

CLEARING SERVICES AGREEMENT

between
EEX Power Spot GmbH
and
European Commodity Clearing AG

dated 6 March 2008

Linklaters

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10789 Berlin
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Telephone (49-30) 21496-0
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**Clearing Services Agreement
(the "Agreement")**

between

- (1) **EEX Power Spot GmbH**, a limited liability company (*GmbH*) under the laws of Germany, having its registered office in Neumarkt 9-19, 04109 Leipzig represented by its managing director Dr. Hans-Bernd Menzel, who is released from the restrictions on self dealing under under Sec. 181 German Civil Code

- hereinafter referred to as "**EEX Power Spot**" -

and

- (2) **European Commodity Clearing AG**, a stock corporation (*Aktiengesellschaft*) under the laws of Germany, having its registered office in Neumarkt 9-19, 04109 Leipzig, represented by its CEO Dr. Hans-Bernd Menzel, who is released from the restrictions on self dealing under Sec. 181 German Civil Code

- hereinafter referred to as the "**ECC**" -

- hereinafter jointly referred to as the "**Parties**" -

Preamble

WHEREAS

- (A) The European Energy Exchange ("**EEX**") is privately owned stock corporation located in Leipzig. EEX operates as an electronic exchange for energy and other products including electricity spot products.
- (B) ECC is a privately owned stock corporation (*Aktiengesellschaft*) under the laws of Germany, having its registered office in Neumarkt 9-19, 04109 Leipzig. ECC operates a central counterparty clearing infrastructure for energy and other products with currently 15 international banks acting as Clearing Members. EEX is currently using the services of ECC for the clearing of its products.
- (C) EEX intends to transfer its electricity spot division into the separate legal entity EEX Power Spot. Therefore, EEX and EEX Power Spot concluded a spin off and transfer agreement (*Ausgliederungs- und Übertragungsvertrag*) dated 27 August 2007.
- (D) EEX Power Spot will clear its electricity spot products as well as any other products it may offer at ECC, at the same time EEX stops clearing its electricity spot products at ECC.

NOW, THEREFORE, the Parties hereby agree as follows:

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1 Definitions

- 1.1 Clearing Contract** means the agreements between ECC and Trading Participants as specified in Sec. 9.1.1.
- 1.2 Clearing Member** means a bank or other financial institution holding a valid clearing licence granted by ECC.
- 1.3 Clearing Rules** means the body of regulations set up by ECC governing the clearing process, as amended from time to time.
- 1.4 Clearing Services** means all services provided by ECC acting as central counterparty for Spot Contracts on EEX Power Spot's Trading Platform, including the handling, securing, settlement and delivery of such transactions, as further specified in Sec. 2.1 and Sec. 2.2.
- 1.5 Clearing System** means the IT system, including all data lines and the Interface Software, operated by or on behalf of ECC to provide Clearing Services for EEX Power Spot.
- 1.6 Customer Information** means all information related to a Party's customer received by the other Party.
- 1.7 Interface** means the technical connection between the Trading Platform and the Clearing System, including its operation and maintenance.
- 1.8 Interface Software** means the software required to connect the Trading System with the Clearing System enabling ECC to access all trading-related data required to perform Clearings Services.
- 1.9 Launch of Clearing Services** means the day on which the spin-off of EEX's electricity spot division into the separate legal entity EEX Power Spot becomes effective, which date shall however be at the latest 6 months after the signing of this Agreement.
- 1.10 Relevant Data** means all information relating to a Transaction on the Trading Platform which is necessary for ECC to provide Clearing Services.
- 1.11 Operating Party** means ECC as operator of the Clearing System and EEX Power Spot as operator of the Trading System.
- 1.12 OTC Trade** means a transaction in Products to be Cleared not concluded on the Trading Platform that is, however, submitted to EEX Power Spot for registration and subsequently offered for clearing on the Clearing System.
- 1.13 Products to be Cleared** means all products traded or registered on the Trading Platform that are subject to this Agreement according to Sec. 3.
- 1.14 Spot Contracts** means electricity trades on a spot basis with an underlying delivery period of an hour, multiple hours, a day or two days (including the second day).
- 1.15 Subcontractor** means any third party contracted by or on behalf of a Party to fulfil any of the Party's obligations under this Agreement.
- 1.16 Trading Participant** means any person that trades on EEX Power Spot's Trading Platform or registers an OTC Trade on EEX Power Spot's Trading Platform.
- 1.17 Trading Platform** means the order book maintenance and order matching function of the Trading System as well as registration functions of OTC Trades on the Trading System.

- 1.18 Trading Rules** means the body of regulations set up by EEX Power Spot governing the exchange trading and OTC Trade registration process, as amended from time to time.
- 1.19 Trading System** means the IT system for the Trading Platform operated by or on behalf of EEX Power Spot.
- 1.20 Transaction** means transaction which have been or will be concluded or registered on the Trading Platform and will be cleared by ECC under this Agreement.

I. Provision of Clearing Services

2 Scope of Clearing Services

2.1 ECC shall provide Clearing Services in relation to the products set out in Sec. 3 below which are available for exchange trading or OTC Trade registration on EEX Power Spot's Trading Platform. ECC will offer all services necessary to act as central counterparty for all Transactions. The Clearing Services include the activities encompassing the daily balancing of profits and losses, the daily calculation of requirements for collateral and final physical and financial settlement. In particular, ECC will render the following services:

- installation and operation of the Clearing System;
- general risk management;
- support of Clearing Members and Trading Participants, including set up of a "help desk";
- management of credit risks;
- calculation of margins;
- administration of securities;
- provision of reports for EEX Power Spot and Trading Participants;
- provision of on-line access to position account for EEX Power Spot and Trading Participants;
- set up of accounts and account administration;
- processing of payment transactions;
- physical settlement, especially scheduling of electricity.

2.2 Further details regarding the Clearing Services are set out in **Annex 2.2** to this Agreement.

3 Products to be Cleared

3.1 This Agreement covers all physically and financially settled Spot Contracts offered for exchange trading or OTC Trade registration on EEX Power Spot's Trading Platform for German, Austrian and Swiss electricity. ECC will render the Clearing Services for the following products:

- 3.1.1** for existing spot electricity contracts (in particular day-ahead German, Swiss and Austrian electricity, intra-day German electricity)

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3.1.2 for electricity Spot Contracts to be developed by EEX Power Spot during the term of this Agreement as requested and agreed according to Sec. 4.2 below.

3.2 ECC will offer and shall be entitled to offer such Clearing Services for existing spot electricity contracts as of the day on which EEX the spin-off of EEX's electricity spot division into the separate legal entity EEX Power Spot becomes effective, which date shall however be at the latest 6 months after the signing of this Agreement ("**Launch of Clearing Services**").

4 Introduction of Products to be Cleared

4.1 EEX Power Spot will submit to ECC a list of products to be cleared in accordance with this Agreement at the time of the Launch of Clearing Services no later than 30 days after the signing of this Agreement. EEX Power Spot will consider any suggestions made by ECC on how to improve products under clearing aspects.

4.2 After the Launch of Clearing Services, EEX Power Spot shall inform ECC about the development of new products at an early stage and shall be provided with the opportunity to become involved in the development process. EEX Power Spot will submit a change request in written form specifying the product details. ECC will respond in writing to this change request within 30 days providing an estimation of time and expenses for offering clearing services for this new product.

4.3 In the case, that the expenses for providing or developing clearing services of new products are partly or fully charged to EEX Power Spot, this charge will be cost based.

4.4 ECC may reject or modify a change request. In case of such a rejection or modification ECC shall give within 30 days following a change request reasons in writing specifying the reasons for a rejection or modification, for example, that the clearing of the new product requires system modifications or system operations to an unreasonable extent or that the Clearing Members do not support the product.

4.5 If ECC rejects a change request or modifies a change request to an unreasonable extent, EEX Power Spot is free to request the relevant clearing services from third party clearing service providers. In such an event the request for clearing services from a third party will to this extent not constitute a breach of the exclusivity obligations under Sec. 11.

