

# **Collateral Security Deed**

**Nord Pool AS**

**[English law]**

## COLLATERAL SECURITY DEED

This **Collateral Security Deed** dated \_\_\_\_\_ is made by and between:

1. *[Insert full name of Clearing Member or, if the Clearing Member is not the Collateral Provider, the full name of the legal entity acting as the Collateral Provider (See also Schedule 2, Part 2)]*, a company incorporated under the laws of *[insert country of incorporation]* with company number *[insert co no]* whose registered office is at *[insert address]* (the "**Collateral Provider**"); and
2. **Nord Pool AS**, a company incorporated under the laws of Norway with company number 919 585 099 whose registered office is at Lilleakerveien 2A, NO-0283 Oslo, Norway (the "**Collateral Taker**"),

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

### INTRODUCTION:

- A) *[Insert either: The [name of Clearing Member if it is not also the Collateral Provider (the "Clearing Member")] or [Collateral Provider]* is or proposes to become a Clearing Member in accordance with the Clearing Rules (as defined below) with respect to one or more of the Physical Markets operated by the Collateral Taker.
- B) The Collateral Provider has agreed to execute this Collateral Security Deed for the purpose of securing *[its] [the]* liabilities *[of] [the Clearing Member]* to the Collateral Taker under the Clearing Rules.

### WITNESSES as follows:

#### 1. INTERPRETATION

In this Deed (and except insofar as expressly provided otherwise):

- (a) capitalized words and phrases shall have the meanings attributed to them in Schedule 1 (Definitions & Interpretation) to this Deed;
- (b) any capitalized words and phrases used in this Deed which are not defined herein shall have the meanings attributed to them in the Rulebook; and
- (c) the principles of interpretation set out in Schedule 1 shall apply to the interpretation of this Deed.

#### 2. COVENANT TO PAY SECURED SUMS

- 2.1 The Collateral Provider covenants with the Collateral Taker that it will duly and punctually pay or discharge to the Collateral Taker all debts, obligations and liabilities whatsoever now or in the future (whether before or after the occurrence of an Event of Default) due, owing or incurred by

**[insert: [Clearing Member] or [Collateral Provider]** to the Collateral Taker (whether solely or jointly, or jointly and severally, with another or others, and whether as principal or surety, and whether actual or contingent, present or future) including (whether before or after any judgment) all interest, costs and other charges whatsoever and including any debts, obligations and liabilities which arise under or in connection with the Rulebook (including the Clearing Rules) and/or this Deed (the “**Secured Sums**”).

- 2.2 The Collateral Provider shall be treated as liable as principal to the Collateral Taker in respect of the Secured Sums, whether the underlying transactions with respect to such Secured Sums are recorded in the books of account of the **[insert: [Clearing Member] or [Collateral Provider]** and/or the Collateral Taker as being for the **[insert: [Clearing Member] or [Collateral Provider]**'s own account or that of one of its Clients.
- 2.3 It is agreed that the Secured Sums shall be treated, for the purposes of this Deed, as satisfied to the extent that they have been paid by means of a drawing made by the Collateral Taker (and received by the Collateral Taker in free, clear and unconditional funds) pursuant to the terms this Deed.
- 2.4 **[Delete if Collateral Provider is the Clearing Member]** As a separate and independent stipulation, the Collateral Provider covenants that all Secured Sums which may not be recoverable from the Clearing Member by reason of any legal limitation, disability or incapacity or want of powers of the Clearing Member or any irregular or improper purported exercise of such powers or any other fact or circumstance, whether known to the Collateral Taker or not, shall nevertheless be recoverable from the Collateral Provider as sole or principal debtor and the money and interest charged by this Deed shall stand as primary and not collateral security to the Collateral Taker for the payment of all such Secured Sums.

### 3. CREATION OF SECURITY

- 3.1 As continuing security for the payment or discharge of the Secured Sums, the Collateral Provider with full title guarantee hereby:
- (a) charges to the Collateral Taker, by way of fixed charge, all its rights, title and interest in and to all Cash Collateral now or in the future provided by it to the Collateral Taker pursuant to the Clearing Rules;
  - (b) assigns to the Collateral Taker, by way of fixed charge, all its rights, title and interest in and to all money now or in the future standing to the credit of each Cash Collateral Account together with all interest accruing thereon, including all debts represented thereby; and
  - (c) charges to the Collateral Taker, by way of floating charge, all its rights, title and interest in and to all property deliverable and all money payable to **[it] [the Clearing Member]** by or on behalf of the Collateral Taker pursuant to the Clearing Rules to the extent that such property and money are not effectively charged by any other charge contained in this clause 3.1.
- 3.2 The Collateral Provider shall, forthwith on the execution of this Deed, deliver a signed notice of charge to the Account Bank in the form set out in Schedule 3 of this Deed and obtain from the Account Bank and deliver to the Collateral Taker (or procure that the Account Bank delivers to the Collateral Taker) an acknowledgement duly signed on behalf of the Account Bank in the

form of acknowledgement set out Schedule 3 (or such substantially similar acknowledgement as the Collateral Taker may otherwise in its sole discretion accept). Additional Schedule 3 notices and acknowledgements shall be executed and delivered in accordance with this clause 3.2 whenever additional accounts that are to be used as Cash Collateral Accounts are established, or as the Collateral Taker may otherwise require.

- 3.3 The parties to this Deed acknowledge and intend that the security provided under this Deed will constitute a "security financial collateral arrangement" and form part of the same arrangements as the Clearing Rules for the purposes of the Financial Collateral Regulations.
- 3.4 The charges contained in clause 3.1 shall apply to all Charged Property provided by the Collateral Provider to the Collateral Taker as Collateral with respect to all transactions made between *[insert: the [Clearing Member] or [Collateral Provider]* and the Collateral Taker pursuant to the Clearing Rules, whether such transactions are recorded in the books of account of *[insert: the [Clearing Member] or [Collateral Provider]* and/or the Collateral Taker as being for *[insert: the [Clearing Member] or [Collateral Provider]*'s own account or that of one of its Clients.
- 3.5 All money received or realised under the powers conferred by this Deed shall be applied for the purposes and in the order of priority and, if the Collateral Taker has recorded in its books of account transactions for *[insert: the [Clearing Member] or [Collateral Provider]*'s own account and that of one of its Clients, in the proportions as in each case determined by the Collateral Taker in accordance with the Clearing Rules.
- 3.6 Without prejudice to clause 7 (Negative Pledge), any charges (fixed or floating) or pledges created in the future by the Collateral Provider over the Charged Property (except those in favour of the Collateral Taker) shall be expressed to be subject to this Deed and shall rank in order of priority behind the charges created by this Deed.
- 3.7 If the *[insert: [Clearing Member] or [Collateral Provider]* for any reason ceases to be an account holder with the Clearing System, the rights and property hereby charged to the Collateral Taker shall be released from charge upon the Collateral Provider's written request and at its expense after all Secured Sums have been fully and unconditionally paid or discharged to the Collateral Taker (or, if contingent, have wholly ceased to be capable of arising) and after the *[insert: [Clearing Member] or [Collateral Provider]* has become entitled under the Clearing Rules to request the release of such security.

## 4. CRYSTALLISATION OF FLOATING CHARGES

- 4.1 The Collateral Taker may, at any time after an Event of Default has occurred, by notice in writing to the Collateral Provider convert with immediate effect the floating charges created by clause 3.1(c) into a fixed charge over any property or assets specified in the notice.
- 4.2 Without prejudice to any law which may have a similar effect, the floating charge will automatically be converted (without notice) with immediate effect into a fixed charge over all the assets subject to the floating charge upon the occurrence of any Insolvency Event.
- 4.3 A charge which has crystallised under clauses 4.1 or 4.2 may, by notice in writing given at any time by the Collateral Taker to the Collateral Provider, be reconverted into a floating charge in relation to the Charged Property specified in such notice.

## 5. CASH COLLATERAL ACCOUNTS

- 5.1 All cash from time to time provided by the Collateral Provider as Cash Collateral **[for the Clearing Member]** (pursuant to the Clearing Rules) shall be transferred with full title guarantee to the relevant Cash Collateral Account.
- 5.2 Each Cash Collateral Account will be established and maintained as a blocked, segregated account with the Account Bank at a branch located in England and Wales, and designated using the format "[name of the Collateral Provider]: Re Nord Pool (GB) Blocked Cash Collateral Account" (or otherwise designated as the Collateral Taker may expressly agree in writing). No money may be withdrawn from any Cash Collateral Account except on the express instructions of the Collateral Taker in each case.
- 5.3 The Collateral Taker will notify the **Collateral Provider** of the Collateral (if any) required **[with respect to the Clearing Member]** in accordance with the provisions of the Clearing Rules, so that the amount of Excess Collateral (if any) on the Cash Collateral Accounts can be ascertained.
- 5.4 The Collateral Provider may, if it chooses, request the Collateral Taker to permit a transfer of any amount of Excess Collateral from any Cash Collateral Account to such account as it may designate for that purpose. The Collateral Taker will have a discretion in each case whether or not to permit such a transfer, taking into account (but without prejudice to clause 22.2 (Determinations and Discretions)) among other things the fulfilment or otherwise of the following pre-conditions:
- (a) the internal risk-rating of the **[insert: [Clearing Member] or [Collateral Provider]]** with the Collateral Taker is such that it is sufficient to justify the return of Excess Collateral;
  - (b) after the Excess Collateral is so transferred, the **[insert: [Clearing Member] or [Collateral Provider]]** will have provided sufficient Collateral in order to continue to comply with any Collateral Calls applicable to the Account Holder's accounts (including its client accounts) at the level required to comply with the Clearing Rules;
  - (c) the **[insert: [Clearing Member] or [Collateral Provider]]** has no outstanding payment obligations to the Collateral Taker or any outstanding Secured Sums;
  - (d) the Collateral Taker considers that the **[insert: [Clearing Member] or [Collateral Provider]]**'s expected Collateral Calls for the next three Business Days are not likely to be materially different from those during the prior three Business Days; and/or
  - (e) no Event of Default has occurred and is continuing in relation to the **[insert: [Clearing Member] or [Collateral Provider]]**.
- 5.5 Any withdrawal from any Cash Collateral Account permitted by the Collateral Taker shall not be deemed to be a release of this security over any other money or interest then or in the future forming part of the Charged Property.

