



October 3, 2024

VIA CFTC PORTAL

Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St., N.W.
Washington, D.C. 20581

Re: Amendment to ICE NGX Canada Inc. Rules - Submission Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and CFTC Regulation § 40.6(a): CPA Amendments - Omnibus

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, (“Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE NGX Canada Inc. (“ICE NGX”) is submitting this self-certification to make amendments (the “Amendments”) to the ICE NGX Contracting Party Agreement (“CPA”). The CPA functions as the rulebook for ICE NGX exchange’s and clearinghouse operations and is a “rule” as that term is defined under Commission Regulation 40.1(i).

1. Overview

ICE NGX is amending the CPA in relation to:

- modernize and update the provisions relating to Data (as defined below) and related limitations of liability;
- specify timeframes for updating Contracting Party banking instructions for wire payments from ICE NGX to the Contracting Party;
- reflect current practices; and
- make other non-substantive housekeeping changes.

ICE NGX intends to implement the Amendments on October 28, 2024 or on such later date as ICE NGX may designate.

The text of the amended CPA provisions is attached as the Appendix to this letter.

Note: All capitalized terms not otherwise defined herein have the meaning given to them in the CPA.

2. Details of Rule Changes

Data Provisions and Limitations of Liability

The CPA includes a number of provisions relating to “Trade Data” and “ICE NGX Data Products” (each as defined in the CPA and collectively referred to in this memo as “Data”). The Amendments are designed to:

- consolidate the Data provisions into dedicated sections, for great transparency and accessibility of the rulebook;
- update and modernize the relevant provisions of the CPA, including with respect to ownership, license, use and limitations of liability and indemnifications relating to Data.

Contracting Party Wire Instructions

In accordance with ICE NGX’s policies and procedures for mitigating risks relating to fraud and anti-money laundering, the CPA currently contemplates that an officer or authorized representative of a Contracting Party shall notify ICE NGX of the Contracting Party’s current banking information, for the purpose of making wire payments for invoice settlement and returns of cash collateral. To ensure that ICE NGX has sufficient time to complete its verification procedures for changes to Contracting Party wire instructions, the Amendments require that the Contracting Party, through an officer or authorized representative, provide no less than 5 Business Days notice of a change to its banking information.

The Amendments clarify the Contracting Party’s representation and warranty that the banking information so provided is accurate and current as of the date provided. In order to reduce the associated operational and legal risk to ICE NGX, the Amendments also stipulate that:

- it shall not be a Failure to Pay by ICE NGX, and
- no interest will be payable to the Contracting Party by ICE NGX

in respect of any late payment by ICE NGX that is due to the Contracting Party failing to provide notice of a change in its banking information no later than 5 Business Days prior to the applicable settlement date.

Updates to Reflect Current Practices

ICE NGX is updating certain provisions of the CPA to reflect current practices, namely:

- explicitly contemplating, in Schedules F, G and J, Contracting Parties’ use of Scheduling Agents for the purpose of nominating or scheduling delivery of energy commodities;
- in Schedule C, updating ICE NGX’s treatment of business divisions of a Contracting Party.

Housekeeping

In addition, ICE NGX is making certain non-substantive amendments designed to:

- clarify certain definitions, further harmonize certain other definitions, and remove unused defined terms;
- streamline the drafting of certain provisions and section titles, and remove unnecessary and redundant provisions;
- correct typos, spelling errors and other errors and omissions; and
- further harmonize the structure of the product-specific Schedules.

3. Compliance with Core Principles

ICE NGX reviewed the Amendments and determined that they comply with the requirements of the Act and the rules and regulations promulgated by the Commission in implementing the Act. In this regard, ICE NGX reviewed the derivatives clearing organizations core principles (“Core Principles”) and determined that the amendments are potentially relevant to the following Core Principles and the applicable regulations of the Commission thereunder.

Compliance (Core Principle A): The Amendments are consistent with Core Principle A - Compliance and Commission Regulation 39.10, as the Amendments clarify and enhance ICE NGX’s policies and procedures for complying with Commission regulations and internal policies.

Public Information (Core Principle L): The Amendments are consistent with Core Principle L - Public Information and Commission Regulations 39.21(a) and (c) generally, as the Amendments

- relating to Data update and clarify the contractual framework for both ICE NGX and Contracting Parties regarding ownership, license, use and limitations of liability and indemnifications relating to Data; and
- reflect ICE NGX’s current practices to improve the transparency and accessibility of the CPA for clearing participants, and
- clarify and update definitions to improve accessibility and readability of the CPA.

Legal Risk (Core Principle R): The Amendments are consistent with Core Principle R - Legal Risk and Commission Regulation 39.27 generally, and 39.27(b)(6) specifically as the Amendments

- relating to Data update and clarify contractual framework for both ICE NGX and Contracting Parties regarding ownership, license, use and limitations of liability and indemnifications relating to Data; and
- relating to Contracting Party wire instructions clarify and enhance ICE NGX’s rulebook to better reflect ICE NGX’s anti-money laundering and anti-fraud policies and procedures.



4. Certifications

ICE NGX certifies that the proposed Amendments discussed in this submission comply with the Commodity Exchange Act, including the Core Principles and the Regulations of the Commission thereunder. ICE NGX is not aware of opposing views expressed regarding the Amendments. ICE NGX further certifies that, concurrent with this filing, a copy of this submission was posted to ICE NGX's website.

Yours truly,

A handwritten signature in black ink, appearing to read 'Greg Abbott', is written over a horizontal line.

By: Greg Abbott
Title: President & COO
Date: October 3, 2024



APPENDIX

AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

TERMS AND CONDITIONS

[Note: Insertions are underlined, deletions are struck through.]

ARTICLE 1 – INTERPRETATION

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1.2 Definitions

“Trade Data” means any and all data and/or information submitted by the Contracting Party to the ICE NGX Clearing Systems, the ICE Trading Platform and/or the ICE NGX Trading System (including, but not limited to bids and offers for Transactions and all information related to Transactions entered into by the Contracting Party through the ICE NGX Clearing Systems, the ICE Trading Platform and/or the ICE NGX Trading System);

...

ARTICLE 2 – REPRESENTATIONS AND WARRANTIES

2.4 Of Exchange: General

a. Exchange represents and warrants that:

- (vi) Exchange’s sole business is conducted pursuant to Contracting Party Agreements with Contracting Parties and the matters contemplated therein, the provision of auction services for the purpose of facilitating Transactions, the provision of ICE NGX Data Products and the administration of the ICE NGX Indices;

...

ARTICLE 3 – GENERAL OBLIGATIONS

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3.2 Agreements of the Contracting Party

- ~~a. Data The Contracting Party acknowledges and agrees that the Trade Data shall be the non-exclusive property of the Exchange or its affiliates and the Contracting Party, and that each party shall have the right to use, sell, retransmit or redistribute such Trade Data in accordance with and subject to the provisions of Sections 3.2 and 3.4. The Contracting Party further acknowledges and agrees that as between the Contracting Party and the Exchange or its affiliates, the ICE NGX Data Products shall be the exclusive property of the Exchange or its affiliates to use as it deems fit, and except as expressly set out in this~~



Agreement, the Contracting Party shall have no rights to use such ICE NGX Data Products without the Exchange's or its affiliates prior written consent.

- ~~b. Indemnity — The Contracting Party agrees to protect, defend, hold harmless and indemnify the Exchange and/or its affiliates from and against all claims, damages, liabilities, losses and expenses for any use of the ICE NGX Data Products by the Contracting Party, or any use of the Trade Data by the Exchange or its affiliates.~~
- ~~c. The Authorized Users will access and use the ICE NGX Data Products exclusively for the Contracting Party's own internal business activities. The Contracting Party will not permit any of its employees other than Authorized Users to access the ICE NGX Data Products without the express written consent of ICE Data. The Contracting Party will not, and will not permit any of its employees to, copy, modify, reverse engineer, reverse assemble or reverse compile the ICE NGX Data Products or any part thereof. The Contracting Party will not, and will not permit any of its employees to, distribute, rent, sell, retransmit, redistribute, release or license the ICE NGX Data Products, or any part thereof, to any third party. The Contracting Party will not, and will not permit any of its employees to, communicate (orally, in writing, electronically or otherwise), redistribute, or otherwise furnish, or permit to be communicated, redistributed or otherwise furnished, all or any portion of the ICE NGX Data Products, in any format, to any third party or any person other than the Authorized Users. The Contracting Party will not, and will not permit any of its employees to, archive ICE NGX Data Products, use or co-mingle ICE NGX Data Products or permit ICE NGX Data Products to be used or co-mingled in constructing or calculating the value of any other price reference or data, index or indexed products other than for internal purposes only.~~

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3.4 Agreements of Exchange

- ~~a. Software License — Exchange grants to the Contracting Party a limited, revocable, paid-up, non-transferable and non-exclusive license to use the ICE NGX Clearing System for the sole purpose of, and in accordance with, this Agreement. Exchange represents and warrants to the Contracting Party that it has the full right, power and authority to license the ICE NGX Clearing System to the Contracting Party.~~
- ~~b. Data License — Exchange grants to the Contracting Party a limited, revocable, paid-up, non-transferable and non-exclusive license to use the ICE NGX Data Products for the sole purpose of and in accordance with this Agreement and the usage rights set out Section 3.2.~~
- ~~c. Indemnification for Infringement — Exchange agrees to protect, defend, hold harmless and indemnify the Contracting Party from and against any and all claims, damages, liabilities, losses and expenses for any infringement or alleged infringement of a patent, copyright, trade secret or other intellectual property right by the ICE NGX Clearing System or the Contracting Party's use thereof. Exchange will have the sole right to defend, on behalf of the Contracting Party or in its own name, any such action for infringement but Exchange will provide the Contracting Party with reasonable information in respect of such action~~

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~~from time to time. Exchange may settle any action for infringement against the Contracting Party for which its obligation of indemnification of the Contracting Party is effective hereunder without the Contracting Party's written approval and may settle any other such action for infringement with the Contracting Party's written approval, which approval will not be unreasonably withheld. Exchange will have no indemnity obligation for infringement claims: (i) with respect to the ICE NGX Data Products or Trade Data; (ii) resulting from any combination, operation or use of the ICE NGX Clearing System with any programs or equipment not supplied by Exchange, if such infringement would have been avoided but for such use; (iii) resulting from any activity of the Contracting Party which is in breach of this Agreement; or (iv) if the Contracting Party does not give Exchange prompt notice of an infringement claim against it and provide Exchange, at Exchange's cost, with reasonable assistance with the defence of the action.~~

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ARTICLE 5 – FAILURE, DEFAULT AND LIQUIDATION AND CLOSE-OUT PROCEDURES

PART 5D - GENERAL

5.16 No Indirect Damages

Without limitation to any other provision in this Agreement, and other ~~Other~~ than as specifically set out forth in this Agreement, in no event shall Exchange or any Contracting Party be liable under this Agreement or any Transaction for any special, consequential or indirect damages or claims, including without limitation, loss of profits or revenues, cost of capital or claims of any of any Contracting Party's suppliers or customers against the Exchange or any Contracting Party arising out of any Failure to Deliver, Failure to Take or Failure to Pay or any other matter for which liability may be assessed under this Agreement in respect of a Transaction.

...

ARTICLE 8 – DATA; LIMITATION OF LIABILITY

PART 8A – DATA

8.1 Trade Data

- a. Trade Data - General – Subject to section 8.1.b., the Contracting Party acknowledges and agrees that Exchange owns all rights, title and interest, database rights and trade secret rights in and to all Trade Data and related information submitted in connection with trading on the Exchange. Exchange has the exclusive right to use, distribute, sub-license, disclose and sell anonymized Trade Data and derivative works in any manner, media and jurisdiction. The Contracting Party shall not redistribute Trade Data or derivative works based thereon unless licensed by the Exchange.
- b. Trade Data of the Contracting Party – A Contracting Party's own Trade Data is ~~shall be~~ the non-exclusive property of the Exchange or its affiliates and the Contracting Party, and ~~that each of Exchange and that Contracting Party has~~ ~~party shall have~~ the right to use,

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sell, retransmit or redistribute such Trade Data in accordance with and subject to the provisions of ~~Sections 3.2 and 3.4~~ this Agreement.

8.2 ICE NGX Data Products

- a. ICE NGX Data Products – The Contracting Party ~~further~~ acknowledges and agrees that as between the Contracting Party and the Exchange or its affiliates, the ICE NGX Data Products shall be the exclusive property of the Exchange or its affiliates to use as it deems fit, and, except as expressly set out in this Agreement, the Contracting Party shall have no rights to use such ICE NGX Data Products without the Exchange’s or its affiliates prior written consent.
- b. Grant of License to ICE NGX Data Products – Exchange grants to the Contracting Party a limited, revocable, ~~paid-up,~~ non-transferable, non-sublicensable and non-exclusive license to use the ICE NGX Data Products for the sole purpose of and in accordance with this Agreement and the usage rights ~~and restrictions~~ set out in this Section ~~8.2-3.2~~.
- c. Permitted Use of ICE NGX Data Products – The Contracting Party and its Authorized Users will access and use the ICE NGX Data Products exclusively for the Contracting Party’s own internal business activities.
- d. Restrictions on Use of ICE NGX Data Products –
- (i) The Contracting Party will not permit any of its employees other than Authorized Users to access the ICE NGX Data Products without the express written consent of ICE Data, LLP or its successors or assigns.
- (ii) The Contracting Party will not, and will not permit any of its employees to, do any of the following:-
- (A) copy, modify, reverse engineer, reverse assemble or reverse compile the ICE NGX Data Products or any part thereof;-
- (B) ~~The Contracting Party will not, and will not permit any of its employees to, license, sublicense, transfer, distribute, rent, sell, resell, retransmit, publish, reproduce and/or otherwise distribute or redistribute, release or license the ICE NGX Data Products, or any part thereof, in any manner (including, but not limited to, via or as part of any Internet site) to any third party or any person other than the Authorized Users;-~~
- (C) ~~The Contracting Party will not, and will not permit any of its employees to, communicate (orally, in writing, electronically or otherwise), redistribute, or otherwise furnish, or permit to be communicated, redistributed or otherwise furnished, all or any portion of the ICE NGX Data Products, in any format, to any third party or any person other than the Authorized Users;-~~
- (D) ~~The Contracting Party will not, and will not permit any of its employees to, use or co-mingle ICE NGX Data Products or permit ICE NGX Data~~



Products to be used or co-mingled in constructing, creating or calculating the value of any other price reference or data, index or indexed products other than for internal purposes only;

(E) archive ICE NGX Data Products, or create archival or derivative works based on the ICE NGX Data Products or any part thereof.

(iii) The Contracting Party will take all precautions that are reasonably necessary to prevent any unauthorized distribution or redistribution of the ICE NGX Data Products.

(iv) The Contracting Party will not use the ICE NGX Data Products, in whole or in part, in any manner that competes with Exchange or any of its affiliates including, without limitation, any distribution of the ICE NGX Data Products or derivative works based thereon.

e. IP Rights: ICE NGX Data Products – All Intellectual Property Rights in the ICE NGX Data Products and any derivative works thereof, are and shall remain the sole and exclusive property of Exchange or its affiliates, as applicable.

8.3 Data: Limitation of Liability and Indemnity

a. Warranty of Fitness: Data – The Contracting Party acknowledges, understands and accepts that each of Exchange and its affiliates make no warranty whatsoever to the Contracting Party or its affiliates, and that the Trade Data and ICE NGX Data Products are provided on an “as is” basis. Other than as expressly provided in this Article 8, Exchange hereby expressly disclaims any warranty, express or implied, in respect of all or any part of the Trade Data and ICE NGX Data Products, notwithstanding anything contained in this Agreement or any Schedule including, without limitation, any warranty in respect of merchantability or fitness for a particular purpose or use.

b. Limitation of Liability: Data – Without limitation to any other provision in this Agreement, and except in cases instances where there has been a finding of wilful or wanton misconduct on the part of Exchange, neither Exchange, its affiliates or service providers, nor the agents, directors, officers and employees shall be liable to the Contracting Party, for, and the Contracting Party shall assume, and shall release and waive Exchange from, all liability, loss or damage, costs or expenses arising or suffered at any time and from time to time arising from or in connection with any of the following, however it may arise:

(i) Trade Data; and

(ii) the ICE NGX Data Products.

c. Time Limits – Any reference in respect of any dispute in respect of a claim for wilful or wanton misconduct in respect of the matters described in this Section must be referred to Mediation within 60 days of the Contracting Party becoming aware of such event and if not settled by Mediation must be referred to Arbitration within 30 days of conclusion of the



Mediation in order for the Contracting Party to be entitled to bring any claim against Exchange.

- d. Limit of Liability – To the maximum extent permitted by law, the aggregate liability of Exchange under any claim relating to Trade Data or the ICE NGX Data Products shall be limited to an aggregate amount of \$10,000 for a single claim and an aggregate amount of \$100,000 for all claims of Contracting Parties on a single day and where if all claims cannot be satisfied for a single day because of the dollar limitation on recoveries, all such claims shall be limited to a pro rata share of the maximum per day amount.
- e. Indemnity by Contracting Party – The Contracting Party agrees to protect, defend, hold harmless and indemnify the Exchange and/or its affiliates and each of their respective directors, officers, affiliates, employees and agents from and against all losses, liabilities, judgments, suits, actions, proceedings, claims, damages, ~~liabilities, losses costs and expenses (including legal fees)~~ for
- (i) any use of the ICE NGX Data Products by the Contracting Party; ~~or~~
- (ii) any use of the Contracting Party's own Trade Data by the Contracting Party; and
- (iii) any use of the Trade Data by the Exchange or its affiliates.

PART 8B – SOFTWARE AND SYSTEMS

8.4 Software License and Intellectual Property Rights

- a. Software License – Exchange grants to the Contracting Party a limited, revocable, paid-up, non-transferable and non-exclusive license to use the ICE NGX Clearing System for the sole purpose of, and in accordance with, this Agreement. Exchange represents and warrants to the Contracting Party that it has the full right, power and authority to license the ICE NGX Clearing System to the Contracting Party.
- b. IP Rights: Systems and Services – All Intellectual Property Rights in the ICE NGX Trading System, ICE Trading Platform, ICE NGX Clearing System and the Services and any derivative works thereof, are and shall remain the sole and exclusive property of Exchange or its affiliates, as applicable.

8.5.4 Limitation ~~of~~ on Liability: General

- a. ~~Electronic System Limitation~~ – Except in instances where there has been a finding of wilful or wanton misconduct on the part of Exchange, neither Exchange, its affiliates or service providers, nor the agents, directors, officers, employees and representatives of Exchange, its affiliates or service providers shall be liable to the Contracting Party, its affiliates or any other person, for any losses, damages, costs or expenses arising from or in connection with any failure, defect, or malfunction in, or any fault in delivery, delay, error, act or omission, suspension, inaccuracy, termination, entry of data on behalf of either Exchange or Contracting Party or any other cause, ~~in connection with the furnishing, performance, maintenance, use of or inability to access all or part of the ICE Trading Platform, the ICE~~

~~NGX Trading System or the ICE NGX Clearing System or any Services, including, without limitation, the taking of verbal or instant messaging instructions and/or the entering of any Order into the ICE NGX Trading System or ICE Trading Platform, regardless of whether the claim arises in contract, tort, negligence, strict liability or otherwise. Without limitation to the foregoing, Contracting Party shall assume, and shall release and waive Exchange from, all liability, loss or damage arising or suffered at any time and from time to time in connection with the ICE NGX Data Products and/or any Transactions entered into by or on behalf of the Contracting Party by personnel other than Authorized Representatives.~~

b. ~~Personnel~~ Waiver of Liability – Without limitation to the foregoing, and Except ~~except~~ in cases ~~instances where there has been a finding of wilful or wanton misconduct on the part of Exchange,~~ neither Exchange, its affiliates or service providers, nor the agents, directors, officers and employees shall be liable to the Contracting Party, for, and the Contracting Party shall assume, and shall release and waive Exchange from, all liability, loss or damage, costs or expenses arising or suffered at any time and from time to time arising from or in connection with the ICE NGX Data Products and/or any Transactions entered into by or on behalf of the Contracting Party by personnel other than Authorized Representatives any of the following, however it may arise:

(i) any defects, faults, failures or malfunctions with respect to the furnishing, performance, maintenance, use of or inability to access all or part of the ICE Trading Platform, the ICE NGX Trading System or the ICE NGX Clearing System or any Services, including, without limitation, the taking of verbal or instant messaging instructions and/or the entering of any Order into the ICE NGX Trading System or ICE Trading Platform,

(ii) the suspension, termination or inability to access or use ICE Trading Platform, the ICE NGX Trading System or the ICE NGX Clearing System or any Services;

(iii) any act or omission by Exchange, whether performed for the Contracting Party or to be performed by Exchange, in respect of any matter relating to the ICE Trading Platform, ICE NGX Trading System or ICE NGX Clearing System

(iv) any inaccuracies, errors or omissions in any information provided, however such inaccuracy, error or omission may arise; and/or

(vi) any act, omission or error by Exchange, whether performed for the Contracting Party or to be performed by Exchange, in respect of any Transactions, but not including any act or omission by Exchange which constitutes a Failure to Pay, Failure to Deliver or Failure to Take by Exchange, in the case of a Transaction;

(v) any Transactions entered into by or on behalf of the Contracting Party by personnel other than Authorized Representatives.

c. **Liability of the Contracting Party** – The Contracting Party and its agents, directors, officers and employees shall not be liable to Exchange or any of the other Contracting Parties for any claims, including third party claims, demands, liabilities, losses, damages, costs or expenses arising from:

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- (i) any failure, defect or malfunction in, or any fault in delivery, delay, omission, suspension, inaccuracy or termination or any other cause, in connection with the furnishing, performance, maintenance, use of or inability to access all or part of the ICE NGX Trading System, ICE NGX Clearing System or any support services, regardless of whether the claim arises in contract, tort, negligence, strict liability or otherwise; nor
- (ii) an act or omission of Exchange, whether performed for the Contracting Party or to be performed by Exchange in respect of any Transactions, or in respect of any matter relating to the ICE NGX Trading System or ICE NGX Clearing System;
- (iii) the provision by a Contracting Party of any and all information about the trading patterns, prices (including market price reference) and accounts of such Contracting Party;

provided that the provisions of this subparagraph c. are not intended to limit, alter or vary the Obligations of the Contracting Party under any Transaction and the Contracting Party will remain liable for the performance under any such Transaction.

- d. Time Limits – Any reference in respect of any dispute in respect of a claim for wilful or wanton misconduct in respect of the matters described in Sections 8.51.a. or b., must be referred to Mediation within 60 days of the Contracting Party becoming aware of such event and if not settled by Mediation must be referred to Arbitration within 30 days of conclusion of the Mediation in order for the Contracting Party to be entitled to bring any claim against Exchange.
- e. Limit of Liability – To the maximum extent permitted by law, the ~~The~~ aggregate liability of Exchange, including in respect of any Collateral, shall be limited to an aggregate amount of \$10,000 for a single claim and an aggregate amount of \$1,000,000 for all claims of Contracting Parties on a single day and where if all claims cannot be satisfied for a single day because of the dollar limitation on recoveries, all such claims shall be limited to a pro rata share of the maximum per day amount. This limit of liability does not apply to the liability of Exchange for a Failure to Pay, Failure to Deliver or Failure to Take, in the case of a Transaction, and in respect of matters treated under Section 8.3.d. ~~Exchange's agreement to indemnify the Contracting Party for infringement as set out in Section 3.4.~~
- f. Warranty of Fitness – The Contracting Party acknowledges, understands and accepts that each of Exchange and its affiliates make no warranty whatsoever to the Contracting Party or its affiliates, and that the ICE NGX Trading System, ICE NGX Clearing System and the Services are provided on an "as is" basis. Other than as expressly provided in this Section 8.1, Exchange hereby expressly disclaims any warranty, express or implied, in respect of all or any part of the ICE NGX Trading System, ICE NGX Clearing System, ~~ICE NGX Data Products~~ or any of the Services, notwithstanding anything contained in this Agreement or any Schedule including, without limitation, any warranty in respect of merchantability or fitness for a particular purpose or use.



PART 8C – INDICES

8.6~~2~~ Indices

- a. Liability for Exchange Indices – Neither Exchange or its affiliates, nor ~~the its~~ respective agents, directors, officers and employees of Exchange or its affiliates, shall be liable to the Contracting Party for any losses, costs or expenses arising from any matter relating to the calculation, methodology of calculation, compilation, or publication of any indices which are calculated by Exchange including those which are used for the settlement of any Transaction. Exchange does not make any express or implied warranties in respect of the results which may be achieved through the use of any of such indices or in respect of the value of any of such indices at any given time, nor that any settlement prices established are at a fair, proper or correct amount. Neither Exchange or its affiliates, nor ~~the its~~ respective agents, directors, officers and employees of Exchange or its affiliates, shall, under any circumstances, be liable for errors or deficiencies in the calculation, methodology of calculation or publication of any of such indices nor shall Exchange be obligated to provide notice of, or publish, errors in any of such indices in any manner.

- b. Other Indices – Products that are settled pursuant to the terms of this Agreement on the basis of settlement prices reported by any entity other than Exchange are not issued, endorsed, sold or promoted by such entity, nor has such entity passed on their legality or suitability. Neither Exchange or its affiliates, nor ~~the its~~ respective agents, directors, officers and employees of Exchange or its affiliates, shall be liable to the Contracting Party for any losses, costs, expenses arising from any matter relating to the source or accuracy of the underlying data, calculation, methodology of calculation, compilation, or publication of any indices which are used for the settlement of any Transaction and which are derived from any publication or any other third party index. Exchange does not make any express or implied warranties in respect to the results which may be achieved through the use of any of the indices or in respect of the values of any of the indices at any given time, nor that any settlement prices so established are at a fair, proper or correct amount. Neither Exchange or its affiliates, nor ~~the its~~ respective agents, directors, officers and employees of Exchange or its affiliates, shall, under any circumstances, be liable for errors or deficiencies in the calculation, methodology of calculation, compilation or publication of any of the indices nor shall Exchange be obligated to provide notice of, or publish, errors in any of the indices in any manner. Nor shall Exchange or its affiliates, nor ~~the its~~ respective agents, directors, officers and employees of Exchange or its affiliates ~~shall~~ be liable to the Contracting Party for any losses, damages, costs or expenses arising from any failure of a publisher of such indices to establish settlement prices or report settlement prices for their contracts at a fair, proper or correct amount.

PART 8D – GENERAL

8.7 Indemnification

- a. Indemnification for Infringement – Subject to Section 8.5(e), Exchange agrees to protect, defend, hold harmless and indemnify the Contracting Party from and against any and all claims, damages, liabilities, losses and expenses for any infringement ~~or alleged infringement~~ of a patent, copyright, trade secret or other intellectual property right by the

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ICE NGX Clearing System or the Contracting Party's use thereof. Exchange will have the sole right to defend, on behalf of the Contracting Party or in its own name, any such action for infringement but Exchange will provide the Contracting Party with reasonable information in respect of such action from time to time. Exchange may settle any action for infringement against the Contracting Party for which its obligation of indemnification of the Contracting Party is effective hereunder without the Contracting Party's written approval and may settle any other such action for infringement with the Contracting Party's written approval, which approval will not be unreasonably withheld.

b. No Indemnification – Notwithstanding any other provision in this Agreement, Exchange will have no indemnity obligation for infringement claims:

- (i) with respect to the ICE NGX Data Products or Trade Data;
- (ii) resulting from any combination, operation or use of the ICE NGX Clearing System with any programs or equipment not supplied by Exchange, if such infringement would have been avoided but for such use;
- (iii) resulting from any activity of the Contracting Party which is in breach of this Agreement; or
- (iv) if the Contracting Party does not give Exchange prompt notice of an infringement claim against it and provide Exchange, at Exchange's cost, with reasonable assistance with the defence of the action.

c. No Indemnification by Contracting Party of any other Contracting Parties – For greater certainty, the limitations of liability of Exchange set out in this ~~Section~~ Article 8.4 shall not be construed as implying or requiring any indemnification by the Contracting Party of any ~~of the~~ other Contracting Parties, other than under the revocation warranty provisions set out in Schedule H.

8.8 Further Limitations

a. No Indirect Damages – Without limitation to any other provision in this Agreement, and other than as specifically set out forth in this Agreement, in no event shall Exchange or any Contracting Party be liable under this Agreement or any Transaction for any special, consequential or indirect damages or claims, including without limitation, loss of profits or revenues, cost of capital or claims of any of any Contracting Party's suppliers or customers against the Exchange or any Contracting Party arising out of any of the following, however they may arise:

- (i) Trade Data;
- (ii) the ICE NGX Data Products;
- (iii) the ICE NGX Trading System, the ICE NGX Clearing System and the Services, including but not limited to the use or inability to use the ICE NGX Trading System,



the ICE NGX Clearing System and/or the Services, and any interruption, inaccuracy, error or omission;

(iv) indices, whether calculated and/or administered by Exchange or by any other party; and

(v) any other matter for which liability may be assessed under this Agreement.

b. No Liability for Action by a Governmental Authority – Exchange is not responsible for, and will have no liability whatsoever as a result of, any action taken or not taken by a governmental authority that impacts or may impact the value of the underlying commodity of any Transaction or Physically Settled Futures Product or Financially Settled Futures Product. Neither the Buyer nor the Seller will have any claim against Exchange for any loss, cost, damage or expense incurred or suffered as a result of any action taken or not taken by a governmental authority, including changing the terms, pricing or express or implied value of any commodity or any other tangible or intangible thing including an Environmental Product.



ARTICLE 9 - MISCELLANEOUS

9.1 Term and Termination

...

d. Effect of Termination – Effective on the Termination Date of any termination of this Agreement by Exchange or the Contracting Party:

- (i) any Transactions will continue to be governed by the provisions of this Agreement relating to such Transactions as at the Termination Date;
- (ii) this Agreement will continue to be in effect until each of the Contracting Party and Exchange has performed all of its Obligations under all of its Transactions and this Agreement and, for clarity, until any outstanding Invoices of the Contracting Party are deemed paid and settled, as determined in the sole discretion of Exchange;
- (iii) the Contracting Party will not be entitled to enter into any Transactions after the Termination Date;
- (iv) any Collateral will be returned or credited to the Contracting Party when all of its Obligations under all of its Transactions are fully performed, subject to the other terms of the Agreement relating to Set-Off or application of the Collateral; ~~and~~
- (v) the license granted under this Agreement to the Contracting Party in respect of the ICE NGX Clearing System will terminate and Exchange may request return of any related data and materials; and

(vi) the license granted under this Agreement to the Contracting Party in respect of the ICE NGX Data Products will terminate and, absent an agreement with ICE Data LLP that provides for continuation of access to the ICE NGX Data Products, the Contracting Party shall

(A) cease all use of and access to the ICE NGX Data Products provided under this Agreement; and

(B) expunge the ICE NGX Data Products and any portion or copies thereof from all of the Contracting Party's electronic systems, except to the extent the Contracting Party is otherwise required by applicable law or regulatory document retention obligations provided no commercial or productive use can be made of the ICE NGX Data Products to retain such records.

...

9.6 **General**

a. Entire Agreement – Except as expressly noted to the contrary, this Agreement constitutes the entire agreement among the parties with respect to the matters dealt with ~~therein~~ herein and supersedes all prior agreements, understandings or writings among the

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parties, whether written or oral, and whether legally enforceable or not, in respect of those matters.

- b. Compliance with Applicable Laws – Each of Exchange and the Contracting Party hereby agree to comply with all laws which are applicable to the transactions contemplated by this Agreement.
- c. Waiver – Failure by Exchange to exercise any authority, right or remedy under the Agreement will not signify acceptance of the event giving rise to such right or remedy nor will it constitute a waiver of such right or remedy.
- ~~e.d.~~ Further Documents – Each of the parties will ~~shall~~, from time to time, at its own cost and expense, execute or cause to be executed all such further documents and do or cause to be done all things which are necessary to give effect to the provisions of this Agreement.
- ~~d.e.~~ Notice of Change in Ownership of Exchange – Exchange hereby agrees s to give notice to all Contracting Parties of any change in the ownership, directly or indirectly, of Exchange as soon as reasonably possible after notice of such change is known to Exchange.
- ~~e.f.~~ Time of the Essence – Time is ~~shall be~~ of the essence of this Agreement.
- ~~f.g.~~ Choice of Language – The Parties have required that this Agreement and all contracts, documents or notices relating thereto be in the English language; les parties ont exigé que cette convention et tout contrat, document ou avis afférent soient en langue anglaise.



APPENDIX

AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

TERMS AND CONDITIONS

[Note: Insertions are underlined, deletions are struck through.]

ARTICLE 1 - INTERPRETATION

...

1.2 Definitions

“Failure to Pay” means

- (i) in respect of a Contracting Party, the failure of the Contracting Party to make payment, prior to 12:00 p.m. Mountain Prevailing Time on the relevant Settlement Date, of any amount owing to Exchange under any Invoice or otherwise in accordance with this Agreement;
- (ii) in respect of Exchange, the failure of Exchange to make payment of any amount owing to the Contracting Party under any Invoice in accordance with this Agreement; notwithstanding the above, it shall not be a Failure to Pay by Exchange of an Invoice if Exchange is unable to make payment to the Contracting Party as a result of the Contracting Party failing to notify Exchange of its current banking instructions no less than five (5) Business Days prior to the applicable Settlement Date;

...

ARTICLE 5

FAILURE, DEFAULT AND LIQUIDATION AND CLOSE-OUT PROCEDURES

PART 5A – FAILURES

...

5.4 Failure to Pay

...

- b. By Exchange – In the event of a Failure to Pay by Exchange that is (i) not rectified by Exchange within three (3) Business Days of receipt by Exchange from a Contracting Party of a notice of Failure to Pay by Exchange and (ii) not satisfied by payment from the Escrow



Agent in respect of a Direction to Pay pursuant to, and as defined in, the Deposit Agreement, Exchange will pay to the Contracting Party an amount equal to:

- (i) the Failure Amount; plus
- (ii) interest from the date of the occurrence of the Failure to Pay at the Default Rate to and including the date of payment to the Contracting Party of all such amounts.

The Contracting Party will notify Exchange in writing of the amounts payable under (i) and (ii), itemizing those amounts separately.

For greater certainty, no interest will be payable by Exchange to the Contracting Party in respect of any late payment by Exchange to Contracting Party of an Invoice resulting from a failure by the Contracting Party to notify Exchange of its current banking instructions no less than five (5) Business Days prior to the applicable Settlement Date.

...

ARTICLE 7 – INVOICES AND TAXES

...

7.2 Payment of Invoices

...

- f. Interest on Late Payment of Invoices – Payments on Invoice amounts owing by the Contracting Party to Exchange, or by Exchange to Contracting Party, as applicable, received after the due date will bear interest at the Default Rate beginning on the day after the due date up to and including the date of payments of all such amounts to Exchange, or to the Contracting Party, as applicable. Interest will be payable only on the amount of any Invoice remaining unpaid from time to time. For greater certainty, no interest will be payable by Exchange to the Contracting Party in respect of any late payment by Exchange to Contracting Party of an Invoice resulting from a failure by the Contracting Party to notify Exchange of its current banking instructions no less than five (5) Business Days prior to the applicable Settlement Date.

...

7.4 Banking Instructions

- a. Of Contracting Party –

(i) An officer or representative of the Contracting Party authorized to provide banking instructions ~~will provide shall notify~~ Exchange ~~with of~~ the Contracting Party's banking information ~~and hereby represents and warrants that such information is accurate and current.~~

(ii) An officer or representative of the Contracting Party authorized to provide banking instructions will notify Exchange of any change to the Contracting Party's banking



information provided under this subsection no later than (5) Business Days prior to such change.

(iii) The Contracting Party hereby represents and warrants that its banking information provided in accordance with paragraph 7.4.a.(i) or (ii) is accurate and current as of the date so provided.

(iii) Exchange is entitled to accept this information via email or other electronic communication, all in accordance with this Agreement and Exchange's stated policies.

b. Of Exchange – An officer of Exchange authorized to provide banking instructions shall notify the Contracting Party of Exchange's banking information by posting the banking information on its website for access by all Contracting Parties.



APPENDIX

AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

TERMS AND CONDITIONS

[Note: Insertions are underlined, deletions are struck through.]

ARTICLE 1 - INTERPRETATION

...

1.2 Definitions

“Daily Contract Quantity” or “DCQ” means the quantity of gas to be delivered or taken during each Delivery Day of a Physically Settled Gas Futures Transaction, including applicable Same-Day Delivery Tenors;

~~set out~~

“Default” means...

“Delivery Day” means, in respect of a Physically Settled Futures Transaction, the ~~a~~ day, commencing at a particular time on one day and ending at a particular time on the next day as determined by, ~~such time being dependent upon~~ the applicable Transportation System, Transmission Provider or Registry, at the Delivery Point on which the applicable commodity ~~gas~~ is to be delivered or taken at the Delivery Point in accordance with such ~~as required by a~~ Physically Settled ~~Gas~~ Futures Transaction;

“Delivery Period” means,

(i) in respect of a Physically Settled Environmental Futures Transaction, the period of time in which physical delivery of the relevant Environmental Products is required to be completed, as determined by Exchange from time to time and posted on Exchange’s Website not less than one month prior to the occurrence of such period, and

(ii) in respect of a Physically Settled Power Futures Transaction, the period of time on a given day for which Physical Energy is required to be scheduled for delivery as set out in the product specifications for the Physically Settled Futures Transaction;

“Delivery Point” means, for a Physically Settled Futures Transaction, the location at which the parties to such Transaction have agreed to transfer title to, deliver and take the gas or Physical Power subject to such Transaction, being the transfer point as designated by the applicable Transportation System or, ~~in the case of a Physically Settled Power Futures Transaction, by the applicable~~ Transmission Provider, for the Delivery Point;

“ERCOT” means the Electric Reliability Council of Texas;



~~“Financially Settled Futures Party” means a Contracting Party which has entered into a Financially Settled Futures Transaction with Exchange;~~

“FDICIA” means the U.S. Federal Deposit Insurance Exchange Improvement Act of 1991, as amended;

“Physically Settled Futures Product” means any Physically Settled Environmental Futures Products, Physically Settled Gas Futures Product or Physically Settled Power Futures Product, including available Same-Day Delivery Tenors of such Physically Settled Futures Product;

“Physically Settled Environmental Futures Confirmation” means the notification by Exchange as to any Physically Settled Environmental Futures Transaction entered into by the Contracting Party on a day, which will include particulars of the respective Physically Settled Environmental Futures Transactions including the Purchase Price, Contract Quantity, Registry and Physically Settled Environmental Futures Products;

“Physically Settled Environmental Futures Product” means a physically settled product for the purchase or sale of an Environmental Product that is listed and designated ~~designed~~ as “Phys” in the ICE NGX Product List and may be made available on the ICE NGX Trading System, and/or ICE NGX Clearing System from time to time with such further particulars as may be applicable in Schedule H;

“Physically Settled Environmental Futures Transaction” means a purchase or sale of a Physically Settled Environmental Futures Product, the terms of which shall include this Agreement and, for greater certainty, also includes the particulars applicable to such Physically Settled Environmental Futures Products as set out in the ICE NGX Product List and Schedule H;

“Physically Settled Gas Futures Confirmation” means the notification by Exchange as to any Physically Settled Gas Futures Transaction entered into by the Contracting Party on a day, which will include particulars of the respective Physically Settled Gas Futures Transactions including the Purchase Price, Daily Contract Quantity, Delivery Point, and Physically Settled Gas Futures Product;

“Physically Settled Gas Futures Product” means a physical product for the purchase or sale of natural gas that is listed and designated as “Phys” in the ICE NGX Product List and may be made available on the ICE NGX Trading System, and/or ICE NGX Clearing System from time to time with such further particulars as may be applicable in Schedules F, G or J, as applicable;

“Physically Settled Power Futures Confirmation” means the notification by Exchange as to any Physically Settled Power Futures Transaction entered into by the Contracting Party on a day, which will include particulars of the respective Physically Settled Power Futures Transactions including the Purchase Price, Hourly Contract Quantity (as defined in Schedule K), U.S. Delivery Point, and Physically Settled Power Futures Product;



“Physically Settled Power Futures Product” means a physical product for the purchase or sale of Physical Power that is listed and designated as “Phys” in the ICE NGX Product List” and may be made available on the ICE NGX Trading System, and/or ICE NGX Clearing System from time to time with such further particulars as may be applicable in Schedule K;

“Purchase Price” means the price per unit of gas, Environmental Products or Physical Power agreed to be paid for the receipt of gas, Environmental Products or Physical Power by the Buyer and to be received by the Seller for the delivery of gas, Environmental Products or Physical Power –pursuant to a any Physically Settled Futures Transaction, such price or formula for the calculation of such price being established on the Transaction Date;

...

ARTICLE 5 – FAILURE, DEFAULT AND LIQUIDATION AND CLOSE-OUT PROCEDURES

...

5.15 Interpretation in relation to the ~~U.S. Federal Deposit Insurance Exchange Improvement Act of 1991, as amended~~ (“FDICIA”)

...

ARTICLE 7 – INVOICES AND TAXES

7.1 Invoices

...

- f. Full Satisfaction – The payment or receipt by the Contracting Party of the net amount of an Invoice in accordance with this Agreement to or from Exchange will constitute full satisfaction of any settlement amount payable to or receivable by the Contracting Party and Exchange ~~in respect of~~
- (i) for Invoices for Physically Settled Gas Futures Transactions, in respect of the Physically Settled Gas Futures Transactions including any Purchase Amount;
 - (ii) for Invoices for Physically Settled Power Futures Transactions, in respect of the Physically Settled Power Futures Transactions including any Purchase Amount;
 - (iii) for Invoices for Physically Settled Environmental Futures Transactions, in respect of the Physically Settled Environmental Futures Transactions including any Purchase Amount;
 - (iv) for Invoices for Financially Settled Canadian Power Futures Transactions, in respect of the Financially Settled Power Futures Transaction once all MTM



Settlement Amounts and Financially Settled Futures Settlements Amounts in respect of the applicable Term have been paid;

...

7.2 Payment of Invoices

...

- b. Payment of Invoices for MTM Settlement Amounts, ~~Daily~~ Financially Settled Futures Amounts and Physically Settled Environmental Futures Transactions –
- (i) Exchange will identify a Cash Collateral Account for each Contracting Party that enters into a Financially Settled Futures Transaction or a Physically Settled Environmental Futures Transaction.
 - (ii) Unless otherwise agreed to by Exchange, payments in respect of MTM Settlement Amounts, ~~Financially Settled Futures Settlement Amounts and Physically Settled Environmental Futures Transactions;~~

...

ARTICLE 9 – MISCELLANEOUS

...

9.5 Assignment

- a. No Assignment Without Consent – This Agreement or the rights, benefits or Obligations hereunder shall not be assignable by the parties hereto without the consent in writing of the other party to this Agreement.
- b. Exchange May Assign – Notwithstanding any other provision to the contrary in this Agreement, Exchange may assign as security its rights, benefits and interest hereunder to any bank, trust company, financial institution or any other person providing credit facilities or other financing to Exchange and to any corporation or insurance company providing default insurance to Exchange, provided however that such bank, trust company, institution or other person or corporation or insurance company (the “Security Holder”) shall not have any rights or benefits under this Agreement that are greater than the rights and benefits of Exchange hereunder. The Security Holder shall be entitled to utilize the assignment solely for the purpose of accessing the remedies against the Contracting Party available to Exchange under, and pursuant to, the provisions of this Agreement, including, without limitation of the foregoing, under Article 5 ~~section 5.5 relating to Physically Settled Futures Transactions and under Section 8.2 relating to Financially Settled Futures Transactions or Option Transactions~~, provided however that the Security Holder will not be liable or responsible for the observation or performance of any term, covenant, condition or obligation of Exchange by virtue of any assignment of this Agreement to the Security Holder by Exchange.

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AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

SCHEDULE C – COLLATERAL AND RISK MANAGEMENT

[Note: Insertions are underlined, deletions are struck through.]

1. Definitions

“Minimum Available Margin Requirement” means,

- (i) with respect to a Contracting Party that transacts in Option Products, \$2,000,000;
- (ii) with respect to a Contracting Party that does not transact in Option Products, but transacts in Financially Settled Power Futures Products and/or Physically Settled Power Futures Products, \$1,000,000;
- (iii) with respect to a Contracting Party that does not transact in ~~either any of~~ Option Products, ~~or~~ Financially Settled Power Futures Products and ~~or~~ Physically Settled Power Futures Products, \$500,000.

...

~~11. Settlement~~

~~Exchange will settle all Transactions in accordance with this Agreement, including without limitation this the Risk Management Policy, for all Contracting Parties including the payment, deposit or transfer of Collateral to Exchange by the Contracting Parties to ensure the performance of all Transactions by the Contracting Parties.~~

[Note: Subsequent sections in Schedule C will be renumbered to reflect the amendments described above.]

...

13. Divisions or Business Units of Contracting Parties

At the request of a Contracting Party, Exchange may agree to provide segregated reports, invoices, nominations and ~~Collateral~~ accounts for divisions or business units as designated by the Contracting Party. Such segregation is for administration purposes only and will not change the rights or remedies of Exchange under this Agreement or the obligations of any such Contracting Party to perform its Obligations ~~obligations as specified under this Agreement.~~



AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

SCHEDULE E – NATURAL GAS OPTIONS AND POWER FINANCIALLY SETTLED GAS AND POWER FUTURES PRODUCTS ~~TRANSACTIONS~~

~~This Schedule E contains the clearing and settlement provisions for all Financially Settled Futures Products and Option Products listed on the ICE NGX Product List and designated as cleared through the ICE NGX Clearing System.~~

1.2. Relationship to Agreement

a. Schedule – This Schedule E contains the clearing and settlement provisions for all Financially Settled Futures Products and Option Products listed on the ICE NGX Product List.

b. Relationship to Agreement – Nothing in this Schedule E will impair the obligations or rights of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Financially Settled Futures Transaction or Option Transaction hereby agrees that any such Financially Settled Futures Transaction or Option Transaction includes the provisions of this Schedule E and is subject to the terms of this Agreement.

2.4. Product Availability

Financially Settled Futures Transactions and Options Transactions may be entering into during such times on such trading days as is stipulated by Exchange on the ICE NGX Trading System.

~~2. Relationship to Agreement~~

~~Relationship to Agreement – Nothing in this Schedule E will impair the obligations or rights of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Financially Settled Futures Transaction or Option Transaction hereby agrees that any such Financially Settled Futures Transaction or Option Transaction includes the provisions of this Schedule E and is subject to the terms of this Agreement.~~

...

11. Definitions

"Period End Date" means, in respect of a Futures Transaction, the last day of the Term of the Transaction ~~Transaction~~;



AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

SCHEDULE F – PHYSICALLY SETTLED GAS FUTURES PRODUCTS – CANADIAN DELIVERY POINTS

[Note: Insertions are underlined, deletions are struck through.]

~~This Schedule F contains the clearing and settlement provisions for all Physically Settled Gas Futures Products at Canadian Delivery Points that are listed on the ICE NGX Product List and designated as cleared through the ICE NGX Clearing System.~~

~~1.2.~~ Relationship to Agreement

a. Schedule – This Schedule F contains the clearing and settlement provisions for all Physically Settled Gas Futures Products at Canadian Delivery Points that are listed on the ICE NGX Product List and designated as cleared through the ICE NGX Clearing System.

b. Relationship to Agreement – Nothing in this Schedule F will impair the obligations or rights of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Gas Futures Transaction entered into at a Canadian Delivery Point hereby agrees that any such Physically Settled Gas Futures Transaction includes the provisions of this Schedule F and is subject to the terms of this Agreement.

~~2.1.~~ **Product Availability**

Transactions in Physically Settled Gas Futures Products at Canadian Delivery Points may be entered into during such times on such Trading Days as are stipulated by Exchange through the ICE NGX Trading System to the Contracting Parties from time to time, or as otherwise provided under the Agreement, including through a Block Transaction under Section 3.2 (including but not limited to Same-Day Delivery Tenors in any Physically Settled Gas Futures Product stipulated on the ICE NGX Trading System).

~~2.~~ Relationship to Agreement

~~Nothing in this Schedule F will impair the obligations or rights of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Gas Futures Transaction entered into at a Canadian Delivery Point hereby agrees that any such Physically Settled Gas Futures Transaction includes the provisions of this Schedule F and is subject to the terms of this Agreement.~~

...

4. Pre-delivery Procedures

...

e. Scheduling Agent – If the Contracting Party proposes to schedule through an agent,

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- (i) Exchange must be satisfied as to the validity of the appointment of the agent; and
- (ii) notwithstanding the appointment of an agent for scheduling, the Contracting Party remains liable for its Obligations under the Agreement.

...



AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

SCHEDULE G – PHYSICALLY SETTLED GAS FUTURES ~~PRODUCTS CONTRACTS~~ – U.S. DELIVERY POINTS

[Note: Insertions are underlined, deletions are struck through.]

~~This Schedule G contains clearing and settlement provisions for all Physically Settled Gas Futures Products offered at U.S. Delivery Points.~~

~~1. Spread Products~~

~~Not available at U.S. Delivery Points with mediated delivery nominations.~~

1.2. Relationship to Agreement

a. Schedule – This Schedule G contains clearing and settlement provisions for all Physically Settled Gas Futures Products offered at U.S. Delivery Points.

b. Relationship to Agreement – Nothing in this Schedule G will impair the rights or obligations of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Gas Futures Transaction entered into at a U.S. Delivery Point hereby agrees that any such Physically Settled Gas Futures Transaction includes the provisions of this Schedule G and is subject to the terms of this Agreement.

2.4. Spread Products

~~Not available at U.S. Delivery Points with mediated delivery nominations.~~

3. Pre-delivery Procedures

...

b. Verification of Access to Transportation Systems – Within 24 hours of any such request, the Contracting Party will verify to Exchange its access to the relevant Transportation System(s) at the U.S. Delivery Point(s) to perform its Obligations as Buyer or Seller under its Physically Settled Gas Futures Transactions.

...

d. Remedial Actions by Exchange – After 15:00 p.m. on the second Business Day prior to such Delivery Day if verifications in accordance with paragraph b. are not given by the Contracting Party, the orders of the Contracting Party which the Contracting Party has entered for the purchase or sale of gas may be eliminated and if the Contracting Party has not verified to Exchange's satisfaction, acting reasonably, its access to the relevant Transportation System(s) at the U.S. Delivery Points to perform its Obligations as Buyer or Seller or offset its obligations to make or take delivery under its Physically Settled Gas

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Futures Transactions prior to the nomination deadline for such Delivery Day, Exchange may enter into Physically Settled Gas Futures Backstopping Transactions or enact the Liquidation and Close-out Procedures in accordance with this Agreement to offset, in whole or in part, delivery or take obligations, which in the opinion of Exchange may not be performed.

e. Scheduling Agent – If the Contracting Party proposes to schedule through an agent,

(i) Exchange must be satisfied as to the validity of the appointment of the agent; and

(ii) notwithstanding the appointment of an agent for scheduling, the Contracting Party remains liable for its Obligations under the Agreement.

...

10. Force Majeure

- a. Exchange May Declare Force Majeure — A force majeure event may be declared by Exchange in its sole discretion at one of the U.S. Delivery Points if a U.S. Delivery Point Operator or U.S. Pipeline Operator declares a force majeure event or materially curtails, interrupts or prorates firm transportation services for a material number of Contracting Parties. Exchange also reserves the right to declare a force majeure if an event (including, but not limited to, a strike, lockout, national emergency, governmental action or act of God) occurs that materially affects the ability of a material number of Contracting Parties to meet their Obligations and that is beyond the control of the Contracting Parties.



AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

SCHEDULE H – PHYSICALLY SETTLED ENVIRONMENTAL FUTURES PRODUCTS ~~TRANSACTIONS~~

[Note: Insertions are underlined, deletions are struck through.]

1. Relationship to Agreement

a. Schedule – This Schedule H and its Appendix I form part of this Agreement.

b. Relationship to Agreement – Nothing in this Schedule H will impair the rights or obligations of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Environmental Futures Transaction hereby agrees that any such Physically Settled Environmental Futures Transaction includes the provisions of this Schedule H and its Appendix I and is subject to the terms of this Agreement.

...

12. Force Majeure

a. Exchange May Declare Force Majeure – A force majeure event may be declared by Exchange in its sole discretion at a Registry if the Registry Operator or the relevant governmental authority declares a force majeure event or materially curtails, delays, interrupts or prorates title transfer services for a material number of Contracting Parties. Exchange also reserves the right to declare a force majeure if an event (including, but not limited to, a strike, lockout, national emergency, governmental action or act of God) occurs that materially affects the ability of a material number of Contracting Parties to meet their Obligations and that is beyond the control of the Contracting Parties.



AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

SCHEDULE J – PHYSICALLY SETTLED GAS FUTURES ~~PRODUCTS CONTRACTS~~ WITH ASSIGNED DELIVERY – U.S. DELIVERY POINTS

[Note: Insertions are underlined, deletions are struck through.]

~~This Schedule J contains clearing and settlement provisions for all Physically Settled Gas Futures Products with Assigned Delivery offered at U.S. Delivery Points.~~

~~1. Spread Products~~

~~Not available at U.S. Delivery Points with Assigned Delivery nominations.~~

~~1.2. Relationship to Agreement~~

~~a. Schedule – This Schedule J contains clearing and settlement provisions for all Physically Settled Gas Futures Products with Assigned Delivery offered at U.S. Delivery Points.~~

~~b. Relationship to Agreement – Nothing in this Schedule J will impair the rights or obligations of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Gas Futures Transaction entered into at a U.S. Delivery Point hereby agrees that any such Physically Settled Gas Futures Transaction includes the provisions of this Schedule J and is subject to the terms of this Agreement.~~

~~2.4. Spread Products~~

~~Not available at U.S. Delivery Points with Assigned Delivery nominations.~~

3. Pre-delivery Procedures

...

~~e. Scheduling Agent – If the Contracting Party proposes to schedule through an agent,~~

~~(i) Exchange must be satisfied as to the validity of the appointment of the agent; and~~

~~(ii) notwithstanding the appointment of an agent for scheduling, the Contracting Party remains liable for its Obligations under the Agreement.~~

...

10. Force Majeure

a. Exchange May Declare Force Majeure – A force majeure event may be declared by Exchange in its sole discretion at one of the U.S. Delivery Points if a U.S. Delivery Point

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Operator or U.S. Pipeline Operator declares a force majeure event or materially curtails, interrupts or prorates firm transportation services for a material number of Contracting Parties. Exchange also reserves the right to declare a force majeure if an event (including, but not limited to, a strike, lockout, national emergency, governmental action or act of God) occurs that materially affects the ability of a material number of Contracting Parties to meet their Obligations and that is beyond the control of the Contracting Parties.

SCHEDULE A – FEE SCHEDULE¹**Subscription Fees – Monthly**

Subscription Fee per month – Contracting Party	USD	\$2,000
Subscription Fee per month – Contracting Party Affiliate	USD	\$1,000
Subscription Fee per month – Authorized User from a Contracting Party	USD	\$125

Transaction ~~and Forward Transaction~~ Fees – Physically Settled Gas Futures Transactions at Canadian Delivery Points – Business Days

All Yesterday products <u>Products</u>	CAD/GJ	\$0.005
All other Canadian Products <u>CAD products</u> tenor of less than one calendar month	CAD/GJ	\$0.0013
All other Canadian Products <u>CAD products</u> tenor of greater than one calendar month	CAD/GJ	\$0.0011
<u>TCPL Enbridge CDA, TCPL Enbridge EDA, TCPL Energir EDA, TCPL Iroquois, TCPL Niagara, TCPL Chippawa, TCPL North Bay Junction</u>	<u>USD/MMBtu</u>	<u>\$0.002</u>
All other <u>USD products</u> Products tenor of less than one calendar month	USD/MMBtu	\$0.0013
All other <u>USD products</u> Products tenor of greater than one calendar month	USD/MMBtu	\$0.0011
TCPL Enbridge CDA, TCPL Enbridge EDA, TCPL Energir EDA, TCPL Iroquois, TCPL Niagara, TCPL Chippawa, TCPL North Bay Junction	USD/MMBtu	\$0.002
<i>Spread Products</i>		
All other Canadian Products <u>CAD spread products</u> tenor of less than one calendar month	CAD/GJ/leg	\$0.00065
All other Canadian Products <u>CAD spread products</u> tenor of greater than one calendar month	CAD/GJ/leg	\$0.00055
Spread Products to TCPL Enbridge CDA, TCPL Enbridge EDA, TCPL Energir EDA, TCPL Iroquois, TCPL Niagara, TCPL Chippawa, TCPL North Bay Junction	USD/MMBtu/leg	\$0.001
All other <u>USD spread products</u> Products tenor of less than one calendar month	USD/MMBtu/leg	\$0.00065
All other <u>USD spread products</u> Products tenor of greater than one calendar month	USD/MMBtu/leg	\$0.00055

¹ Notes:

All fees are subject to rebates as published from time to time on the Exchange's Website.

Transactions involving an assignment and novation will be billed up to 50% of the amount posted in this Schedule A. Please contact ICE NGX's marketing department to determine the costs associated with a particular assignment and novation.

Each Authorized User will be charged the monthly subscription fee.

Transaction Fees for Delivery Points located in Canada are subject to GST.

Transaction ~~and Forward Transaction Fees~~ – Physically Settled Gas Futures Transactions at Canadian Delivery Points – Weekends and Non-Business Days

ICE NGX AB-NIT Yesterday Fixed Price	CAD/GJ	\$0.005
ICE NGX AB-NIT Same Day Fixed Price	CAD/GJ	\$0.0025
ICE NGX AB-NIT Same Day Index	CAD/GJ	\$0.0025

Transaction ~~and Forward Transaction Fees~~ – Financially Settled Power Futures Transactions

Alberta Hourly	CAD/MWh	\$0.10
All other Alberta Financial Power and Heat Rate	CAD/MWh	\$0.02
Ontario Financial Power and Heat Rate	CAD/MWh	\$0.02
EPCOR RRO	CAD/MWh	\$250 per 1% lot
ENMAX RRO	CAD/MWh	\$100 per 1% lot

Transaction Fees – Options Transactions (Gas)

Alberta – (Fixed and Alberta-Basis Futures) Put and Call Options	CAD/GJ	\$0.0011
Alberta Straddle Options	CAD/GJ/leg	\$0.00055

Clearing Fees – Physically Settled Gas Futures Transactions at US Delivery Points (all tenors except “Same Day”)

Henry Hub, Katy Enstor, Oasis-Waha and Houston Ship Channel	USD/MMBtu	\$0.003
Opal	USD/MMBtu	\$0.0035
All other US Delivery Points that are not Assigned Delivery points	USD/MMBtu	\$0.002
All US Delivery Points that are Assigned Delivery points	USD/MMBtu	\$0.0025

Clearing Fees – Physically Settled Gas Futures Transactions at US Delivery Points – Same Day

Henry Hub, Katy Enstor, Oasis-Waha and Houston Ship Channel	USD/MMBtu	\$0.0045
Opal	USD/MMBtu	\$0.005
All other US Delivery Points that are not Assigned Delivery points	USD/MMBtu	\$0.0035
All US Delivery Points that are Assigned Delivery points	USD/MMBtu	\$0.004

~~Clearing~~ Transaction Fees – Financially Settled Gas Futures Transactions (Canadian Delivery Points)

ICE NGX AB-NIT Fixed for Floating	CAD/GJ	\$0.0011
All other Financially Settled Gas Futures Products	USD/MMBtu	\$0.0011

Transaction Fees – Physically Settled Power Futures Transactions

US POWER – tenor of less than one calendar month	USD/MWh	\$0.03
US POWER – tenor of one calendar month or longer	USD/MWh	\$0.0175
US POWER – tenor of one calendar month or longer spread	USD/MWh	\$.00875/leg
US POWER – tenor of one calendar year	USD/MWh	\$0.0175
US POWER – tenor of one calendar year or longer spread	USD/MWh	\$0.00875/leg
US POWER – tenor of three calendar months or longer	USD/MWh	\$0.0175
US POWER – tenor of three calendar months or longer spread	USD/MWh	\$0.00875/leg
US POWER – tenor of a two-month period from July to August in one calendar year	USD/MWh	\$0.0175
US POWER – tenor of a two-month period from July to August in one calendar year or longer spread	USD/MWh	\$0.00875/leg

Transaction Fees – Physically Settled~~ment~~ Environmental Transactions

AB Environmental Products - EPCs	CAD/EPC	\$0.15
	CAD/1,000 EPC lot	\$150.00
AB Environmental Products - Offsets	CAD/Offset	\$0.15
	CAD/1,000 Offset lot	\$150.00
<i>Spread Products</i>		
Spread products on AB Environmental Products - EPCs	CAD/EPC	\$0.115
	CAD/1,000 EPC lot	\$115.00
Spread products on AB Environmental Products - Offsets	CAD/Offset	\$0.115
	CAD/1,000 Offset lot	\$115.00