5 Clearing Process

5.1 ECC shall perform the Clearing Services in accordance with ECC's Clearing Rules. ECC may amend its Clearings Rules at its own discretion and in agreement with its Clearing Members at any time. ECC shall consult EEX Power Spot prior to any amendments in its Clearing Rules, if the amendments have the potential of influencing EEX Power Spot's Trading Rules or trading on the Trading Platform and shall give EEX Power Spot sufficient time to adapt to such changes, unless the relevant amendment to ECC's Clearing Rules is necessary (i) to comply with statutes, ordinances or other regulations or rules or (ii) orders or other guidance imposed by the Bundesanstalt für Finanzdienstleistungsaufsicht („BaFin“) or other public authorities.

5.2 ECC shall only bear the counterparty risk

5.2.1 if EEX Power Spot has provided ECC with the Relevant Data of the Transactions as set out in **Annex 5.2.1**; and

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- 5.2.2 if ECC has confirmed to EEX Power Spot the compliance of the Transactions with its Clearing Rules; and
- 5.2.3 if at the same time both Trading Participants of the Transaction fulfil the requirements set out in Sec. 9.1.

6 Fees

ECC shall be entitled to the fees as set out in its Clearing Rules. EEX Power Spot shall be entitled to the fees as set out in the Trading Rules.

7 Operational Availability

- 7.1 The Trading System shall operate on each of EEX Power Spot's trading days for intra-day electricity Spot Contracts not after 60 minutes before delivery, for day-ahead Spot Contracts not before 8.00 a.m. and not after 1.00 p.m. CET and for other Spot Contracts not before 8.00 a.m. and not after 6.00 p.m. CET. ECC shall operate its Clearing System on all weekdays excluding the holidays set out in **Annex 7.1**. The Parties agree that an extension of the operational availability shall upon EEX Power Spot's request be discussed in good faith and shall be considered by ECC, provided such an extension is from a system perspective possible without unreasonable effort.
- 7.2 In case of breakdowns or technical failures of the Clearing System or the Trading System, the Operating Party shall use best efforts to rectify the issue as soon as possible. The Operating Party shall inform the other Party of any breakdowns or technical failures of the system or any other interruption of the system that retard or delay the transfer of the data for the clearing.

8 Modifications to the Trading and the Clearing System

The Operating Party shall be entitled to update and amend its system as it deems necessary. The Parties shall notify each other on planned system modifications 90 days in advance if the modification has the potential of influencing the Interface Software or the Clearing System or the Trading System respectively. Upon any such notification, the Parties shall discuss in good faith the impact of such updates or amendments on the interoperability of the systems and if unreasonable impacts have been identified to consider alternative system modifications to be implemented if mutually agreed between the Parties.

9 Admittance as Trading Participants

- 9.1 EEX Power Spot shall only allow participation in the trading of Products to be Cleared if the Trading Participant
 - 9.1.1 either has entered into and maintains a valid clearing membership contract with ECC and continues to have such a contract in place, or has and maintains a clearing agreement as a non-clearing member with a Clearing Member, and
 - 9.1.2 provides, without undue delay upon ECC's request, proof to ECC regarding the ability to accept or make physical delivery in accordance with the Clearing Rules.
- 9.2 In its Trading Rules EEX Power Spot shall require Trading Participants to have a Clearing Contract in place for the relevant Product to be cleared.

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- 9.3** ECC undertakes to accept all applicants as Trading Participants if they fulfil the requirements of the Clearing Rules.
- 9.4** ECC shall inform EEX Power Spot as soon as possible if a Trading Participant defaults with its obligations arising from the Clearing Rules. EEX Power Spot will, upon request by ECC, (i) exclude the Trading Participant from exchange trading and OTC Trade registration on the Trading Platform in relation to Clearing Services and (ii) shall take all steps necessary according to the Clearing Rules to reduce the risk from open positions of the Trading Participant without endangering the orderly market situation to an unreasonable extent. Detailed regulations on defaults in the clearing process are set out in the Clearing Rules.
- 9.5** If a Trading Participant is excluded from exchange trading or OTC Trade registration on the Trading Platform, EEX Power Spot will inform ECC in writing as soon as feasible. EEX Power Spot immediately shall take all steps necessary in accordance with the Trading Rules and Clearing Rules to close-out all open positions of the Trading Participants or to transfer open positions to another Trading Participant without endangering the orderly market situation to an unreasonable extent. Detailed regulations are set out in the Trading Rules and the Clearing Rules.