## 6. REPRESENTATIONS AND WARRANTIES

- 6.1 The Collateral Provider represents and warrants to the Collateral Taker that:

- (a) it has the corporate power, and has taken all necessary action, to execute and perform this Deed;
- (b) this Deed constitutes legal, valid and binding obligations enforceable against it and creates the Security Interests expressed to be created by this Deed;
- (c) it has obtained all authorisations of any governmental or regulatory body required in connection with the execution and performance of this Deed and such authorisations are in full force and effect;
- (d) the execution and performance of this Deed has not, and will not, violate any law or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected;
- (e) at the time of transfer of Cash Collateral to the Collateral Taker or the Account Bank, it will be the full beneficial owner of them and, upon such transfer being effected, all right, title and interest in and to them shall stand charged to the Collateral Taker with full title guarantee, free of any Security Interest in favour of any third party.

6.2 On each day on which a transfer referred to in clause 6.1(e) is effected, all the representations and warranties stated in clause 6.1 shall be deemed to be repeated.

## 7. NEGATIVE PLEDGE

7.1 The Collateral Provider shall not, without the prior written consent of the Collateral Taker:

- (a) create, or agree or attempt to create, or permit to subsist, any Security Interest (including any security conferring power to convert a floating charge into a fixed charge) or any trust over any Charged Property, or permit any lien (other than a lien arising by operation of law in the ordinary course of its business) to arise or subsist over any Charged Property; or
- (b) sell, transfer or otherwise dispose of any part of the Charged Property or any of its right, title or interest therein.

7.2 **[Delete if Collateral Provider is not the Clearing Member]** For so long as any Secured Sums remain unpaid, the Collateral Provider shall not:

- (a) take any steps to enforce any right or claim against the Clearing Member in respect of any money charged by the Collateral Provider to the Collateral Taker under this Deed;
- (b) be entitled to share in or take the benefit of any security held by the Collateral Taker or any dividends, compositions or money recoverable by the Collateral Taker from the Clearing Member or any other person;
- (c) be entitled to take or enforce any security against the Clearing Member or any co-surety in competition with or in priority to the Collateral Taker;
- (d) exercise any other right or remedy which may accrue to the Collateral Provider in respect of any such money charged by the Collateral Provider to the Collateral Taker.

## 8. CONTINUING SECURITY

This Deed shall be a continuing security for the Collateral Taker, notwithstanding any intermediate payments or settlements of accounts or other matters whatever. It shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, lien, pledge or other rights exercisable by the Collateral Taker against the *[insert: Clearing Member and/or the Collateral Provider]* or any security, guarantee or indemnity now or in the future held by the Collateral Taker.

## 9. ENFORCEABILITY

9.1 The security created by this Deed will become immediately enforceable if:

- (a) an Event of Default occurs in relation to the *[Clearing Member or]* Collateral Provider; or
- (b) the Collateral Taker elects at any time or times in accordance with the Clearing Rules (and in the absence of an Event of Default) to apply any Charged Property in or towards the discharge of any sum then due from the *[insert: [Clearing Member or Collateral Provider]* to the Collateral Taker.

The taking of enforcement action by the Collateral Taker on or after the occurrence of any event referred to in paragraph (a) or (b) above shall not preclude the Collateral Taker from taking further enforcement action on the occurrence of any other such event or events.

9.2 If and whenever such security becomes enforceable, the Collateral Taker may exercise its powers under this Deed in relation to all or such part of the Charged Property in such manner and at such time or times as it thinks fit.

9.3 All money received or realised under the powers conferred by this Deed shall be applied for the purposes and in the order of priority determined by the Collateral Taker (consistent with the Clearing Rules).

## 10. POWERS EXERCISABLE BY THE COLLATERAL TAKER

10.1 In addition to its powers under the Rulebook, the Collateral Taker shall be entitled at its discretion without notice to the Collateral Provider:

- (a) to apply or transfer as the Collateral Taker thinks fit all or part of any money or interest subject to this security at any time or times (whether on or before or after the expiry of any fixed or minimum period for which such money may have been deposited) in or towards satisfaction of all or such part of the Secured Sums then due as the Collateral Taker may determine;
- (b) to execute and deliver such documents and give such instructions as may be required to give effect to this Deed, including instructions for the withdrawal of any Charged Property held by the Account Bank and/or for the use of any money or interest subject to this security to purchase any currency or currencies required to effect such application; and/or
- (c) to transfer or procure the transfer of the whole or any part of the Charged Property into

one or more accounts in the name of the Collateral Taker or an entity nominated by the Collateral Taker.

- 10.2 **[Delete if Collateral Provider is not the Clearing Member]** The Collateral Taker shall have the right, from time to time and at any time, without affecting its rights under this Deed, to grant, vary, renew, increase, determine or refuse credit facilities or accommodation to the Clearing Member, or to compound with or give time for payment or any other indulgence to the Clearing Member or any co-surety or other person, or to make any arrangement, compromise or settlement with any of them, or to take, hold, modify, exchange, release, abstain from perfecting or enforcing any security, guarantee, indemnity or other contract or to discharge any parties to it, or to realise any security in such manner as the Collateral Taker may think fit, or to make any concession or do or omit or neglect to do anything whatever which, but for this provision, might operate to exonerate or discharge the Collateral Provider from any of its obligations under this Deed (except for a specific written release given by the Collateral Taker of such obligations).
- 10.3 The powers contained in clause 10.1 paragraphs (a) to (c) **[and clause 10.2]** above shall be exercisable by the Collateral Taker at any time or times in accordance with clause 9.1 without the necessity for any other event having occurred first or any other condition having been fulfilled first.
- 10.3 The Collateral Taker may place and keep for such time as it may think prudent any money received, recovered or realised under or by virtue of this Deed on a separate or suspense account to the credit of the Collateral Taker, without any intermediate obligation on its part to apply the same or any part of it in or towards the discharge of the Secured Sums.

## 11. RIGHT OF APPROPRIATION

- 11.1 The Collateral Taker may, at any time after the security constituted by this Deed has become enforceable, appropriate any Charged Property comprising financial collateral (within the meaning of the Financial Collateral Regulations) and apply it in or towards the discharge of the Secured Sums in such manner as the Collateral Taker may determine.
- 11.2 The value of any Charged Property appropriated under clause 11.1 shall, in the case of cash, be calculated by reference to the face amount standing to the credit of the relevant account and, in the case of other financial collateral, be calculated by reference to its market value at the time of appropriation as determined (after appropriation) by the Collateral Taker by reference to a public index or other applicable generally recognised source or such other process as the Collateral Taker may select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Collateral Taker.
- 11.3 The Collateral Taker will account to the Collateral Provider for any amount by which the value of the appropriated Charged Property exceeds the Secured Sums then due and the Collateral Provider shall account to the Collateral Taker for any amount by which the value of the appropriated Charged Property is less than the Secured Sums then due.
- 11.4 The Collateral Provider agrees, for all purposes of the Financial Collateral Regulations, that the method of valuing Charged Property under clause 11.2 is commercially reasonable.



## 12. FURTHER ASSURANCE

- 12.1 The Collateral Provider shall on demand by the Collateral Taker in writing execute and deliver to the Collateral Taker at the cost of the Collateral Provider and in such form as the Collateral Taker may require:
- (a) a legal assignment over all or any money standing to the credit of any Cash Collateral Account;
  - (b) where any Charged Property is situated outside England and Wales or where title to it is evidenced by entries in a register or account maintained by or on behalf of an intermediary outside England and Wales, such mortgage, pledge, fixed charge or other security under the law of the place where the Charged Property is situated as the Collateral Taker may require; and
  - (c) such other documents as the Collateral Taker may in its discretion think fit further to secure the payment of the Secured Sums or to perfect this Deed, or to vest title to any Charged Property in itself or any purchaser.

## 13. INDEMNITY

The Collateral Provider shall indemnify the Collateral Taker fully against all Liabilities which the Collateral Taker may incur in consequence of anything done or purported to be done by or on behalf of the Collateral Taker under or in connection with this Deed or in exercise of any rights or powers conferred on the Collateral Taker by this Deed, except if and insofar as any such Liability results from the Collateral Taker's own proven negligence, wilful default or fraud.

## 14. INTEREST ON OVERDUE AMOUNTS

Any overdue amount secured by this Deed shall carry interest at the rate and in accordance with the terms applicable under Sections 10.5.1 and 10.5.3 (Interest) of the Clearing Rules. Such interest shall be payable on demand by the Collateral Taker.

## 15. CURRENCY INDEMNITY

If, for any reason, any amount payable to the Collateral Taker by the Collateral Provider under this Deed is paid or recovered in a currency other than that in which it is required to be paid, then, to the extent that the payment to the Collateral Taker falls short of the amount payable in the contractual currency, the Collateral Provider shall fully indemnify the Collateral Taker on demand for such shortfall.

## 16. PROTECTION OF THIRD PARTIES

No person (other than the Collateral Provider) dealing with the Collateral Taker shall be concerned to enquire whether any of the powers it has exercised or purported to exercise under this Deed has arisen or become exercisable, or whether the Secured Sums remain outstanding, or whether any event or

cause has happened to authorise the Collateral Taker to act or as to the propriety or validity of the exercise or purported exercise of any such power.

## 17. PROTECTION OF THE COLLATERAL TAKER

- 17.1 The Collateral Taker shall not be liable to the Collateral Provider for any Liability which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise, any of the Collateral Taker's powers under this Deed, except if and insofar as such Liability results from its own proven negligence, willful default or fraud.
- 17.2 The Collateral Taker shall not be liable for any loss sustained by the Collateral Provider in consequence of the exercise of the Collateral Taker's rights under this Deed, including any loss of interest caused by the determination before maturity of any deposit comprised in the Charged Property or by the fluctuation in any exchange rate at which currency may be bought or sold by the Collateral Taker.

## 18. POWER OF ATTORNEY

- 18.1 For the purposes of securing the interest of the Collateral Taker in the Charged Property and the performance of its obligations to the Collateral Taker, whether under this Deed or otherwise, the Collateral Provider irrevocably and by way of security hereby appoints the Collateral Taker to be its attorney (with full power to appoint substitutes and to sub-delegate, including power to authorise the person so appointed to make further appointments, in both cases, with regard to all or any part of the Charged Property) and in its name or otherwise:
- (a) to execute any document or do any act or thing which the Collateral Taker or such substitute or delegate may, in its discretion, consider appropriate in connection with the exercise of any of the powers of the Collateral Taker or which the Collateral Provider is obliged by the Collateral Taker to execute or do, whether under this Deed, the Rulebook or otherwise; and/or
  - (b) with full authority to communicate with the Account Bank in all matters relating to the Charged Property and, without limitation, to send and receive messages and instructions with respect to the Charged Property and to make any transfer of funds to or from any Cash Collateral Account and to use the money for the time being standing to the credit of any Cash Collateral Account for the purposes of paying Secured Sums when due and/or holding cash collateral to cover payment of such Secured Sums.
- 18.2 The power of attorney contained in clause 18.1 shall be exercisable by the Collateral Taker at any time or times as the Collateral Taker thinks fit in its discretion (without the necessity for any Event of Default or any other condition having been fulfilled first) and shall continue in force until the Security Interests constituted by this Deed are absolutely and unconditionally released in writing by the Collateral Taker.

