



APX

Power NL Market Rules

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1. CHAPTER 1 - GENERAL RULES

1. INTERPRETATION AND DEFINITIONS

Power Market Rules

- 1.1 Pursuant to its articles of association, the object of APX is to develop, establish, hold and operate either one or more exchanges to trade energy and/or other facilities for the benefit of energy trade. In order to achieve an adequate functioning of the markets in energy operated by APX and the position of the Members on those markets, APX is authorised to set rules and give instructions. Trading, listing and the formation of Transactions concluded on the markets organised by APX take place subject to the rules which the Parties have declared to be applicable and which can be different for each of the markets operated by APX.
- 1.2 These Power Market Rules, the Appendices hereto together with all procedures and other documents issued by Notice all as may be amended, supplemented or replaced from time to time in accordance with the terms hereof set out the terms and conditions governing access to and trading on the Power Market by means of the Trading System and related matters or, if not included in any such rules or documents, to the custom and practice of APX and Members in relation to the Trading System and the functionality of the Trading System.

Defined Terms

- 1.3 For the purposes of these Power Market Rules:

Access Criteria	means the Access Criteria for the Power Market in paragraph 4.2, which the Applicant must meet and the Member must continue to meet in order to gain and maintain Access Rights or View Only Access Rights;
Access Rights	means the rights of a Member pursuant to the Power Market Rules to have access to the Power Market and use the Trading System for the purposes of viewing the information made available on the Trading System, placing Orders and entering into Transactions for Clearing;
Accession Procedure	means the uniform procedure applied by APX, regulating the requirements that an Applicant must meet to be admitted on the Power Market as a Member;
Appeals Committee	means the committee that hears and decides on disputes between APX and Members in accordance with paragraph 10;
Appendix	means any appendix to the Power Market Rules;
Applicant	means a Person who wishes to become a Member;

APX	means APX Power B.V., a private company with limited liability incorporated under the laws of the Netherlands and having its registered office in Amsterdam;
APX Website	means the internet website http://www.apxgroup.com ;
Authorised User	means an employee or other representative of a Member authorised by that Member to act on its behalf on the Power Market without limitations and in accordance with the Access Rights or the View Only Access Rights and the Membership Agreement;
Bid	means an Order by a Trading Member under which that Trading Member indicates its willingness to be the Buyer of an Instrument;
Block Order	shall have the meaning ascribed thereto in paragraph 26.16 and 26.17;
Business Day	means any day on which banks are generally open for business in the Netherlands other than a Saturday or a Sunday;
Buyer	means a Party that buys an Instrument in a Transaction;
Clearing House	means European Commodity Clearing AG and its subsidiaries, which is contracted by APX to execute the Clearing of Transactions;
Clearing	means the process whereby the Clearing House becomes the central counterparty for the Transactions concluded on the Power Market and ensures Settlement (as defined in the ECC Clearing Conditions) thereof;
Clearing Participant	means a party that has concluded a participant agreement with the Clearing House either as a clearing member or a non-clearing member (as defined in the ECC Clearing Conditions) ;
ECC Clearing Conditions	means the regulations issued by the Clearing House governing the Clearing, as amended from time to time; Clearing Conditions are binding for all Clearing Participants;
Closing Price	shall have the meaning ascribed thereto in paragraph 25.2e;
Competent Authority	means any local, national or supra-national authority, agency, department, inspectorate, ministry, official, court, tribunal or public or statutory person (whether autonomous or not) of the Netherlands, or any other country which has jurisdiction over APX, the Clearing

	House, any Member or the subject matter of the Power Market Rules;
Concurrent Connections	means one or more account connections to the Trading System maintained simultaneously by a Member at any one time (where an "account connection" means a connection enabling Trade Instructions to be made by or on behalf of a Member);
Confidential Information	has the meaning set out in paragraph 12.2;
Connection Equipment	means hardware, software and telecommunications materials including the internet used or to be used by the Member for the purpose of obtaining access to and making use of the Trading System, but excluding the Trading System;
Connection Failure	means a failure of all or any part of the Connection Equipment of the Member, employed for the purposes of the connection(s) to the Trading System which results in such Member being unable to access the Trading System;
Consequential Damages	means indirect damages, including but not limited to consequential damage, consequential loss, lost profits, lost and anticipated savings, loss of goodwill, loss of turnover, damage due to business interruptions or disturbances, penalties or damages which a Party has to pay to third parties and mutilation or loss of data;
DAM	"Day Ahead Market", means the electricity market operated by APX for the Netherlands, i.e. a fully electronic market for anonymous trading in electricity based on a double sided blind auction where Orders may be placed each Day for every Instrument tradable on this market and delivered the Day after, as described in the Instrument Specifications;
Day	means a period of 24 consecutive hours starting 00:00 hours C.E.T. An exception is made for the days on which a time adjustment for winter or summer time is made, in which case a Day is 25 hours respectively 23 hours;
Eligible Instruments	are the Instruments eligible for trading on the Power Market as described in the Instrument Specifications;
Fee	means the fee payable by a Member to APX in accordance with the Power Market Rules;
Force Majeure	exists if the conditions of article 6:75 of the Dutch Civil Code are met, including, without limitation, any circumstances beyond the reasonable control of such Person, including but without limitation, acts of God,

wars, national emergencies, the laws or regulations of any territory, industrial disputes, civil commotions, fires, tempests and/or floods and includes a System Failure and/or Connection Failure;

Grid	means any high voltage network for the transmission of electricity, including any cross border interconnector facilities that are considered to form part of a specific high voltage network;
Group Company	means a group of corporations which are controlled by the same shareholder(s) by reason of such shareholders(s) directly or indirectly: (i) holding a participation of more than 50% of the issued share capital; or (ii) having the power to exercise more than 50% of the total voting rights; or (iii) having the power to appoint more than 50% of the total number of managing or executive directors;
Instrument	means the delivery period of electricity as described in the Instrument Specifications;
Instrument Specifications	means the description and characteristics - published on the APX Website - of the different Eligible Instruments;
Intra-day Market	means the electricity market operated by APX for the Netherlands on which Orders can be made each Day for every Instrument tradable on this market as described in the Instrument Specifications;
Light Member	means a party that has entered into a light membership agreement with APX and a Trading Member pursuant to which the Trading Member trades on behalf and for the risk and account of the Light Member through (a) dedicated position account(s) of the Light Member.
Limit Order	shall have the meaning ascribed thereto in paragraph 26.15;
Log-in Code	means an electronic log-in code assigned by APX to any Member in respect of each of its Authorised Users;
Manuals	means the manuals in respect of the Trading System that are published on the APX Website and may be amended from time to time;
Market Counterparty	means in the event of a Bid the Trading Member that posted the matching Offer and in the event of an Offer the Trading Member that posted the matching Bid;
Market Coupling	means the coordinated matching of Orders on a spot electricity market with Orders on markets of other

	power exchanges, which takes into account the transmission capacity of the relevant TSOs with a view to (implicitly) allocating this capacity to the Trading Member;
Market Order	shall have the meaning ascribed thereto in paragraph 26.14;
Matching Process	means the process through which Bids and Offers are matched with each other taking into account, as the case may be, Market Coupling, and which consequently leads to the formation of Transactions in accordance with paragraph 27;
MCP	means Market Clearing Price: the price, which has been established at the DAM for an Instrument that is available for trading on the DAM per traded MWh of electricity;
MCV	means Market Clearing Volume: the total volume of electricity traded at the DAM for an Instrument that is available for trading on the DAM;
Member	means Trading Member, Member with View Only Access Rights and/or Light Member, as the context permits;
Membership Agreement	means the duly executed agreement attached as <u>Appendix A</u> , between APX and a Member pursuant to which they accept and are bound by the Power Market Rules;
Notice	means a notice issued by APX in accordance with paragraph 21.7;
Offer	means an Order by a Trading Member under which that Trading Member indicates its willingness to be the Seller of an Instrument;
Order	means a binding Trade Instruction submitted by a Trading Member constituting a Bid or Offer;
Order Book	means the central book in which Orders are recorded;
Party	means APX or a Member as the context permits;
Person	means any natural person, partnership, corporation, unincorporated organisation or association, limited liability company, trust legal entity as the contest requires;
Position Account	means the account held on the Trading System for the Member for the purpose administrating Orders and Transactions;
Power Market	means the DAM and the Intra-day Market;

Power Market Rules	means these Power Market Rules together with the Appendices hereto, all as may be amended, supplemented or replaced from time to time in accordance with the terms thereof;
Price	means the price of an Instrument agreed in a Transaction;
Realistic Price Range	means an optional set of information within a Trading Limit defining a lower and/or an upper price boundary, set by the clearing member for the respective Member and used to assess the exposure related to an Order when checking it against the Trading Limit;
Reasonable and Prudent Operator	means APX or a Member fulfilling its obligations under an agreement with that degree of skill, diligence, prudence and foresight as reasonably and ordinarily exercised by experienced operators engaged in the same line of business under the same or similar circumstances and conditions and in accordance with good operating practice;
Rule Amendment Notice	means a notice issued by APX in accordance with paragraph 21.12;
Seller	means a Party that sells an Instrument in a Transaction;
Sublicense Conditions	means the terms and conditions laid down in Appendix C pursuant to which the Trading System software and other third party hardware, software and electronic data are provided to Members;
System Failure	means any failure or malfunction of the Trading System (excluding a Connection Failure) which, amongst others, prevents Trading Members from using the Trading System or which prevents the accurate processing display or matching of Orders, Transactions or the giving of, notices or confirmations of Transactions by APX as required by the Power Market Rules;
Trade Instruction	means in respect of any Trading Member, data transmitted electronically by or to the Trading System carrying the Log-in Code of such Trading Member;
Trading Member	means a party that has entered into the Membership Agreement and has been provided with Access Rights;
Trading Day	means any Day on which Members may enter into Transactions on the relevant Power Market, as published by Notice from time to time;

Trading System	means an electronic communications system, including all relevant hardware and software, operated by or on behalf of APX which, amongst other things, facilitates the posting and acceptance of Orders on the Power Market and the giving of electronic notices or confirmations of Transactions by APX;
Transaction	means an agreement between the Clearing House and a Trading Member, concerning such Trading Member's obligations to deliver or offtake the relevant Instrument and to pay or receive the agreed Price corrected by the Fees or other monetary remuneration;
Trading Limit	means a restriction applied to the trading activity of a Member reflecting financial limitations of Member and which is based on risk management considerations of the Member, its clearing member or ECC, in accordance with the ECC Clearing Conditions;
TSO	means a company that operates the Grid in a specific area;
View Only Access Rights	means the rights of a Member pursuant to the Power Market Rules to have access to and use the Trading System for the sole purpose of viewing the information made available on the Trading System, without the right to place Orders and enter into Transactions;
Volume Cap	means a volume restriction determined or imposed by APX or requested for by Trading Member for its Orders, which can be configured per Authorised User and per Position Account;

Interpretation - General

1.4 In these Power Market Rules, unless the context requires otherwise:

- a. a reference to a particular paragraph is a reference to a paragraph in these Power Market Rules and a reference to a particular article is a reference to an article in the Appendix where such reference is made, unless stipulated otherwise in such Appendix;
- b. words in the singular may be interpreted as including the plural and vice versa;
- c. the word "including" is to be construed as: "including without limitation";
- d. a derivative term of any defined term shall be construed in accordance with the relevant definition;
- e. a reference to any specific legal requirement shall be construed, at any particular time, as including a reference to any modification, extension or re-enactment (before or after the date of the Membership Agreement) of that legal requirement in force at that time;

- f. references to any Dutch legal concept shall, in respect of any jurisdiction other than the Netherlands, be deemed to include the concept which in that jurisdiction most closely approximates the Dutch legal concept;
- g. these Power Market Rules have been drawn up in the English language. In the event of any discrepancy between the English text of these Power Market Rules and any translation thereof, the English language version shall prevail;
- h. headings are used or made for convenience only and shall not affect the interpretation of any provisions of these Power Market Rules.

2. STRUCTURE OF THE POWER MARKET RULES

2.1 These Power Market Rules are structured as follows:

- a. Chapter I Rules applicable to all services of APX;
- b. Chapter II Rules applicable to the OTC Clearing Service [not applicable];
- c. Chapter III Rules applicable to the Power Market; and
- d. Chapter IV Rules applicable to Reference Pricing [not applicable].

3. OBJECTIVE OF THE POWER MARKET RULES

The objective of these Power Market Rules is to regulate the organisation and operation of the Trading System by APX and provide uniform, non-discriminatory rules for the fair and orderly trading on the Power Market. The Power Market Rules are adopted by the statutory management of APX. These Power Market Rules may be amended by APX in accordance with paragraphs 21.11 - 21.13 (**Changes to the Power Market Rules**) from time to time.

4. REQUIREMENTS FOR MEMBERSHIP

4.1 An Applicant can only become a Member if it meets the relevant Access Criteria and a Member must continue to meet the relevant Access Criteria in order to have Access Rights or View Only Access Rights.

4.2 The following Access Criteria shall apply at all times for Trading Members. A Member with View Only Access Rights only needs to fulfil the Access Criteria in paragraphs a through c (inclusive) and h. APX may impose additional requirements on the Members:

- a. the Applicant is a legal entity and not a natural person and shall possess, to APX's satisfaction, that degree of skill, diligence, experience, prudence and foresight as reasonably and ordinarily exercised by professional parties engaged in trading of electricity in the wholesale market;
- b. the Applicant must be established in a member state of the European economic area. In addition to these states, APX may decide that Applicants that are not established in member states of the European economic area can also apply for membership of APX;
- c. where an Applicant is not a company incorporated in the European Union or an EFTA Member State, it shall have provided APX, in writing, with an address in an EU Member State or an EFTA Member State for the service of process on its behalf in any legal proceedings;
- d. the Applicant shall have obtained and shall maintain all licences, authorisations, permits, consents and other approvals necessary to enable it to enter into Transactions related to the products for which it has Access Rights and to fulfil its obligations under the Power Market Rules and the relevant provisions of the ECC Clearing Conditions;
- e. the Applicant shall be duly organised and shall exist validly under the laws of the jurisdiction under which it is established and shall have the legal right, power and authority to conduct business on the Power Market in accordance with the Power Market Rules and to execute and deliver the relevant Membership Agreement;
- f. APX must be satisfied that the Applicant is in an actual good financial situation and has sound financial prospects;

- g. APX must be satisfied that all those (co-)determining the day-to-day policy of an Applicant have sufficient expertise to conduct the electricity trading-business, as applicable;
- h. APX must be satisfied that the intended or past activities of any person or persons determining or co-determining the policy of the Applicant, or other facts or circumstances relating to these persons, will not represent a serious risk to the interests of APX or other Members;
- i. the Applicant is a Clearing Participant, except where the Applicant has committed itself to act on behalf of Light Members only; and
- j. APX can request any additional information that it deems reasonably necessary to take into consideration the special characteristics of the Applicant.

5. APPLICATION PROCEDURE

Applications to Subscribe as a Member

- 5.1 An Applicant may apply to be a Member by executing the Membership Agreement in duplicate and duly delivering both originals to APX together with all other documentation required by APX.
- 5.2 On receipt of an executed Membership Agreement, if APX is satisfied that the Applicant meets and is likely to continue to meet the relevant Access Criteria, APX will grant Access Rights or View Only Access Rights as the case may be to the Applicant, and when APX concludes that the Applicant does not meet the criteria it will inform the Applicant its refused access with a justification for this decision.

6. RIGHTS AND OBLIGATIONS OF MEMBERS

Access Rights of a Trading Member

- 6.1 A Trading Member shall have Access Rights to trade Instrument(s) as from the date specified in the Membership Agreement as the "Effective Date" (or such later date as APX has notified in writing to the Trading Member) and for such a period as may be determined in accordance with these Power Market Rules, subject to:
 - a. compliance by the Trading Member with the relevant Access Criteria;
 - b. compliance by the Trading Member with the applicable ECC Clearing Conditions, unless that Trading Member only acts for and on behalf of Light Members; and
 - c. the provisions of these Power Market Rules.
- 6.2 Where a Trading Member has been granted Access Rights, that Member may, subject to the Power Market Rules:
 - a. post, withdraw and amend Orders on the Trading System; and
 - b. view its Orders and its Transactions hosted on the Trading System and view anonymous Orders of other Trading Members (if applicable) as well as any other information displayed or made available by the Trading System.

View Only Access Rights

- 6.3 Where a Member has been granted View Only Access Rights, that Member may, subject to the Power Market Rules, view information displayed or made available by the Trading System.
- 6.4 A Member shall have View Only Access Rights as from the date specified in the Membership Agreement as the "Effective Date" (or such later date as APX has notified in writing to the Member) and for such a period as may be determined in accordance with these Power Market Rules, subject to compliance by the Member with the relevant Access Criteria and the provisions of these Power Market Rules.

Duty to inform and assistance

- 6.5 If a Member no longer continues to meet the relevant Access Criteria, or has reason to believe that it will not do so in the future, it must immediately notify APX.
- 6.6 Where a Member requests the assistance and/or advice of APX in overcoming any Connection Failure or any other failure of the Member's Connection Equipment and APX agrees to provide such assistance, the Member shall pay APX's costs and expenses incurred in advising and/or assisting the Member in solving such Connection Failure.

Authorised Users

- 6.7 A Trading Member shall select which of its directors, employees or other agents may give Trade Instructions and otherwise act on its behalf for the purposes of trading by means of the Trading System in Instruments, each such person being an "Authorised User" in respect of the Member. A Member shall give APX prior written notice of the identity and contact details of such Authorised Users enabling APX to contact the Authorised User, if required. The Authorised Users shall have no limitations whatsoever in their authority to act on behalf of the Member vis-à-vis APX unless explicitly indicated in the Membership Agreement.
- 6.8 The Member shall take all reasonable care in the selection and supervision of any Authorised User that acts on its behalf.
- 6.9 The Member shall notify APX immediately by facsimile transmission or mail (including e-mail) in the event of a replacement of an Authorised User or in the event of any amendment to the contact information of such Authorised User.
- 6.10 The Member shall cause its Authorised User to use the Log-in Code lawfully and in compliance with the Power Market Rules and keep the Log-in Codes confidential and under lock and key. The Log-in Code is personal and specifically assigned to the Authorised User. The Member shall therefore cause its Authorised User not to provide or disclose the Log-in Code to other persons. The Member is and shall remain responsible and liable for (i) all use of the Log-in Code by its Authorised User and (ii) any and all acts or omissions of such Authorised User in respect of the Log-in Code.

Obligations of Members

- 6.11 Without prejudice to any other obligation in these Power Market Rules, each Member shall:
- a. abide by the terms of and perform the obligations attributed to Members under the Power Market Rules;
 - b. abide by the terms of and perform its obligations in respect of Transactions entered into by it in accordance with Power Market Rules;
 - c. at all times ensure that it satisfies the relevant Access Criteria and all additional requirements under the ECC Clearing Conditions and immediately notify APX as soon as reasonably practicable if it is of the opinion that it will, or may, fail (or has failed) to satisfy any such criteria or requirements;
 - d. give notice to APX as soon as reasonably practicable if such Member is of the opinion that it will, or may, fail to make any payment or discharge a delivery obligation due in accordance with the Power Market Rules;
 - e. ensure that all data submitted into the Trading System is correct and that it is able to perform its obligations in respect of any Transaction to which it is a party in accordance with the ECC Clearing Conditions;
 - f. prevent unauthorised use of the Member's Log-in Codes by any person;
 - g. be responsible for the sound operation of its own IT systems;
 - h. notify APX when any one or more other Members become a Group Company of the Member;

Fees and Other Sums

- 6.12 Each Member shall owe APX in Euros the Fees, including application Fee, entrance Fee, annual Fee, Transaction Fees and miscellaneous Fees as specified on the APX Website as amended from time to time by Notice.
- 6.13 All Fees under these Power Market Rules shall be invoiced by or on behalf of APX in accordance with these Power Market Rules.
- 6.14 The invoice shall in any event include:
- a. Fees that the Member may owe to APX;
 - b. the identity of the Member;
 - c. a unique reference number; and
 - d. VAT and any other applicable taxes or levies payable by the Member in respect of the above.
- 6.15 All Fees shall be payable on the date of receipt of the invoice. Within 10 business days following the end of the month or of the quarter, as the case may be, the Fees shall be collected by the Clearing House and remitted to APX.
- 6.16 In the event that the Member fails to make a payment in accordance with the stipulated time frame, APX is entitled to the legal interest rate due to APX in accordance with Article 6:119a Dutch Civil Code.
- 6.17 A Member is not allowed to set off its obligations towards APX against obligations of APX.

7. RIGHTS AND OBLIGATIONS OF APX

- 7.1 APX shall monitor the trade in the Instruments on the Power Market it operates and shall supervise the observance by the Members of the Power Market Rules.
- 7.2 Monitoring and supervision by APX shall not constitute a guarantee vis-à-vis the Members, or third parties against a breach of the Power Market Rules by any Member or the occurrence of other irregularities on the Power Market or within the organisation of any Member. APX shall not be liable vis-à-vis the Members or third parties for any losses or other damages connected with or arising from any breach of the Power Market Rules or other irregularities, unless expressly provided otherwise. APX may not be held liable for conducting or failing to conduct any investigation, inquiry or examination or for any consequences thereof.
- 7.3 Without prejudice to any other obligation in these Power Market Rules, APX shall:
- a. abide the terms of and perform the obligations attributed to APX under the Power Market Rules;
 - b. maintain a level of security of access to, and use of, the Trading System to the standard of a Reasonable and Prudent Operator;
 - c. take steps to the standard of a Reasonable and Prudent Operator to prevent unauthorised use by employees and agents of APX of the Member's Log-in Code;
 - d. as soon as reasonably practicable, notify the Member of any unauthorised attempts, of which APX becomes aware, to use any of the Member's Log-in Code;
 - e. not submit Orders on its own name for its own account;
 - f. take all such steps to the standard of a Reasonable and Prudent Operator to operate the Trading System in accordance with the Power Market Rules; and
 - g. will act towards Members in a non-discriminatory and independent manner.

8. DISCIPLINARY SANCTIONS

- 8.1 If APX determines, at its sole discretion, that a Member has ceased to satisfy the Access Criteria set by these Power Market Rules or violates any provision of the Power Market Rules

or has acted in a manner that is detrimental or threatens to be detrimental to the interests of APX, APX may without prejudice to other powers conferred upon it, take any or any combination of the following measures at any time:

- a. issuing a written warning to the Member;
- b. reporting APX's determination to any Competent Authority;
- c. withdrawing from the Trading System any Orders submitted by the Trading Member;
- d. cancel any Transaction which the Trading Member has entered into;
- e. suspending the Access Rights of a Trading Member or the View Only Access Rights of a Member in accordance with paragraph 16; and/or
- f. terminating the Member's Membership Agreement in accordance with paragraph 9;

8.2 Within fifteen Days after the date of notice from APX to the Member involved, that Member may object against any decision of APX to take disciplinary measures by initiating proceedings in accordance with paragraph 10. An objection lodged by a Member hereunder does not suspend the disciplinary measure(s) taken by APX.

9. TERMINATION OF MEMBERSHIP

Termination on Notice

9.1 A Member or APX may terminate the Membership Agreement, by giving no less than 30 days' prior written notice of such termination to the other.

9.2 Notwithstanding paragraph 9.1, APX may terminate the Membership Agreement with immediate effect if the Clearing Membership of a Trading Member is terminated by the Clearing House in accordance with the ECC Clearing Conditions.

9.3 Notwithstanding paragraph 9.1, a Member may terminate the Membership Agreement:

- a. by written notice if APX amends the Power Market Rules provided APX receives such notice within 10 Business Days after a Rule Amendment Notice has been published by APX on the APX Website. The Trading Member shall remain bound by the Power Market Rules as amended by the Rule Amendment Notice in respect of any Transaction entered into by the Trading Member after such Rule Amendment Notice came into force.
- b. by giving 10 Business Days' written notice in the event that APX is in material breach of its obligations under the Membership Agreement and the default remains unremedied during such period of notice.
- c. forthwith by written notice following termination of all of the Member's Access Rights or View Only Access Rights under paragraph 8.1 (**Disciplinary Sanctions**).

Effects of Termination

9.4 In the event of termination of the Membership Agreement for any reason:

- a. save as provided otherwise in the Power Market Rules the Parties shall, with respect to each other, cease to be bound by the terms of these Power Market Rules;
- b. such termination shall not prejudice any rights which may have accrued or which, on termination, accrue to either Party pursuant to these Power Market Rules and/or Transactions; and
- c. the provisions of these Power Market Rules respecting confidentiality, maintenance of records, Fees, invoicing and payment (and any other provision which expressly survives or comes into effect on such termination) shall remain in full force and effect.

No Rescission or Nullification

9.5 Notwithstanding the provisions of this paragraph 9.1 up to and including 9.4 and to the extent permitted by law, the Parties hereby waive their rights under Articles 6:265 to 6:272 inclusive and 6:228 and 6:230 of the Dutch Civil Code to rescind (*ontbinden*), nullify (*vernietigen*) or

amend (*wijzigen*) on the ground of error (*dwalig*), or demand the same in any legal proceedings, including the dispute resolution procedure under these Power Market Rules.

10. DISPUTE RESOLUTION

Jurisdiction

- 10.1 APX and Members shall submit to the Appeals Committee any dispute between them relating to the Power Market Rules. This paragraph 10 does not intend to provide for a dispute resolution procedure that applies to disputes between Members.
- 10.2 The decision of the Appeals Committee is final and binding upon both parties to the dispute.
- 10.3 The administration of APX serves as full and binding legal evidence in the event of disputes.

Composition

- 10.4 The Appeals Committee shall be composed of at least six persons, i.e. the chairman, one or more deputy chairman and at least four other members.
- 10.5 The chairman, the deputy chairman and at least one half of the other members may not be associated with APX or a Member.
- 10.6 The chairman and deputy chairman shall satisfy the criteria of eligibility for appointment as a judge to a court in the country of their citizenship.
- 10.7 At least one half of the other members of the Appeals Committee shall be experts in energy or energy derivatives trading or in the settlement of transactions in energy or energy derivatives. At least one fourth of the other members shall satisfy the criteria for eligibility for appointment as a judge in a district court.
- 10.8 No person who has attained the age of 72 shall qualify for appointment or reappointment. A member shall retire no later than in the year in which he/she attains the age of 72.
- 10.9 APX shall appoint members of the Appeals Committee. APX shall make its decision in consultation with the chairman.
- 10.10 Appointment shall be for a period of four years. Each member may be re-appointed with due observance of the provisions in paragraphs 10.4 to 10.9 inclusive.
- 10.11 APX may for good and sufficient reason prematurely dismiss any members of the Appeals Committee. APX shall make its decision in consultation with the chairman, unless the decision concerns the chairman.
- 10.12 APX may pay members of the Appeals Committee for their services.

Official Secretary

- 10.13 In consultation with the chairman of the Appeals Committee, APX shall appoint a secretary, who may not be associated with APX or a Member and shall be required to hold the degree of Master of Law (*Meester in de Rechten*).
- 10.14 APX may, in consultation with the chairman of the Appeals Committee, dismiss the secretary.
- 10.15 APX may pay the secretary of the Appeals Committee for his/her services.

Appeals Committee

- 10.16 An Appeals Committee of at least six members, including the chairman shall hear any dispute. The chairman may decide that an Appeals Committee consisting of only three

members, including the chairman will decide an individual dispute. The chairman shall elect the other members of the Appeals Committee.

10.17 The chairman of the Appeals Committee is authorized where necessary to interpret and supplement the procedure as established in this paragraph 11. No legal remedy shall be available against the exercise of this authority.

10.18 If the chairman of the Appeals Committee is absent or prevented from acting, a deputy chairman may act in his/her place.

Right of Challenge

10.19 The secretary shall notify each of the parties to a dispute of the composition of the Appeals Committee and draw their attention to the right of challenge as referred to in the following paragraphs.

10.20 During a period of one week from the date of the notification as referred to in paragraph 10.19 above, each of the parties to the dispute shall be entitled to inform the Appeals Committee by registered letter, with a copy for the other party to the dispute, that it wishes to challenge one or more of the members of the Appeals Committee, stating its reasons.

10.21 Each member of the Appeals Committee may be challenged on the grounds that facts or circumstances exist relating to him/her as a result of which his/her impartiality vis-à-vis the case being brought before the Appeals Committee for its consideration might be questioned. Each member shall have the right to be excused.

10.22 The Appeals Committee, excluding the member challenged, shall decide on a challenge as soon as possible. No legal remedy shall be available against its decision.

10.23 The secretary shall notify each of the parties to the dispute of the decision taken in respect of a challenge, and where applicable of the name of the person who is to replace the member rejected.

10.24 The chairman may deviate from the provisions of paragraphs 10.16 to 10.18 inclusive, if and to the extent necessary for the application of the preceding paragraphs.

Submission of a dispute

10.25 A dispute as referred to in paragraphs 10.1, 10.2 and 10.3 shall be submitted by the petitioner by registered letter addressed to the Appeals Committee, which shall hear and decide the dispute in accordance with this paragraph 10.

10.26 Any petition as referred to in paragraph 10.25 shall state the name and address of the petitioner and introduce the complaint with all relevant documentation.

10.27 If a petition is submitted which fails to observe the provisions of paragraphs 10.25 and 10.26, the chairman may give the petitioner the opportunity to remedy the failure within such period, as the chairman shall specify.

10.28 No petition shall be considered by the Appeals Committee which is not submitted in time or which, after the petitioner has been given an opportunity to remedy any failure in the manner provided in paragraph 10.27, if applicable, does not fully satisfy the provisions of paragraphs 10.25 and 10.26.

10.29 Before deciding to hear a dispute, the Appeals Committee may request the petitioner to supply further written information of his petition within such period, as the Appeals Committee shall specify.

- 10.30 The Appeals Committee shall give the other party to the dispute written notice of its intention to hear a dispute, accompanied by a copy of the petition and any other documents submitted to the Appeals Committee by the petitioner.
- 10.31 The Appeals Committee shall give the other party to the dispute a period of one month from the notice referred to in paragraph 10.30 to respond in writing to the petition and any other documents furnished by the petitioner. The Appeals Committee may extend the period mentioned in the preceding sentence at the reasonable request of the other party to the dispute.

Procedure

- 10.32 The Appeals Committee shall hear a dispute at a sitting during which each of the parties to the dispute shall be given an opportunity to explain its point of view. The Appeals Committee shall inform the parties to the dispute of the time and place of the said sitting.
- 10.33 Either party to the dispute may, if desired, be assisted by legal counsel, who shall have the right to speak for such party at the sitting as referred to in paragraph 10.32.
- 10.34 Each party to the dispute that wishes a witness or expert to be heard at the sitting of the Appeals Committee shall give the Appeals Committee written notice to that effect within such period as the Appeals Committee shall set for this purpose. The Appeals Committee shall promptly send the other party to the dispute a copy of any notice as referred to in the preceding sentence.
- 10.35 The Appeals Committee shall only make use of printed or written documents or other items of evidence after giving both parties to the dispute an opportunity to take cognizance thereof and to react thereto in such manner as the Appeals Committee may determine.

Competencies

- 10.36 The Appeals Committee may require the parties to the dispute to provide all such information as it may consider necessary. The Appeals Committee may also hear witnesses and experts, and require the production of books and records, or an audit of books and records by such registered accountant as it may nominate, or both.
- 10.37 Other Members shall co-operate fully in the "Appeals Committees" investigation, including testifying as a witness or giving an expert opinion.
- 10.38 The Appeals Committee shall be free to treat non-compliance with any requirement set out in paragraph 10.36 and 10.37 in such manner, as it deems fit.

Decision

- 10.39 The Appeals Committee shall make its decision by majority vote as soon as possible and in any event not later than one month after completion of its investigation of any dispute.
- 10.40 Where the Appeals Committee finds a contested decision by APX was correct, such decision shall be upheld. Where the Appeals Committee finds a contested decision incorrect, it shall replace the contested decision by such decision as it deems fit.
- 10.41 In delivering judgment and subject to paragraph 11 (**Liability**), the Appeals Committee may make an order against a party to the dispute found to be at fault or largely at fault for the damages caused to the other party and/or the costs of the hearing of the dispute by the Appeals Committee, as well as for reasonable reimbursement of the cost of any legal assistance necessarily incurred by the other party in connection with the dispute. The party to the dispute found to be at fault or largely at fault, must pay such costs and/or damages to the Appeals Committee or the other party, as the case may be, within such period as the Appeals Committee shall determine.

- 10.42 The members of the Appeals Committee shall judge honestly and fairly. Any decision by the Appeals Committee shall be binding on the parties concerned.
- 10.43 Each decision by the Appeals Committee, which shall be recorded in writing, stating reasons, shall state that it was arrived at in accordance with the provisions of these rules. It shall further state the names of the Parties concerned, the date of the decision, the names of the members of the Appeals Committee that made the decision and the name of the secretary, and shall be signed by the chairman and the secretary. The signed decision shall be deposited with the secretariat of the Appeals Committee.
- 10.44 The secretary shall promptly send a copy of the decision by registered letter to each of the parties to the dispute.
- 10.45 Any decision of the Appeals Committee or decision upheld by the Appeals Committee, as the case may be, may be put into effect as soon as it has been brought to the notice of both parties to the dispute in accordance with the provisions of paragraphs 10.39 to 10.45 inclusive.

Publication of Decision

- 10.46 APX may publish all decisions of the Appeals Committee in such manner, as it deems fit.
- 10.47 After expiry of each calendar year, the Appeals Committee shall report to APX on the disputes heard by it.

Confidentiality

- 10.48 The members of the Appeals Committee and the secretary shall hold confidential the deliberations of the Appeals Committee and any confidential information disclosed to them in connection with any dispute proceedings.

Notifications

- 10.49 Notifications sent to Members under this paragraph may legally be addressed to the address of the Member as recorded by APX in accordance with paragraph 10.26.

Status of Orders

- 10.50 Each Party agrees not to contest the validity or enforceability of Orders under the provision of any law applicable to such Party which provides that any documents are to be in writing or signed on behalf of any person.

Admissibility of Trade Instructions

- 10.51 In any proceedings between the Parties, a paper copy of any Trade Instruction shall be admissible to the same extent and under the same conditions as other records originated and maintained in a documentary form.

Waiver of Admissibility

- 10.52 Without prejudice to the Parties' rights to challenge the authenticity of any documentary reproduction of a Trade Instruction, neither Party shall, in any proceedings or mediation between the Parties, contest the admissibility of a documentary copy of any Trade Instruction on the basis that the Trade Instruction was originated in non-documentary form.

