

General Terms

# Clearing Rules

N2EXMarket

Issued by NASDAQ OMX Stockholm AB

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## **1 INTRODUCTION**

- 1.1 The Clearinghouse is authorised by the Swedish Financial Supervisory Authority (Finansinspektionen) to conduct clearing activities in accordance with the Swedish Securities Market Act, and Clearing of Products for the N2EX Market is authorised as an ancillary service thereto.
- 1.2 These Clearing Rules apply to the Clearing of Products for the N2EX Market as specified in the Product Specification, but not to any other products or markets which the Clearinghouse offers clearing services or otherwise engages in.
- 1.3 Clearing is effectuated by the Clearinghouse entering into a Transaction as central counterparty and registering the Transaction on the Clearing Accounts of the Account Holders involved, as further set out in these Clearing Rules.
- 1.4 The products and services contemplated by these Clearing Rules are subject to the fees set out in the Fee Schedule.
- 1.5 These Clearing Rules constitute a contract between the Clearinghouse and each Account Holder in respect of Clearing and related activities, and supplement the relevant Clearing Agreement(s).

## **2 INTERPRETATION, DEFINITIONS AND ABBREVIATIONS**

- 2.1 Capitalised terms in these Clearing Rules shall have the meanings assigned to them in Clearing Appendix 1 (Definitions) or as specifically defined in the text body of these Clearing Rules.
- 2.2 References to any law or statute include amendments, consolidations, re-enactments and replacements of it. Unless otherwise specifically specified, references to any law or statute are to the laws and statutes of the United Kingdom.
- 2.3 References to a person or entity include any corporate body, an unincorporated association of persons or any other legal entity or physical person.
- 2.4 References to an Account Holder include references to the representatives, successors or assignees (immediate or otherwise) of that Account Holder.
- 2.5 References to points in time refer to UK time, and unless otherwise specified time is in 24-hour format and dates are in the little-endian date format (i.e. day/month/year).
- 2.6 Any words importing the singular shall include 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 without limitation".
- 2.8 Any reference to the Clearinghouse having a right to make a decision or determination or to form any opinion or judgement shall unless as otherwise stated mean that the Clearinghouse has the right to exercise its sole and unfettered discretion in doing so.
- 2.9 The headings in the Clearing 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 Clearing Platform.

## **3 PREREQUISITES FOR CLEARING**

### **3.1 Membership Categories and Requirements**

- 3.1.1 The Clearinghouse recognises the following membership categories:
  - a. Clearing Member who may register Clearing Transactions in its own name and account, or in the name of and for the account of a Clearing Client if it has been approved as a Client Representative for that Clearing Client.
  - b. Clearing Client who may register Clearing Transactions in its own name and account, but only through a Client Representative.

- 3.1.2 The Clearinghouse will only admit as Account Holders such entities as the Clearinghouse in its sole absolute discretion considers fit and proper for the relevant membership category.
- 3.1.3 Only legal entities may apply for membership. The Clearinghouse may in individual circumstances and in its discretion deviate from this requirement.
- 3.1.4 Further approval procedures and requirements for membership are set out in the Clearing Membership Application Procedures.

### **3.2 Counterparty Eligibility**

- 3.2.1 Only Account Holders are eligible as Counterparty to the Clearinghouse in Clearing Transactions.
- 3.2.2 To be eligible as a Counterparty for registration of new Clearing Transactions, the Account Holder must at the time that each Clearing Transaction is registered (and until all Deliveries under that Clearing Transaction have been successfully completed):
  - a. have appointed a Contact Person in accordance with Section 3.3;
  - b. have established Clearing Accounts with the Clearinghouse in accordance with Section 5.1;
  - c. have established access to an Energy Account(s) and must ensure that the Clearinghouse is nominated as ECV Notification Agent in accordance with Section 5.2;
  - d. have established and nominated one or more Cash Settlement Accounts in accordance with Section 5.3;
  - e. have established Collateral in accordance with Section 5.3.4, and have met its Collateral Calls in accordance with Section 8;
  - f. not be in breach of a Trade Restriction applicable to it as set out in Section 9;
  - g. not have its access to Clearing or the Clearing Platform suspended or terminated in accordance with these Clearing Rules;
  - h. ensure that it or its ECV Transferee (as applicable) is a party to and in compliance with the BSC in relation to each applicable Clearing Transaction and Energy Account at all times; and
  - i. have conducted its affairs (and, if applicable, its ECV Transferee must have conducted its affairs) so as to not give any cause for any ECV Notification made on its or its ECV Transferee's behalf by the Clearinghouse (or its nominee) to be refused, rejected, cancelled, disappplied or nullified (whether in whole or in part) on the grounds that it or its ECV Transferee is in Credit Default (as defined under the BSC) or other default under the BSC or is not in compliance with any applicable credit cover requirements under the BSC.
- 3.2.3 An Account Holder must at all times, and immediately upon request from the Clearinghouse, be able to document that it (or, where applicable, its ECV Transferee) fulfil the criteria of Section 3.2.2.

### **3.3 Appointment of Contact Person**

- 3.3.1 Each Account Holder must appoint at least one Contact Person for the Account Holder's Clearing (whether by Principal Transactions or Client Transactions) and associated issues. For Account Holders and Exchange Members, and unless as otherwise requested by the Account Holder and approved by the Clearinghouse, the Contact Person appointed to the Market Operator in connection with Trading at any given time will automatically be appointed as Contact Person under the Clearing Rules. In case of Clearing Clients, the Contact Person shall always be the Contact Person(s) appointed with its Client Representative at any given time.
- 3.3.2 Each Account Holder shall ensure that each individual whom it designates as its Contact Person who shall be authorised in the name of the Account Holder to sign all instruments, to give instructions, to correct errors and to perform such other duties as may be required under the Clearing Rules and to transact all requisite business in connection with the

operations of the Clearinghouse. An Account Holder may, with the consent of the Clearinghouse, designate different Contact Persons for different purposes. An Account Holder shall ensure that each individual whom it designates as its representative 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 Clearing Rules. Except (in the case of a partnership) where the representative is a general partner of the Account Holder, the Account Holder shall ensure that such representative is authorised to act, in the case of a partnership, by written power of attorney or, in the case of a corporation, by resolution of the board of directors of such corporation (or in either case by such other method or document as the Clearinghouse agrees to accept).

- 3.3.3 Applications for approval of a Contact Person must be submitted in writing to the Clearinghouse, and is subject to the approval of the Clearinghouse not to be unreasonably withheld. Any change in the appointment of Contact Person shall be notified to the Clearinghouse in writing, and to the extent possible prior to such change being implemented, and the foregoing parts of this Section 3.3 apply accordingly.

### **3.4 Use of and Access to the Clearing Platform**

- 3.4.1 Account Holders shall have a right of access to and use of, the Clearing Platform subject to the Account Holder's compliance with the Clearing Rules (including the Clearing Platform User Terms). Access to the Clearing Platform for Account Holders is royalty-free, non-exclusive and non-transferable.

### **3.5 Continuous Information Obligations on Account Holders**

- 3.5.1 The Clearinghouse may at all times monitor an Account Holder's financial standing and soundness, level of competence and other matters relevant (in the opinion of the Clearinghouse) to the financial and legal status of the Account Holder.
- 3.5.2 Each Account Holder shall ensure that the Clearinghouse promptly upon request receives such financial and other information as the Clearinghouse in its reasonable discretion may request in order for the Clearinghouse to assess the eligibility and financial status of the Account Holder at all times, even where such information is held by third parties. All such information shall be provided free of charge to the Clearinghouse.
- 3.5.3 An Account Holder shall immediately notify the Clearinghouse in writing as soon as the Account Holder becomes aware of or finds it likely that any of the following events will occur in relation to it:
- a. any Default Event or Insolvency Event under the Clearing Rules, including any breach of the representation and warranties from the Account Holder;
  - b. any Non-Compliance Event under the Trading Rules or disciplinary, criminal, or regulatory proceedings related to Trading and Clearing activities involving the Account Holder or its board of directors or employees responsible for its Clearing with the Clearinghouse;
  - c. any merger, de-merger, or other business re-organisation of the Account Holder affecting one-third or more of the Account Holder's net capital value (as assessed by reference to the latest annual or interim accounts of the Account Holder);
  - d. any material changes to its business;
  - e. in the case of an undertaking with share capital, any reduction in nominal share capital;
  - f. any other matter relating to it of which an Account Holder acting in good faith would reasonably expect to be of interest to the Clearinghouse in relation to Clearing and its position as an Account Holder; or
  - g. any non-compliance or breach of it or its ECV Transferee of any requirement applicable under the BSC, including any non-compliance by it or its ECV Transferee with Sections 3.2.2(h) or (i) of these General Terms.
- 3.5.4 An Account Holder that has appointed an ECV Transferee shall upon request deliver such similar information as per Section 3.5.2 as the Clearinghouse may require in relation to the

ECV Transferee and its status as ECV Transferee, and cause its ECV Transferee to notify the Clearinghouse in case any analogous events to those set out in Section 3.5.3 occur in respect of its ECV Transferee and which would reasonably be expected to be of interest to the Clearinghouse in relation to ECV Transfers, ECV Notifications and/or ECVNA Authorisation in respect of the ECV Transferee.

#### 4 REPRESENTATIONS AND WARRANTIES

##### 4.1 Representations and Warranties by Account Holders

4.1.1 Each Account Holder represents and warrants to the Clearinghouse on each date on which a Transaction is registered for Clearing that:

- a. **Power.** It has the power to perform its obligations under the Clearing Rules and each Clearing 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) and, that it meets the conditions in Section 3.1 and 3.2 of these General Terms;
- c. **Organisation.** It is properly staffed and organised to enable it to carry out, and its personnel have the necessary competence and knowledge for Clearing Transactions;
- d. **Risk Assumption.** It is aware of and understands the characteristics of the Products and the risks related thereto, and it has entered into the Transactions to which it is a party after a full opportunity to review their terms and conditions, and has a sufficient 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 Clearing Agreements and of Clearing Transactions do not violate or conflict with any Applicable Law or any provision of its constitutional documents applicable to the Account Holder 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 competent court that are required to be obtained, made or done by the Account Holder in connection with Trading or Clearing, nor is it necessary in order to ensure the validity or enforceability of the Transaction that the Transaction, the Clearing Rules or any Clearing Agreement are filed, registered or recorded by the Account Holder in any public office;
- g. **Obligations Binding.** Its obligations under each Clearing Transaction and the Clearing Rules constitute legal, valid and binding obligations of the Account Holder, enforceable in accordance with their respective terms subject to Applicable Law affecting creditors' rights generally and to equitable principles of general application;
- h. **No Default Event.** No Default Event, or event that with notice or lapse of time or both would constitute a Default Event, has occurred with respect to it and no such event would occur as a result of its entering into or performing its obligations under the Clearing Rules;
- i. **No Litigation.** No litigation, arbitration or administrative suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency, official or arbitrator is pending or, so far as it is aware, threatened against it that would, if adversely determined, result in a material adverse change in its financial condition or its ability to perform its obligations under the Clearing Rules, or that is likely to affect the legality, validity or enforceability against it of the Clearing Rules or its ability to perform its obligations there under;
- j. **Principal.** Except when acting as a Client Representative, it has negotiated, entered into and executed the Transaction as principal (and not as agent or in any other capacity, fiduciary or otherwise);
- k. **Accurate Information.** All applicable information that is furnished in writing by or on behalf of the Account Holder which is identified as being subject to or connected to the

Clearing Rules is, as of the date it is furnished to the Clearinghouse, true, accurate and complete in every material respect; and

- I. **No Encumbrances.** The Account Holder shall deliver to the Clearinghouse the relevant deliverables under the Clearing Rules free and clear of all liens, security interests, claims and encumbrances or any interest in or to them by any person, except where in favour of the Clearinghouse.
- 4.1.2 An Account Holder is deemed to repeat the representations and warranties specified above when entering into each Clearing Transaction as well as any further representations and warranties specified as such in the Clearing Rules.

#### **4.2 Representations and Warranties by the Clearinghouse**

- 4.2.1 The Clearinghouse represents and warrants to each Counterparty in each Clearing Transaction that:
- a. **Power.** It has the power to perform its obligations under the Clearing Rules and each Clearing 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 carry out its obligations under the Clearing Rules;
  - d. **No Violation or Conflict.** The execution, delivery and performance of the Clearing Transaction do not violate or conflict with any Applicable Law or any provision of its constitutional documents applicable to the Clearinghouse 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 competent court that are required to be obtained, made or done by the Clearinghouse in connection with Clearing, nor is it necessary in order to ensure the validity or enforceability of the Clearing Transaction that it is filed, registered or recorded by the Clearinghouse in any public office;
  - f. **Obligations Binding.** Its obligations under each Clearing Transaction and the Clearing Rules constitute legal, valid and binding obligations of the Clearinghouse, enforceable in accordance with their respective terms subject to Applicable Law affecting creditors' rights generally and to equitable principles of general application;
  - g. **No Default Event.** No Default Event, or event that with notice or lapse of time or both would constitute a Default Event, has occurred with respect to it and no such event would occur as a result of its entering into or performing its obligations under the Clearing Rules;
  - h. **Accurate Information.** All applicable information that is furnished in writing by or on behalf of the Clearinghouse which is identified as being subject to or connected to the Clearing Rules is, as of the date it is furnished to the Account Holder in accordance with the Clearing Rules, true and accurate in every material respect; and
  - i. **No Encumbrances.** The Clearinghouse shall deliver to the Counterparty the relevant deliverables under the Clearing Transaction free and clear of all liens, security interests, claims and encumbrances or any interest in or to them by any person, except where in favour of the Counterparty.

## **5 ACCOUNT STRUCTURE AND COLLATERAL ARRANGEMENTS**

### **5.1 Clearing Accounts**

- 5.1.1 When approving a Clearing Member, the Clearinghouse shall establish a Clearing Account with the Clearing Member as Account Holder.

- 5.1.2 When approving a Clearing Client, the Clearinghouse shall establish a Clearing Account with the Clearing Client as Account Holder and with the Client Representative having power to allocate Clearing Transactions and otherwise access information related to the Clearing Account. The Client Representative shall be deemed as authorised to represent the Clearing Client in all Client Transactions without further verifications or actions by the Clearinghouse.
- 5.1.3 Each Clearing Account may contain one or more Clearing Portfolios, and must be associated with a Cash Settlement Account, a Cash Collateral Account and an Energy Account.
- 5.1.4 Clearing Accounts will be opened for registration of Clearing Transactions when the Account Holder is eligible as Counterparty, ref Section 3.2.
- 5.1.5 Collateral Calls and Cash Settlement Amounts will be calculated separately and individually for each Clearing Account. Individual Collateral Calls and Cash Settlement Amounts may not be aggregated or set off (netted) against each other except as set out in these Clearing Rules.
- 5.1.6 Account Holders may request the establishment of one or more additional Clearing Accounts, subject to approval from the Clearinghouse. The provisions of this Section 5.1 will apply accordingly to any additional accounts.
- 5.1.7 Establishment of, changes to and termination of Clearing Accounts (including Clearing Portfolios) are subject to the procedures set out by the Clearinghouse from time to time and may incur additional fees.

## **5.2 Energy Accounts**

- 5.2.1 Each Account Holder must nominate and maintain an Energy Account for each of its Clearing Accounts in accordance with the procedures set forth by the Clearinghouse from time to time.
- 5.2.2 Energy Accounts may be held either by the Account Holder itself or an ECV Transferee of the Account Holder, however all Energy Accounts associated with a single Clearing Account must be held by the same person.
- 5.2.3 Nomination of an Energy Account with an ECV Transferee is subject to the approval of the Clearinghouse. An ECV Transferee must be party to the BSC and fulfil all applicable criteria for being an ECV Transferee under the Clearing Rules, its ECV Transferee Agreement and the BSC at all times. Further regulations relating to ECV Transfers are set out in Section 11.3.
- 5.2.4 Changes to Energy Accounts are subject to the procedures set out by the Clearinghouse from time to time and may incur additional fees.

## **5.3 Cash Settlement Accounts**

- 5.3.1 Each Account Holder must at its own cost establish and maintain at least one Cash Settlement Account.
- 5.3.2 Account Holders may choose to open a joint Cash Settlement Account for one or more of its Clearing Accounts, in which case Cash Settlement Amounts will be calculated jointly for such Clearing Accounts.
- 5.3.3 The Clearinghouse offers an automated cash settlement arrangement whereby the Clearinghouse will effect instructions to debit or credit a Cash Settlement Account as part of the Cash Settlement on each Clearing Day. Account Holders wishing to utilise such arrangements for their Cash Settlement Account(s) must enter into and maintain such banking arrangements as the Clearinghouse may reasonably require in connection therewith, and perform all such acts and instructions as the Clearinghouse or the Settlement Bank may require in order to effect such arrangements, including the issue of Cash Settlement Instructions. The Account Holder remains responsible towards the

Clearinghouse for any delayed or failed Cash Settlement that is not caused by the negligence of the Clearinghouse or is otherwise excusable under the Clearing Rules.

- 5.3.4 Changes to Cash Settlement Accounts are subject to the procedures set out by the Clearinghouse from time to time and may incur additional fees.

#### **5.4 Collateral Arrangements**

- 5.4.1 Each Account Holder must at its own cost establish and maintain Collateral in accordance with the Clearing Rules, and ensure that the value of its Collateral posted at all times meets the applicable Collateral Calls.
- 5.4.2 Account Holders may choose to provide Collateral through any one, or a combination, of the forms of Collateral allowed by the Collateral Agreements. All Collateral arrangements are subject to the approval of the Clearinghouse. Unless as otherwise specified in the Clearing Rules, the Collateral posted by each Account Holder will apply jointly and severally to all its Clearing Accounts.
- 5.4.3 Each Account Holder must at its own cost establish and maintain at least one Cash Collateral Account. Cash Collateral Accounts must be held with a bank that has been approved with the Clearinghouse for such purpose. In approving a bank the Clearinghouse may require that the holding bank for the Cash Collateral Account has an adequate Credit Rating (to be determined by the Clearinghouse), that the Cash Collateral Account is held in a jurisdiction acceptable to the Clearinghouse, that it facilitates automated balance requests from the Clearinghouse, and that it otherwise has an account setup and surrounding systems which in the opinion of the Clearinghouse are compatible with the Cash Collateral Account arrangements. Notwithstanding the foregoing, individual Cash Collateral Accounts may not be held with the Account Holder itself or an Affiliate of the Account Holder.
- 5.4.4 Except in case of Cash Collateral the Collateral Provider may not be
- a. the Account Holder itself; or
  - b. an Affiliate of the Account Holder; or
  - c. any other entity which in the opinion of the Clearinghouse could entail an unacceptable credit risk or general business risk to the Clearinghouse's interest in the relevant Collateral in case of an Insolvency Event involving the Account Holder or any of its group companies.
- 5.4.5 The Clearinghouse may at any time reject and/or depreciate the recognized value of any Collateral (or parts thereof) from individual Collateral Providers if it:
- a. has reasonable cause to believe that the Collateral Provider, or any Affiliate of the Collateral Provider, is subject to an Insolvency Event that could reasonably affect the anticipated realisation value of, or the Clearinghouse's security interest in, the relevant Collateral;
  - b. deems that the Credit Rating of the relevant Collateral Provider and/or Settlement Bank is no longer acceptable to it; or
  - c. becomes aware of any other circumstances that may have adverse effects on the anticipated realisation value of, or the Clearinghouse's security interest in, the applicable Collateral.
- 5.4.6 Affected Account Holders will be notified immediately of any decision pursuant to Section 5.4.5 above. Following such decision, the Clearinghouse may at its discretion (i) issue an Extraordinary Margin Call to cover for any deficit Collateral against the applicable Collateral Call, and/or (ii) suspend the Account Holder from Clearing until the Clearinghouse is satisfied that replacement Collateral has been provided or that the situation has otherwise been remedied. Any replacement Collateral must be accepted and recognized by the Clearinghouse as such.
- 5.4.7 The Clearinghouse may reject any additional Collateral, and/or require any existing Collateral to be replaced by Collateral acceptable to the Clearinghouse, if the relevant

Collateral Provider, or Settlement Bank holding Cash Collateral, or any Affiliate of the foregoing, has provided or holds such volume of Collateral that the provision of additional Collateral from that Collateral Provider, or held with that Settlement Bank, would entail a concentration risk to the Clearinghouse. In relation to existing Collateral arrangements, the Clearinghouse shall give written notice with a reasonable deadline for the affected Account Holder(s) to set up alternative arrangements.

- 5.4.8 Changes to Cash Collateral Accounts are subject to the procedures set out by the Clearinghouse from time to time. The Clearinghouse may charge a reasonable fee to cover its expenses in connection with the establishment of or changes to Collateral, including the perfection of the security under any Collateral arrangement.

## **6 CLEARING PROCEDURES**

### **6.1 General**

- 6.1.1 Upon the registration of a Transaction (the "original Transaction") as a Clearing Transaction in accordance with Sections 6.2.2 or 6.3.2 (as applicable), the original Transaction will be replaced with two corresponding Clearing Transactions. For each of the Clearing Transactions created and in relation to each party to the original Transaction (i) the Clearinghouse (acting as central counterparty) will as Counterparty in the Clearing Transaction assume and replace the rights and obligations of the other party to the original Transaction; and (ii) the party's' rights and obligations towards the other party under the original Transaction will be replicated and replaced with corresponding rights and obligations as Counterparty to the Clearinghouse.
- 6.1.2 Upon the creation of the Clearing Transactions in accordance with Section 6.1.1, the original Transaction shall cease to exist. Except as set out in Section 6.4, the parties to the original Transaction shall have no rights or obligations towards each other in respect of the original Transaction.
- 6.1.3 The Clearinghouse will register Clearing Transactions as follows:
- a. Clearing Transaction(s) are created in accordance with Sections 6.1.1 and 6.1.2 above upon the registration of a Transaction in a Clearing Account. Each Clearing Transaction to which each Account Holder is Counterparty is allocated to the Clearing Account of the Clearing Portfolio associated with the originating Trading Portfolio of that Account Holder.
  - b. Upon registration of a Clearing Transaction in a Clearing Account, and subject to Section 6.4, the Clearing Transaction is offset with the Open Position on that Clearing Account, creating a new Open Position on that Clearing Account.
  - c. Each Counterparty's obligations in respect of the Clearing Transactions previously registered to that Clearing Account shall forthwith and automatically be replaced by an obligation to make the Deliveries and Cash Settlements resulting from the new Open Position in accordance with the Clearing Rules.
  - d. Any Transaction Information retained in the Clearing Portfolios is for informational use only.
  - e. Notwithstanding letters (a) through (d) above, Energy Contract Volumes are calculated and notified separately to the ECV Aggregation Agent in accordance with Section 11.
- 6.1.4 The Clearing Transactions registered in a Clearing Account represent the complete and exhaustive contractual relationship between the Clearinghouse and the Account Holder in respect of the Clearing Transactions in that Clearing Account.
- 6.1.5 Each Account Holder acknowledges and agrees that its membership agreement shall be deemed to form a master agreement between the Account Holder and the Clearinghouse for all Clearing Transactions entered into by it, and that the Clearing Rules shall bind the Account Holder in relation to all its Clearing Transactions under the membership agreement. Each Clearing Transaction is accepted by the Clearinghouse in reliance upon the fact that all Clearing Transactions with each Account Holder constitute a single business and contractual relationship with that Account Holder and that each Clearing Transaction is made in consideration of each other Clearing Transaction.

- 6.1.6 Each Account Holder agrees to perform all of its obligations in respect of each Clearing Transaction and (except insofar as otherwise expressly stated in the Clearing Rules) agrees and accepts
- a. that a default in the performance of any such obligation shall constitute a default by it in respect of all Clearing Transactions under the Clearing Rules;
  - b. that the Clearinghouse shall be entitled to set off claims and apply property held by it in respect of any Clearing Transaction against obligations owing to it in respect of any other Clearing Transaction hereunder; and
  - c. that payments, deliveries and other transfers made by either of them in respect of any Clearing Transaction shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any such other Clearing Transactions hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted.

## **6.2 Transactions Concluded on a Trading System**

- 6.2.1 Transactions concluded on a Trading System are automatically and mandatorily subject to Clearing in accordance with the applicable Trading Rules.
- 6.2.2 Upon the conclusion of a Transaction on a Trading System and allocation of the Transaction to a Trading Portfolio, the Transaction will be immediately replicated (mirrored) to the Clearing Portfolio associated with the applicable Trading Portfolio, and Clearing Transactions are created and allocated to the applicable Clearing Accounts in accordance with Section 6.1.
- 6.2.3 The Transaction Confirmation from the Market Operator also serves as Clearing Confirmation from the Clearinghouse in respect of the corresponding Clearing Transactions created.

## **6.3 OTC Clearing**

- 6.3.1 Account Holders may request OTC Clearing in accordance with the OTC Clearing Procedures.
- 6.3.2 Immediately upon the Clearinghouse's approval of a Clearing Request in accordance with the OTC Clearing Procedures, corresponding Clearing Transactions are created in accordance with Section 6.1.

## **6.4 Errors Involving Clearing Transactions**

- 6.4.1 For Clearing Transactions resulting from Transactions conducted on a Trading System, the Market Operator(s) will handle complaints related to Trading Errors in accordance with the applicable Trading Rules. Any changes or cancellations in a Transaction made by the Market Operator will trigger a corresponding change or cancellation to the corresponding Clearing Transactions. An Account Holder may not raise any other objections against the Clearinghouse in respect of Trading Errors.
- 6.4.2 Procedures for handling of Registration Errors relating to OTC Transactions submitted for Clearing are set out in the OTC Clearing Procedures.
- 6.4.3 Notwithstanding Sections 6.4.1 and 6.4.2 (including the OTC Clearing Procedures), the Clearinghouse may correct substantial errors involving registered Clearing Transactions. Any such correction will be binding on the Account Holders involved. The Clearinghouse shall not be liable to any Account Holder for any exercise or non-exercise of its powers under this Section 6.4.3, provided that it has acted in good faith.

## **6.5 Information Services and Reports**

- 6.5.1 The Clearinghouse will provide continuous information about each Account Holder's Open Position in each Product Series and on each Clearing Portfolio and Clearing Account, including information about Cash Settlement and Collateral. The Clearinghouse will make such information available to the Account Holder through reports in the Clearing Platform and through such other means as the Clearinghouse decides.

- 6.5.2 Unless as otherwise set out in the Clearing Rules, reports found in the Clearing System are offered as a service for information purposes only, and the Clearinghouse makes no warranty expressed or implied that the reports are updated in real-time or that they are correct in all respects.
- 6.5.3 For each Clearing Day, the Clearinghouse will make available static reports relating to each Clearing Account for the previous Clearing Day at such time as set out in the Clearing Schedule. These reports form the basis for the End-of-Day Margin Call and the Cash Settlements falling due on that Clearing Day.
- 6.5.4 Client Representatives will have access to the same information and reports as the Clearing Clients for all Clearing Accounts for which they are nominated as Client Representative.

## **7 CLIENT TRANSACTIONS**

### **7.1 [not in use]**

[not in use]

### **7.2 Client Transactions for Clearing Clients**

- 7.2.1 The following provisions will apply where a Client Representative is acting for a Clearing Client:
- a. A Clearing Member may only represent a Clearing Client when approved by the Clearinghouse to act as its Client Representative under a valid and effective Clearing Client Agreement at the relevant time.
  - b. All communication between the Clearinghouse and the Clearing Client relating to Client Transactions shall take place exclusively through the Client Representative, unless the Clearinghouse in its discretion decides to involve the Clearing Client.
  - c. Clearing Transactions may only be registered in the Clearing Account of the Clearing Client when they have been allocated or approved by the relevant Client Representative.
  - d. The Clearing Client shall, subject only to Section 6.4, become Counterparty to the Clearinghouse in respect of all Clearing Transactions validly registered in the Clearing Accounts of the Clearing Client by or on behalf of the Client Representative.
- 7.2.2 The Client Representative is responsible for the following with respect to Client Transactions:
- a. The Client Representative shall ensure that its Clearing Client(s) posts Collateral for the Collateral Calls before allocating any Transactions to the Clearing Client's Clearing Account.
  - b. The Client Representative shall ensure that its Clearing Client(s) meets the Daily Margin Call and any Extraordinary Margin Call. The Clearinghouse shall inform the Client Representative if a Clearing Client fails to post Collateral in accordance with the Collateral Calls, in which case the Client Representative shall immediately post the missing Collateral.
  - c. If the Client Representative does not post missing Collateral in accordance with 7.2.2(b) above, the Collateral that a Client Representative has posted for Principal Trading will be credited and applied by the Clearinghouse to cover Collateral Calls made on Clearing Clients represented by the Client Representative. When calculating Collateral Calls for a Client Representative, the Clearinghouse will add uncovered Collateral Calls of the Client Representative's Clearing Clients.

## **8 MARGINING METHODOLOGY AND COLLATERAL REQUIREMENTS**

### **8.1 General**

- 8.1.1 Account Holders engaged in Clearing Transactions shall on an ongoing basis provide Collateral as set out in this Section 8 within the deadline for the relevant Collateral Call.

- 8.1.2 A Collateral Call shall, except as follows from Section 8.4.6, be deemed to have been met only when the total Collateral posted by or on behalf of the applicable Account Holder equals or exceeds the total Collateral Call applicable to the Account Holder in accordance with the following (and subject to Sections 5.4.6 and 5.4.7):
- 8.1.3 In case of Cash Collateral, the Account Holder shall confirm to the Clearinghouse the balance of the Cash Collateral Account. Such confirmations shall be sent by SWIFT message to the Clearinghouse (or its nominee) from the Settlement Bank holding the applicable Cash Collateral Account(s), and the balance reported by the Settlement Bank will be deemed as the amount of Cash Collateral placed; and/or
- a. In case of a Letter of Credit or Bank Guarantee, the maximum amount recoverable (face value) by the Clearinghouse under the Letter of Credit or Bank Guarantee from time to time will be deemed as the amount of such Collateral placed; and/or
  - b. In case of other Collateral, the amount of such Collateral placed will be determined by the Clearinghouse upon receiving evidence satisfactory to the Clearinghouse that such Collateral amount has been posted on a case by case basis.
- 8.1.4 For the avoidance of doubt, Account Holders shall be required to meet all Collateral Calls in relation to any Clearing Transactions that are subject to ECV Transfers and the existence of an ECV Transfer will not affect the Clearinghouse's calculation of Collateral Calls for the corresponding Clearing Transaction.
- 8.1.5 Failure to post Collateral in accordance with this Section 8 in relation to any individual Collateral Call will result in the applicable Collateral Call being deemed defaulted and Section 13 applies.

## **8.2 Base Collateral Call**

- 8.2.1 When Clearing Accounts are initially established, the Clearinghouse will determine a Base Collateral Call for each Clearing Account in consultation with the Account Holder, taking into consideration its expected type and volume of Clearing Transactions and other relevant factors, including matters relating to any ECV Transferee of the Account Holder. The Base Collateral must be established prior to the commencement of Clearing, and must thereafter be maintained for the Account Holder to be eligible for Clearing.
- 8.2.2 Both the Account Holder and the Clearinghouse may require a revision of the Base Collateral if it determines that the actual type and volume of Clearing Transactions or other relevant factors relating to the Account Holder or its Clearing activities necessitates a higher Base Collateral. In cases where the Clearinghouse deems that a revision of the Base Collateral is necessary, the Clearinghouse may issue a revised Base Collateral Call through written notice to the Account Holder. Any revised Base Collateral Call will become effective one (1) week following the date of issue, or at such later time as the Clearinghouse notifies the Account Holder.

## **8.3 Daily Margin Calls**

- 8.3.1 Account Holders must on each Clearing Day provide Collateral for any Daily Margin Call. Daily Margin Calls are issued in the form of both an Intra-Day Margin Call and an End-of-Day Margin Call. End-of-Day Margin Calls will be made available in the Clearing Platform to all Account Holders on each Clearing Day as set out in the Clearing Schedule, whereas Intra-Day Margin Calls may be issued if the Clearinghouse decides to issue an Intra-day Margin Call and will be made available only to applicable Account Holders at such time as set out in the Clearing Schedule.
- 8.3.2 The Clearinghouse calculates Daily Margin Calls in respect of each Clearing Day for all Open Positions and Pending Settlements on an aggregated net basis for all Clearing Accounts of each Account Holder based upon the following:
- a. The End-of-Day Margin Call will be calculated based on the Open Positions of the Account Holder at the end of each Clearing Day.

- b. The Intra-Day Margin Call will be calculated based on the Open Positions of the Account Holder at the applicable point in time for which the Intra Day Margin Call is calculated.
  - c. Daily Margin Calls will include the Base Collateral Call applicable at the relevant point in time.
- 8.3.3 The Clearinghouse will take into account the following components when calculating a Daily Margin Call:
- a. For Pending Settlements:
    - (i) A *billing margin* for net Buyers (i.e. Cash Settlement owing to the Clearinghouse) to cover the potential cost of the Buyer's failure to pay such Pending Settlements; and
    - (ii) A *billing margin* set-off for net Sellers (i.e. Cash Settlement owing from the Clearinghouse) to reflect the Seller's right to Pending Settlement from the Clearinghouse for a period of days to be set by the Clearinghouse.
  - b. For Open Positions with Delivery on a short range of Delivery Days to be set by the Clearinghouse, excluding the last 2 (two) Delivery Periods of the last calendar day covered by the said short range:
    - (i) A *delivery margin* to cover the potential cost of closing out a defaulting Account Holder's net long (buy) Energy Contract Volume in each included Delivery Period where the Cash Settlement Amount is not yet calculated; and
    - (ii) A *delivery margin* to cover the potential cost of the Account Holder's net short (sell) Energy Contract Volume in each included Delivery Period for Delivery Failure Costs as a result of Notification Failure attributable to the Account Holder.
  - c. For Open Positions with Delivery beyond the short range of Delivery Days set in accordance with letter (b) above, and in case of Products based on EFA Days also including the last 2 (two) Delivery Periods of the last calendar day covered by the said short range:
    - (i) An *initial margin* to cover the expected cost of closing out a defaulting Account Holder's Open Positions. The initial margin will typically increase towards a Delivery; and
    - (ii) A *variation margin* to cover the incurred value changes in Open Positions since the Contract Time of the relevant Contracts.
- 8.3.4 The Clearinghouse may in its discretion weight and offset the different calculation parameters of the Daily Margin Call against one another, and may change the parameters with one (1) hour's notice to affected Account Holders when such change in the reasonable opinion of the Clearinghouse is necessary. A change in calculation parameters will have effect from the next Daily Margin Call issued.
- 8.3.5 Collateral for Daily Margin Calls must be posted within Final Collateral Time on the same Clearing Day in the form of Cash Collateral, or by otherwise increasing the Collateral provided by or on behalf of the Account Holder within Final Collateral Time.

#### **8.4 Extraordinary Margin Calls**

- 8.4.1 The Clearinghouse may issue an Extraordinary Margin Call to an Account Holder (or to all Account Holders) if the Clearinghouse decides that extraordinary circumstances so require. Extraordinary circumstances include major price fluctuations, general changes to the Market and other matters that indicate a higher credit risk in respect of the Account Holder or its ECV Transferee (whether individually or generally), including that an Account Holder has one or more Open Position(s) in one or more Product Series relevant to the calculation of the Base Collateral Call, and which are considerably exceeding the Base Collateral posted.
- 8.4.2 An Extraordinary Margin Call applies in addition to the Base Collateral and the Daily Margin Call, and will normally be calculated applying the calculation procedures for Daily Margin Calls in Section 8.3 *mutatis mutandis*, taking into account the circumstances causing the Extraordinary Margin Call. The Clearinghouse may also, in its sole discretion, apply any other risk calculation procedure that the Clearinghouse considers appropriate under the relevant circumstances.

- 8.4.3 Without any prejudice to its rights under any other provisions in the Clearing Rules, if the Clearinghouse finds that an Account Holder holds more than fifteen per cent (15 %) of all positions within a single Product Series, the Clearinghouse may calculate an Extraordinary Margin Call based on the increased risk that the Clearinghouse finds appropriate due to such position.
- 8.4.4 The Clearinghouse may require that an Account Holder which is subject to an Extraordinary Margin Call immediately upon request discloses its positions in all transactions to which it is a party (also transactions which are not subject to Clearing), and which may have relevance to the Clearinghouse's calculation of the Extraordinary Margin Call. If an Account Holder fails to immediately disclose such positions, or if the Clearinghouse has cause to believe that all positions have not been disclosed or have been disclosed incorrectly, the Clearinghouse will in its discretion calculate the Extraordinary Margin Call based on the assumed positions of the Account Holder.
- 8.4.5 An Extraordinary Margin Call shall be met within 150 (one hundred and fifty) minutes after the Account Holder (or, in respect of Clearing Clients, its Client Representative) receives notification of the Extraordinary Margin Call through either:
- a. increasing the Collateral provided by or on behalf of the Account Holder; or
  - b. entering into Hedge Transactions so as to eliminate the need for the Extraordinary Margin Call as further agreed with or instructed by the Clearinghouse.
- 8.4.6 In case the Account Holder is required to post additional Collateral due to an Extraordinary Margin Call, the following shall be deemed a satisfactory posting of Collateral in relation to the Extraordinary Margin Call:
- a. In case of Cash Collateral, that the Clearinghouse shall have received from the Settlement Bank holding the applicable Cash Collateral Account(s) either (i) SWIFT notice; or (ii) other written confirmation as reasonably satisfactory to and authenticated by the Clearinghouse; that the credit on the Cash Collateral Account has been or will be increased as soon as possible so as to comply with the Extraordinary Margin Call; and/or
  - b. In case of a Letter of Credit or Bank Guarantee, the Clearinghouse shall have received a written confirmation from the applicable Collateral Provider, reasonably authenticated and satisfactory to the Clearinghouse, that the maximum amount recoverable (face value) by the Clearinghouse under the Letter of Credit or Bank Guarantee has been or will be increased as soon as possible so as to comply with the Extraordinary Margin Call; and/or
  - c. In case of other Collateral, or in case of the Account Holder entering into Hedge Transactions in accordance with Section 8.4.5(b), the Clearinghouse will decide whether or not the Extraordinary Margin Call has been met on a case by case basis.

## **9 TRADE RESTRICTIONS**

- 9.1 The Clearinghouse may set individual Trade Restrictions for an Account Holder, or general Trade Restrictions for all or groups of Account Holders, including any criteria for such Trade Restrictions to apply. Except as may be agreed with the applicable Account Holder(s) the Clearinghouse shall apply Trade Restrictions in a fair and non-discriminatory manner.
- 9.2 Information about the Trade Restrictions applicable to an Account Holder, whether individual or general in nature, shall be made available to the Account Holder through reports in the Clearing Platform or by other written correspondence from the Clearinghouse.
- 9.3 Trade Restrictions (and any amendment to them) may be brought into force immediately upon notice from the Clearinghouse in accordance with Section 9.2.

## **10 CASH SETTLEMENTS**

### **10.1 Cash Settlement Procedures**

- 10.1.1 The Clearinghouse shall on each Clearing Day for each Account Holder calculate the Cash Settlement Amount(s) due on that Clearing Day, and issue payment instructions through invoices sent to each Account Holder's designated e-mail address for invoices and otherwise in accordance with Section 10.2 below. Payment instructions will also be available from the Clearing Platform. Except where otherwise specified on the applicable invoice, all invoices are due on the same Clearing Day as they are issued at such time as set out in the Clearing Schedule.
- 10.1.2 The Clearinghouse agrees to issue and each Account Holder agrees to accept self-billed invoices from the Clearinghouse in respect of Clearing Transactions, and each Account Holder further agrees not to raise any other invoice in respect of any Clearing Transaction.
- 10.1.3 The Cash Settlement Amount is calculated by aggregating and setting off the relevant Cash Settlement Amounts due to or from the Account Holder on that Clearing Day, including without limitation all fees and other amounts payable to the Market Operator(s) and the Clearinghouse under the Clearing Rules and/or the Trading Rules. For the avoidance of doubt, Cash Settlement Amounts will include any amounts payable by or to the Account Holder in respect of Clearing Transactions that are subject to ECV Transfers and will not take account of any amount agreed between the Account Holder and the ECV Transferee relating to the ECV Transfer.
- 10.1.4 On each date on which Cash Settlement shall take place under the Clearing Rules, the Account Holder shall pay such Cash Settlement Amount to the Clearinghouse, or the Clearinghouse shall pay such Cash Settlement Amount to the Account Holder, in immediately available funds for value on the due date. Whenever a Cash Settlement Amount falls due on a date which is not a Clearing Day then:
- a. the Cash Settlement shall not take place until the following Clearing Day, and
  - b. the Cash Settlement Amount shall not be due until the following Clearing Day.
- 10.1.5 The following procedures apply for the Cash Settlement on each due date:
- a. The Clearinghouse will send a notification to Account Holders of the Cash Settlement Amount due on that Clearing Day by such time and in such format as set out in the Clearing Schedule.
  - b. For any Cash Settlement Amount owing from an Account Holder to the Clearinghouse, the Account Holder shall through its applicable Settlement Bank confirm the transfer of the applicable Cash Settlement Amount to the Clearinghouse (or its nominee) at its Cash Settlement Account.
  - c. For any Cash Settlement Amount owing from the Clearinghouse to an Account Holder, the Clearinghouse (or its nominee) will confirm or cause to be confirmed the transfer of the applicable Cash Settlement Amount to the Account Holder's Cash Settlement Account.
  - d. Confirmations under letters (b) and/or (c) above shall be sent by SWIFT message so that they are received by the Clearinghouse or the Settlement Bank (as applicable) by such time as set out in the Clearing Schedule on the relevant due date. In case the Clearinghouse is delayed in sending its notification under (a) above by more than 1 (one) hour, the deadline for confirmation shall be extended correspondingly for any delay exceeding the said 1 (one) hour.
- 10.1.6 Except as set out under Section 12.7, all Cash Settlement Amounts must be paid and executed as separate transactions in accordance with the terms of the individual payment instructions from the Clearinghouse and these Clearing Rules, and an Account Holder may not set off any Cash Settlement obligation to or from the Account Holder against any Cash Settlement obligation to or from the Clearinghouse, regardless of whether or not such obligations are due or/and mature.
- 10.1.7 Without prejudice to its other rights and remedies, the Clearinghouse may set off any matured obligation due to or from an Account Holder against a matured obligation due to

or from the Clearinghouse under these Clearing Rules, regardless of the place of payment or currency of either obligation. If the obligations are in different currencies, the Clearinghouse may convert either obligation at the currency exchange rate offered to the Clearinghouse in its usual course of business at the time of the set-off to effect the set-off.

10.1.8 Cash Settlement Amounts shall be calculated and paid in the currency applicable for the respective Product Series.

## **10.2 Tax and VAT**

10.2.1 All Cash Settlement Amounts and other amounts referred to under these Clearing Rules are and will be calculated exclusive of VAT.

10.2.2 Unless otherwise set out in this Section 10.2, each Counterparty is responsible for and shall cause to pay any and all VAT and Tax arising in connection with its Clearing activities and which is payable by that Counterparty under Applicable Law, with no further charge, reimbursement or indemnification to or from the other Counterparty irrespective of whether the Counterparty is required by Applicable Law to pay any VAT or Relevant Tax which is properly for the account of the other Counterparty.

10.2.3 The Clearinghouse will issue all invoices in respect of supplies made by the Clearinghouse to such Account Holder so that they are in compliance with its obligations under Chapter 3 of Part I to Directive 2006/112/EC regarding VAT invoices.

10.2.4 Each Account Holder agrees to notify the Clearinghouse as soon as reasonably practicable if there are any changes to its VAT registration.

10.2.5 All amounts referred to in these Clearing Rules are and will be calculated exclusive of Energy Taxes. In the case of Energy Taxes, if the cost of an Energy Tax is charged or passed on by the Seller to the Buyer, the Buyer shall pay this amount of Energy Tax to the Seller provided that such amount of Energy Tax is identified separately on the invoice issued by the Seller and confirmation is received by the Buyer, where applicable, that such amount of Energy Tax has been duly paid or accounted for to the relevant Tax authority as appropriate.

10.2.6 Where in accordance with Applicable Law there is an exemption or other relief, as applicable, from Energy Taxes in respect of any supplies under an individual Clearing Transaction, the following shall apply:

- a. the Buyer and the Seller hereby covenant that they will do all such proper acts, deeds and things as are necessary (which may include and shall not be limited to providing to the Seller all such proper, true and accurate documentation or assistance as may reasonably be required by the relevant taxing authority) to ensure that such supply is exempt from Energy Taxes for the purposes of such legislation;
- b. in the event that the Buyer or the Seller fails to comply with such obligation, the noncompliant Party shall indemnify the other Party in respect of any and all Energy Taxes, penalties and interest incurred by the other Party as a result of the non-complying Party's failure to comply with the above covenant ; and
- c. in the absence of the Buyer providing any documentation as referred to in letter (a) above, the Seller reserves the right to charge Energy Taxes.

10.2.7 In each Clearing Transaction, the Buyer covenants to the Seller that, for the purposes of a Tax which is targeted at the end-user or consumer of electricity either:

- a. it will not be an end-user or consumer of such electricity delivered to it under any individual Clearing Transaction, or
- b. that the Buyer has the status of an intermediary or any equivalent status as defined under Applicable Law, or
- c. that the electricity delivered under any individual Clearing Transaction will either be re-sold within the jurisdiction in which Delivery takes place or be transported to another jurisdiction; and

- d. that the Buyer will provide such documentation as may be required by Applicable Law to evidence any of the foregoing.
- 10.2.8 All payments to be made by an Account Holder to the Clearinghouse under the Clearing Rules shall be calculated and made without any set-off or counter-claim and free from any Tax Deductions unless required by Applicable Law. In the event a Tax Deduction is required by Applicable Law to be made by or on behalf of an Account Holder, it will:
- a. promptly upon becoming aware of the requirement, notify the Clearinghouse of the amount of the Tax Deduction;
  - b. pay the Tax Deduction and any payment required in connection with it to the relevant taxing authority within the time allowed and in the minimum amount required by law;
  - c. deliver to the Clearinghouse evidence reasonably satisfactory to the Clearinghouse that the Tax Deduction has been made or (as applicable) an appropriate payment has been made to the relevant taxing authority; and
  - d. pay to the Clearinghouse the additional amount necessary to ensure that the Clearinghouse receives and retains the full amount of the relevant payment as if such Tax Deduction had not been made.
- 10.2.9 All amounts payable by the Clearinghouse to an Account Holder in respect of a Clearing Transaction shall be paid without any Tax Deduction unless a Tax Deduction is required by Applicable Law, or has been made in respect of the payment of the corresponding amount to the Clearinghouse. In either of these events the Clearinghouse shall:
- a. promptly upon becoming aware of the requirement, notify the Account Holder of the amount of the Tax Deduction;
  - b. pay the Tax Deduction and any payment required in connection with it to the relevant taxing authority within the time allowed and in the minimum amount required by law (or so far as it is reasonably able to do so, procure that the Tax Deduction and/or such amount is paid);
  - c. subject to the Clearinghouse having such evidence in its possession, deliver to the Account Holder reasonable evidence that the Tax Deduction has been made or (as applicable) an appropriate payment has been made to the relevant taxing authority; and
  - d. pay to the Account Holder the additional amount necessary to ensure that the Account Holder receives and retains the full amount of the relevant payment as if such Tax Deduction had not been made, provided however that the Clearinghouse shall only be under an obligation to pay such additional amount to the extent that the Clearinghouse has recovered the amount payable by it from another Counterparty to the Clearing Transaction.

### **10.3 Cash Settlement Errors**

- 10.3.1 The Account Holder shall, if it believes that a Cash Settlement has been carried out incorrectly, notify the Clearinghouse as soon as possible and not later than five (5) Clearing Days after the relevant Cash Settlement took place, failing which the Account Holder will be bound by the Cash Settlement.
- 10.3.2 The Clearinghouse shall as soon as possible deal with complaints made in accordance with Section 6.4 and if the Cash Settlement was incorrect, carry out a corrected Cash Settlement between the parties involved with two (2) Clearing Days notice, by including it in a Daily Cash Settlement.
- 10.3.3 Irrespective of the time limits above, the Clearinghouse may carry out a corrected Settlement in the event of substantial errors;
- a. with respect to corrections of errors in Transactions concluded on a Trading System as determined in accordance with the relevant Trading Rules;
  - b. in respect of errors in Reference Prices.

- 10.3.4 Any correction in accordance with these Clearing Rules will be binding on all Account Holders concerned. The Clearinghouse shall not be liable to any Account Holder for any exercise or non-exercise of its powers under this Section 10.3, provided that it has acted in good faith.

## **11 DELIVERY AND NOTIFICATION**

### **11.1 Delivery and Acceptance**

- 11.1.1 Electricity Contract Volumes that are deliverable under a Clearing Transaction or any ECV Transfer shall be delivered in accordance with the terms of the BSC, the terms of each Clearing Transaction or ECV Transfer and these Clearing Rules.
- 11.1.2 In each Clearing Transaction or ECV Transfer and for each applicable Delivery Period, the Seller shall sell and deliver, or cause to be delivered, and the Buyer shall purchase and accept, or cause to be accepted, the applicable Energy Contract Volume in accordance with the BSC, the terms of each Clearing Transaction and these Clearing Rules.
- 11.1.3 Each Account Holder shall ensure that the Clearinghouse (or its nominee) is appointed as ECV Notification Agent for each Energy Account nominated by it in accordance with the applicable requirements of the BSC and the procedures of the Clearinghouse from time to time, and that the Clearinghouse's (or its nominee's) status as ECV Notification Agent for such Energy Accounts is maintained at all times, so as to enable the Clearinghouse to make ECV Notifications in respect of Clearing Transactions and ECV Transfers to such Energy Accounts. Each Account Holder shall furthermore ensure that all such actions are taken by it or its ECV Transferee as may be required pursuant to the BSC or otherwise as reasonably requested by the Clearinghouse in order for the Clearinghouse (or its nominee) to act as ECV Notification Agent under the BSC pursuant to the Clearing Rules at all times.
- 11.1.4 Subject to the Account Holder's compliance with Section 11.1.3, the Clearinghouse shall ensure that it (or its nominee) at all times fulfils the eligibility criteria as ECV Notification Agent in accordance with the BSC.

### **11.2 Notification Procedures**

- 11.2.1 Clearing Transactions registered to a Clearing Account will be notified to its associated Energy Account as per Section 5.2.
- 11.2.2 The Clearinghouse (or its nominee) will act as ECV Notification Agent in all Clearing Transactions and any corresponding ECV Transfers and send ECV Notifications on behalf of all Counterparties and ECV Transferees involved to the ECV Aggregation Agent. The Clearinghouse (or its nominee) will act as a single notifier, whereby the Clearinghouse (or its nominee) provides notification of Energy Contract Volumes on behalf of the Counterparties or ECV Transferees involved in each Clearing Transaction or ECV Transfer for each applicable Delivery Period.
- 11.2.3 ECV Notifications made by the Clearinghouse (or its nominee) will reflect the net ECV positions for each and every Counterparty or ECV Transferee for each and all applicable Delivery Periods and will be dispatched at regular time intervals in accordance with the time schedule set out in the Clearing Procedures. Clearing Transactions (and any corresponding ECV Transfers) entered into five (5) minutes or more prior to the time of dispatch of each ECV Notification will be included in each relevant ECV Notification. Clearing Transactions (and any corresponding ECV Transfers) entered into less than five (5) minutes prior to the time of dispatch of each ECV Notification may be included in the ECV Notification, but the Clearinghouse makes no warranty and expressly excludes all liability to this effect.
- 11.2.4 ECV Notifications from the Clearinghouse (or its nominee) will be composed and notified to the ECV Aggregation Agent using an "overwrite" principle, whereby the net position for each Counterparty or ECV Transferee for each relevant Delivery Period will be reported and each new ECV Notification will replace the previous ECV Notification for the applicable Counterparties or ECV Transferees and Delivery Periods.

11.2.5 The Clearinghouse (or its nominee) shall, when acting as ECV Notification Agent, follow the applicable rules and procedures of the BSC. In case of conflict between the notification procedures of these Clearing Rules and the BSC, the rules and procedures of the BSC shall prevail.

### **11.3 ECV Transfers**

11.3.1 Whenever a Clearing Transaction is registered to a Clearing Account that is associated with an Energy Account of an ECV Transferee (following nomination of the Energy Account by the Account Holder under Section 5.2.3), a corresponding ECV Transfer will be deemed to be created and executed automatically between the relevant Account Holder and the ECV Transferee in accordance with this Section 11.3.

11.3.2 Where Section 11.3.1 applies to any Clearing Transaction, the delivery obligations in respect of the Clearing Transaction and the corresponding ECV Transfer shall (subject to Section 11.3.2(d)) be effected in accordance with this Section 11.3.2:

- a. The Clearinghouse (or its nominee) will make an ECV Notification on behalf of the ECV Transferee in accordance with Section 11.2 in respect of the relevant Energy Contract Volume for entry on the applicable Energy Account of the ECV Transferee, indicating whether the ECV Transferee is the buyer or the seller (according to whether the ECV Transferee is the buyer or seller under the corresponding ECV Transfer).
- b. The Clearinghouse (or its nominee) will make an ECV Notification on its own behalf in accordance with Section 11.2 in respect of the relevant Energy Contract Volume for entry on its own applicable Energy Account, indicating whether the Clearinghouse is the seller or the buyer (according to whether the Clearinghouse is the Seller or the Buyer under the Clearing Transaction).
- c. The ECV Notifications under Section 11.3.2(a) and (b) in respect of the Clearing Transaction and the corresponding ECV Transfer shall be a pair of matching equal and opposite ECV Notifications for the purpose of the Balancing and Settlement Code.
- d. Notwithstanding Section 11.3.2(a) to (c), ECV Notifications made by the Clearinghouse (or its nominee) on behalf of an ECV Transferee will in accordance with Section 11.2.3 reflect the net ECV position of such ECV Transferee in respect of all ECV Transfers to which it is a party in each relevant Delivery Period.

11.3.3 Notwithstanding Section 11.3.2:

- a. The Clearinghouse (or its nominee) shall not become a party to any ECV Transfers and shall not (except for ECV Notifications to be made by it in accordance with Section 11.3.2) have any obligations in respect of any ECV Transfers;
- b. Any bilateral arrangements between the Account Holder and its ECV Transferee in relation to ECV Transfers shall be exclusively between those parties and the Account Holder shall ensure that such arrangements do not conflict with the Clearing Rules;
- c. The Clearing Transaction corresponding to an ECV Transfer (including the applicable Energy Contract Volume) shall remain in full force between the Counterparties in accordance with the Clearing Rules; and
- d. The Account Holder's Open Position shall not be affected by any ECV Transfer and the Account Holder shall remain liable to the Clearinghouse for its performance or non-performance of each Clearing Transaction.

11.3.4 The Account Holder shall ensure that its ECV Transferee complies with Section 11.1 and 11.2 in its capacity as buyer or seller (as applicable) under each ECV Transfer. Any non-compliance with the BSC or the Clearing Rules on the part of such ECV Transferee in relation to any ECV Transfer will be deemed to be a default by the applicable Account Holder in relation to the corresponding Clearing Transaction. If an Energy Account held by an ECV Transferee has been nominated as the Energy Account for more than one Account Holder, and in the case of a Notification Failure affecting such Energy Account, all relevant Account Holders will be deemed to have defaulted in performing their obligations under the corresponding Clearing Transactions affected and the relevant Account Holders shall be severally liable to the Clearinghouse under Sections 11.4.5 and 11.4.6 rateably in

proportion to their applicable net Energy Contract Volumes under such Clearing Transactions in the relevant Delivery Periods.

11.3.5 This Section 11.3 shall apply in addition to any other relevant parts of the Clearing Rules and prevail in the case of conflict with other parts of the Clearing Rules.

#### **11.4 Notification Failure**

11.4.1 This Section 11.4 shall apply without prejudice to any other rights, remedies, sanctions or steps that may be taken, exercised or applied under the Clearing Rules.

11.4.2 If, in respect of one or more Clearing Transactions (including corresponding ECV Transfers where applicable) there is a Notification Failure for a Delivery Period as a result of any failure on the part of the Clearinghouse (or its nominee) to make accurate ECV Notifications, then the Clearinghouse shall (except where such failure is excused by a Force Majeure Event subject to Section 13.1.1) indemnify such Account Holder in respect of any Delivery Failure Costs directly attributable to that Notification Failure up to an amount of GBP 1,000,000 (one million) per any 24 hour period, provided however that the aggregate liability of the Clearinghouse to all Account Holders under this Section 11.4.2 shall be limited to GBP 15,000,000 (fifteen million) in any calendar year. In the event that the aggregate cap of this Section 11.4.2 is reached, the amounts payable to affected Account Holders shall be calculated on a pro rata basis up to the aggregate cap. The limitations of this Section 11.4.2 does not apply in the case of deliberate and intentional misconduct by the Clearinghouse.

11.4.3 Account Holders wishing to claim a Notification Failure in respect of one or more Clearing Transactions (including corresponding ECV Transfers where applicable) must do so in writing no later than 30 calendar days following the applicable Delivery Period to which the Notification Failure relates, and must in the complaint specify the claim so as to reasonably enable the Clearinghouse to identify the Notification Failure and the alleged Delivery Failure Cost. If a valid claim is not received by the Clearinghouse by the deadline stated in this Section 11.4.3, the claim will be deemed null and void. Claims for one or more Notification Failures relating to any 24 hour period that do not exceed an aggregate Delivery Failure Cost of GBP 1,500 (one thousand five hundred) are under all circumstances barred. Upon receipt of a valid claim, the Clearinghouse will investigate whether there has been a Notification Failure and either (i) calculate the Delivery Failure Cost attributable to the Notification Failure(s) in accordance with Section 11.4.2 or (ii) dispute the claim by written notice, setting out in reasonable detail its reasons for doing so.

11.4.4 Payments for undisputed claims under Section 11.4.2 will be made promptly following the end of each calendar year and the expiry of the claim period as set out in Section 11.4.3. If one or more claims for a Notification Failure are disputed at the time when payment is due, and an award of the disputed claim(s) would entail that the aggregate cap under Section 11.4.2 would be exceeded, the Clearinghouse may withhold an amount equal to the excess amount and deduct from payment to Account Holders having undisputed claims on a pro rata basis, and full payment to Account Holders (subject to the aggregate cap) will only be made following final resolution of the dispute(s). Advance payments for claims under Section 11.4.2 which are undisputed can be made promptly following the end of each quarter (three month period) of a calendar year upon the prior written request from the entitled Account Holder within the end of each quarter, provided that (i) the Account Holder provides Collateral acceptable to the Clearinghouse in respect of such recovery payments and any interest which may fall due in accordance with Section 13.4 from the payout date if the advance payment or parts thereof is repayable due to the aggregate cap under Section 11.4.2 coming into effect.

11.4.5 If, in respect of one or more Clearing Transactions (including corresponding ECV Transfers where applicable) there is a Notification Failure for a Delivery Period as a result of any failure on the part of an Account Holder (as Counterparty) or its ECV Transferee to comply with its obligations under the Clearing Rules or under the BSC, then the Account Holder shall (except where such failure is excused by a Force Majeure Event) indemnify the Clearinghouse in respect of any Delivery Failure Costs directly attributable to that Notification Failure.

11.4.6 Where Section 11.4.5 above applies, and without prejudice to its provisions or the existence of a Force Majeure Event, the Account Holder shall indemnify the Clearinghouse against all costs reasonably incurred by the Clearinghouse in taking steps to mitigate the losses, charges, expenses or penalties which would otherwise be incurred by the Clearinghouse as a result of the Notification Failure.

11.4.7 Save as provided in the next sentence, each Counterparty acknowledges that the right to be indemnified under this Section 11.4 shall be its sole financial remedy against the other Counterparty in respect of any Notification Failure in respect of one or more Clearing Transactions between them (including corresponding ECV Transfers where applicable). For the avoidance of doubt, this Section 11.4.7 does not limit any remedy the Clearinghouse has against an Account Holder for failure by the Account Holder to meet its Cash Settlement obligations under the Clearing Rules.

## 12 DEFAULT AND INSOLVENCY PROCEDURES

### 12.1 Definition of Default Event

12.1.1 A "**Default Event**" means the occurrence at any time of any of the following events:

- a. The Account Holder no longer meets the criteria applicable to it under Section 3.1 or is no longer eligible as Counterparty under Section 3.2.
- b. The Account Holder fails to meet a Collateral Call within the applicable time limit as set out in the Clearing Rules.
- c. The Account Holder fails to meet its Cash Settlement or Delivery obligations under the Clearing Rules.
- d. The Account Holder, its Collateral Provider, or any parent company of the aforementioned entities, is subject to an Insolvency Event.
- e. The Account Holder is in breach of or omits to observe any other obligations towards the Clearinghouse or a Market Operator under the Clearing Rules or Applicable Law.
- f. The Account Holder's Credit Rating is withdrawn or downgraded below the rating at the time used by the Clearinghouse when calculating the Collateral Call for the Account Holder, assuming such downgrade is relevant to the calculation of the Collateral Call.
- g. The Account Holder causes or is subject to any event with respect to it which in the reasonable opinion of the Clearinghouse has an analogous effect to any of the events specified in letters (a) to (f) (inclusive) above.
- h. The Account Holder takes any action in furtherance of, or indicating its consent to approval of, or acquiescence in, any of the events referred to in letters (a) to (g) (inclusive) above.
- i. The Account Holder is in breach of any of its representations or warranties.

12.1.2 The following constitute a "**Material Default Event**":

- a. Any Default Event under Section 12.1.1 letters (a) and (b).
- b. Any Default Event under Section 12.1.1 letters (c) through (h) (inclusive), provided that the Default Event, in the reasonable opinion of the Clearinghouse, seriously affects the Account Holder's ability to fulfil its current or future obligations under the Clearing Rules, or clearly indicates that the Account Holder is unfit for further Clearing.
- c. Any Default Event under Section 12.1.1 letter (i), provided that the breach of the representation or warranty is material in the reasonable opinion of the Clearinghouse and has not been remedied within fifteen (15) calendar days following written notice from the Clearinghouse, or the breach of Representation clearly indicates that the Account Holder is unfit for further Clearing.

### 12.2 Default Event Involving an Account Holder

12.2.1 If a Default Event has occurred with respect to an Account Holder, the Clearinghouse may suspend the Account Holder from Clearing until the Default Event has been remedied or otherwise ceased to the reasonable satisfaction of the Clearinghouse. During suspension,

Clearing of new Transactions with the Clearinghouse will only be accepted when preapproved by the Clearinghouse.

12.2.2 If a Material Default Event has occurred with respect to an Account Holder, and without prejudice to any other remedies available to the Clearinghouse, the Clearinghouse may take any one or more of the following steps:

- a. declare any or all claims of or against the defaulting Account Holder due on that date;
- b. enter into Hedge Transactions in other Product Series in order to reduce the market risk in Open Positions registered on the Clearing Accounts of the Account Holder;
- c. take such action as it considers necessary or expedient to close-out any Open Positions by entering into Close-Out Transactions for the Account Holder's account and risk or otherwise discharge and/or net the rights, obligations and positions of the Account Holder;
- d. withhold any Cash Settlement Amount owed to the Account Holder;
- e. enforce, appropriate, realise and otherwise apply its rights in relation to any Collateral posted by or on behalf of the Account Holder;
- f. set off or otherwise apply any Open Positions related to a Clearing Account against any other claims from the Clearinghouse related to the other Clearing Accounts of the Account Holder;
- g. set off or otherwise apply all profits, Pending Settlements and other claims owed by the Account Holder to the Clearinghouse and by the Clearinghouse to the Account Holder so as to produce a single net sum payable by or to the Account Holder, irrespective of whether such claims are in different currencies and regardless of their origin or character; and/or
- h. terminate the membership agreement and exclude the Account Holder from Clearing with fifteen (15) days written notice, provided that termination shall not take place due to non-repeated Material Default Events that does not clearly indicate that the Account Holder is unfit for membership.

12.2.3 The Clearinghouse may carry out any or all of the actions set out in Section 12.2.2 above for some or all of the Open Positions registered on a Clearing Account, and/or refrain from such actions with respect to one or several Clearing Accounts established in the name of the Account Holder.

12.2.4 No court order or filing or any other legal act shall be required for any of the actions stated in Section 12.2.2 above. Amounts due and not paid by the defaulting Account Holder shall, to the extent possible, be discharged by applying any Cash Collateral before any other forms of Collateral are utilised.

12.2.5 Transactions by the Clearinghouse on the account and risk of the Account Holder shall be conducted applying best execution principles.

12.2.6 Termination of a membership agreement with an Account Holder will not affect the Counterparties' rights and obligations with respect to Clearing Transactions registered at the time of termination becoming effective and the Clearing Rules shall remain in force for as long as the Account Holder has Open Positions or owes any amount to the Clearinghouse.

12.2.7 Following termination of a membership agreement with an Account Holder any Collateral shall be released and/or returned as soon as practicable after the date of termination, provided that in each case all amounts owing to the Clearinghouse by the Account Holder are undisputed and have been fully, finally and unconditionally paid or discharged to the Clearinghouse and the General Clearing Member has no Open Positions or Pending Settlements.

12.2.8 The Clearinghouse shall inform the Account Holder in writing of any measures taken under this Section 12.2.

### **12.3 Default Event Involving a Client Representative**

12.3.1 The provisions of Section 12.3 applies only in relation to Client Representatives, and is in addition to the provisions of Section 12.2.

12.3.2 A Clearing Client may not enter into any new Clearing Transactions while its Client Representative is suspended.

12.3.3 If a Material Default Event has occurred with respect to a Client Representative the Clearinghouse may terminate any Clearing Client Agreement which such Client Representative is party to, and any Clearing Client of the Client Representative may terminate its Clearing Client Agreement with such Client Representative, with effect from either:

- a. immediately on a termination of the Client Representative's membership agreement with the Clearinghouse becoming effective;
- b. immediately on the applicable Clearing Client entering into a Clearing Client Agreement with a new Client Representative; or
- c. where the Clearing Client does not enter into a new Clearing Client Agreement with a new Client Representative, the later of: (i) the time when there are no Open Positions registered in the relevant Clearing Accounts; and (ii) the time when there is no amount owing to the Clearinghouse by the Clearing Client.

12.3.4 Following termination as set out in Section 12.3.3, the Clearing Client has the right to require the Client Representative to transfer and re-register Open Positions to a Clearing Account established with another Client Representative of the Clearing Client, and/or to do all such acts as are necessary in connection therewith, provided that all Collateral Calls relating to the Clearing Client are met. In the event that a Client Representative does not observe such a request by a Clearing Client within one (1) Clearing Day, the Clearing Client may require the Clearinghouse to carry out such transfers and re-registrations provided all Collateral Calls are met.

12.3.5 Following suspension or termination by the Clearinghouse of a Client Representative, the following shall apply:

- a. The Clearinghouse may designate another Client Representative for affected Clearing Clients on a temporary basis, on such terms as the Clearinghouse may reasonably determine.
- b. The Clearinghouse shall notify affected Clearing Clients of the suspension or termination of its Client Representative. Each Clearing Client shall immediately endeavour to enter into a Clearing Client Agreement with another Client Representative (to be approved by the Clearinghouse).
- c. If a Clearing Client Agreement is not entered into within two (2) Clearing Days following notice from the Clearinghouse, the Clearing Client may be transferred to a Client Representative appointed by the Clearinghouse. A corresponding Clearing Client Agreement shall be deemed to have been entered into, and a bilateral agreement between the Clearing Client and the new Client Representative shall be entered into on behalf of the Clearing Client on such terms as the Clearinghouse may reasonably determine.
- d. When a Clearing Client enters into a Clearing Client Agreement in accordance with subsections (b) or (c) above, the new Client Representative will assume the responsibility for Collateral Calls of the Clearing Client from the time of the Collateral Call on the second (2<sup>nd</sup>) Clearing Day following the notification above, and the previous Client Representative shall be released in respect of circumstances occurring after such time.
- e. If a Clearing Client does not enter into a Clearing Client Agreement in accordance with subsections (b) or (c) above, the Clearing Client may either (i) ask the Clearinghouse to close out any Open Positions registered to it pursuant to Section 12.2.5 or (ii) retain any Open Positions subject to the approval of the Clearinghouse, not to be unreasonably withheld.

## 12.4 Default Event Involving a Clearing Client

- 12.4.1 The provisions of Section 12.4 applies only in relation to Clearing Clients, and is in addition to the provisions of Section 12.2.
- 12.4.2 If at any time a Clearing Client fails to meet a Collateral Call, the Client Representative may enter into Close-Out Transactions or Hedge Transactions for the Clearing Client's account and risk to the extent required to meet Collateral Calls. The Client Representative shall conduct such Transactions applying best execution principles.
- 12.4.3 If at any time a Material Default Event occurs with respect to a Clearing Client, its Client Representative may terminate the Clearing Client Agreement by giving fifteen (15) calendar days' written notice to the Clearing Client and the Clearinghouse, and the Clearinghouse shall immediately suspend the Clearing Client from Clearing Transactions from the reception of such notice.
- 12.4.4 Following a termination of the Clearing Client Agreement, the Client Representative shall, subject to reasonable instructions from the Clearing Client, or with the approval from the Clearinghouse if such instructions cannot be obtained, enter into Close-Out Transactions relating to the Open Position of the Clearing Client. The Client Representative shall conduct such Trading and Clearing applying best execution principles.
- 12.4.5 Notwithstanding Sections 12.2.6, 12.3.5, 12.4.3 and 12.4.4, the Clearing Client's responsibilities under the Clearing Rules will remain in force for as long as the Clearing Client has Open Positions with the Clearinghouse or owes any amount to the Clearinghouse, as will the Client Representative's responsibilities to the Clearinghouse in respect of the Clearing Client.
- 12.4.6 The Client Representative has the right to seek compensation for amounts owed by the Clearing Client to the Client Representative in respect of amounts paid by the Client Representative to the Clearinghouse on behalf of the Clearing Client in its role as Client Representative. The Clearinghouse shall upon request from the Client Representative enforce, appropriate, realise and otherwise apply its rights in relation to any Collateral posted by or on behalf of the Clearing Client to cover such claim from the Client Representative, provided that (i) the Client Representative must document that the Clearing Client has not honoured such claim from the Client Representative within three (3) days of written demand from the Client Representative and (ii) any such claim shall be subordinated to those of the Clearinghouse and (iii) that such coverage is allowed by the applicable Collateral arrangements.
- 12.4.7 Following termination of a Clearing Client Agreement any excess cash balance or Collateral shall be released to the Clearing Client after coverage of the Clearinghouse's and the Clearing Representative's final, undisputed and due claims.

## 12.5 Definition of Insolvency Event

- 12.5.1 An "**Insolvency Event**" means the occurrence at any time with respect to an entity of any of the following events:
- a. The entity is dissolved (other than pursuant to a consolidation, amalgamation or merger);
  - b. The entity becomes insolvent, suspends its payments, or is unable to pay its debts, or fails or admits in writing its inability generally to pay its debts as they become due;
  - c. The entity makes a general assignment, arrangement or composition with or for the benefit of its creditors;
  - d. An application is made to a court of competent jurisdiction, or an order is made by such a court, for the purposes of (i) adjudging the entity to be bankrupt or insolvent or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights; (ii) approving or granting a petition for a moratorium, reorganisation, arrangement (including pursuant to a scheme of arrangement), liquidation, dissolution, adjustment or composition of or in respect of the entity under any insolvency law; (iii) appointing an administrator, assignee, custodian, examiner,

liquidator, provisional liquidator, receiver, sequestrator, supervisor, nominee or trustee or other similar official in respect of the entity or any substantial part of its property, assets or undertaking; (iv) ordering the winding up, official management, liquidation or bankruptcy of the entity (other than pursuant to a consolidation, amalgamation or merger while solvent on terms approved by the Clearinghouse); or (v) consenting to the institution by the entity or any person of proceedings for it to be adjudicated, bankrupt or insolvent or for it to be wound up or liquidated;

- e. The entity seeks, consents or becomes subject to the appointment of an administrator, provisional liquidator, liquidator, conservator, receiver, sequestrator, supervisor, trustee, custodian or other similar official for it or for all or substantially all its assets;
- f. The entity has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged or restrained, in each case within fifteen (15) days thereafter; and
- g. The entity causes or is subject to any event with respect to which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in letters (a) to (f) above.

## **12.6 Insolvency Event Involving an Account Holder**

12.6.1 The Clearinghouse may terminate all Open Positions in an Account Holder's Clearing Account (s) with immediate effect if the Account Holder is subject to an Insolvency Event.

12.6.2 The Clearinghouse shall, as soon as the Clearinghouse becomes aware of an Insolvency Event relating to an Account Holder, value the positions terminated under Section 12.6.1 according to the following provision on close-out netting:

- a. The value shall be calculated by reference to any price that would have been obtainable by the Clearinghouse using reasonable endeavours to obtain the best price reasonably obtainable if carrying out a Close-Out Transaction for the positions at any time within three (3) Clearing Days after becoming aware of the Insolvency Event, or within a longer period of time recognised by relevant insolvency laws.
- b. The provisions in subsection (a) above shall not apply if and insofar as they conflict with any law of the jurisdiction where the Account Holder is incorporated and which is both applicable to the Account Holder and has extra-territorial application to the Clearinghouse. To the extent there is a conflict the valuation shall take place in accordance with such laws.

12.6.3 The positive and negative amounts resulting from the calculation in Section 12.6.2 shall be aggregated (and netted) following which the net amount shall be netted or aggregated with the Losses incurred by the Clearinghouse as a result of the Insolvency Event. Subject to Section 12.2, the net amount shall be payable by the Account Holder or the Clearinghouse, as the case may be, in the next Daily Cash Settlement.

12.6.4 In case of conflict between the provisions of this Section 12.6 and the provisions of Sections 12.1 - 12.5 (inclusive), this Section 12.6 shall prevail.

## **12.7 Default or Insolvency Involving the Clearinghouse**

12.7.1 In the event that the Clearinghouse is in default of its obligations under the Clearing Rules, Account Holders may terminate their Clearing Agreement with effect from the moment no Open Positions are registered in the Clearing Accounts which the Account Holder is responsible for and all Cash Settlements have been finalised, including the associated Clearing Accounts of Clearing Clients in case of Clearing Representatives.

12.7.2 A "**Material Default**" by the Clearinghouse exists if:

- a. the Clearinghouse breaches a Cash Settlement obligation and the default is not remedied within three (3) Clearing Days after the Cash Settlement is due; or

- b. the Clearinghouse fails to perform any other material obligation under the Clearing Rules and the default is not remedied within five (5) Clearing Days from the date when the breach was notified to the Clearinghouse.
- 12.7.3 An Account Holder may, in the event that the Clearinghouse is in Material Default as defined above, terminate any or all Open Positions registered in its Clearing Account by designating an early termination date by giving the Clearinghouse not less than twenty (20) Clearing Days' notice.
- 12.7.4 In the event that the Clearinghouse files for bankruptcy proceedings or is declared bankrupt, all Open Positions with the Clearinghouse are automatically terminated.
- 12.7.5 Upon a termination under Sections 12.7.3 or 12.7.4, the Account Holder shall calculate a positive or negative value of the terminated Transactions on the basis of the latest listed price for the relevant Product Series at the time of termination, these values to be aggregated and netted to a single close-out amount for all relevant Transactions.
- 12.7.6 The Account Holder is not required to enter into replacement Transactions in order to determine the close-out amount. The Account Holder may, to the extent this does not represent double coverage, calculate its Loss in respect of the default by the Clearinghouse and set-off the Loss against any payment obligation towards the Clearinghouse. The net amount remaining is referred to as the "**Termination Amount**".
- 12.7.7 The Account Holder shall notify the Clearinghouse of the Termination Amount calculated, including detailed support for the calculation. If the Termination Amount is positive, the Clearinghouse shall pay the Termination Amount to the Account Holder within three (3) Banking Days of invoice or notification, which amount shall bear interest in accordance with Section 13.4. If the Termination Amount is negative, the Account Holder shall pay an amount equal to the absolute value of the Termination Amount to the Clearinghouse within thirty (30) Banking Days of the Termination Payment Date, and any such amount shall bear interest in accordance with Section 13.4.
- 12.7.8 The Account Holder may however, at its option, set off the obligation to pay the Termination Amount under Section 12.7.7 against any other amounts owing (whether or not matured, contingent or invoiced) the Clearinghouse in favour of the Account Holder. This right of set-off is without prejudice and in addition to any other right of set-off, combination of accounts, lien, charge or other right to which the Account Holder is at any time otherwise entitled (whether by operation of law, by contract or otherwise).
- 12.7.9 If an amount is unascertained, the non-defaulting party may reasonably estimate the amount to be set off. The parties shall make any adjustment payment required within three Banking Days of the amount becoming ascertained.
- 12.7.10 If the Clearinghouse disputes any Termination Amount under this Section 12.7, it shall pay the lesser amount as calculated by the Clearinghouse by the due date in accordance with Section 12.7.7, subject to payment of any further amount together with interest calculated in accordance with Section 13.4 once the dispute has been settled or determined.

## **12.8 Notifications**

- 12.8.1 If the Clearinghouse makes a decision to suspend an Account Holder from Clearing in accordance with these Clearing Rules, or to terminate the Account Holder's Membership Agreement, the Clearinghouse shall immediately notify the Market Operator of such decision. In case a suspension is lifted, the Clearinghouse will as soon as practicable during Clearing Hours give notice to the Market Operator.
- 12.8.2 The Clearinghouse shall as soon as practicable inform the Account Holder in writing of any measures that has been taken under this Section 12, and shall provide the Account Holder with a written final account stating the measures taken and the Account Holder's remaining Open Position and other obligations (if any) between the Account Holder and the Clearinghouse following the Clearinghouse's finalisation of such measures.

### **13 LIABILITIES, INDEMNITY AND FORCE MAJEURE**

#### **13.1 Force Majeure**

- 13.1.1 If a Force Majeure Event prevents a Counterparty from performing any obligation under these Clearing Rules, the Trading Rules or the BSC at the prescribed time in whole or in part, the time for performance of such obligation shall be suspended for as long as the Force Majeure Event persists subject to Section 13.1.2. The other Counterparty shall be entitled to suspend its obligations towards the affected Counterparty accordingly.
- 13.1.2 If it is clear that a Force Majeure Event persists or will persist for more than three (3) Clearing Days (excluding the day on which the Force Majeure Event occurs) in relation to an Account Holder, and provided that the Account Holder fails to meet its Collateral Call or its Settlement obligations within the applicable time limits, the Clearinghouse shall be entitled to invoke its rights pursuant to Section 12 notwithstanding Section 13.1.1, provided that the Clearinghouse shall (to the extent possible) give prior notice to the Account Holder and take reasonable account of the Force Majeure Event (including its anticipated perseverance) and the Account Holder's reasonable requests (if any) when invoking such rights.
- 13.1.3 If a significant portion of the Account Holders and/or Settlement Banks and/or the Clearinghouse is subject to a Force Majeure Event, the Clearinghouse may declare a state of general force majeure in relation to all affected Counterparties. In such case, the Clearinghouse may temporarily suspend the affected Counterparties' obligations and/or invoke alternative arrangements, or implement such other similar measures as it deems necessary and appropriate in order to mitigate the effects of such circumstances and to ensure the fair and orderly settlement, price formation or integrity of any Contract, taking into account the reasonably anticipated interests of all affected Counterparties.
- 13.1.4 Notwithstanding Sections 13.1.1 through 13.1.3, a Counterparty shall not be liable for any consequential loss or damage caused by the Counterparty's whole or partly non-performance of any of its obligations under these Clearing Rules due to a Force Majeure Event, and a Counterparty may not use any claim relating to such loss or damages as grounds for set-off or withholding of its obligations towards another Counterparty. For the avoidance of doubt, this clause 13.1.4 is without prejudice to Section 13.4.
- 13.1.5 A Counterparty shall only be entitled to claim relief due to a Force Majeure Event under this Section 13.1 if the Counterparty:
- a. complies with Sections 13.1.6 or 13.1.7 (as applicable); and
  - b. continues to seek to perform its obligations under the Clearing Rules to the best of its abilities.
- 13.1.6 An Account Holder seeking relief under Section 13.1.1 shall:
- a. notify the Clearinghouse as soon as practically possible after it becomes aware (or should reasonably have become aware) of the Force Majeure Event, reasonably evidencing that a Force Majeure Event has occurred; and
  - b. provide to the Clearinghouse as soon as practically possible a non-binding estimate of the likely effect on the performance of its obligations and the extent and expected duration of its inability to perform its obligations under the Clearing Rules, and reasonable updates, when, and if available, of the extent and expected duration of the Force Majeure Event; and
  - c. on request promptly provide all further information required by the Clearinghouse to determine whether a Force Majeure Event has occurred and/or information in relation to affected Clearing Transactions; and
  - d. promptly take such action in respect of Clearing Transactions as the Clearinghouse deems necessary or desirable to manage the continued operation of the relevant market and/or Clearing of Transactions in light of the Force Majeure Event.
- 13.1.7 The Clearinghouse shall, as soon as practically possible after it becomes aware of a Force Majeure Event affecting the Clearinghouse, notify all affected Account Holders of the Force Majeure Event and, to the extent then available, provide a non-binding estimate of the likely effect on the performance of its obligations and the extent and expected duration of its inability to perform its obligations under these Clearing Rules. The Clearinghouse shall use all commercially reasonable efforts to mitigate the effects of the Force Majeure Event

and shall, during the continuation of the Force Majeure Event provide all affected Account Holders with reasonable updates, when and if available, of the extent and expected duration of the Force Majeure Event.

- 13.1.8 A Counterparty that is subject to a Force Majeure Event shall not, subject to its compliance with this Section 13.1, be liable for any loss or damage caused by such Counterparty's non-performance of its other obligations under these Clearing Rules, and a Counterparty may not use any claim relating to such loss or damages as grounds for set-off or withholding of its obligations towards another Counterparty. Notwithstanding the foregoing, interest in accordance with Section 13.4 will accrue even in case of a Force Majeure Event.
- 13.1.9 In relation to any deliverables which are being performed subject to the Balancing and Settlement Code under these Clearing Rules, and notwithstanding the other provisions of this Section 13.1:
- a. The term "Force Majeure Event" shall include any event which prevents an ECV Notification from being submitted on behalf of a Counterparty or an ECV Transferee to the ECV Aggregation Agent, or being received by the ECV Aggregation Agent, and thereby prevents the debiting and crediting of the relevant Energy Accounts (as defined in the BSC) for one or more Delivery Periods or results in the wrong amounts being debited and credited to the relevant Energy Accounts. Examples of such events would include:
    - (i) the provisions of the Balancing and Settlement Code being suspended, or the occurrence of a "Contingency Provision" as defined in the BSC, so as to prevent the submission of an ECV Notification in respect of one or more Delivery Periods; or
    - (ii) BSC Co suspending the submission of ECV Notifications under the BSC.
  - b. Where an ECVA System Failure is declared or the ECVA System is withdrawn pursuant to Section P5 of the Balancing and Settlement Code affecting the ability of the Clearinghouse (or its nominee) to make ECV Notifications in respect of one or more Delivery Periods pursuant to Section 11.2 or 11.3 above, this shall constitute a Force Majeure Event, provided that the Clearinghouse (or its nominee) shall use all reasonable endeavours to resubmit ECV Notifications in respect of all relevant Clearing Transactions (including corresponding ECV Transfers where applicable) for the affected Delivery Periods prior to the resubmission deadline as defined in Section P5 of the Balancing & Settlement Code.
  - c. The occurrence of any of the following events shall never constitute a Force Majeure Event for an Account Holder:
    - (i) the Account Holder or its ECV Transferee being in a "Credit Default" as defined in the Balancing and Settlement Code;
    - (ii) the failure or refusal of the ECV Aggregation Agent to validate the ECVA Authorisation authorising the Clearinghouse (or its nominee) to make ECV Notifications on behalf of the Account Holder or its ECV Transferee.

## 13.2 Exclusion of Liability

- 13.2.1 Save as explicitly set out in these Clearing Rules, the Clearinghouse shall have no liability to any Account Holder or Broker in connection with performance or non-performance of its obligations under these Clearing Rules to the extent such performance or non-performance is a result of:
- a. The occurrence of any Default Event in relation to the Account Holder or its Collateral Provider;
  - b. Any delay or failure by the Account Holder in the performance of its obligations to the Clearinghouse;
  - c. The Clearinghouse acting or relying on any communication in accordance with Section 14.3;
  - d. The performance or non-performance of any Counterparty, ECV Transferee or entity other than the Clearinghouse (or its nominee) under the Clearing Rules or the BSC;

- e. Any suspension, interruption, temporary unavailability or fault occurring in the provision of the Clearing Platform except where such circumstances have been caused by the negligence of the Clearinghouse;
- f. Any loss or damage whatsoever and howsoever caused arising in connection with the use of information or services acquired or accessed by Account Holders or Brokers through use of the Clearing Platform howsoever;
- g. Any loss or damage in connection with the availability, functionality or accessibility of any system employed by the Account Holder or Broker to access the Clearing Platform, including the availability of telecommunication lines leased by the Account Holder or Broker; or
- h. The Clearinghouse complying with Applicable Law.

### **13.3 Indemnity**

13.3.1 Without prejudice to all other rights and remedies available to the Clearinghouse, but provided that the Clearinghouse shall not be permitted to recover twice for the same loss, each Account Holder (the "indemnifying Account Holder") shall, on demand by the Clearinghouse, indemnify the Clearinghouse and any of its nominees, subcontractors, Affiliates, agents, officers, employees and other representatives against any cost, loss or liability incurred by any of the aforementioned persons as a result of the following:

- a. the occurrence of any Default Event in relation to the indemnifying Account Holder or any of its Collateral Providers;
- b. a delay or failure by the indemnifying Account Holder in the performance of its obligations to the Clearinghouse, except where such performance has been delayed or prevented as a result of a Force Majeure Event and subject to Section 13.1;
- c. investigating, defending and/or paying any claim brought against the Clearinghouse by any person for whom the indemnifying Account Holder has agreed to submit a Transaction for Clearing;
- d. investigating, defending and/or paying any claim brought against the Clearinghouse by any other Account Holder or third party, directly or indirectly as a result of (i) any breach by the indemnifying Account Holder of the Clearing Rules; (ii) the Clearinghouse complying with any court order or other legal or regulatory process in any action brought by or with respect to the indemnifying Account Holder; (iii) the Clearinghouse's proper provision of its services to the indemnifying Account Holder; and
- e. any and all loss or damage, claims, costs or expenses incurred from a claim from the Account Holder's ECV Transferee in relation to an ECV Transfer relevant to the Account Holder, whether in tort, contract or otherwise howsoever arising and irrespective of any negligent act or omission on the part of any of the aforementioned persons.

### **13.4 Interest**

13.4.1 If a Counterparty fails to pay to the other Counterparty any amount due by the relevant due date (or otherwise determined by any dispute resolution process), interest shall be payable (both before and after any judgment) on that amount at an annual rate equal to the one (1) month LIBOR rate applicable from time to time plus three per cent (3 %) compounded monthly from and including the relevant due date to but excluding the date payment is made.

13.4.2 If a Counterparty, following the resolution of a dispute or otherwise to correct any mistaken overpayment or underpayment made in good faith, is to pay an amount to the other Counterparty, interest shall be payable (both before and after any judgement) on that amount. The interest rate shall be the one (1) month LIBOR rate applicable from time to time plus one per cent (1 %) compounded monthly from the date when the amount would have been paid or not paid (as applicable) if the dispute, overpayment or underpayment had not occurred, to but excluding the date payment is made.

13.4.3 If the rate above ceases temporarily or permanently to be published then the Counterparty entitled to payment may substitute a rate that it considers in good faith to be equivalent to that rate published by a London clearing bank.

### **13.5 Sole Remedy and Exclusion of Consequential Loss**

- 13.5.1 Save as provided in the next sentence, the rights under Sections 11.4, 13 and 14 are in full and final satisfaction of the rights of the non-defaulting Counterparty if a Default Event occurs. For the avoidance of doubt, nothing in these Clearing Rules shall limit any claim or remedy the Clearinghouse has against an Account Holder for failure by the Account Holder to meet its Cash Settlement or Delivery obligations under the Clearing Rules, unless and to the extent such loss or damage was caused by a Force Majeure Event and subject to Section 13.2.
- 13.5.2 Save as expressly provided in the Clearing Rules, no Counterparty shall be liable to any other Counterparty for any indirect or consequential loss (including, but not limited to, loss of business, loss of profits, trading losses, loss of opportunity and loss of use) howsoever suffered or incurred or for any special, punitive or exemplary damages save in the case of deliberate and intentional misconduct by a Counterparty.

### **14 COMMUNICATIONS**

- 14.1 Communications between the Clearinghouse and Account Holders shall be in English.
- 14.2 Any notice to be given under the Clearing Rules shall be in writing and shall be delivered or sent by fax or email to the Clearinghouse at the addresses and numbers specified on its website at any time (if addressed to the Clearinghouse) or to the relevant address or telephone number or e-mail address specified in its Clearing Membership Agreement or as otherwise changed by confirmed notice to and from the Clearinghouse (if addressed to an Account Holder). 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. The Clearinghouse and Account Holders may communicate via the Clearing Platform in respect of issues that are covered by the functionality of the Clearing Platform application. The Clearinghouse may also communicate via the website [www.n2ex.com](http://www.n2ex.com).
- 14.3 The Clearinghouse shall be entitled to act and otherwise rely upon any communication (whether or not in writing) which purports and which the Clearinghouse believes in good faith:
- a. to be issued by or on behalf of an Account Holder; or
  - b. to have been approved by an individual who is authorised by that Account Holder in respect of such matters (including any ECV Transferee in relation to BSC issues), and which (in the case of an electronic communication) satisfies the requirements of any applicable requirements of the Clearinghouse in relation to the security and integrity of information which is transmitted electronically.

### **15 PROPRIETARY RIGHTS TO TRANSACTION INFORMATION**

- 15.1 Whenever an Account Holder provides data relating to Transactions to the Clearinghouse;
- a. such data, as provided by the Account Holder in its original format, shall belong to the Account Holder; and
  - b. the Account Holder irrevocably grants to the Clearinghouse a perpetual, non-exclusive, royalty-free licence (which shall survive the termination of any Clearing Agreement) to include such data in the Trade Information and to use such data for whatever purpose in accordance with these Clearing Rules, provided that the Clearinghouse shall, subject to Section 16, treat the identity of the Account Holder as confidential.
- 15.2 Account Holders shall, except as permitted pursuant to these Clearing Rules or as may be permitted by mandatory provisions of applicable law or other written agreement with or written authorisation from the Clearinghouse:
- a. use any Transaction Information received only in the ordinary course of business as it relates to its Clearing activities, and not cause any unauthorized third party to access or use the Transaction Information except where such third party is assisting the Account Holder in relation to its Clearing activities and is subject to restrictions that

are no less strict than those applying to the Account Holder in respect of Transaction Information;

- b. ensure that its relevant employees, agents, independent contractors and other recipients of Transaction Information do not act in violation of the Clearinghouse 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 the Clearinghouse, to protect the rights of the Clearinghouse or its licensors in the Transaction Information.
- 15.3 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 the Clearinghouse and the Account Holders, the property of the Clearinghouse. The Clearinghouse 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.

## 16 INFORMATION SHARING

- 16.1 The Clearinghouse 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 Products, or contracts or instruments related to the Products, provided that the receiving entity is subject to materially similar confidentiality obligations and other restrictions as those of the Clearinghouse in respect of the disclosed information. As part of any such arrangements or procedures the Clearinghouse may:
- a. provide market surveillance reports to other market operators or clearing organizations;
  - b. share information and documents concerning current and former Account Holders 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 Account Holders to provide information and documents to the Clearinghouse at the request of other market operators or clearing organizations with which the Clearinghouse has entered into such arrangements.
- 16.2 The Clearinghouse may enter into any arrangement with any entity or body (including any regulatory bodies, any market operator or clearing organization) if the Clearinghouse (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 the Clearinghouse's purpose or duties under applicable law. The Clearinghouse may disclose to any entity information concerning or associated with an Account Holder or other entities that the Clearinghouse 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 the Clearinghouse), whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## 17 MISCELLANEOUS

- 17.1 **Transfer of Rights.** The rights of an Account Holder under the Clearing Rules are not assignable or otherwise transferable without the prior written consent of the Clearinghouse.
- 17.2 **Third Party Rights.** Save the provisions set out in Section 6.4, no entity (who is not either the Clearinghouse or an Account Holder) shall have the benefit of or have any right to enforce any provisions of the Clearing Rules. Rights of third parties to enforce any provision of any of the Clearing 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 Clearing 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 Clearing 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 good faith certification or determination by the Clearinghouse of a rate or amount under the Clearing Rules shall, in the absence of manifest error, be conclusive evidence of the matters to which it relates. Any good faith estimate made by the Clearinghouse in accordance with the Clearing Rules shall, in the absence of manifest error, be binding on all Counterparties affected thereby. In any proceedings arising out of or in connection with the Clearing Rules, the entries made in the accounts maintained by the Clearinghouse for an Account Holder will be prima facie evidence of the matters to which they relate.
- 17.5 **Non-waiver of Rights.** No failure of a Counterparty to exercise, nor any delay on its part in exercising, any of its rights (in whole or in part) under the Clearing Rules shall operate as a waiver of the Counterparty's rights or remedies upon that or any subsequent occasion.

## 18 AMENDMENTS

- 18.1 The Clearing Rules may be amended by the Clearinghouse with fourteen (14) days written notice to the Account Holders. Amendments to the Clearing Rules which affect economic rights in Open Positions vested before the amendment is communicated to the Account Holders always require the consent of all Account Holders directly affected by such amendment.
- 18.2 Significant amendments to the Clearing 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 notice from the Clearinghouse as set out in Section 18.1.
- 18.3 Amendments to Clearing Appendices that are also Trading Appendices require the consent of the relevant Market Operator.
- 18.4 Notwithstanding Sections 18.1 through 18.3, amendments to the Clearing Rules may be implemented with immediate effect following notice to affected Account Holders:
- a. if so required by Applicable Law;
  - b. if such amendments in the opinion of the Clearinghouse are necessary for either the continued Clearing operations or the integrity of the relevant Market, and such amendments do not directly affect any Open Positions vested when the amendment is effected;
  - c. if so required in order to facilitate Clearing of one or more new Products to be launched by the Market Operator;
  - d. if such amendments are necessary to correct errors in the Clearing Rules;
  - e. if changes to the BSC or any other rules necessary for the Settlement or Delivery of Clearing Transactions necessitates such changes; or
  - f. if such amendments are of editorial nature only and do not entail any substantive changes to the Clearing Rules, including clarifications and changes in layout etc.

## 19 GOVERNING LAW AND DISPUTE RESOLUTION

- 19.1 These Clearing Rules, all Clearing Transactions, and all non-contractual obligations arising in any way whatsoever out of or in connection with them, shall be governed by, construed and take effect in accordance with English law.
- 19.2 The English courts shall have exclusive jurisdiction to settle any claim, dispute or difference which may arise out of or in connection with these Clearing Rules or the Clearing Agreements and any Clearing Transactions effected under them, including any question as to their existence, validity or termination.
- 19.3 Each Account Holder and the Clearinghouse 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 it and may be enforced in the courts of any other jurisdiction in accordance with the enforcement laws of that jurisdiction

- 19.4 Each Account Holder 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 the Clearinghouse in accordance with Section 14.

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