10 Market and Clearing Data

- 10.1** All market data resulting from trading in the Trading System, including in particular orders, exchange trades, OTC Trades, trading volumes and prices or data made available to EEX Power Spot by Trading Participants shall remain the proprietary ownership of EEX Power Spot.
- 10.2** All clearing data resulting from Clearing Services, including in particular trade adjustments, margins, position adjustment, give-up transactions, positions, open interests and clearing volumes or other data made available to ECC by Clearing Members and / or Trading Participants shall remain the proprietary ownership of ECC.
- 10.3** To the extent permitted by applicable law, including supervisory rules, (i) EEX Power Spot shall have the right to use, process, publish and distribute the information on positions and open interest provided to it by ECC under this Sec. 10 and (ii) ECC shall have the right to use and process the information on Relevant Data of Transactions and settlement prices provided to it by EEX Power Spot under Sec. 5 and this Sec. 10 and to distribute this market data to Clearing Members, Trading Participants and regulators. ECC is obliged to ensure that the third parties receiving such detailed information shall be legally obliged not to re-distribute this information. ECC shall not be entitled beyond the scope permitted under this Sec. 10.3 to publish or sell to third parties any data provided to it by EEX Power Spot under Sec. 5 and this Sec. 10.
- 10.4** On each EEX Power Spot trading day, EEX Power Spot will provide ECC with daily settlement prices for all Products to be Cleared not later than 30 minutes after end of trading. On each ECC settlement day, ECC will provide EEX Power Spot with positions and open interest for all Products to be Cleared.

11 Exclusivity

In the mutual interest of serving EEX Power Spot's customers, in particular to better be able to manage counterparty risks and to utilise netting effects, EEX Power Spot will make

ECC, subject to Section 4.5, the exclusive partner for Clearing Services for its Trading Platform. EEX Power Spot will not allow other clearing houses to render Clearing Services for its Trading Platform for a period of 3 years from the date on which Clearing Services under this Agreement commence. Unless the exclusivity provisions under Section 11 of this Agreement are terminated by one of the Parties by the end of a calendar year effective at the end of the ongoing three year period the three year exclusivity period shall be extended by one year in addition to the ongoing period. EEX Power Spot shall take all steps necessary to implement that ECC is the exclusive clearing provider on the Trading Platform for Products to be cleared. EEX Power Spot will during this period not allow other clearing houses to render Clearing Services for its Trading Platform.

12 Non discriminatory and best terms clause

If ECC shall offer new clearing services to third party clients, these clearing services shall also be offered to EEX Power Spot and its clients at the same terms and conditions as offered to the third party clients, provided the volumes and scope of services are comparable. EEX Power Spot and its clients will in no way or form be discriminated against by ECC compared to other clients of ECC.

13 Confidentiality of Customer Information

The Parties undertake to keep all Customer Information confidential for the term of this Agreement and thereafter, unless there is a statutory obligation to disclose information. ECC and EEX Power Spot will comply with the banking secrecy rules and the data protection law applicable at the time in the respective countries. Subcontractors and employees may only receive access to Customer Information if contractually bound to the same confidentiality obligation as the Parties under this Agreement.

14 Subcontractors

ECC has the right to utilise Subcontractors for the Clearing. ECC shall ensure that Subcontractors are under the same obligations vis-à-vis EEX Power Spot as ECC is under this Agreement, in particular with respect to ECC's confidentiality duties (Sec. 13 and Sec. 18).

II. General Provisions

15 Liability

- 15.1** The Parties are not liable for a direct or consequential damage which is caused by an interruption of their operations due to force majeure, riots, war and natural disasters or as a result of other events which are outside their control (e.g. strikes, lock-outs, disruptions of traffic) or which occur on account of decrees by any sovereign act.
- 15.2** Any liability of EEX Power Spot and ECC for breach of this Agreement shall be limited to wrongful intent and gross negligence. In particular, there shall be no liability for damages as a result of a partial or complete unavailability of the Clearing System or Trading System unless the damage is attributable to wrongful intent or gross negligence on the part of the Operating Party.

15.3 The Parties' liability shall in any case be limited to EUR 50.000 per case, and a total of EUR 100.000 per year of this Agreement's term. The limitation of liability under this Sec. 15.3 shall not apply to intentionally caused damages (*Haftung wegen Vorsatzes*).

15.4 Under this Agreement the Parties assume no liability vis-à-vis trading participants or other third parties.

16 Banking and Financial Supervision

The Parties will perform their duties under this Agreement, fully complying with all applicable banking and financial supervision requirements in Germany. EEX Power Spot and ECC will cooperate to enable the other Party to comply with all applicable statutes, regulations or any other supervisory provision or administrative act. As necessary, the Parties shall make documents and data available to each other and the banking and financial supervision authorities and shall allow access to its premises and IT-systems.

17 Conditions Precedent / Term and Termination

17.1 This Agreement shall become effective upon signing, provided however that the Sections 2, 3, 4.2 through 4.5, 5 through 9, 11 and 12 shall only become effective if all of the following condition precedent (*aufschiebende Bedingung*) have been met or have been waived by both Parties:

17.1.1 approval by the Supervisory Board (*Aufsichtsrat*) of ECC;

17.1.2 approval by the shareholders meeting (*Gesellschafterversammlung*) of EEX Power Spot.

17.2 If one or more of the conditions precedent pursuant to Sec. 17.1 are not met by 30 June 2008 this Agreement can be terminated by either Party. In such case none of the Parties shall have any further obligations under this agreement or owe the other Party any compensation payments. The termination of the Agreement under this Sec. 17.2 is not subject to a notice period. The termination notice shall be in writing. The duties of the Parties under Sections 13 and 18 shall remain unaffected by any termination under this Sec. 17.2.

17.3 The contract shall run for an initial term until 31 December 2013. This Agreement will be automatically renewed for successive 2-year terms unless either Party gives the other Party 12-months notice of its intention not to renew prior to the end of the then-current term. The Parties' right to terminate for good cause (*Kündigung aus wichtigem Grund*) shall remain unaffected.

17.4 In the case of expiry or termination of this Agreement (other than a termination due to the non-occurrence of any of the conditions precedent under Sec. 17.2)

17.4.1 the Parties shall cooperate as necessary and appropriate with each other and with the succeeding provider of clearing services, in particular exchange information, to bring about a smooth transition of ECC's clearing business,

17.4.2 ECC and EEX Power Spot shall terminate all Clearing Contracts with effect as of expiry or termination of the Agreement,

17.4.3 EEX Power Spot shall arrange for an option of ECC to have carried out on-going clearing Transactions by the succeeding provider of clearing services as vicarious agent at reasonable economic terms,

- 17.4.4 the Parties shall return all material documents and information received by the other party, including any data and secondary data referred to in Sec. 10.

18 Confidentiality of Business Information

- 18.1 ECC and EEX Power Spot shall treat this Agreement and any information received or obtained as a result of or in connection with the entering into of this Agreement which relates to the existence and the provisions of this Agreement or to the negotiations relating to this Agreement as strictly confidential and not disclose or use it.
- 18.2 This Agreement shall not prohibit disclosure or use of any information if and to the extent:
- 18.2.1 the disclosure or use is required by law, any regulatory body or any recognised stock exchange on which the shares of the one of the Parties or any of their Affiliates are listed;
 - 18.2.2 the disclosure or use is required for the purpose of any judicial proceedings arising out of this Agreement or any other agreement entered into under or pursuant to this Agreement or the disclosure is made to a tax authority in connection with the tax affairs of the disclosing Party;
 - 18.2.3 the disclosure is made to professional advisers or actual or potential financiers of any Party on a need-to-know basis and on terms that such professional advisers or actual or potential financiers undertake to comply with the confidentiality obligations set out in this Agreement in respect of such information as if they were a party to this Agreement;
 - 18.2.4 the information is or becomes publicly available (other than by breach of this Agreement or any other confidentiality agreement between the Parties);
 - 18.2.5 the other Party has given prior approval to the disclosure or use; or
 - 18.2.6 the information is independently developed after conclusion of this Agreement,
- provided that prior to disclosure or use of any information, pursuant to Sec. 18.2.1 or 18.2.2, the Party concerned shall notify the other Party in advance of such requirement with a view to providing the said other Party with the opportunity to contest such disclosure or use or otherwise to agree on the timing and content of such disclosure or use.
- 18.3 Unless permitted under Sec. 18.2, neither Party shall make any public announcement or issue a press release concerning this Agreement or the Cooperation and Option Agreement without the prior consent of the other Party. The Parties will agree on a wording for an announcement in due course following the signing of this Agreement.

19 Miscellaneous

19.1 Prohibition of Assignment

Claims arising under this Agreement may not be assigned to third parties without the express prior written consent of the respective other Party.

19.2 Public Announcement

Unless otherwise required by law or applicable regulation, neither Party shall make any public announcement or issue a press release concerning this Agreement without the prior

consent of the respective other Party. The Parties will agree on a text for an announcement in due course following the signing of this Agreement.

19.3 Invalid or Unenforceable Provisions

If any of the provisions of this Agreement are or become invalid or unenforceable in whole or in part, the validity of the remaining provisions shall remain unaffected. In relation to such an invalid or unenforceable provision, the Parties shall attempt to agree on a replacement provision which comes closest to what was intended in the originally agreed provision.

19.4 Written Form

Amendments to this Agreement are only valid in writing. This applies to amendments or the abolishment of this clause as well.

19.5 Applicable Laws and Legal Venue

The Agreement shall be governed by the laws of the Federal Republic of Germany, except for German law provisions regarding conflicts of laws and the Uniform Code on the International Sale of Goods.

19.6 Dispute Resolution

19.6.1 In the event of any dispute arising from or in connection with this Agreement and its consummation the relevant Chief Operational Managers or Chief Executive Managers of the Parties shall endeavour to find an amicable solution. If no amicable solution is found between the Operational Managers or Chief Executive Managers the matter shall be referred to the Chairmen of the Supervisory Boards of the Parties. If the Chairmen of the Supervisory Boards of the Parties do not agree on a settlement of the dispute each Party shall be entitled to refer the dispute to the relevant courts as set out in Secs. 19.6.2 et seq.

19.6.2 Any dispute arising from or in connection with this Agreement and its consummation shall be finally settled by three arbitrators in accordance with the arbitration rules of the German Institution of Arbitration (*Deutsche Institution für Schiedsgerichtsbarkeit e.V.*) without recourse to the courts of law. The language of the arbitration proceedings shall be German.

19.6.3 Each Party may nominate one arbitrator. The two arbitrators nominated by the Parties will nominate the third arbitrator as chairman.

19.6.4 The venue of the arbitration shall be Leipzig, Germany.

19.6.5 In the event mandatory applicable law requires any matter arising from or in connection with this Agreement and its consummation to be decided upon by a court of law, both EEX Power Spot as well as ECC shall be entitled to file a legal action before the competent court in Leipzig, Germany.

19.7 Expenses

Except as otherwise provided in this Agreement, each of the Parties shall bear its own costs incurred in connection with the preparation, negotiation, execution and implementation of this Agreement and the matters contemplated herein.

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19.8 Notifications

Any notice or other formal communication given under this Agreement (which includes fax, but not email) must be in writing and may be delivered, or sent by post or fax to the Party to be served at its address appearing in this Agreement as follows or to such other contact person, address or fax number as a Party may notify to the respective other Party from time to time :

19.8.1 If to ECC:

European Commodity Clearing AG
Attn: Dr. Hans-Bernd Menzel, CEO
Neumarkt 9-19
04109 Leipzig

Tel: +49 (0) 341 / 21 56 400

Fax: +49 (0) 341 / 21 56 409

19.8.2 If to EEX Power Spot

EEX Power Spot
Attn: Dr. Hans-Bernd Menzel, CEO
Neumarkt 9-19
04109 Leipzig

Tel: +49 (0) 341 / 21 56 400

Fax: +49 (0) 341 / 21 56 409

This Agreement is entered into in two originals in the English language.

IN WITNESS WHEREOF this Agreement has been signed by the Parties (or their duly authorised representatives) on the dates stated below.

SIGNATURES

For EEX Power Spot GmbH

Date :

Place :

Signature :

Name : Dr. Hans-Bernd Menzel

Title : CEO

For European Commodity Clearing AG:

Date :

Place :

Signature :

Name : Dr. Hans-Bernd Menzel

Title : CEO

ANNEX 2.2

Details of Clearing Services

Clearing Services of ECC

This Annex 2.2 complements and clarifies the scope of clearing services by ECC as well as related duties by EEX Power Spot as set out in the main text of this Agreement. This Annex 2.2 shall not amend the main text of the Agreement or the Clearing Rules applicable from time to time, both of which shall prevail in the case of any inconsistencies:

1. *Interface services to EEX Power Spot*

1.1 *Capture of Transactions*

Once EEX Power Spot has reported the conclusion of a Transaction to ECC, ECC will check these Transactions with regard to their compliance with the Clearing Rules of ECC and the terms of the Agreement. ECC confirms the acceptance or rejection to EEX Power Spot and, provided the transactions are accepted by it in accordance with the terms of the Agreement, it accepts these Transactions into the Clearing System.

1.2 *Capture of settlement prices*

Once ECC has received the settlement prices for Spot Contracts from EEX Power Spot, ECC examines these for completeness and plausibility. ECC will address inconsistencies to EEX Power Spot and once inconsistencies have been clarified to the satisfaction of ECC it takes over the settlement prices into its Clearing System.

2. *Position management services*

2.1 *Capture of trade and trade adjustments*

After a Clearing Member or a Trading Participant has adjusted trades, ECC checks the compliance of the respective adjustment of trades in accordance with the Clearing Rules and the Agreement immediately after receipt. ECC then confirms the acceptance or rejection of such adjustments to the Clearing Member or Trading Participant and takes these adjustments of trades into account in its position management, provided always that the relevant adjustments have been accepted by it.

2.2 *Updating of positions*

ECC keeps the proprietary position account P for every Clearing Member and Trading Participant. If applicable, it also keeps an agent position account A.

During batch-processing, the positions held by a Clearing Member or a Trading Participant are updated on account of new Transactions, trade adjustments and settlement.

It is understood between the Parties that batch-processing in the meaning of the preceding paragraph refers to all services, that are carried out "end-of-day", i.e. after the full information from the current trading day is available; batch-processing takes place overnight on every business day. During the batch-processing statistical information is updated, reports are generated and data maintenance is performed. After batch-processing the last trading day will be finalized and the upcoming trading day will be prepared.

3. Settlement services

3.1 Clearing fees

On every business day, ECC shall establish the fees (incl. VAT) due from the Clearing Member and Trading Participant with regard to Transactions accepted, and other services (e.g. clearing membership, technical access of the Clearing Members to the Clearing System, provision of the clearing application to Clearing Members and Trading Participants). ECC prepares corresponding payment instructions.

3.2 Deliveries of electricity

On every business day, ECC shall nominate electricity deliveries on the basis of the delivery instructions existing between ECC and the Clearing Member and Trading Participant to the respective transmission system operators in accordance with the respectively applicable rules.

3.3 Payments

On every business day, ECC shall settle all payment instructions due from deliveries with the Clearing Members. At the end of any given month, ECC shall settle all payment instructions regarding fees with the Clearing Members and Trading Participants.

3.4 Invoicing

At the end of the month or at the beginning of the following month, ECC shall prepare invoices for the Clearing Members and Trading Participants regarding electricity deliveries as well as the clearing fees.

4. Risk management services

4.1 Establishment of the margin requirements

Monthly or after unexpected price movements, ECC re-evaluates the margin parameters based on the latest historic price movements and in accordance with its Clearing Rules. The margin parameters are input for calculation of margin requirements. If margin parameters need to be changed, ECC informs EEX Power Spot, Clearing Members and Trading Participants before the change become in force.

During batch-processing ECC shall establish the margin requirements in order to cover any possible losses arising from the closing-out of open delivery and payment obligations in accordance with the Clearing Rules.

At the end of any given quarter or at the beginning of the next quarter or if required, ECC shall establish the contribution by the Clearing Member to the clearing fund in order to cover the intra-day risk.

ECC monitors the intra-day risk of the Clearing Member on an on-going basis during every business day and, if required, it shall issue an intra-day margin call.

4.2 Administration of margins

In case new margins are furnished by the Clearing Members in cash, bank guarantees and / or securities, ECC checks the compliance of such furnished margins in accordance with its Clearing Rules and, provided such margins are compliant, accepts these.