11. LIABILITY

No liability for Loss of Access Rights

- 11.1 APX shall not be liable to any Member other than as expressly provided in the Power Market Rules for any loss, including loss of profit, liability, damage, claim, action, proceeding, cost and expense arising directly or indirectly from or in connection with the occurrence of any suspension or termination of any Access Rights or View Only Access Rights of that (or any other) Member in accordance with paragraph 16 (**Suspension**) or as a result of any inability or limitation of the ability of the Member to use the Trading System and/or the Connection Equipment for any reason whatsoever.

Liability of APX

- 11.2 APX shall not be liable to a Member for any loss, damage, cost, expense, or any other liability or claim suffered or incurred by or made against a Member as a result of the use by the Member of the Trading System and/or the Connection Equipment, except to the extent such damage results directly from the non-compliance by APX with its obligations under the Power Market Rules other than as a result of a Force Majeure. For any other obligations, APX will under no circumstances be held liable unless such damage is a direct result of wilful misconduct or fraud on the part of the board of directors of APX.
- 11.3 In the event any claim is made by any person against APX seeking to impose liability, a declaration of law or forcing any conduct on APX as a direct or indirect result of the use by a Member of the Trading System, such Member shall indemnify APX for all associated costs and damages of APX including any amounts payable by it pursuant to a settlement agreement between APX and such person, provided the Member has consented to the conclusion of such settlement agreement.
- 11.4 APX shall not be liable for any costs or damages incurred by a Member that are caused by any action or omission of APX, which action or omission, in whole or in part, results from:
- a. measures taken by any Competent Authority;
 - b. disruption or blackout of Grids;
 - c. an event of default or tort committed by another Member, a Clearing Participant or a third party, not being a Member;
 - d. any amendments or switches in the use of algorithms used in the Matching Process;
 - e. actions of other power exchanges;
 - f. actions of TSOs; or
 - g. Force Majeure.
- 11.5 Notwithstanding anything to the contrary in the Power Market Rules, all obligations of APX described in the Power Market Rules are solely obligations towards its Members. The Power Market Rules are not to be interpreted or construed to imply that APX has any obligation to any person or entity other than its Members.

Liability of a Member

- 11.6 A Member shall be liable for any costs and damages which APX suffers as a consequence of any breach by a Member of its obligations under the Power Market Rules, without any notice of default by APX being required.
- 11.7 Nothing in the Power Market Rules shall exclude or limit the liability of the Member for any damage or loss which is the immediate consequence of the wilful misconduct or gross negligence of the members of the board of managing directors, senior management or Authorised Users of such Member.

Limitations on Liability

- 11.8 APX shall never be liable for Consequential Damages. The liability of APX is in any event limited to an overall amount of one hundred thousand Euro (EUR 100,000) per year, per Trading Member, and all breaches included.

Force Majeure

- 11.9 Subject to compliance with paragraph 11.11 (below), the obligations of each of the Parties pursuant to the Power Market Rules, other than the obligations to make payments of money and to make delivery and accept delivery in respect of any Transaction pursuant to the ECC Clearing Conditions, shall be suspended during the period and to the extent that such Party is prevented or hindered from complying therewith as a result of Force Majeure. The obligations to make payments of money and to make delivery and accept delivery in respect of any Transaction are subject to the ECC Clearing Conditions.
- 11.10 The inability of a Member to fulfil its obligations under the Power Market Rules caused by APX in the exercise of its rights under the Power Market Rules and/or the Clearing House exercising its rights under the ECC Clearing Conditions shall not constitute Force Majeure on the part of such Member.
- 11.11 If a Party relies on the occurrence of an event or circumstance of Force Majeure as a basis for being excused from performance of any of its obligations under the Power Market Rules, such Party shall:
- a. provide prompt written notice to the other Party of the occurrence of the event or circumstance, giving an estimate of its expected duration and the probable impact on the performance of the affected obligations;
 - b. use its reasonable endeavours to remove or overcome the event or circumstance of Force Majeure, provided that nothing shall require a Party to accede to demands deemed to be unreasonable by such Party in connection with a strike or labour dispute;
 - c. provide notice to the other Party of the cessation of the event or circumstance giving rise to such Force Majeure; and
 - d. resume the performance of the obligation which it was unable to fulfil as a result of such Force Majeure as soon as reasonably practicable after the removal of the event or circumstance giving rise to such Force Majeure.

Legal Requirements

- 11.12 Nothing in this paragraph 11 shall constitute a waiver by APX of any right it may have in respect of a breach by any Member of any legal requirement.

Severability of Terms

- 11.13 Each provision of this paragraph 11 shall be construed as a separate and severable Transaction term, and shall survive the termination pursuant to paragraph 9 (**Termination of Membership**).

12. CONFIDENTIALITY AND NON-DISCLOSURE

Confidentiality Obligation

- 12.1 Each Party shall secure that Confidential Information is not disclosed to any Person other than:
- a. an officer, agent or employee of the Party (including any person seconded to such Party) who needs to know the same to perform its duties;
 - b. a professional adviser of, sub-contractor of, or consultant to the Party;
 - c. any Group Company of such Party's Group; or
 - d. an officer, agent or employee of the Clearing House (including any person seconded to the Clearing House) who needs to know the same to perform its duties.

In any such case, the aforementioned disclosure shall be in accordance with the requirements of paragraph 12.4 (below) and (in relation to paragraphs b and c) only to the extent necessary for the exercise by the Party of its rights and the performance by such Party of its obligations under the Power Market Rules, or for the purposes of any audit or review of the Party but in the latter case not so as to permit disclosure of a Member's Log-in Codes.

Confidential Information

- 12.2 "Confidential Information", for the purposes of the APX's obligations under paragraph 12.1, means any commercially sensitive information relating to the business affairs of a Member which is obtained by APX in writing, or by electronic transmission of data, pursuant to or in the course of the implementation or performance of the Membership Agreement and the Power Market Rules and the use of the Trading System by the Member including:
- a. the Member's Log-in Code;
 - b. in relation to any Transaction to which the Trading Member is a party, the identity of the Trading Member;
 - c. details of the Member's Connection Equipment; and
 - d. software and hardware provided subject to the Sublicense Conditions.

For the purposes of the Member's obligations under paragraph 12.1, Confidential Information means any commercially sensitive information relating to the business affairs of APX or any other Member which is obtained in writing, or by electronic transmission of data or by any other means (including by telephone), by the Member pursuant to or in the course of the implementation or performance of the Power Market Rules including the Member's Log-in Codes, software and hardware provided subject to the Sublicense Conditions.

Disclosure of Confidential Information

- 12.3 Where Confidential Information is disclosed by a Party as permitted under paragraph 12.1, the Party disclosing such information shall take all reasonable steps to secure that the person to whom the information is disclosed:
- a. is aware of that Party's obligations under paragraph 12.1 in relation thereto; and
 - b. does not disclose the information other than as is permitted of such Party in accordance with paragraph 12.1.

Permitted Disclosures

- 12.4 Nothing in paragraph 12.1 shall apply to the disclosure by APX or a Member of the Member's Access Rights or View Only Access Rights, or to the disclosure or use by a Party of Confidential Information to which the other Party has consented in writing, or to the disclosure:
- a. of any Confidential Information which is in or enters the public domain, other than as a result of a breach by a Party of its obligations under paragraph 12.1;
 - b. of any Confidential Information to any person by a Party if and to the extent that such Party is required to make such disclosure to such person:
 - i. in compliance with its duties under the Electricity Act or otherwise in compliance with the requirements of a Competent Authority;
 - ii. in compliance with any other legal requirement;
 - iii. pursuant to paragraph 10 (**Dispute Resolution**), or pursuant to any judicial process or tribunal having jurisdiction in relation to such Party; or
 - iv. pursuant to any provision of the Membership Agreement or these Power Market Rules;
 - c. of Confidential Information where and to the extent that the disclosure of such information is reasonably required to be disclosed to any lending or other financial institution proposing to provide or arrange the provision of finance to, or security for, such Party, for the purposes of the provision or arrangement of such finance or security, and provided that the person to whom the information is disclosed undertakes in advance in writing to be bound by the provisions of this paragraph 12.4 with respect to the other Party;
 - d. of Confidential Information where and to the extent that the disclosure of such information is reasonably required to a bona fide prospective purchaser of either Party or

- of the business of either Party or any part thereof, provided that the person to whom the information is disclosed undertakes in advance in writing to the other Party to be bound by the provisions of this paragraph 12.4 with respect to the other Party;
- e. of any Confidential Information by APX required for the processing of Orders and/or for the Matching Process, as well as to APX's lawyers, bankers, insurers, insurance brokers and/or underwriters to such extent as may be reasonably required for the purposes of exercising its rights and performing its obligations under these Power Market Rules provided, for the latter disclosure only, APX notifies such persons of its confidentiality obligations and takes reasonable steps to secure an appropriate obligation of confidentiality from such persons.

Additional Permitted Disclosures by APX

12.5 Nothing in paragraph 12.1 shall apply to the disclosure by APX of summary or statistical data regarding:

- a. the number of Transactions or Orders processed by the Trading System in any period;
- b. daily Prices of Transactions or prices of Orders in respect of any period;
- c. daily quantities of Transactions or Orders (or any category thereof) in any period;

Such information may be disclosed on a real-time or historical basis, provided that APX does not name a Member as being a Party to any such Orders or Transactions unless this is required by a mandatory legal requirement or a Competent Authority.

Disclosure Following Unauthorised Access to the Trading System

12.6 Where:

- a. a Party which has disclosed information has complied with the requirements of, in the case of APX paragraph 7 (**Rights and Obligations of APX**), and, in the case of a Member, paragraph 6.11; and
- b. notwithstanding such compliance, a third party obtains any Confidential Information by unauthorised access to any element of the Trading System for which that Party is responsible,

that Party shall not be in breach of paragraph 12.1 by virtue of that third party having so obtained such Confidential Information.

Survival of Confidentiality Provisions

12.7 The provisions of paragraphs 12.1 to 12.4 inclusive shall continue to bind each Member and APX for a period of three years after termination pursuant to paragraph 9 (**Termination of Membership**), notwithstanding, and irrespective of the reason for, such termination.

Ownership of Sublicensed Material

12.8 The Sublicensed Materials shall belong to APX and to the extent that any intellectual property rights in such Sublicensed Materials may otherwise vest in any Member, such Member hereby assigns such rights to APX and, subject to paragraph 12.1 and without prejudice to any other requirement of these Power Market Rules, APX may use, deal with and disclose, such data as it thinks fit.

Further Assurance

12.9 Each Member shall execute and do all such documents, acts and things as APX may reasonably require for perfecting or protecting APX's title to the intellectual property rights to be assigned by a Member pursuant to paragraph 12.8 above.

13. MARKET CONDUCT

Integrity

- 13.1 Members and APX shall at all times co-operate in accordance with these Power Market Rules. Without limiting the foregoing the Member shall:
- a. observe high standards of integrity and fair dealing and high standards of market conduct; and
 - b. act with due skill, care and diligence.
- 13.2 Members are obliged to provide requested information, as far as APX deems necessary for all aspects of trading on the Power Market, within the term set by APX.
- 13.3 APX is entitled to carry out an investigation into the behaviour of a Member on the Power Market. The Member is obliged to provide full co-operation, which is necessary for the proper performance of the investigation. APX may be assisted by experts.

Conduct in Relation to Trading

- 13.4 It is the duty of each Member to behave in a fair and orderly manner in the Power Market so contributing to the strengthening of confidence in the functioning of the Power Market, in its effective operation and in an adequate protection of the interests of all other Members, even if this might, in particular instances, entail relinquishing immediate financial benefits.
- 13.5 It is the duty of each Member to contribute to maintaining general confidence in the integrity of the Power Market by trading in a fair and orderly manner and by observing professional ethics at all times. In particular, it must refuse to assist any Person attempting to deviate from these principles and may not lend itself to actions as a result of which normal market operation might be suspended or impeded.
- 13.6 Each Member shall refrain from manipulating the Power Market, whether by means of submitting of Orders, by spreading or encouraging rumours or spreading false information or otherwise, with the intent of:
- a. creating a false or misleading impression of the trading activity on the Power Market or of a particular Order; or
 - b. influencing Orders and/or Transactions on the Power Market submitted or entered into by other Members.

APX may clarify or extend the scope of this rule to cover special situations.

- 13.7 In no capacity whatsoever shall a Trading Member, whether directly or indirectly, buy or sell Instruments for its own account when in possession of confidential price-sensitive information in relation to the Power Market. No Trading Member shall induce a third party to deal or refrain from dealing in reliance upon confidential price-sensitive information.
- 13.8 No Member shall seek to accomplish indirectly, by acting in agreement or otherwise conspiring with a third party (whether or not a Member), anything that would, if done directly, be in contravention of these Power Market Rules.
- 13.9 No Member shall perform or omit the performance of any act whose performance or omission is or threatens to be detrimental to the name, reputation or interests of APX.

14. POSITION LIMITS

- 14.1 In order to enhance the confidence in the integrity of the markets maintained by APX, APX may, at its own discretion, at all times set and modify certain limits for:
- a. an Instrument or a group of Instruments by means of a Notice; and/or

- b. an individual Trading Member or a group of Trading Members by giving notice to such Trading Member or group of Trading Members.
- 14.2 APX may monitor the positions of the Trading Members on an ongoing basis in order to verify compliance by the Trading Members with such limits, to the extent applicable. Members are required to comply with any limits that have been set in accordance with this paragraph and APX will not be liable to its Members for not having exercised the powers conferred upon it by this paragraph.
- 14.3 Additionally, Trading Limits for the Members can be determined, in accordance with the bilateral agreement between the clearing member and the Member, by the respective clearing member who informs the Clearing House about their value or by the Clearing House in the course of its risk evaluation and in line with the ECC Clearing Conditions. The party who sets the limit bears the responsibility for assessing its value. Thus, APX cannot be held responsible for the value of the limit.
- 14.4 In case the Order does not comply with the Trading Limit the Order is rejected and not considered in the Order matching. The Trading Member is notified of the rejection.
- 14.5 The limit functionality will additionally allow the definition of a Realistic Price Range by setting a minimum realistic price as a lower boundary and a maximum realistic price as an upper bounder for the calculation of the exposure linked to an Order. The Realistic Price Range can be set through a system made available by the Clearing House.
- If a minimum realistic price is defined, Offers entered with a price lower than the minimum realistic price are evaluated with the minimum realistic price instead.
 - If a maximum realistic price is defined, Bids entered with a price higher than the maximum realistic price are evaluated with the maximum realistic price instead.
- 14.6 In the occurrence of a technical problem preventing APX from checking the compliance of Orders, the Trading Members will be nevertheless required to comply with their Trading Limits and APX may not be held liable in case of subsequent rejection or cancellation of orders and transactions either by APX or by the Clearing House.

15. TRADING DAY AND HOURS

- 15.1 Trading Days are listed in the Instrument Specifications as posted on the APX Website.
- 15.2 A Member shall not be able to use its Access Rights or View Only Access Rights during any planned maintenance period (during which the Trading System will be unavailable as a result of any maintenance or upgrading of the Trading System, and/or other equipment operated by or on behalf of APX in connection with the Trading System, including the Connection Equipment). APX shall use its best efforts to issue a Notice before undertaking any planned maintenance specifying accurately when the maintenance will be carried out and during what period.

16. SUSPENSION

Suspension of Access Rights or View Only Access Rights

- 16.1 A Member's Access Rights or View Only Access Rights may, at the sole discretion of APX, be suspended, in whole or in part, by APX:
- a. giving not less than 2 Business Days' prior written notice where, in the reasonable opinion of APX, there has been a material breach by the Member of any provision of the Power Market Rules which at the expiry of such period of notice has not been remedied;
 - b. with immediate effect and without prior notice, upon request of the Clearing House under the ECC Clearing Conditions;
 - c. pursuant to paragraph 8.1 (**Disciplinary Sanctions**); or

- d. with immediate effect and without prior notice, if, in the reasonable opinion of APX, a Member no longer continues to meet the relevant Access Criteria.

Notification of Suspension of Access Rights or View Only Access Rights

- 16.2 Where a Member's Access Rights or View Only Access Rights have been or will foreseeably be suspended, in whole or in part, APX shall as soon as reasonably practicable notify the Member of such suspension and the reason for it, followed by a written confirmation.

Resumption of Access Rights or View Only Access Rights

- 16.3 Where a Member's Access Rights or View Only Access Rights are suspended, in whole or in part, APX shall, by notification to the Member, permit the Member to resume exercising its Access Rights or View Only Access Rights once APX is reasonably satisfied, at its sole discretion, that the circumstances giving rise to such suspension no longer apply.

Restriction, Suspension or Termination

- 16.4 Whenever APX determines that it is in the interest of a fair and orderly market, APX is entitled to restrict, suspend or terminate trading on the Power Market. APX shall not be liable towards any Member for any damages and/or losses connected with or arising from such restriction, suspension or termination.

17. ELIGIBLE INSTRUMENTS

- 17.1 All Transactions in Eligible Instruments are handled by APX on the basis of the Instrument Specifications as they may be amended from time to time by Notice.
- 17.2 APX decides which Instruments qualify as Eligible Instruments by placing these on its screens for trading on the Trading System. APX may remove or amend existing Eligible Instruments from its screens and add new Eligible Instruments to its screens.

18. TRANSACTIONS

- 18.1 All Transactions arise in accordance with paragraph 27 (**Formation of Transactions**).
- 18.2 A Transaction that is rejected by the Clearing House for Clearing, will be considered null and void.
- 18.3 Without prejudice to paragraph 8.1.d, Transactions can only be cancelled in accordance with the provisions of Appendix B (**Cancellation and Manifest Error Procedure**).

19. NO JOINT VENTURE OR ADVISORY RELATIONSHIP

These Power Market Rules do not constitute a joint venture, nor does it constitute an advisory relationship between APX and the Members. Members are independent entities that act for their own account.

20. MISCELLANEOUS

Sub-contracting

- 20.1 APX may sub-contract the performance of all or any part of its obligations pursuant to the Power Market Rules.
- 20.2 APX shall be responsible for any, and all, acts, defaults or neglects of any sub-contractor in the performance of APX's obligations pursuant to the Power Market Rules or any part thereof, as if they were the acts, defaults or neglects of APX.

Invalid Provisions

- 20.3 In the event that a provision of these Power Market Rules is null and void or unenforceable (either in whole or in part), the remainder of these Power Market Rules shall continue to be effective to the extent that, given these Power Market Rules' substance and purpose, such remainder is not inextricably related to the null and void or unenforceable provision. APX shall be entitled to amend any null and void or unenforceable provision by Rule Amendment Notice in such a way as to create a valid and enforceable provision which differs as little as possible from the null and void provision, and the resulting amended provision may, if APX so determines, apply retrospectively.

General Waiver

- 20.4 Any waiver under these Power Market Rules must be given by written notice to that effect.
- 20.5 Where a Party fails to exercise any one or more rights under these Power Market Rules (which shall include the granting by a Party to the other Party of an extension of time in which to perform its obligations under any provision hereof), this shall not be deemed to constitute a forfeit of any of such rights (*rechtsverwerking*).

No assignment

- 20.6 Except as explicitly provided for in these Power Market Rules and/or the ECC Clearing Conditions, no Member shall assign all or any part of its rights and obligations under the Membership Agreement or the Power Market Rules, including rights and obligations under Transactions to any other person, by means of an assignment of rights (*cessie/stille cessie*), transfer of Transaction (*Contractsoverneming*), transfer of debt (*schuldovername*) or otherwise as relevant, without the prior written permission (*toestemming*) or co-operation (*medewerking*), as relevant, of APX, which permission or co-operation shall not be unreasonably withheld or delayed by APX.
- 20.7 Upon assignment, the rights and/or obligations under the Membership Agreement or the Power Market Rules, including rights and obligations under Transactions, assigned shall inure and be binding upon the successors and assigns of the Member.

Assignment to a Group Company

- 20.8 APX may assign all or any part of its rights and obligations under the Membership Agreement including the Power Market Rules to any of its Group Companies and the Member hereby consents to such assignment in advance.

Retention of records

- 20.9 APX will retain a complete record of each Transaction for ten years following the Day of the formation of such Transaction in accordance with paragraph 27.
- 20.10 At the request of the Member, and subject to payment by the Member of APX's reasonable costs, APX will, as soon as reasonably practicable, provide information relating to that Member's Transactions retained by APX pursuant to paragraph 20.9.
- 20.11 Notwithstanding paragraph 20.10, the Member shall be responsible (without relying on the records referred to in paragraph 20.9) for maintaining appropriate records of Transactions to which it is a party.
- 20.12 APX and the Member shall ensure that electronic or computer records maintained pursuant to this paragraph 20 are accessible and are capable of being reproduced in legible English and of being printed.

21. NOTIFICATIONS

General

- 21.1 Except as provided otherwise herein, any notice or other communication under or in connection with these Power Market Rules to be delivered or made by one Party to the other shall be given electronically in legible English to the relevant representative of such other Party.

Electronic Communications

- 21.2 Unless otherwise specified electronic communications shall be made by means of the Trading System and shall be effective at the time of transmission.
- 21.3 Any communication to a Member generated by the Trading System shall (where relevant) be deemed to be communications from APX for the purposes of these Power Market Rules.

Written Communications

- 21.4 If explicitly prescribed by these Power Market Rules a written notice or communication to be given by a Party in writing to the other Party shall be sent by letter or facsimile to the relevant representative of such other Party and shall be deemed to have been received:
- a. when sent by courier service 3 (three) Business Days after dispatch; or
 - b. when sent by registered mail 3 (three) Business Days after dispatch or if sent by airmail from overseas 5 (five) Business Days after dispatch; or
 - c. when sent by facsimile 2 (two) business hours after receipt. Receipts shall be deemed to have occurred when transmission of such facsimile communication has been completed and a positive transmission report has been produced by the transmitting machine. For the purposes of this provision, "business hour" shall mean any time between 09.00 and 18.00 hours on a Business Day in the country of the addressee.

If with respect to this paragraph 21.4 a Business Day is a public holiday in the country of the addressee, then the notice shall be deemed to have been received on the Business Day after the public holiday.

- 21.5 All notices to be sent in relation to any Transaction pursuant to the relevant ECC Clearing Conditions shall be made by means of the Trading System or in writing.

Contact Details of Relevant Representative

- 21.6 For the purposes of this paragraph, a "relevant representative" is an employee identified by the Member or APX to receive notices on its behalf for the purposes of the Power Market Rules, and the relevant representative's address, facsimile number, telephone number and e-mail address shall be as specified in the Membership Agreement or as otherwise notified by the Member or APX in writing from time to time.

Notices

- 21.7 APX may from time to time issue Notices in relation to any matter pertaining to the use or operation of the Trading System, Instrument Specifications, or otherwise relating to the Power Market by publishing the same on the APX Website in the area or section of such website reserved from time to time for the publication of such notices.
- 21.8 A Notice shall have been published on the APX Website where it is posted on the section of the APX Website dedicated for that purpose. When publishing a Notice, APX shall take reasonable steps to send details or signal the posting of that Notice via electronic mail to Members.

- 21.9 A Notice shall be effective from the time when it is published on the APX Website, unless that Notice specifies a later effective date, and notwithstanding that any Member has not or has not been able, for whatever reason, to access it and read the Notice.
- 21.10 A Notice shall remain in effect until it is amended, superseded or withdrawn by another Notice.

Changes to the Power Market Rules

- 21.11 APX may issue Rule Amendment Notices from time to time to implement amendments to the Power Market Rules.
- 21.12 A Rule Amendment Notice amending, deleting or substituting any provision set out in these Power Market Rules shall be clearly marked as a "Rule Amendment Notice" (but any omission by APX in this regard shall not affect the effectiveness of any such notice). A "Rule Amendment Notice" will be issued at least 14 Days before the Power Market Rule change(s) become effective.
- 21.13 A Member has the right to terminate the Membership Agreement pursuant to paragraph 9.3a if it does not wish to be bound by the terms of a Rule Amendment Notice.
- 21.14 Where the provisions of any Power Market Rules are amended or replaced pursuant to this paragraph 21, such amendments shall apply only in respect of Transactions entered into after the date of such Rule Amendment Notice, unless otherwise specified therein.

Interpretation Guidelines

- 21.15 APX may issue interpretation guidelines from time to time.
- 21.16 Issued interpretation guidelines are binding upon all Members as from the date determined by APX.
- 21.17 Interpretation guidelines will be communicated by APX to its Members in accordance with paragraph 21.7.

22. RECORDING

- 22.1 Each Party consents to the recording by the other of telephone and/or electronic communications made pursuant to the Power Market Rules and warrants that it has obtained the consent of each of its Authorised Users, directors, officers, employees or any other person required to the recording of any such communications and APX may (without prejudice to the foregoing) record such communications for the purpose of facilitating its operation of the Trading System and of fulfilling its obligations and functions hereunder and under applicable law or regulation.
- 22.2 Recording messages on a telephone answering device shall not be a valid method of telephone notification.

Data Protection

- 22.3 Each Member agrees to comply with and ensure compliance with all data protection laws and regulations in relation to and in connection with the use of the Trading System by it and its Authorised Users.
- 22.4 Each Member agrees that its use of the Trading System is conditional on its Authorised Users satisfying APX's registration procedures.
- 22.5 Each Member agrees to:

- a. procure all necessary consents, licenses, permits and authorisations as may be required by applicable law in relation to the use of the Trading System by the Member and its Authorised Users, including any such consents, licenses, permits and authorisations for the collection, disclosure and transfer of personal data relating to the Member and its Authorised Users, to APX or any of its Group Companies and to any third party to which APX may delegate services for functions in relation to the Trading System in accordance with the Power Market Rules;
- b. procure from its Authorised Users and any third party whose personal data are provided to APX for or on behalf of the Member all consents necessary to permit the APX's collection, disclosure and transfer of personal data to fulfil the APX's obligations or exercise its rights under the Power Market Rules, applicable law or regulation; and
- c. provide APX upon request with evidence that such consents, licenses, permits and authorisations have been obtained.

23. GOVERNING LAW AND APPEALS COMMITTEE

- 23.1 These Power Market Rules shall be governed exclusively by and construed in accordance with the laws of the Netherlands.

2. CHAPTER II - RULES APPLICABLE TO THE OTC CLEARING SERVICE

24. [Not applicable]

3. CHAPTER III - RULES APPLICABLE TO THE POWER MARKET

25. GENERAL TRADING SYSTEM OPERATIONS

Instruments which are traded by auction

25.1 The following provisions apply to Instruments which are traded by auction:

- a. For each Power Market and Instrument available for trading by auction, the trading phases and relevant trading schedules are mentioned in the relevant Instrument Specifications.
- b. During the Order accumulation period, or pre-trade phase, Orders can be entered, maintained, modified and deleted. Orders entered by Trading Members and transmitted to the Trading System are automatically recorded in the central Order Book without giving rise to Transactions.
- c. At the time(s) specified in the Instrument Specifications, the Trading System seeks to match Orders for each Instrument. During this Matching Process, Orders may not be entered into the Trading System, and Orders already entered may not be cancelled or modified.
- d. The Instrument Specifications shall indicate whether Market Coupling is taken into account in the Matching Process. In the event that Market Coupling is taken into account in the Matching Process, APX may publish non-firm preliminary market results (MCP, MCV, Transactions). Members acknowledge and agree that these non-firm market results are possibly subject to change or cancellation. Members shall not hold liable APX or any third party for damages incurred due to reliance on preliminary results.
- e. In case of exceptional circumstances APX may decide to reopen the Order Book and to allow Trading Members to submit new Orders and/or to modify or cancel already submitted Orders before a new auction takes place.
- f. After the auction is concluded, the Trading Members whose Orders have been partially or fully executed, will be provided all relevant trade information regarding each execution that has occurred by the Trading System.
- g. During the auction, Orders can be executed in full, partially or not at all depending on the type of Order. Orders in the Order Book matched during the auction will be executed at the MCP.

Instruments which are traded continuously

25.2 The following provisions apply to Instruments which are traded continuously:

- a. For each Power Market and Instrument available for trading continuously, the trading phases and relevant trading schedules are mentioned in the relevant Instrument Specifications.
- b. During the Order accumulation period, or pre-trade phase, Orders can be entered, maintained, modified and deleted. Orders entered by Trading Members and transmitted to the Trading System are automatically recorded in the central Order Book without giving rise to Transactions.

- c. The execution of Orders during the main trading session is effected on a continuous basis according to price/time priority. Upon arrival, each new Order transmitted to the Trading System is immediately checked to see if it can be executed against Orders on the other side of the Order Book; the limits of the Orders sitting in the Order Book determine the price.
- d. Orders can be executed in full, in one or more steps, partially or not at all. Thus, each new incoming Order may generate none, one or several Transactions. Orders in the Order Book will be executed according to the price/time priority principle. Orders or parts thereof that have not been executed are sorted in the Order Book according to price/time priority.
- e. The main trading session ceases in accordance with the relevant Instrument Specifications. Once the main trading session ceases, the last Price traded is considered the Closing Price (hereafter referred to as the "Closing Price"). If no Transactions are executed during the main trading session, there will be no Closing Price.

Minimum and maximum price

- 25.3 The maximum and minimum Price for which Trading Members can submit Orders on the relevant Power Market are determined by APX at its discretion. The maximum and minimum Price will be notified to Trading Members in accordance with paragraph 21.7 (**Notices**) and shall as soon as reasonable thereafter be published by APX on the APX Website. The maximum and/or minimum Price will be effective on the Day stated in Notice, which shall not be an earlier date than the issue date of the Notice.
- 25.4 The prices indicated in the Orders on the Power Market must be stated equal to or between minimum Price and maximum Price.

26. ORDERS

- 26.1 On the Power Market, Trading Members may place Orders for each Instrument. The Orders must be submitted by Trade Instruction to the Trading System. Each Order will obtain a unique sequence number.
- 26.2 Each Trading Member is fully responsible for the correctness of its Orders. This responsibility includes, without limitation, obtaining a sequence number or confirmation number for each Order, retaining a complete and correct copy or record of each Order and promptly and diligently reviewing all reports and notices.
- 26.3 Each Trading Member can arrange one or more Position Accounts with APX except where the Trading Member has indicated that it intends to act on behalf of Light Members only, in which case a Position Account for trading for its own risk and account shall be prohibited.
- 26.4 The volume per Order, per Instrument, will be bound to a default Volume Cap of 2.000 MWh, unless a Trading Member has requested another Volume Cap to be applied, which has been accepted by APX. The default Volume Cap may be amended by APX by means of a Notice pursuant to paragraph 21.7.
- 26.5 Matching of the Orders will take place in accordance with the Instrument Specifications and the Power Market Rules.
- 26.6 If a Trading Member is subject to a Connection Failure, it may request APX to withdraw all displayed Orders made by such Trading Member or indicate by means of the Trading System that all Orders will be withdrawn after the Connection Failure is detected. APX shall use its best reasonable endeavours to withdraw displayed Orders, to the extent possible, as soon as

practicable after receiving a request thereto from the Trading Member. APX shall not be liable towards a Member if any live Order of such Trading Member is matched, giving rise to a Transaction, after the request of the Trading Member to withdraw displayed Orders is made to APX. A Connection Failure shall not in any way affect existing Transactions, nor shall it affect the formation of Transactions.

- 26.7 Parties acknowledge that due to any physical, legal, administrative and/or any other impediments, a TSO may be obliged to reduce transport capacity, which may lead to a reduction or to hindrance to conclude certain Transactions on the Power Market. In such a case APX will have the right to close (part of) the Power Market and/or limit Member's Offers and/or Bids to levels indicated by the TSO or to deny such Orders entirely.

Trading on Behalf

- 26.8 In case of technical or functional problems during the transmission of Orders, a Trading Member can request APX to submit or delete Orders into the Trading System. This process is referred to as "Trading on Behalf".
- 26.9 When submitting a request, an Authorised User needs to transmit the Order to be entered into the Trading System to the operations department of APX as an attachment to an email. Immediately thereafter, the Authorised User must notify APX by phone that a request was submitted. The allowed file types for submitting Orders are *.xls and *.xml files. Mandatory *.xls templates and/or the syntax for *.xml files for submitting the Orders will be provided by APX on request and are downloadable via the APX Website.
- 26.10 An Authorised User needs to send a signed fax or e-mail with a signed and scanned document attached to the operations department of APX in which APX is given a power of attorney for submitting Orders on Member's behalf and in which APX is indemnified from all consequences resulting from APX submitting Orders on Member's behalf. If this fax or e-mail with attachment is not received prior to the Matching Process APX reserves the right to withdraw all Orders which APX submitted on Member's behalf.
- 26.11 Requests for trading on behalf and the relevant Order(s) must be received by APX ultimately by the time as indicated in the relevant Instrument Specifications. Any request submitted after that time shall not be considered by APX.
- 26.12 The service of "Trading on Behalf" is subject to availability of resources at APX and provided on a best efforts basis only. APX does not accept any liability for damages in whatever form, which may be the consequence or result of providing or denying this service.

Order Types

- 26.13 The Instrument Specifications determine whether and which specific types of Orders are allowed for a specific Order or group of Orders on the relevant Power Market.

Market Orders

- 26.14 Market Orders are matched at the next prices determined by the Trading System. In case of a Market Order, as much of the Order as possible is matched immediately and any remainder is automatically cancelled. If a Market Order cannot be matched, it is also automatically cancelled. Market Orders have priority over all other Orders.

Limit Orders

- 26.15 A Limit Order is executed either fully or partially, as market conditions permit. In continuous markets, as long as a Limit Order is not fully executed, the remaining volume, without prejudice to any execution condition that may apply, is logged in the Order Book in

descending buy-price Order or ascending sell-price Order (the price-priority principle) and joins the queue of Orders having the same price (the time-priority principle).

Block Orders

- 26.16 A Block Order stipulates:
- a. the number of Instruments it applies to;
 - b. the volume that applies to each Instrument included in the Block Order (volume may vary for each Instrument in a Block Order);
 - c. the maximum purchase price or minimum selling price.

26.17 Block Orders may be matched only if the following conditions are satisfied:

- a. the volume weighted average of the Price of each Instrument the Block Order relates to is lower than or equal to the given Block Order limit price in case of a Bid, or is higher than or equal to the Block Order limit price in case of an Offer;
- b. the Block Order volume indicated per Instrument must be fully executed for every Instrument the Block Order applies to.

Execution

26.18 Execution constraints are additional matching requirements a Trading Member can add to its Orders. The execution conditions that may be supported are detailed in paragraphs 26.20 - 26.25. The Instrument Specifications determine if and when execution constraints are allowed for a specific Instrument or group of Instruments for each Power Market.

Good Till Date

26.19 An Order on the Power Market which is "Good Till Date" is an Order which will lapse at a time specified by the Trading Member.

Fill-and-Kill Orders

26.20 "Fill-and-Kill Orders" ("FAK") can be placed during the main trading session. If a FAK Order is not matched immediately in full or in part upon entry in the Trading System, the unmatched part of the Order is automatically cancelled. A FAK Order may be filled in full or in part, depending on market conditions at the time it is entered, at the specified limit price or better. For the avoidance of doubt, a FAK order will not join the queue of Orders for the purpose of matching at a later time.

Fill-or-Kill Orders

26.21 "Fill-or-Kill Orders" ("FOK") can be placed during the main trading session. If a FOK Order is not matched immediately in full upon entry in the Trading System, the Order is automatically cancelled. A FOK order may be matched in full only, depending on market conditions at the time it is entered, at the specified limit price or better. For the avoidance of doubt, a FOK Order may not be matched in part and it will not join the queue of Orders for the purpose of matching at a later time.

Iceberg Orders

- 26.22 "Iceberg Orders" ("IBO") can be placed during the main trading session. An IBO Order is a conditional Order consisting of a sequence of separate clips. Each clip is submitted to the market only after execution of the previous clip. A limit price is required for each clip. A clip of an IBO Order may be filled in full or in part, depending on market conditions at the time it is entered, at the specified limit price or better. For the avoidance of doubt, each new clip of an IBO Order will join the queue of Orders for the purpose of execution at a later time.

All-or-None Orders

- 26.23 "All-or-None Orders" ("AON") can be placed during the main trading session. If an AON Order is not matched immediately in full upon entry in the Trading System, the Order is logged in the Order Book in descending buy-price Order or ascending sell-price Order (the price-priority principle) and joins the queue of Orders having the same price (the time-priority principle). An AON Order may be filled in full only, depending on market conditions, at the specified limit price or better. For the avoidance of doubt, an AON Order may not be filled in part and it will join the queue of Orders for the purpose of execution at a later time.

Linked Block Orders

- 26.24 A "Linked" Block Order can only be executed if another, previously identified Block Order (the "Parent" Block Order) is also executed. For the avoidance of doubt, this does not mean that an executed Parent Block Order would in all cases have been executed, should it have been submitted without its Linked Block Order.

Exclusive Block Orders

- 26.25 Out of a group of "Exclusive" Block Orders, only one Exclusive Block Order can be matched.

Order Modification or Cancellation

- 26.26 During the Order accumulation periods and, for continuous markets, during the main trading session, the Trading Member who entered it may change any Order that has not been cancelled, deleted or executed in full. An Order modification leads to a new time priority, whereas the modified Order receives a new unique sequence number.

27. FORMATION OF TRANSACTIONS

- 27.1 If Orders are matched by the Trading System on the Power Market, Transactions will be concluded between the Clearing House and the Trading Member. APX shall send a notification of said match to the Trading Members.
- 27.2 For the purpose of management of default risks, the Clearing House is allowed to trade on the Power Market in the quality of a Trading Member with special tasks in connection with its activity as a central counter party. The rights of the Clearing House are limited to trading in the framework of the default management or for the settlement of imbalances in accordance with the ECC Clearing Conditions.
- 27.3 The Trading System shall upon the matching of Orders immediately update the relevant Position Accounts for the relevant Members with the Transactions. Trading Members will be allowed to access the Transaction information in respect of the Position Accounts assigned to them, which information includes all material details of the Transaction. The timestamp of the Transaction is assumed to be the time of matching of Orders.

Notification and Confirmation of Transactions

- 27.4 The Trading Member and Market Counterparty(ies) shall be notified by means of the Trading System of the details of any Transaction to which such Trading Member and Market Counterparty(ies) (or their respective Clearing Participants) have become a party.
- 27.5 As soon as reasonably practicable after the formation of a Transaction in accordance with paragraph 27.1, APX shall notify the details of the Transaction to the relevant Trading Members by means of an event log created by the Trading System. For the avoidance of doubt, this confirmation notice is sent for convenience only and has no legal consequences.

Origination of Trade Instructions

- 27.6 Subject to Appendix B (**Cancellation and Manifest Error procedure**), each Trading Member agrees that on the Power Market the receipt by APX of a Trade Instruction shall be sufficient to verify that such Trading Member originated such Trade Instruction and Trading Members shall be bound by all Transactions arising pursuant to paragraph 27.1.
- 27.7 The obligations under any Transaction on the Power Market shall be determined by:
- a. the matched Bid and Offer that form the basis of the Transaction, save that, in the event of a partial match the lesser volume applies shall apply; and
 - b. the ECC Clearing Conditions in force at the time the Transaction arose; and
 - c. these Power Market Rules and the Instrument Specifications.

28. PROVISION OF INFORMATION

- 28.1 For each Instrument and without prejudice to paragraph 12, the following information will be made available to the Members on a real time base:
- a. the status of all its own Orders including price, quantity and specific conditions; and
 - b. an itemised list of its own recently executed Transactions.
- 28.2 For each Instrument without prejudice to paragraph 12, APX may make the following information publicly available:
- a. the volume and the prices of executed Transactions;
 - b. preliminary market coupling results;
 - c. all other relevant information, the disclosure of which APX deems necessary in order to enhance market transparency.
- 28.3 APX transmits the following information to the Clearing House for Clearing purposes:
- a. the information related to the Transactions (including but not limited to price, quantity, buy or sell side, date and time) entered into by each Participant acting for its own account or as Broker; and
 - b. the Position Accounts related to these Transactions,
 - c. any other data deemed necessary for the purpose of Clearing in compliance with the ECC Clearing Conditions.

29. COMMITMENT TO PROVISION OF LIQUIDITY

[not applicable]

4. CHAPTER IV – RULES APPLICABLE TO REFERENCE PRICING

[not applicable]

APPENDIX A – TRADING MEMBERSHIP AGREEMENT

The undersigned:

The private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) APX Power B.V., having its registered address at Hoogoorddreef 7, 1101 BA in Amsterdam, duly represented by _____ and _____, hereinafter referred to as "**APX**";

and:

Name of Company :

Address :

Zip-Code and Place :

Country :

Trade Register No. :

VAT-number :

hereinafter referred to as "**Trading Member**",

hereinafter separately referred to as "**Party**" and jointly referred to as "**Parties**".

Taking into consideration that:

- APX operates and maintains one or more exchanges to trade energy and/or other facilities for the benefit of energy trade in accordance with the Power Market Rules;

- the Trading member has successfully passed the Accession Procedure and meets all relevant Access Criteria to be granted Access Rights or View Only Access Rights;
- the Trading Member has successfully passed the accession procedure of the Clearing House, necessary to have access to the Power Market except where the Trading Member has indicated that it intends to act on behalf of Light Members only;
- the Trading Member has read the Power Market Rules (and all relevant supporting documentation) and wishes to participate in the Power Market with observance of the Power Market Rules.

Have agreed as follows:

Clause 1 – Interpretation

- 1.1 The capitalised terms used in this Trading Membership Agreement shall have the meaning as ascribed thereto in the Power Market Rules unless otherwise indicated in this Trading Membership Agreement.
- 1.2 Subject to the rights that may accrue to any successor or permitted assigns of the Parties, no provision of this Trading Membership Agreement shall be construed as creating any rights enforceable by a third party and all third party rights enforceable or implied by law are, to the extent permissible by law, excluded from this Trading Membership Agreement.
- 1.3 References in this Trading Membership Agreement to a Clause or Clauses are references to a clause or clauses of this Agreement unless the context otherwise requires.
- 1.4 The words "include", "included" or "including" are used to indicate that the matters listed are not a complete enumeration of all matters covered.

Clause 2 – Rights and Obligations of APX

- 2.1 APX grants the Trading Member either Access Rights or View Only Access Rights to its Power Market, provided that the Trading Member meets the relevant requirements of the Power Market Rules.
- 2.2 APX has the right to inform the relevant TSOs and relevant regulatory authorities concerned of the volumes and other specifications of the Instruments traded by a Trading Member.

Clause 3 – Rights and Obligations of the Trading Member

- 3.1 The Trading Member has attached to this Trading Membership Agreement all required information and will provide APX with updates as soon as said information is changed.
- 3.2 The Trading Member agrees to act in accordance with this Trading Membership Agreement and with the Power Market Rules as amended from time to time, forming an integral part of this Trading Membership Agreement. The Trading Member declares that it has extensive experience in and that it is aware of the risks involved in energy trading.

- 3.3 The Trading Member shall fulfil all obligations, which have become due and payable towards APX, promptly, completely and at the moment APX so requires. APX may request the Clearing House to collect any due and payable obligations from the Trading Members on its behalf. If a Member does not promptly and completely fulfil its obligations towards APX at the agreed time, Member will be in default without further notice from APX.
- 3.4 The Trading Member shall comply with those obligations that arise from any European or national legislation applicable to electricity trading in so far as it is applicable to the Trading Member concerned, all other obligations stipulated by or on behalf of the national authorities and the technical rules defined by the relevant TSOs and further requirements to be stipulated by APX. The Trading Member shall be in possession of and comply with all necessary environmental and other relevant permits regarding its business, issued by the authorised government bodies.
- 3.5 This Trading Membership Agreement and the Power Market Rules, as amended from time to time, replace any other Trading Membership Agreement and rules in force and will be the legal basis of the legal relationship between APX and the Trading Member.

Clause 4 – Status of the Trading Member

- 4.1 The Trading Member declares that (tick one appropriate box):
- Clearing Participant, and will be allowed to trade for its own account and act on behalf of Light Members;
 - it is not a Clearing Participant and will only act on behalf of Light Members;
 - neither of the above applies because it requests View Only Access Rights.

Clause 5 – Duration of the Trading membership Agreement

- 5.1 This Trading membership Agreement takes effect as of _____ for an indefinite period of time.
- 5.2 The Parties are entitled to terminate this Trading membership Agreement by registered letter in accordance with the terms of paragraph 9 of the Power Market Rules.

Clause 6 – Applicable Law and Competent Court

- 6.1 This Trading membership Agreement shall be governed exclusively by and construed in accordance with the laws of the Netherlands, with the explicit exclusion of the United Nations Convention on the Sale of Goods (*Weens Koopverdrag*).
- 6.2 All disputes between APX and the Trading member which may arise out of or in connection with this Trading membership Agreement and/or the Power Market Rules shall be settled by the Appeals Committee in accordance with the relevant provisions in the Power Market Rules.

Thus agreed and signed in twofold and initialed on all pages by authorized representatives of the Trading member and APX:

Name of the Company :

Place :

Date :

Name authorized person :

Position :

Signature authorized person :

Please enclose a copy of the passport of the person(s) who will be authorized to sign

APX

Place :

Date :

Name authorized person :

Position :

Signature authorized person :

Name authorized person :

Position :

Signature
authorized person :

APPENDIX B - CANCELLATION AND MANIFEST ERROR PROCEDURE

1. Trade Cancellation on the Power Market

Transactions that are effected in such way as to constitute a violation of the Power Market Rules (including but not limited to this Appendix B) by one or more of the Trading members, entitle APX to cancel all Orders and ensuing Transactions involved.

2. Manifest Error on the Power Market

2.1 Subject to article 2.2, a Trading Member wishing to invoke the cancellation of a Transaction, for reasons of manifest error, must submit an application to APX containing the details of the alleged manifest error and the cause of such alleged manifest error. A fee will be charged for such application in accordance with paragraph 6.12.

2.2 APX shall not cancel Transactions for reasons of manifest error in the DAM.

2.3 Any application for cancellation contemplated in article 2.1 shall be made by telephone, on the number specified on the APX Website, and confirmed by email within 20 minutes after the Transaction has been created. APX is not obligated to consider or confirm applications for cancellation submitted after the 20 minutes deadline has lapsed.