## 19. EXPENSES

The Collateral Provider shall reimburse or pay to the Collateral Taker on demand (on the basis of a full indemnity) the amount of all costs and expenses (including legal costs and VAT thereon) incurred by the Collateral Taker in connection with the exercise, or the attempted or purported exercise, by or on

behalf of the Collateral Taker of any of its powers under this Deed or any other action taken by or on behalf of the Collateral Taker with a view to or in connection with the recovery of the Secured Sums, the realisation of the charges contained in this Deed, the preservation of the Charged Property or any other purpose contemplated in this Deed.

## **20. SET-OFF**

- 20.1 Without prejudice to its other rights under this Deed and as a separate and independent stipulation, the Collateral Provider agrees that any money from time to time deposited or paid by the Collateral Provider with or to the Collateral Taker (including any Cash Collateral) and any payment obligation or the value of any delivery obligation owed by the Collateral Taker to the Collateral Provider may, at any time without notice to the Collateral Provider, be applied and set off in or towards the discharge of the Secured Sums or such part of them as the Collateral Taker may select, regardless of the place of payment, delivery and/or currency of the obligation.
- 20.2 The Collateral Taker may make any currency conversion necessary to give effect to such set-off. If any obligation is unliquidated or unascertained, the Collateral Taker may set off an amount estimated by it in good faith to be the amount of that obligation. The Collateral Taker will endeavour to notify the Collateral Provider following the exercise of any such right of set-off but any failure to do so will not affect the validity of such right or its exercise.

## **21. ASSIGNMENT BY THE COLLATERAL TAKER**

- 21.1 Upon the Collateral Taker (the "assignor Collateral Taker") ceasing to be the central counterparty of the Clearing System and another person (the "assignee Collateral Taker") taking over such role as central counterparty of the Clearing System, all rights, interest and benefits under or in this Deed and all rights, interest and benefits under or in any notice (and its acknowledgement) delivered by the Collateral Provider to the Account Bank as contemplated in clause 3 shall be deemed automatically assigned by the assignor Collateral Taker to the assignee Collateral Taker.
- 21.2 The Collateral Provider will promptly execute any documents and/or take any steps reasonably requested by the assignor or assignee Collateral Taker to effect any assignment permitted by this clause 21, including without limitation executing and delivering a notice in materially the same form as set out in Schedule 4 to the Account Bank.
- 21.3 There is no limit to the number of assignments that may take place pursuant to this clause 21.

## **22. THIRD PARTY RIGHTS**

- 22.1 Pursuant to the Contracts (Rights of Third Parties) Act 1999, all protections conferred by clause 16 on a third party shall be directly enforceable by it. An assignee Collateral Taker shall be entitled to enforce the terms of this Deed including without limitation the terms of clause 22.2.
- 22.2 Save as otherwise expressly provided in clause 22.1, no person other than a party to this Deed shall have any right by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any term (express or implied) of this Deed.

22.3 The Collateral Taker and the Collateral Provider may by agreement vary any term of this Deed (including this clause 22) in accordance with clause 26.4 without the necessity of obtaining any consent from any third party.

## **23. DETERMINATIONS AND DISCRETIONS**

23.1 Any certification or determination by the Collateral Taker of a rate or amount under this Deed shall, in the absence of manifest error, be conclusive and binding on the Collateral Provider in respect of such rate or amount.

23.2 Any discretion, power or right conferred on the Collateral Taker by this Deed to make or vary any determination or to give any approval or to decide any matter or to form any opinion or judgment shall be construed to be a discretion, power or right exercisable by the Collateral Taker, in its sole and unfettered discretion, at any time and from time to time.

## **24. DISCHARGE CONDITIONAL**

Any release, discharge or settlement between, on the one hand, the Collateral Provider and/or the Clearing Member and, on the other hand, the Collateral Taker shall be deemed conditional on no payment or security received by the Collateral Taker in respect of the Secured Sums being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Notwithstanding any such release, discharge or settlement:

- (a) the Collateral Taker may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Property, for any period that the Collateral Taker deems necessary to provide the Collateral Taker with security against any such avoidance, reduction or order for refund; and
- (b) the Collateral Taker may recover the value or amount of such security or payment from the Collateral Provider subsequently as if the release, discharge or settlement had not occurred.

## **25. FORBEARANCE, SEVERABILITY, VARIATION, REGISTRATION**

25.1 No failure to exercise and no delay on the part of the Collateral Taker in exercising any right, remedy, power or privilege under this Deed and no course of dealing between the parties shall be construed or operate as a waiver of that right, remedy, power or privilege, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of it or the exercise of any other right, remedy, power or privilege.

25.2 The rights and remedies provided by this Deed are cumulative and are not exclusive of any rights or remedies provided by law.

25.3 If any provision of this Deed is held to be illegal, invalid or unenforceable in whole or in part, this Deed shall continue to be valid as to its other provisions and the remainder of the affected provision.

- 25.4 No variation, supplement, deletion or replacement of or from this Deed or any of its terms shall be effective unless made in writing and signed by a duly authorised representative on behalf of each party.
- 25.5 The Collateral Taker may, without reference to the Collateral Provider, take any step to register this Deed with any registry or governmental authority in any jurisdiction, including registering this Deed against the Collateral Provider at the companies registry in England and/or such other similar registration as the Collateral Provider's home jurisdiction may require. The Collateral Provider undertakes to do all such acts and to execute all such documents as the Collateral Taker may reasonably require in relation to the foregoing.