ECC administrates the margins furnished by the Clearing Members in internal money accounts and securities deposit accounts.

Upon a request by a Clearing Member regarding the return of margins, ECC checks the compliance of such a requested return in accordance with its Clearing Rules and, provided such return is compliant, returns the margins as applicable in whole or in part.

4.3 *Evaluation of margins furnished*

During batch-processing ECC re-evaluates the margins furnished by a Clearing Member based on updated market prices of securities or currencies and the relevant risk-oriented reductions (hair cuts).

4.4 *Cover Excess and Cover Shortfall*

In case the current margin requirements exceed the current value of the margins held by ECC, ECC is entitled to request an amount equal to the shortfall in cash. The relevant amounts will be withdrawn by ECC from the accounts of the Clearing Members held with the German central bank.

In case the current margin requirements fall below the current value of the margins held by ECC, the Clearing Member is entitled to ask for return of margins in an amount equal to the excess.

5. *Admission services*

5.1 *Clearing Member*

After receipt of the application for licensing as a Clearing Member, ECC examines whether the preconditions for licensing according to the Clearing Rules are fulfilled. If all preconditions are fulfilled, ECC grants a clearing license to the applicant and informs EEX Power Spot as well as the new Clearing Member.

Upon a request by a Clearing Member wishing to terminate its clearing license, ECC examines whether there are any open positions and/ or outstanding debts and confirms the termination in case such is admissible. ECC informs EEX Power Spot about the termination of the clearing licence.

5.2 *Trading Participant*

After receipt of the application documents in relation to a Trading Participant ECC examines whether the preconditions for admission according to the Clearing Rules are fulfilled. If all preconditions have been fulfilled, ECC informs EEX Power Spot, the Trading Participant and its Clearing Member with regard to the admission and the products covered by this admission.

5.3 *Monitoring of preconditions for admission*

On every business day ECC monitors the preconditions for admission of Clearing Members and Trading Participant in accordance with its Clearing Rules. In case these are not fulfilled any more, ECC may revoke the admission of a Clearing Member and / or Trading Participant entirely or partially and subsequently is entitled to refuse Clearing Services for the relevant Clearing Member and / or Trading Participant. ECC informs EEX Power Spot, the Clearing Member and the Trading Participant for which products it does no longer provide clearing services.

6. *Other clearing services*

6.1 *Reporting*

During batch-processing, ECC provides a large number of reports to EEX Power Spot, Clearing Members and Trading Participants via e-mail or file transfer. These reports comprise information on Transactions, trade adjustments, positions, deliveries, payments, VAT as well as margin requirements and margins.

6.2 *Clearing application*

ECC provides a clearing application to EEX Power Spot, Clearing Members and Trading Participants. This clearing application permits the entry of trade and position adjustments, on-line inquiries regarding Transactions, trade adjustments and positions as well as inquiries regarding payments, margin requirements and margins from the last batch-processing.

6.3 *Technical connection to the Clearing System*

After an application has been placed by a Clearing Member or a Trading Participant, ECC provides a technical connection to its Clearing System and sets up users for the clearing application.

In case a Clearing Member and Trading Participant wishes to change its technical connection or users, ECC checks the modifications and implements these as requested.

In case a Clearing Member and Trading Participant does no longer need the existing technical connection or users, ECC examines the termination of the technical connection and/or the cancellation of the users and initiates these accordingly.

6.4 *Help desk*

During its business hours ECC operates a phone help desk for EEX Power Spot, Clearing Members and Trading Participants.

ANNEX 7.1

List of Holidays

ECC will provide the services mentioned in this agreement for products cleared in EUR generally from Monday until Friday, with the following exceptions:

- 1 January (New Years Day)
- Good Friday
- Easter Monday
- 1 May
- 24 December (Christmas Eve)¹
- 25 December (Christmas Day)
- 26 December (Boxing Day)
- 31 December (New Year's Eve)¹

For products to be cleared in currencies other than EUR, the list of holidays above may deviate depending on the bank holidays of settlement banks used to settle foreign currencies between ECC and Clearing Members.

¹Christmas Eve and New Year's Eve are subject to the proviso that they may become settlement days after the successful introduction of TARGET II in 2007.