2.4 APX shall determine, at its sole discretion, whether an alleged manifest error notified to it by a Member is to be construed as a manifest error that justifies the cancellation of the Transaction. APX shall use its best reasonable endeavours to make such determination as soon as possible after the notification made in accordance with article 2.3.

2.5 APX shall only consider any application for cancellation made by a Trading Member if and to the extent that:

- a. The Transaction price of the Transaction differs by more than 100% from the Transaction price of the previous Transaction entered into in respect of the same type of Instrument, or from such other price as deemed by APX in its sole discretion to be representative of the fair market price at that time; and/or
- b. The alleged manifest error relates to the volume of the Transaction; and
- c. The timeframe between the application for cancellation and the commencement of the delivery of the Instrument that the Transaction relates to is at least equal to:
 - i. 1 hour in case no cross-border trade is involved; or
 - ii. 2 hours and 15 minutes in case a cross-border trade is involved and the delivery period commences with an uneven hour; or
 - iii. 3 hours and 15 minutes in case a cross border trade is involved and the delivery period commences with an even hour.

Since the Trading Member is not aware whether a cross border trade is involved, APX shall judge which timeframe has to be applied.

2.6 Where the conditions stipulated in articles 2.3 and 2.5 are fulfilled, and subject to article 2.1, APX shall use its best efforts to contact all relevant Market Counterparties with a view of obtaining their explicit consent to cancel the Transaction. For the avoidance of doubt, if no explicit permission from all relevant Market Counterparties could be obtained, no Transaction cancellation can occur. Only if APX can obtain, within 30 minutes after receipt of the email requesting the Transaction cancellation, an email from each relevant Market Counterparty explicitly and unconditionally confirming its consent to cancel the Transaction, APX shall, subject to the availability of transmission capacity if a cross-border counterparty is involved, cancel the Transaction.

- 2.7 Any Trading Member applying for a cancellation pursuant to this Annex B shall promptly provide any such information and assistance as may be requested by APX in connection with any such determination.
- 2.8 APX shall in any event inform the Trading Member which submitted an application pursuant to article 2.1 of its determination pursuant to articles 2.4, 2.5 and 2.6. Where that application was successful, APX shall in addition inform that Trading Member and its Market Counterparty or Market Counterparties of the determination made by APX.
- 2.9 In the event that APX determines that a manifest error has occurred in relation to any Transaction and decides to cancel such Transaction, that Transaction shall be cancelled immediately upon sending the notice stipulated in article 2.8 and APX shall request the Clearing House to adjust the ensuing obligations to reflect that cancellation.
- 2.10 APX disseminates written notice(s) informing the Trading members of cancellations and any other information which APX may consider appropriate including the identity of the Trading member invoking the manifest error.
- 2.11 Where the conditions stipulated in article 2.3 and/or article 2.5 are not fulfilled, and subject to article 2.1, the Member wishing to invoke cancellation may request APX to effect cancellation of the relevant Transaction(s) nonetheless, subject to the following conditions:
- a. APX having received the explicit consent of the affected Market Counterparties to cancellation of the relevant Transaction(s); and
 - b. APX being satisfied in its sole discretion that such cancellation would not compromise the operation of a fair and orderly market.

APPENDIX C - SUBLICENSE CONDITIONS

1. Interpretation

- 1.1 Save where otherwise specified a reference in this Sublicense Conditions to a clause shall be a reference to a clause of this Sublicense Conditions.
- 1.2 Save as provided by clause 1.3, terms used in this Sublicense Conditions and defined in the Power Market Rules shall have the meaning ascribed to them therein (as appropriate).
- 1.3 For the purposes of this Sublicense Conditions, the following terms shall have the meanings ascribed to them below:

Data the body of data created by, processed by, or recorded or maintained on the Trading System and/or Connection Equipment from time to time and any compilations of such data created by or on behalf of APX;

Sublicensed Materials the Trading System software and other third party hardware, software and Data provided to Members by APX (including all data derived therefrom or provided thereon, and any compilations of such data created by or on behalf of APX, together with all intellectual property rights of APX in respect of any such data);

- 1.4 The headings in these Sublicense Conditions are for convenience only and shall not affect the interpretation of any provisions of the Sublicense Conditions and the Power Market Rules.
- 1.5 In the event of a conflict or inconsistency between the terms of the Sublicense Conditions and the Power Market Rules, the Power Market Rules shall prevail.

2. Sublicensed Materials

- 2.1 Subject to the restrictions in clause 3.1, the Member may:
- a. view Data made available by APX to it for viewing in accordance with the Power Market Rules as applicable; and

- b. use the Sublicensed Materials in accordance with this Sublicense Conditions and for the duration as stipulated in clause 2.2,

but not otherwise.

Duration of Sublicensed Materials

- 2.2 The Sublicensed Materials granted to the Member in clause 2.1 are royalty-free, non-exclusive and non-transferable and shall terminate automatically upon termination of its Membership Agreement.

Ownership of Sublicensed Materials and Data

- 2.3 The Sublicensed Materials operating instructions and all copyright and other intellectual property rights of whatever nature therein are and shall at all times remain, as between APX and the Member, the property of APX or APX's licensor.

No liability

- 2.4 APX shall not be liable vis-à-vis any Member for costs and/or damages suffered by it in connection with such Member's use of the Sublicensed Materials and/or the Connection Equipment provided and granted in accordance with the Power Market Rules.

3. Limitations on Sublicensed Materials

- 3.1 The Member shall not:
 - a. sub-license the use of, or supply, the Sublicensed Materials and/or any part of it to a third party;
 - b. except as may be permitted by law or as provided in clause 8, decompile, reverse engineer, disassemble or otherwise reduce, in whole or in part, any part of the Sublicensed Materials to eye readable form, or consent to any third party doing so;
 - c. assign, transfer, sell, lease, rent, charge or otherwise deal in or encumber the Sublicensed Materials or any accompanying documentation for itself or on behalf of a third party or make the same available to any such third party, provided that, the Member shall be permitted to authorize any individual engaged by the Member as an independent contractor to operate a Concurrent Connection of the Member for the purpose of accessing and using the Trading System, in accordance with, and subject to the Power Market Rules;
 - d. delete, modify, remove or in any way obscure any copyright and proprietary notices of APX or any third party on any copy of the Sublicensed Materials or operating instructions;
 - e. save as provided by clause 7, copy the Sublicensed Materials and nothing in the Power Market Rules shall permit or in any way entitle the Member to create derivative works based on the Sublicensed Materials;
 - f. sell or otherwise dispose of equipment on which any part of the Data, or a copy of it, is stored, kept or to be found without first ensuring that the Data and all such copies have been previously deleted;

- g. use, duplicate or display any part of the Sublicensed Materials or permit any third party to view the Sublicensed Materials made available by APX to it for viewing in any manner not expressly permitted by the Power Market Rules;
- h. save to the extent expressly permitted to do so by the Power Market Rules, or otherwise with the express prior written agreement of APX, make derivative works based on, or compilations of data derived from, the Sublicensed Materials; or
- i. save as pursuant to the exercise of the rights of the Member under the Power Market Rules, modify, copy or adapt the Sublicensed Materials.

Protection of Sublicensed Materials

3.2 The Member shall:

- a. reproduce APX's and any third party's copyright and proprietary notices on any copy made by it of any part of the Sublicensed Materials or operating instructions;
- b. without prejudice to the foregoing, take all such other reasonable steps which shall from time to time be necessary in the reasonable opinion of APX to protect the confidential information and intellectual property rights of APX or its licensor in the Sublicensed Materials and operating instructions; and
- c. inform all of its relevant employees, agents, independent contractors and sub-contractors (where applicable) that the Sublicensed Materials constitute confidential information of APX and that all intellectual property rights therein are the property of APX or its licensor and the Member shall take all such steps as shall be necessary (to the standard of a Reasonable and Prudent Operator) to ensure compliance by such relevant employees, agents, independent contractors and sub-contractors with the provisions of this Sublicensed Materials.
- d. be responsible for (i) any electronic communication originated by or on its behalf or deemed to be originated by it pursuant to the Power Market Rules and (ii) for its own acts and the acts of its servants, agents, independent contractors and sub contractors, both in connection with the Trading System or the Sublicensed Materials.

Unauthorized use of the Sublicensed Materials

3.3 The Member shall not, and shall not attempt to, download, delete, modify, damage, and/or access for any purpose other than as authorized under the Power Market Rules, any software program comprised in the Trading System and/or installed on any equipment operated by or on behalf of APX in connection with the operation of the Trading System.

3.4 The Member shall not, and shall not attempt to, download, delete, modify, and/or access for any purpose other than as authorized under the Power Market Rules, any part of the Sublicensed Materials and shall not attempt to damage or corrupt any Data.

4. Infringing Sublicensed Materials

4.1 In the event that any of, or any part of the Sublicensed Materials or operating instructions becomes, or in APX's reasonable opinion is likely to become, the subject of a claim for infringement of copyright or any other intellectual property rights owned or claimed by a third party, APX may (without prejudice to any other action it may take in respect of such claimed infringement) take all reasonable actions in relation to the Sublicensed Materials and/or the operating instructions, which are necessary or desirable so as to avoid the infringement,

comply with the terms of any judgment or order arising from or so as to facilitate settlement of any such claim.

5. Indemnity

- 5.1 The Member shall indemnify and hold harmless APX from and against any and all loss, liability, damage, claim, action, proceeding, and cost and expense reasonably incurred by APX, resulting from, or arising in connection with, any breach by the Member of clauses 2.1, 3.1, 3.2, 3.3 and/or 3.4 and any actions of any person for which the Member is responsible pursuant to clause 3.2 (d), other than actions properly taken by such person pursuant to an express provision under the Power Market Rules.

Reasonable Assistance

- 5.2 Where any claim has been made against APX on the basis of facts, events or circumstances which are, or may be, the subject of the indemnity given under clause 5.1 by the Member, the Member shall, where requested to do so, provide reasonable assistance, not being financial assistance (but without prejudice to the indemnity itself), to APX in defending the claim.

6. Minimum Requirements and Product Description

- 6.1 The Member shall secure that its Connection Equipment complies with the minimum requirements set by APX. The Member shall bear the costs of upgrading or replacing the Connection Equipment in order to secure that it complies with any amendment to such minimum requirements and is inter-operable with the Trading System. The minimum requirements for Connection Equipment are determined by APX and published on the APX Website. APX may amend the minimum requirements for Connection Equipment by means of Notice in accordance with paragraph 21.7.

7. Copies

- 7.1 The Member shall be entitled to make such number of transient electronic copies of screen displays generated by the Trading System as it reasonably requires in order to view Data made available to it by APX for viewing, and obtaining access to and use of the Trading System in accordance with, and subject to, the Power Market Rules.

8. Interoperability

- 8.1 Unless APX notifies the Member that it does not intend (for whatever reason, including, without limitation, cost) to make available interface information necessary to achieve interoperability of the Sublicensed Materials with independently created computer programs, such information will be provided by APX or its licensor on request by the Member and (save where prevented by law) upon payment of APX's and/or its licensor's reasonable costs and expenses for procuring or supplying such information. Where APX notifies the Member that it does not intend to make such information available as aforesaid, the Member shall be permitted to take such steps to reverse engineer or decompile such of the Sublicensed Materials as is provided to it by APX (otherwise than solely by way of APX making such Sublicensed Materials available for the use of the Member to the extent permitted by law).

9. Exclusions

- 9.1 Save as provided in the Power Market Rules, all conditions, warranties, terms and undertakings, express or implied, statutory or otherwise in respect of the Sublicensed Materials and the provision of all and any support services by APX in connection therewith are, to the fullest extent permitted by law hereby excluded.