

Trading Appendix 6

ETS User Terms

N2EX Physical Market

Issued by Nord Pool Spot AS

ETS USER TERMS

1. INTRODUCTION

- 1.1.1 These ETS User Terms (the "User Terms") supplements the General Terms of the Trading Rules and applies to all Licensees (as defined below) of the ETS.
- 1.1.2 The User Terms apply to all Users of the ETS, regardless of what end-user interface is used to connect to the ETS.
- 1.1.3 Licensees shall ensure that Users (as defined below) are acquainted with these User Terms prior to using the ETS. These User Terms may be amended as set out in the General Terms of the Trading Rules, and Licensees shall ensure that Users are informed of any amendments to these User Terms.
- 1.1.4 A User shall be deemed to have read, understood and accepted these User Terms by using the ETS.

2. DEFINITIONS

- 2.1.1 Capitalised words in these User Terms shall have the same meaning as defined in the Trading Rules, unless otherwise defined herein.
- 2.1.2 In these ETS User Terms, the following words shall have the meanings set out below:
- | | |
|----------------------------|--|
| Authorised Employee | means a natural person nominated by the Licensee to access the ETS on behalf of the Licensee. |
| Licensee | means a Participant or other entity having gained an at the time valid and effective right to access the ETS through a written agreement with NPS which incorporates this Trading Appendix by reference. |
| User | means any natural person actually using the ETS on behalf of a Licensee. |
| User ID | means an individual log-on identity for a User, including any personal security cards, PIN codes, passwords or other access credentials or devices pertaining to such log-on identity. |
| User Terms | has the meaning ascribed to it in Section 1.1.1 above. |

3. ACCESS TO AND USE OF THE ETS

- 3.1.1 Each Licensee will be assigned one or more User IDs for accessing the ETS. One (1) User ID will be provided per Licensee inclusive in the Fees for Trading, while additional User ID(s) may be subject to additional fees. User IDs will be dispensed to the User as soon as reasonably practicable following fulfilment of the access criteria stated in Section 7.2.2 of the General Terms of the Trading Rules.
- 3.1.2 The access rights of each User are specified in by the Licensee at the time of authorisation of that User, and may be amended from time to time as further regulated by the Trading Rules.
- 3.1.3 Use of the ETS, including the registration and creation of Orders, is subject to the provisions of the Trading Rules, and shall furthermore be consistent with the instruction manuals or other similar announcements provided from NPS as applicable from time to time.
- 3.1.4 The functionality of the ETS is limited to such functionality and other operational parameters which NPS decides to make available at any given time, provided that NPS

shall ensure that such functionality of the ETS that is required, expressly or by implications by the provisions of the Trading Rules, will be provided. NPS or its licensor decides how all such functionality is implemented, including any human interfaces.

- 3.1.5 NPS may offer different functionality to different Licensee categories, and may also differ between groups of Users within the Licensee's organisation (including any representatives of the Licensee).
- 3.1.6 The ETS will from time to time be developed and updated with additional functionalities, and the User shall make itself acquainted with any such changes so as to at all time operate the ETS properly. NPS will inform affected Licensees of such updates, including if necessary information on the need for changes to equipment or software commonly used to connect with the ETS.
- 3.1.7 Licensees must at their own cost and risk set up and provide, and as necessary maintain, replace and/or update, the necessary facilities to use the ETS, including telecommunication lines, equipment, operating platforms and software needed, unless and to the extent these are explicitly to be provided by a Market Operator or NPS in accordance with a written agreement. NPS may exclude Licensees who fails to maintain and/or update their ETS (including related software and hardware installations) from accessing the ETS following a written warning from NPS, provided that NPS has reasonable cause for doing so.

4. SECURITY REQUIREMENTS

- 4.1.1 Licensees shall ensure that those parts of their software and equipment used to connect with the ETS are interoperable with and complies with the minimum requirements to connect to the ETS from time to time as published by NPS, and are solely responsible for the functionality, availability and use of all facilities which NPS does not provide.
- 4.1.2 Licensees and Users shall ensure that User IDs are used only in accordance with these User Terms, and not for any other purpose, and that the User IDs are treated confidentially and that adequate security measures are in place to effectively prevent access or use by other than Authorised Employees. The User IDs must not be stored in such a way that it is possible for other than Authorised Employees to access or make use of them.
- 4.1.3 If a Licensee or User at any time has reason to believe that other entities than Authorised Employees have got access to the User IDs, it shall immediately notify NPS thereof.
- 4.1.4 The Licensee is strictly liable for all use of the ETS by means of valid User IDs registered on the Licensee until NPS has confirmed in writing its reception of such notification and that the relevant User ID has been disabled.
- 4.1.5 If NPS at any time becomes suspicions or aware that other entities than Authorised Employees are using or attempting to use the User IDs of a Licensee, NPS will as soon as reasonably practicable notify the Licensee of any such attempts but NPS shall not be obliged to block such User IDs other than following instructions from the Licensee or NPS receiving clear confirmation that the User ID is being misused.
- 4.1.6 Without prejudice to any other obligations pursuant to the Trading Rules, the Licensee, the User and NPS shall use reasonable endeavours to ensure that its software and hardware shall be free from any computer viruses and use its reasonable endeavours to ensure that no computer viruses are introduced on to the other party's software and hardware through the ETS.

5. QUALITY, ACCESSABILITY AND SECURITY

- 5.1.1 NPS will take all reasonable and practicable steps to maintain the continuity of access to, and technical capacity, for Licensees and their representatives to access the ETS during Trading Hours, and to provide Licensees with reasonable notice of system outages and other matters affecting use or access to the ETS, but will not be liable for

- a. any suspension, interruption, temporary unavailability or fault occurring in the provision of the ETS;
- b. any loss or damage whatsoever and howsoever caused arising in connection with the use of information or services acquired or accessed by Licensees through use of the ETS howsoever; or
- c. any loss or damage in connection with deficient deliveries from the suppliers of any equipment or services rendered.

5.1.2 If NPS at any time has reason to believe that a User's access to the ETS is causing a security threat to NPS or to other Users, or is affecting NPS' or other User's use of the ETS in an adverse and unusual manner, NPS may disconnect the User from the ETS and shall immediately inform the User thereof, together with its reasons for doing so.

6. SUPPORT

6.1.1 NPS offers telephone support related to the ETS functionality during Trading Hours for the Prompt Market on any Trading Days, free of charge. Support is provided on an "as available" and "reasonable effort" basis.

6.1.2 Support does not include support of any software or hardware which the ETS application is used with, nor any on-site support or other support.

6.1.3 Where the Licensee or the User requests the assistance and/or advice of NPS in overcoming any connection problems or any other failure of software or equipment for which NPS is not responsible:

- a. any such support shall be undertaken only if and when NPS has the ability, capacity and availability for rendering such support;
- b. on-site support will not normally be offered;
- c. NPS shall not be responsible for actually resolving the problem, nor will any guarantee be given that the solution represents a final and/or full remedy of the problem;
- d. NPS shall not be liable for any damage to software , equipment or loss of data for whatever reason; and
- e. the Licensee shall reimburse all reasonable costs and expenses incurred by NPS (including any internal costs) in supporting the Licensee in overcoming or attempting to overcome such problems.

7. INTELLECTUAL PROPERTY RIGHTS

7.1.1 Licensees and Users acknowledge and accepts that as between NPS and the Licensee and/or the User, the ETS is the sole property of NPS and/or its licensors. Except for the right to use and access the ETS in accordance with the Trading Rules and these User Terms, neither the Licensee nor any User acquires any intellectual property rights, property rights or other rights to the ETS, and nothing herein shall be deemed or construed as a transfer of or license to any such rights.

7.1.2 Licensees or Users shall not, and shall not attempt, except as pursuant to these Trading Rules or as may be permitted by mandatory provisions of Applicable Law, to:

- a. grant access to the ETS to anyone who is not an Authorised Employee (or Trader); or
- b. use the ETS, or cause it to be used, for any other purpose than in the ordinary course of business and directly related to Trading and directly related activities;
- c. delete, change, remove or in any way obscure any copyright or proprietary notices of NPS or any third party on any copy of Transaction Information (or any part thereof);

- d. sub-license, supply, sell, assign, transfer, rent, lease, charge or otherwise deal in or encumber the ETS or any software program comprised in the ETS and/or installed on any equipment operated by or on behalf of NPS in connection with the operation of the ETS or any accompanying documentation for itself or on behalf of a third party or make the same available to any third party;
- e. use, duplicate or display Transaction Information (or any part thereof) from the ETS or permit any third party to view the Transaction Information or present to it for viewing in any manner not expressly permitted by the Trading Rules;
- f. supply, sell, assign, transfer, rent, lease, or otherwise dispose of equipment on which any part of the ETS (or a copy of it or parts of it), is stored, kept or to be found without first ensuring that all such data have been previously deleted;
- g. copy or imitate the data base structure, design elements or any other elements of ETS or any software program comprised in the ETS and/or installed on any equipment operated by or on behalf of NPS in connection with the operation of the ETS;
- h. copy, imitate, enhance, modify, adapt, alter, decompile, reverse assemble or reverse engineer the ETS or any software program comprised in the ETS System and/or installed on any equipment operated by or on behalf of NPS in connection with the operation of the ETS| or the User IDs; or
- i. publish or otherwise redistribute the User IDs and/or user manuals without the prior written consent from NPS.

7.1.3 All User IDs and other measures or devices which are distributed to the User in relation to the ETS are and shall remain the property of NPS.

7.1.4 NPS represents and warrants that the Licensee's use of the ETS will not infringe any statutory or common law copyright, trademark or patent or otherwise infringe any personal or proprietary right of any person or entity. This representation does not apply where (i) the Licensee uses a version of the ETS (including any end user interface) other than the most recent version issued by NPS from time to time or (ii) a claim arises out of the combination of the ETS or any part thereof with hardware and software not meeting the specifications or requirements formally notified the Licensee in writing by NPS, where the ETS would not alone have given rise to such infringement.

7.1.5 NPS shall defend, indemnify and hold the Licensee harmless from and against any claim, demand, liability or expenses arising directly out of any claim by a third party, including other Participants, against the Licensee arising out of NPS's breach of Section 7.1.4, provided that the Licensee

- a. shall promptly provide NPS with written notice of any claim which the Licensee is notified and believes falls within the scope of this Section 7.1.5; and
- b. shall, upon if NPS so requests and subject to reasonable compensation from NPS, assist in such defence; and
- c. shall not make any admittance or otherwise respond to the claim to the third party involved, except as and to the extent required by Applicable Law.

NPS shall control any such defence and all negotiations related to the settlement of any such claim, provided that such settlement (a) does not, without Licensee's prior written approval, (i) involve the admission of any wrongdoing by Licensee, (ii) restrict Licensee's future actions, or (iii) require Licensee to take any action, including the payment of money, and (b) includes a full release of the Licensee.

7.1.6 Following termination of the Licensees access to the ETS for any reason the rights granted to the Licensee and the User hereunder shall immediately cease, except for NPS' rights in relation to Section 7.1.5.

- 7.1.7 Upon termination, the Licensee and/ or each affected User shall immediately return, or if NPS so agrees destroy or delete, all software and other material received in connection with use of the ETS to NPS.

8. EXCLUSIVE REMEDIES

- 8.1.1 The Licensee accepts that these User Terms sets out the exclusive rights and remedies available to the Licensee for any use of and access to (or inability to use or access) the ETS.
- 8.1.2 The Licensee recognizes that the ETS is a proprietary system owned by the licensor of NPS, and that its access to the ETS is sublicensed by NPS to the Licensee. The Licensee accepts and undertakes towards the software owner that the software owner shall not under any circumstances be liable towards the Licensee for any damage whatsoever incurred as a result of its use of or access to (or inability to use or access) the ETS sublicensed to it by NPS under these User Terms.

9. BREACH OF LICENSE

- 9.1.1 In the event NPS has reasonable cause to believe that the Licensee is in breach of any of the provisions set forth herein, Licensee shall provide NPS with a written explanation within thirty (30) days of receipt of such request from NPS.

10. ERROR REPORTING

- 10.1.1 Any errors in the reported information shall be reported immediately to NPS following the Licensee's or User's awareness of such errors.
- 10.1.2 Errors in the functionality of ETS shall be reported to NPS following the Licensee's or User's awareness of such errors.

[end of document]