement* ] law.

9.2 The [ *insert venue determined Client Representative's Participant Agreement* ] 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 [ *insert venue determined Client Representative's Participant Agreement* ] 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 [ *insert venue determined Client Representative's Participant Agreement* ] 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.

## 10. Miscellaneous

10.1 **Counterparts.** 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.

10.2 **Waiver.** 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.

10.3 **Third party rights.** No provision of this Agreement may be enforced by any person that is not party to it.

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

**For and on behalf of [insert name of Client]**

\_\_\_\_\_  
Signature

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

Date:

**For and on behalf of [insert name of Client Representative]**

\_\_\_\_\_  
Signature

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

Date:

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

\_\_\_\_\_  
Signature

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

Date: