

Participant Agreement

[insert name of Participant]

Nord Pool AS

PARTICIPANT AGREEMENT

This **Participant Agreement** (the “**Participant Agreement**”) is made the day of [•] 20[] by and between:

1. [**Insert name of PARTICIPANT**], a company incorporated under the laws of [*insert country*], having its registered office at [*insert registered office address*] with company registration number [*insert number*] (the “**Participant**”); and
2. **NORD POOL AS**, a company incorporated under the laws of Norway with company number 984 058 098 whose registered office is at Vollsveien 17B, Postboks 121, 1325 Lysaker, Norway (“**Nord Pool**”),

each a “**Party**” and together the “**Parties**”.

WHEREAS:

- (A) Nord Pool operates the Physical Markets and provides Clearing services in accordance with the terms of its Rulebook.
- (B) It is in the Participant's normal course of business to conclude transactions in products of the type offered by Nord Pool on the Physical Markets.
- (C) Subject to the terms of this Agreement and the terms of the Rulebook, the Participant wishes to enter into Transactions in Products on the Physical Markets and to have such Transactions subject to Clearing.

1. DEFINITIONS AND INTERPRETATION

- 1.1 Capitalised terms used in this Agreement which are otherwise not defined herein shall have the meanings attributed to them in the Rulebook and the principles of interpretation set out in Part B of Schedule 1 to the Rulebook shall apply in interpreting this Agreement.
- 1.2 In the event of conflict between any provision of the Rulebook and the terms of this Agreement, the Rulebook shall prevail.

2. APPLICATION OF THE RULEBOOK TO TRADING AND CLEARING

- 2.1 The Rulebook sets out the rights and obligations of the Participant in relation to Trading and Clearing and the Participant hereby accepts to be bound by the Rulebook the terms of which are deemed incorporated by reference into this Agreement.
- 2.2 The Participant acknowledges that Nord Pool may from time to time amend the Rulebook in accordance with its terms.
- 2.3 As between the Participant and Nord Pool the provisions of this Agreement shall be: (i) construed

and interpreted at all times in a manner that is consistent with the then current version of the Rulebook; and (ii) governed by, construed and take effect subject to clause 9 of this Participant Agreement.

- 2.4 The Participant may only conduct Trading on behalf of third parties if it has obtained prior written approval from Nord Pool in accordance with the relevant provisions of the Rulebook.

3. MARKET CONDUCT RULES

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

4. REPRESENTATIONS

4.1 Representations by the Participant

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

4.2 Representations by Nord Pool

By entering into this Agreement Nord Pool hereby represents and warrants to the Participant that:

- (a) it has taken all necessary actions to authorise the signing of this Agreement; and

- (b) the signing of this Agreement and its compliance with this Agreement and the Rulebook does not violate any law, rule, regulation or agreement, document or instrument binding on or applicable to Nord Pool.

5. CONFIDENTIALITY

- 5.1 Subject to the provisions in this Section 5, Nord Pool shall ensure that no other party gains access to or knowledge of any matters relating to the business or personal affairs of the Participant which it becomes aware of through the Participant's application for and continued membership of Nord Pool, and Nord Pool shall not make use of such information for any other purposes than those related to the business of operating the Physical Markets and related activities of Nord Pool.
- 5.2 Subject to the provisions in this Section 5, the Participant undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of Nord Pool.
- 5.3 Notwithstanding the other provisions of this Section 5:
 - (a) the Participant acknowledges that Nord Pool shall be allowed to provide information to any other person or entity advising or assisting Nord Pool in its operations, provided these persons and entities are subject to a corresponding duty of confidentiality;
 - (b) the Participant acknowledges Nord Pool's rights to use and distribute Transaction Information as set out in the Rulebook;
 - (c) the duty of confidentiality shall not extend to information which is or becomes public through no breach of a Party's confidentiality obligations hereunder;
 - (d) each Party shall be allowed to disclose any information as may be required by law, court order or any governmental or Regulatory Body; and
 - (e) no Party is required to keep confidential the fact that it has entered into this Agreement or any suspension or termination of this Agreement.
- 5.4 This Section 5 shall not limit either Party's confidentiality obligations under Applicable Law.

6. CHANGES TO THIS AGREEMENT

Amendments to this Agreement require the written agreement of both Parties.

7. TERMINATION

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

8. MISCELLANEOUS

8.1 Notices

Any notice required to be given under this Agreement or the Rulebook by the Participant shall be given by authorised representatives and in writing to authorised representatives of Nord Pool, unless as otherwise prescribed in the Rulebook.

8.2 Entire Agreement

- (a) This Agreement and the Rulebook contain the whole agreement between Nord Pool and the Participant relating to the subject matter of this Agreement and supersede any previous arrangement, understanding or agreement between them relating to that subject matter.
- (b) Nord Pool and the Participant each acknowledge that, by entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty other than as expressly set out in this Agreement and the Rulebook.
- (c) Nothing in this Section 8.2 shall limit or exclude any liability for fraud or wilful default.

8.3 Severability

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

8.4 Assignment

The Participant may not transfer, novate, replace or assign all or any part of its rights and/or obligations under this Agreement or the Rulebook without the prior written consent of Nord Pool.

8.5 Counterparts

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

8.6 Waiver

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

8.7 Rights of Third Parties

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

9. CHOICE OF LAW

This Agreement shall be governed by, construed and take effect in accordance with the laws of [Norway/England & Wales/Germany]¹, provided that in the absence a governing law being indicated above by the Participant, the governing law applicable to this Agreement and the Rulebook shall be deemed to be Norwegian law until expressly indicated otherwise.

* * *

¹ Participant to select

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

**For and on behalf of [THE
PARTICIPANT]**

Signature

Name and title (printed letters)

Date:

For and on behalf of Nord Pool AS

Signature

Name and title (printed letters)

Date: