

EXECUTION VERSION
Annex 6.2/D
to the Cooperation Agreement

CLEARING SERVICES AGREEMENT

between
European Commodity Clearing AG
and
Powernext S.A.

dated 6 March 2008

Linklaters

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**Clearing Services Agreement
(the "Agreement")**

between

- (1) **Powernext S.A.** a stock corporation (*Société Anonyme*) under the laws of France, having its registered office at 5 Boulevard Montmartre, 75002 Paris

- hereinafter referred to as "**Powernext**" -

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

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

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

Preamble

WHEREAS

- (A) Powernext is a privately owned stock corporation located in France. It is an exchange, organized as a multilateral trading facility (MTF), recognised and supervised by the Autorité des Marchés Financiers (AMF) and the Commission de Régulation de l'Énergie (CRE). It intends to start trading of French natural gas Spot Contracts and Futures in 2008. Powernext offers its participants clearing of trades executed on the exchange as well as clearing of similar OTC trades. It is currently using the services of LCH Clearnet S.A. ("**LCH**") for the clearing of its 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 with currently 12 international banks acting as Clearing Members.
- (C) In the Cooperation Agreement dated 6 March 2008 the Parties and European Energy Exchange ("**EEX**") have agreed that Powernext will clear its French natural gas products (spot and futures) at ECC as soon as any such products are launched.

NOW, THEREFORE, the Parties hereby agree as follows:

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 Derivatives and Spot Contracts on Powernext'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 Powernext.
- 1.6 **Customer Information** means all information related to a Party's customer received by the other Party.
- 1.7 **Derivatives** means Futures or Options with an underlying delivery period of one month or a multiple thereof, one quarter or a multiple thereof or one year or a multiple thereof.
- 1.8 **Futures** means future products with an underlying delivery period of one month or a multiple thereof, one quarter or a multiple thereof or one year or a multiple thereof.
- 1.9 **Interface** means the technical connection between the Trading Platform and the Clearing System, including its operation and maintenance.
- 1.10 **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.
- 1.11 **Launch of Clearing Services** means the day ECC notifies Powernext of the start of the performance of Clearing Services under this Agreement for Transactions concluded or registered on the Trading Platform, as such start date shall be agreed between the Parties.
- 1.12 **Relevant Data** means all information relating to a Transaction on the Trading Platform which is necessary for ECC to provide Clearing Services.
- 1.13 **Operating Party** means ECC as operator of the Clearing System and Powernext as operator of the Trading System.
- 1.14 **Option** means a product whereby one party has the right but not the obligation to exercise the right on or before a future date to sell or purchase an underlying product.
- 1.15 **OTC Trade** means a transaction in Products to be Cleared not concluded on the Trading Platform that is, however, submitted to Powernext for registration and subsequently offered for clearing on the Clearing System.
- 1.16 **Products to be Cleared** means all Derivatives and other products traded or registered on the Trading Platform that are subject to this Agreement according to Sec. 3.

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- 1.17 Spot Contracts** means natural gas trades on a spot basis with an underlying delivery period of a day or two days (including the second day), which includes Within-Day, Day-Ahead (up to two days ahead) and Week-End contracts.
- 1.18 Steering Group** means the committee organised according to Sec.16.
- 1.19 Subcontractor** means any third party contracted by or on behalf of a Party to fulfil any of the Party's obligations under this Agreement.
- 1.20 Trading Participant** means any person that trades on Powernext's Trading Platform or registers an OTC Trade on Powernext's Trading Platform.
- 1.21 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.
- 1.22 Trading Rules** means the body of regulations set up by Powernext governing the exchange trading and OTC Trade registration process, as amended from time to time.
- 1.23 Trading System** means the IT system for the Trading Platform operated by or on behalf of Powernext.
- 1.24 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.

1. 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 Powernext'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 Powernext and Trading Participants;
 - provision of on-line access to position account for Powernext and Trading Participants;
 - set up of accounts and account administration;
 - processing of payment transactions;

- physical settlement, especially scheduling of natural gas.

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 Derivatives and Spot Contracts offered for exchange trading or OTC Trade registration on Powernext's Trading Platform for French natural gas products. Subject to Sec. 3.2 ECC will render the Clearing Services for the following products:

3.1.1 for all existing French natural gas products,

3.1.2 for all planned French natural gas products.

3.2 ECC will offer and shall be entitled to offer such Clearing Services as of the Launch of Clearing Services.

4 Introduction of Products to be Cleared

4.1 Powernext 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 60 days after the decision has been reached by Powernext to offer natural gas products for trading. Powernext will consider any suggestions made by ECC on how to improve products under clearing aspects.

4.2 After the Launch of Clearing Services, Powernext shall inform ECC about the development of new Products to be Cleared at an early stage and shall be provided with the opportunity to become involved in the development process. Powernext 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 Powernext, 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, Powernext 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 Powernext prior to any amendments in its Clearing Rules, if the amendments have the potential of influencing Powernext's Trading Rules or trading on the Trading Platform and shall give Powernext 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 Powernext has provided ECC with the Relevant Data of the Transactions as set out in **Annex 5.2.1**; and

5.2.2 if ECC has confirmed to Powernext 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. Powernext shall be entitled to the fees as set out in the Trading Rules.

7 Operational Availability

7.1 There shall be no exchange trading or OTC Trade registration of Derivatives on the Trading Platform on weekends and the holidays set out in **Annex 7.1**. For Derivatives, the Trading System shall operate on each of Powernext's trading days not before 8.30 a.m. and not after 5.00 p.m. CET, an amendment of these times to be discussed in good faith upon Powernext's request. For Derivatives, ECC shall operate its Clearing System on all weekdays excluding the holidays set out in **Annex 7.1**. For Spot Contracts, the Parties may extend or reduce the operational availability provided for Derivatives taking into account the rules of the transmission system operator with regard to delivery of natural gas. The Parties agree that an extension of the operational availability shall upon Powernext'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** Powernext 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 Powernext shall require Trading Participants to have a Clearing Contract in place for the relevant Product to be Cleared.
- 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 Powernext as soon as possible if a Trading Participant defaults with its obligations arising from the Clearing Rules. Powernext 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, Powernext will inform ECC in writing as soon as feasible. Powernext 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 Powernext by Trading Participants shall remain the proprietary ownership of Powernext.
- 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) Powernext 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 Powernext 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 Powernext under Sec. 5 and this Sec. 10.

- 10.4** On each Powernext trading day, Powernext 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 Powernext with positions and open interest for all Products to be Cleared.

11 Exclusivity

In the mutual interest of serving Powernext's customers, in particular to better be able to manage counterparty risks and to utilise netting effects, Powernext will make ECC, subject to Sec. 4.5, the exclusive partner for Clearing Services for its Trading Platform for the Products to be Cleared for a period of three years from the date on which Clearing Services under this Agreement commence. Unless the exclusivity provisions under Sec. 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. Powernext shall take all steps necessary to implement that ECC is the exclusive clearing provider on the Trading Platform for Products to be Cleared. Powernext will during this period not allow other clearing houses to render Clearing Services for its Trading Platform for Products to be Cleared.

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 Powernext 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. Powernext 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 Powernext 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 Powernext as ECC is under this Agreement, in particular with respect to ECC's confidentiality duties (Sec. 13 and Sec. 22).

II. Implementation of Clearing System for Powernext

15 Start of Clearing Operations

- 15.1** ECC and Powernext will begin preparations for the implementation of a Clearing System without delay following the decision of Powernext to offer natural gas products for trading.

Both Parties shall provide each other with all information reasonably required for the implementation of the Clearing Services no later than 30 days after the signing of this Agreement.

- 15.2** In case that Powernext decides to offer natural gas products for trading, a timetable for the planned implementation of the Clearing Services is contained in Annex 15.2. However, it is understood that both legal and technical obstacles may cause delays

16 Steering Group

- 16.1** The Parties shall establish a Steering Group within 40 days after the decision has been reached by Powernext to offer natural gas products for trading to coordinate the implementation of the Clearing System.

- 16.2** The main functions of the Steering Group are:

- 16.2.1** the overall project coordination and management,
- 16.2.2** ensuring continuous and effective communication between the Parties,
- 16.2.3** the monitoring of the implementation process,
- 16.2.4** to complement the timetable for the implementation as set out in **Annex 15.2**, and
- 16.2.5** to jointly discuss and address any other issues which are important for the implementation of the cooperation.

- 16.3** The Steering Group will meet regularly, on a monthly basis until the Launch of Clearing Services or as required. The Steering Group will consist of four persons; each Party shall appoint two members. The initial members will be:

- the CEO of Powernext,
- the CEO of ECC,
- a further member of the management of Powernext appointed by Powernext, and
- a further member of the management of ECC appointed by ECC.

17 Technical Implementation

- 17.1** ECC will develop the Interface Software for the connection of the Trading System with the Clearing System. Powernext will support ECC in the process of the development of the Interface Software and provide all necessary technical information without undue delay. In particular, Powernext will furnish Interface specifications as set out in **Annex 17.1**.

- 17.2** ECC will install and operate a communication line between the Interface Software system and the Clearing System.

- 17.3** Powernext will install and operate a communication line between its Trading System and ECC's Interface Software system.

- 17.4** Powernext will provide technical assistance for the testing of communication lines and the Interface Software.

- 17.5** Powernext shall provide all data specified in **Annex 17.5** at the Interface between the Trading System and the Clearing System in the form required by ECC and at its own cost.

- 17.6** Powernext may continue to use its current trading software.
- 17.7** The expenses for the initial development of the Interface Software and the installation and maintenance of the communication line between the Interface Software system and the Clearing System shall be borne by ECC. Powernext shall bear the expenses for technical assistance provided for the testing and installation of the Interface Software and the installation and maintenance of the communication line between the Trading System and the Interface Software system.
- 17.8** The expenses for modifications of the Interface Software and Clearing System that later become necessary due to changes in the Trading System are borne by Powernext. The charge to Powernext for these expenses will be cost based and previously agreed upon.
- 17.9** If Powernext decides to offer natural gas products for trading the Parties will set up a plan for testing the data transfer and the functioning of the Interface as set out in the Action Plan in **Annex 17.9**.

18 Powernext's present Clearing Arrangements

The Products to be Cleared will be newly introduced by Powernext. Powernext's current clearing agreements with LCH Clearnet S.A. do not extend to the clearing of natural gas products.

III. General Provisions

19 Liability

- 19.1** 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.
- 19.2** Any liability of Powernext 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.
- 19.3** 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. 19.3 shall not apply to intentionally caused damages (*Haftung wegen Vorsatzes*).
- 19.4** Under this Agreement the Parties assume no liability vis-à-vis trading participants or other third parties.

20 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 and France. Powernext 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.

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21 Conditions Precedent / Term and Termination

- 21.1** This Agreement shall become effective upon signing, provided however that the Sec. 2, 3, 4.2 through 4.5, 5 through 9, 11, 12 and 17 shall only become effective if all of the following condition precedent (*aufschiebende Bedingung*) have been met or have been waived by both Parties:
- 21.1.1** approval by the Supervisory Board (*Aufsichtsrat*) of ECC;
 - 21.1.2** approval by the Board (*Conseil d'Administration*) of Powernext.
- 21.2** If one or more of the conditions precedent pursuant to Sec. 21.1.1 or 21.1.2 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. Furthermore, if Powernext terminates the Cooperation Agreement dated 6 March 2008 among Powernext, EEX and ECC pursuant to clause 8.2.2 thereof, Powernext shall be entitled to terminate this Agreement. The termination of this Agreement under this Sec. 21.2 is not subject to a notice period. The termination notice shall be in writing. The duties of the Parties under Sec. 13 and 22 shall remain unaffected by any termination under this Sec. 21.2.
- 21.3** 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.
- 21.4** 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. 21.2)
- 21.4.1** 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,
 - 21.4.2** ECC and Powernext shall terminate all Clearing Contracts with effect as of expiry or termination of the Agreement,
 - 21.4.3** Powernext 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,
 - 21.4.4** 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.

22 Confidentiality of Business Information

- 22.1** ECC and Powernext 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.
- 22.2** This Agreement shall not prohibit disclosure or use of any information if and to the extent:
- 22.2.1** 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;

22.2.2 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;

22.2.3 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;

22.2.4 the information is or becomes publicly available (other than by breach of this Agreement or any other confidentiality agreement between the Parties);

22.2.5 the other Party has given prior approval to the disclosure or use; or

22.2.6 the information is independently developed after conclusion of this Agreement,

provided that prior to disclosure or use of any information, pursuant to Sec. 22.2.1 or 22.2.2, 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.

22.3 Unless permitted under Sec. 22.2, 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.

23 Miscellaneous

23.1 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.

23.2 Public Announcement

Unless otherwise required by law or applicable regulation, neither Party shall make any public announcement nor 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.

23.3 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.

23.4 Written Form

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

23.5 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.

23.6 Dispute Resolution

23.6.1 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 Chief 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 Sec. 23.6.2 et seq.

23.6.2 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 English.

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

23.6.4 The venue of the arbitration shall be Frankfurt am Main, Germany.

23.6.5 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, (i) Powernext shall be entitled to file a legal action before the competent court in Paris, France, and (ii) ECC shall be entitled to file a legal action before the competent court in Leipzig, Germany.

23.7 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.

23.8 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:

23.8.1 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

23.8.2 If to Powernext

Powernext S.A.
Attn: Mr. Jean-François Conil-Lacoste, CEO
5 Boulevard Montmartre,
75002 Paris

Tel: +33 (0) 173 03 96 30
Fax: +33 (0) 173 03 96 01

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 Powernext S.A.

Date :
Place :

Signature :
Name : Mr. Jean-François Conil-Lacoste
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 Powernext 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 Powernext*

1.1 *Capture of Transactions*

Once Powernext 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 Powernext 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 Derivatives and Spot Contracts from Powernext, ECC examines these for completeness and plausibility. ECC will address inconsistencies to Powernext 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 position adjustments*

After a Clearing Member or a Trading Participant has adjusted trades or positions, ECC checks the compliance of the respective adjustment of trades or positions 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 or positions 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 accounts P1, P2, M1 and M2 for Derivatives and P for Spot Contracts for every Clearing Member and Trading Participant. If applicable, it also keeps an agent position account A1.

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

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 Mark-to-market evaluation of Futures positions

During batch-processing, ECC re-evaluates all Futures positions with the help of the settlement prices received. Changes in the value of the Futures positions shall be settled in cash on the following business day between 07:00 and 09:00 CET. ECC prepares a payment instruction on the basis of the accounting balance of gains and losses of all changes in value in accordance with its Clearing Rules. ECC forwards the payment instructions to the Clearing Members.

3.2 Cascading of Futures positions

During batch-processing on the last trading day of a Futures position with a yearly delivery as underlying, ECC cascades these Futures positions into equivalent Futures positions of composite monthly and quarterly deliveries as underlying (for example January, February, March, 2nd quarter, 3rd quarter, 4th quarter).

During batch-processing on the last trading day of a Futures position with quarterly delivery as underlying, ECC cascades these Futures positions into equivalent Futures-positions of composite monthly deliveries.

3.3 Expiry of Futures positions

During batch-processing payments, deliveries and VAT on deliveries arising from Futures positions which have (partially) expired are established, Futures positions which have (partially) expired are (partially) closed and, in return, corresponding payment and delivery instructions are prepared. ECC forwards the payment instructions to the Clearing Members.

3.4 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, Futures positions which have expired 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.

3.5 Deliveries of natural gas

On every business day, ECC shall nominate natural gas 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.

3.6 Payments

On every business day, ECC shall settle all payment instructions due from mark-to-market evaluations and Futures positions which have expired 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.

3.7 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 natural gas 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 Powernext, 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 Futures positions as well as 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 Powernext as well as the new Clearing Member.

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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 Powernext 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 Powernext, 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 Powernext, 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 Powernext, Clearing Members and Trading Participants via e-mail or file transfer. These reports comprise information on Transactions, trade and position adjustments, positions, expiries, mark-to-market evaluations, deliveries, payments, VAT as well as margin requirements and margins.

6.2 *Clearing application*

ECC provides a clearing application for Derivatives to Powernext, Clearing Members and Trading Participants. This clearing application permits the entry of trade and position adjustments, on-line inquiries regarding Transactions, trade and position adjustments and positions as well as inquiries regarding expiries, mark-to-market evaluations, 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 Powernext, Clearing Members and Trading Participants.

ANNEX 5.2.1

Details of Relevant Data

After conclusion of a Transaction or the registration of an OTC-Trade Powernext provides ECC with the relevant Transaction data as set out in Annex 17.5.

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.

ANNEX 15.2

Time Table for Implementation

It is understood between the Parties that the precise timetable for implementation of the Clearing Services needs to be further discussed and specified by the Steering Committee. Results need to be set out in a jointly agreed project plan.

The following milestones shall be initial indications of timelines for the implementation of Clearing Services:

Timeline	Milestone
1 month after decision to offer natural gas products	Completion of a joint business case Completion of a joint communication plan
2 months after decision to offer natural gas products	Specification of the functional and technical design of the Interface Software
3 months after decision to offer natural gas products	Implementation of the Interface Software
4 months after decision to offer natural gas products	Synchronization of ECC Clearing Rules and Powernext Trading Rules Setup of communication lines for the Interface Software
5 months after decision to offer natural gas products	Completion of business processes: • Admission, registration and suspension • Handling of OTC-trades • Handling of Mis-trades and rejected trades • Buy-in and close-out procedures • Settlement price entry • Definition of margin parameters • Fee settlement Completion of emergency procedures Completion of the end-to-end test of the Interface Software
6 months after decision to offer natural gas products	Completion of setup issues: • Admission of Clearing Members and Trading Participants

ANNEX 17.1

Interface Specifications

The Interface Software is a software application running on a workstation in Leipzig operated by ECC. It is connected via a communication line (e.g. leased line, internet VPN) to the Trading System of Powernext and to the Clearing System of ECC. The functionalities shall be developed and jointly specified by the Steering Group.

The general approach would be as follows:

The Interface Software receives the broadcasts with Relevant Data of Transactions sent from the Trading System. Upon receipt of information regarding a Transaction the Interface Software checks (online) the format, syntax and semantics of the data. If an error occurs during the parsing of the data an error message is sent back to the Trading System and the processing of the Transaction is aborted. If the Transaction data sent meets the Clearing Rules and other requirements set in the respective working group and described in general in Annex 17.5 a confirmation about the successful receipt of the Transaction is sent back to the Trading System.

The processing of Transactions by the Interface Software is logged in daily generated reports. The report lists the successful processing of Transactions as well as processing errors.

ANNEX 17.5

Data to be Provided at Interface

The following data has to be provided:

Data Field	Data format	Importance	Example value
Trading Participant ID Code (Buyer)	Alphanumeric	Mandatory	NCM01
Trader ID Code (Buyer)	Alphanumeric	Mandatory, but enrichment by ECC possible	TRD001
Trading Participant ID Code (Seller)	Alphanumeric	Mandatory	NCM02
Trader ID Code (Seller)	Alphanumeric	Mandatory, but enrichment by ECC possible	TRD002
Clearing Member ID Code (Buyer)	Alphanumeric	Mandatory, but enrichment by ECC possible	CLM01
Clearing Member ID Code (Seller)	Alphanumeric	Mandatory, but enrichment by ECC possible	CLM02
Transaction ID	Numeric	Mandatory	0123456789
Transaction Suffix	Numeric	Mandatory	001
Transaction Time	Numeric	Mandatory	200605051202
Product ID	Alphanumeric	Mandatory	NatGas Cal-07
Expiry/Cascading Month	Numeric	Mandatory	12
Expiry/Cascading Year	Numeric	Mandatory	2007
Transaction Quantity	Numeric	Mandatory	25
Transaction Match Price	Numeric	Mandatory	51.42
Open/Close Code (Buyer)	Alphanumeric (O/C)	Mandatory, but enrichment by ECC possible	O
Open/Close Code (Seller)	Alphanumeric (O/C)	Mandatory, but enrichment by ECC possible	C
Account (Buyer)	Alphanumeric	Mandatory, but enrichment by ECC possible	P1
Account (Seller)	Alphanumeric	Mandatory, but enrichment by ECC possible	P2
3 Textfields (Buyer)	Alphanumeric (12 characters)	Non-mandatory	for client X
3 Textfields (Seller)	Alphanumeric (12 characters)	Non-mandatory	for client X

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Some data can be completed by ECC with default values to fill mandatory fields, if they are not provided by Powernext.

The detailed specification of the Interface Software needs to be defined by the Steering Committee.

ANNEX 17.9

Plan for Testing and Functioning of Interface

The following milestones shall be initial indications of timelines for the build and test of the Interface Software and are subject to the agreement of the detailed plan to be developed by the Steering Committee:

Timeline	Milestone
1 month after decision to offer natural gas products	Completion of the definition of requirements: - functional requirements - technical requirements
2 months after decision to offer natural gas products	Completion of the Fine Specification: - functional specification - technical specification - specification of data format - specification of communication lines
3 months after decision to offer natural gas products	Completion of software implementation
4 months after decision to offer natural gas products	Completion of Acceptance Test Installation of software Setup of communication lines
5 months after decision to offer natural gas products	Completion of End-to-end test
6 months after decision to offer natural gas products	Completion of Simulation phase