## 26. DEMANDS, NOTICES, ETC

Unless as specifically set out in this Deed or provided for in the Clearing Rules, any demand or notice to the Collateral Provider under this Deed shall be effective only if made in writing by an officer of the Collateral Taker and communicated to the Collateral Provider in accordance with the Clearing Rules.

## 27. GOVERNING LAW AND JURISDICTION

- 27.1 This Deed and all non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales.
- 27.2 The English courts shall have exclusive jurisdiction to settle any claim, dispute or difference which may arise out of or in connection with this Deed.
- 27.3 Clause 28.2 shall not limit the right of the Collateral Taker to take proceedings against the Collateral Provider in any other court of competent jurisdiction nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings by the Collateral Taker in any other jurisdiction, whether concurrently or otherwise.
- 27.4 The Collateral Provider irrevocably waives any objections on the ground of venue or inconvenient forum or any similar grounds and irrevocably agrees that any judgment in any proceedings brought in any court referred to in this clause 28 shall be conclusive and binding and may be enforced in any other jurisdiction.

**THIS COLLATERAL SECURITY DEED** has been executed by the Parties as a deed and shall take effect on the date stated in the beginning hereof.

**[INSERT FULL NAME OF COLLATERAL-PROVIDER]**  
acting by:

.....  
.... (sign) (sign)

.....  
... (name)  
*Director/Attorney*

.....  
(address)

.....  
(occupation)  
*Witness*

**OR**

.....  
..... (sign) (sign)

.....  
... (name) (name)  
*Director Director/Secretary*

**EXECUTED** as a Deed by

.....  
as attorney for **NORD POOL AS**  
under a power of attorney dated:

.....  
Attorney for  
**NORD POOL AS**

## SCHEDULE 1

### Definitions and Interpretation

1. For the purposes of this Deed, the following words and phrases shall have the following meanings:

<b>Account Bank</b>	means the bank approved by the Collateral Taker for the purpose of holding any Cash Collateral Account, and includes any successor.
<b>Business Day</b>	means any day (other than a Saturday or Sunday) on which banks in London are generally open for business.
<b>Cash Collateral</b>	means at any time the aggregate of the credit balances of all Cash Collateral Accounts.
<b>Cash Collateral Account</b>	means each and any account(s) now or in the future opened or maintained at an Account Bank (pursuant to clause 5.2) for the purpose of holding money and/or interest charged by the Collateral Provider under this Deed, including in each case any such accounts as may be re-designated and/or renumbered from time to time.
<b>Charged Property</b>	means the property, assets, rights, interests and benefits of the Collateral Provider from time to time comprised in or subject to the Security Interests constituted by this Deed, including the Cash Collateral and, unless the context otherwise requires, including the money for the time being standing to the credit of any Cash Collateral Account, and references to the Charged Property include references to any part of it.
<b>Clearing Rules</b>	means the Clearing Rules established by the Collateral Taker which are from time to time in force in relation to signatories to the Rulebook and their participation in the Clearing System.
<b>Clearing System</b>	means the clearing operations of the Collateral Taker acting as a central counterparty for transactions and the related services provided by it pursuant to the Clearing Rules.
<b>Collateral Taker</b>	includes any transferee or successor (whether immediate or derivative) of the Collateral Taker and any company with which it may amalgamate.

<b>Deed</b>	means this Deed, including its Recitals and Schedules and the notices given pursuant to this Deed, as amended in accordance with its terms from time to time.
<b>Event of Default</b>	has the meaning given to it in the Clearing Rules.
<b>Excess Collateral</b>	means at any time any Cash Collateral which, when added together with other Collateral provided by or on behalf of the Clearing Member, exceeds the Collateral required to be maintained by the Clearing Member pursuant to the provisions relating to Collateral Calls set out in the Clearing Rules.
<b>Financial Collateral Regulations</b>	means the Financial Collateral Arrangements (No 2) Regulations 2003.
<b>Insolvency Event</b>	means the occurrence of any one of the following in relation to the Clearing Member and/or Collateral Provider: <ul style="list-style-type: none"><li>(i) the appointment of an administrator, provisional liquidator or liquidator;</li><li>(ii) the making of a winding up order;</li><li>(iii) the passing of a resolution for a voluntary winding up (except for the purpose of a consolidation, amalgamation or merger while solvent);</li><li>(iv) the appointment of a receiver over all or substantially all of its assets; or</li><li>(v) the taking of any step or proceeding or the making of any court order in any applicable jurisdiction outside England and Wales which has a substantially similar effect to any of the foregoing.</li></ul>
<b>intermediary</b>	has the meaning attributed to it by regulation 3 of the Financial Collateral Regulations.
<b>Liabilities</b>	includes any liability, damage, loss, cost, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise.
<b>powers</b>	means, in relation to the Collateral Taker, its powers, discretions and rights under this Deed or any other document or under general law.
<b>Secured Sums</b>	shall have the meaning given to that term in clause 2.1.
<b>Security Interest</b>	means: <ul style="list-style-type: none"><li>(a) any mortgage, charge, pledge, assignment (whether or not expressed to be by way of security), hypothecation, lien, encumbrance or other priority or security interest whatsoever, howsoever created or arising;</li></ul>



- (b) any deferred purchase, title retention, trust, sale-and-repurchase, sale-and-leaseback, hold back or "flawed asset" arrangement or right of set-off;
- (c) any other agreement or arrangement whatsoever having the same or a similar commercial or economic effect as security; and
- (d) any agreement for any of the foregoing.

**2.** For the purposes of this Deed the following principles of interpretation shall apply:

- (a) Words and phrases defined and principles of interpretation provided for in the Clearing Rules and the Rulebook shall, unless the context otherwise requires or unless otherwise redefined or provided for herein, have the same meaning and shall apply (as the case may be) in this Deed.
- (b) Any reference to this Deed or to any agreement or document shall be construed as a reference to this Deed or such agreement or document (including their respective Schedules) as the same may from time to time be amended, varied, supplemented, novated, replaced or restated and shall include any document which is supplemental to, or is expressed to be collateral to, or is entered into pursuant to or in accordance with the terms of, this Deed or (as the case may be) such agreement or document.
- (c) Unless otherwise stated, all references in this Deed to laws or regulations are to English laws and regulations.
- (d) References to any party shall be construed to include that party's respective successors in title and permitted assignees.

## SCHEDULE 2

### Particulars of the Clearing Member (if different to the Collateral Provider)

**Name:**

**Registered address and registered number:**

**Place of incorporation:**

[The terms of this Schedule 2 are not applicable unless this text bracket has been replaced by alternate text identifying the applicable Clearing Member as set out above, ref also clause 23 of the Collateral Security Deed]

## SCHEDULE 3<sup>1</sup>

### Form of notice to be served on the Account Bank by the Collateral Provider

[on letterhead of Collateral Provider]

[Insert name of Account Bank]

[Insert Address]

For the attention of [insert name]

[insert place and date]

Dear Sirs

**ACCOUNT [INSERT CASH COLLATERAL ACCOUNT NUMBER(S) AND SORT CODE(S)] (THE "CASH COLLATERAL ACCOUNT") - COLLATERAL SECURITY DEED BETWEEN [NAME OF COLLATERAL PROVIDER] (THE "COLLATERAL PROVIDER") AND NORD POOL AS (THE "COLLATERAL TAKER")**

1. This notice constitutes notice to you that, pursuant to a "Collateral Security Deed" entered into between us and the Collateral Taker (the "**Collateral Security Deed**") we have assigned to the Collateral Taker by way of fixed charge our rights, title and interest in and to all money from time to time standing to the credit of the **Cash Collateral Account**, together with all interest accruing thereon.
2. We hereby irrevocably and unconditionally instruct and authorise you (notwithstanding any previous instructions which we may have given you to the contrary):
  - (a) to disclose to the Collateral Taker without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure, such information relating to the Cash Collateral Account and the amount from time to time standing to its credit as the Collateral Taker may, at any time and from time to time, request you to disclose to it;
  - (b) at any time and from time to time upon receipt by you of instructions from the Collateral Taker, to pay to the Collateral Taker (or as it may direct) all or any of the money standing to the credit of the Cash Collateral Account and generally to act in accordance with such instructions in relation to the Cash Collateral Account, without any reference to or further authority from us and without any enquiry by you as to the justification for such instructions or their validity;
  - (c) to comply with the terms of any instructions in any way relating or purporting to relate to the Cash Collateral Account which you may receive at any time and from time to time

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<sup>1</sup> Note: Following the execution of the Collateral Security Deed and as per clause 3.2 of the main terms of the Collateral Security Deed, the Clearing Member or Collateral Provider (as appropriate) must create a letter addressed to the Account Bank based exactly on this Schedule 3 form (excluding the headers and footers of this form and deleting brackets etc), using appropriate data to fill in any spaces left blank or in brackets. The letter shall be printed the letterhead paper of the Clearing Member or Collateral Provider (as appropriate), and the original hardcopy sent to the Account Bank so that the Account Bank signs the acknowledgment and returns it to the Collateral Taker.

from the Collateral Taker without any reference to or further authority from us and without any enquiry by you as to the justification for such notice, statement or instructions or its or their validity; and

- (d) not to act upon our instructions with regard to the Cash Collateral Account unless the Collateral Taker confirms those instructions to you.

**3.** Instructions and requests from the Collateral Taker's bankers, as well as other communications between you and the Collateral Taker's bankers and you, pursuant to this notice may be given to or by you, and acted and relied upon by you or the Collateral Taker's bankers (as appropriate), under this notice in connection with the Cash Collateral Account by SWIFT MT 101, 940 or 942 type messages (as appropriate) or such other SWIFT message type as may be appropriate, pursuant to the arrangements for the time being in force between you and the Collateral Taker's bankers for the transmission and receipt of SWIFT messages, and without any reference to or authority from us. Upon receiving any instruction, request or other communication pursuant to this notice neither you nor the Collateral Taker's bankers shall have any obligation to make any enquiries whatsoever as to the justification, validity, contents or otherwise of any such instruction, request or communication including, without limitation, any enquiry as to whether any security interest of the Collateral Taker has become enforceable or whether the terms of any agreement between us and the Collateral Taker (including the Collateral Security Deed) have been complied with. Until such time as the Collateral Taker notifies you otherwise by written notice from any authorised signatory of the Collateral Taker, the Collateral Taker's bankers are Nordea Bank AB (publ), whose SWIFT details are as follows:

- (a) when acting in its capacity as forwarding bank (e.g. in connection with the transmission of MT 101 message types), **NDEA SESS**; and
- (b) When acting in its capacity as receiving bank (e.g. in connection with the transmission of MT 940, 942 message types), **NDEA SESS**.

**4.** We shall on demand at any time indemnify and hold you harmless against any claim, action, damages, loss, liability, cost or expense (including reasonable legal fees) (together "Losses") incurred or suffered by you in connection with this notice or the Cash Collateral Account or incurred pursuant to any instruction given to you by the Collateral Taker under this notice (but excluding any Losses arising from to the Bank's wilful misconduct or gross negligence). This indemnity shall survive the termination of the Collateral Security Deed.

**5.** In this notice "SWIFT" means The Society for Worldwide Interbank Financial Telecommunication (or any successor provider of such telecommunication services). References to any type of message transmitted through SWIFT shall include such type of message as modified, replaced and/or renumbered by SWIFT from time to time.

**6.** We hereby waive in your favour for all purposes of this notice any duty of confidentiality which you may now or in the future owe to us in connection with the Cash Collateral Account.

**7.** We shall ensure that the Collateral Taker notifies you if the Collateral Security Deed is terminated and request that the Collateral Taker releases you from the obligations contained in this notice and any acknowledgement that you sign.

**8.** The instructions and authorisations contained in this notice shall remain in full force and effect until we and the Collateral Taker together give you notice in writing revoking them.

**9.** This notice and all non-contractual obligations arising in any way out of or in connection with this notice shall be governed by, construed and take effect in accordance with the laws of England and Wales.

**10.** Please will you acknowledge receipt of this notice and confirm your acceptance of the instructions and authorisations contained in it by either:

(a) signing the form of acknowledgement below and delivering the hardcopy original of it to the Collateral Taker, and providing to the Collateral Taker appropriate evidence of the due authority of the person(s) signing the acknowledgement on your behalf; or

(b) sending the form of acknowledgment below by SWIFT to the Collateral Taker:

Nordea Bank AB (publ) London Branch – SWIFT: NDEAGB2LXXX.

For and on behalf of  
*[Insert full name of Collateral Provider]*

..... (sign)  
..... (name)  
..... (title)

## Acknowledgement from the Account Bank

We hereby acknowledge receipt of the notice of security dated [date] from [name of collateral provider] to us relating to account number [insert Cash Collateral Account number and sort code(s)] (the "**Notice**") and agree with the Collateral Taker that: (i) we accept the instructions contained in the Notice and undertake to act in accordance and comply with the Notice; (ii) we have not received notice of any competing interest of any third party in the Cash Collateral Account; (iii) we have neither claimed or exercised nor will claim or exercise any security interest, lien, set-off, counterclaim or other rights in respect of the Cash Collateral Account or funds in it/them; (iv) we shall not permit any amount to be withdrawn from the Cash Collateral Account without the prior written instructions of the Collateral Taker; and (v) we shall not make or permit any changes to the setup of the Cash Collateral Account to be made (including account numbers and designation) without the prior written consent of the Collateral Taker.

The SWIFT details for the Cash Collateral Account are as follows:

Bank: [\*\*\*]  
Branch: [\*\*\*]  
SWIFT: [\*\*\*]  
Account name: [\*\*\*]  
Account number: [\*\*\*]  
Customer reference: [Insert name of Clearing Member]

Without prejudice to the provisions of the Collateral Security Deed and except as set out in the Notice, any general communication to us in relation to any Cash Collateral Account maintained with us may be directed to:

**Name/department:** .....  
**Telephone:** .....  
**Fax:** .....  
**E-mail:** .....

This acknowledgment is governed by the laws of England and Wales and we hereby submit to the exclusive jurisdiction of the courts of England.

<sup>2</sup>For and on behalf of  
[name of account bank]

.....  
*[Insert full name of person signing]*

Dated: \_\_\_\_\_

<sup>2</sup> Signature block not needed when acknowledgment sent by SWIFT.

## SCHEDULE 4

### Form of Assignment Notice

Date: [insert date]  
To: [insert name of Account Bank]  
From: [Insert name of assignor Collateral Taker] (the "**existing Collateral Taker**")  
and  
[Insert name of assignee Collateral Taker] (the "**new Collateral Taker**")

**Collateral Security Deed dated [insert date] (the "Collateral Security Deed") between [insert name of the Collateral Provider] (the "Collateral Provider") and Nord Pool AS**

Terms defined in the notice dated [ ] from [insert name of the Collateral Provider] to you (the "Notice") have the same meaning in this assignment notice unless given a different meaning in this assignment notice.

On [ ] (the "**Effective Date**"), the existing Collateral Taker ceased to be the clearing house and central counterparty of the Clearing System and the new Collateral Taker took over such role as clearing house and central counterparty of the Clearing System, as a result of which, pursuant to the terms of the Collateral Security Deed, the security constituted or evidenced by the Collateral Security Deed and all of the present and future rights (including any rights that had accrued as at the Effective Date) constituted by the Notice (and your acknowledgment of the Notice) were assigned by the existing Collateral Taker to the new Collateral Taker.

As a result of the foregoing, on and from the Effective Date all references in the Notice (and your acknowledgment of the Notice) to the "Collateral Taker" shall be deemed to be references to the new Collateral Taker.

**EXECUTED by**  
[Insert name of existing Collateral Taker]  
acting by:

**EXECUTED by**  
[Insert name of new Collateral Taker]  
acting by:

.....(sign)

.....(sign)

.....(name)

.....(name)

.....(title)

.....(title)