



March 22, 2022

**VIA CFTC PORTAL**

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re: ICE NGX Self-Certification of Rule Amendments: Contracting Party Agreement - Submission Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and Commission Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

In accordance with Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE NGX Canada Inc. (“ICE NGX”) is submitting this self-certification to amend the ICE NGX Contracting Party Agreement (“CPA”). The CPA functions as the rulebook for ICE NGX’s exchange and clearinghouse operations and is a “rule” as that term is defined under Commission Regulation 40.1(j). ICE NGX intends to implement the amendments on April 14, 2022, or on such later date or dates as ICE NGX may designate.

**1. Overview**

ICE NGX is making certain amendments (the “Amendments”) to the CPA, relating to the following:

- clarification of certain provisions relating to collateral;
- wire payment fees;
- assignment by ICE NGX of its rights and interests in the Contracting Party Agreement;
- clarification of the definition of “Business Day”;
- the period for notifying ICE NGX of a dispute of an invoice item relating to a previously notified dispute;
- information and notices required to be provided to ICE NGX by a Contracting Party;
- notices provided by ICE NGX regarding amendments to the CPA; and
- general notices provisions.

**2. Details of Amendments**

***Collateral***

The Amendments clarify certain provisions relating to collateral, including relating to netting of positions and collateral among Contracting Party Affiliates.



### ***Wire Payment Fees***

ICE NGX previously announced that, effective February 1, 2022, ICE NGX will no longer collect wire payment fees from Contracting Parties, including for transfers of cash collateral and invoice payments. The Amendments implement this change in policy.

The Amendments also simplify the calculation and payment of interest to Contracting Parties.

### ***Assignment***

The Amendments expand the list of entities to which ICE NGX may assign its rights, benefits and interest under the CPA, to include ICE NGX's credit default insurance provider. Currently, ICE NGX's default insurance provider is Export Development Canada ("EDC").

### ***Business Day***

The Amendments clarify the definition of "Business Day" in respect of Physically Settled Gas Futures Products with U.S. delivery points.

### ***Invoice Disputes***

The Amendments clarify the invoice dispute provision, and specify that an invoice adjustment resulting from a previously notified invoice dispute becomes final and binding 60 days after the invoice implementing the adjustment was due.

### ***Required Information and Required Notices by a Contracting Party***

The Amendments to Article 3 consolidate the requirements for a Contracting Party to provide certain information and notices to ICE NGX, reflect current practice relating to financial statements, and strengthen the requirements to include notices relating to a change in control and relating to a Credit Support Provider.

### ***Notices by Exchange***

The Amendments update Article 1 in respect of notifications to Contracting Parties of amendments to the CPA.

### ***General Notice Provisions***

The Amendments streamline the general Notices provision in Article 9, and reflect the consolidation into Article 1 of provisions relating to notice of CPA amendments.

## **4. Compliance with the Act and Regulations**

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

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



Risk Management (Core Principle D): The Amendments facilitate ICE NGX's compliance with Core Principle D - Risk management and Commission Regulation 39.13(g), as the Amendments simplify ICE NGX's processes relating to wire payment fees for cash collateral transfers.

Settlement Procedures (Core Principle E): The Amendments facilitate ICE NGX's compliance with Core Principle E - Settlement procedures and Commission Regulation 39.14, as the Amendments simplify ICE NGX's settlement processes relating to wire payment fees.

Treatment of Funds (Core Principle F): The Amendments facilitate ICE NGX's compliance with Core Principle F - Treatment of funds and Commission Regulation 39.15(e), as the Amendments simplify the calculation and payment of interest by ICE NGX to Contracting Parties on cash collateral.

Public Information (Core Principle L): The Amendments facilitate ICE NGX's compliance with Core Principle L and Commission Regulations 39.21(b) and (c)(6), as the Amendments consolidate requirements for a Contracting Party to provide certain information and notices to ICE NGX.

Legal Risk Considerations (Core Principle R): The Amendments facilitate ICE NGX's compliance with Core Principle R - Legal risk considerations and Commission Regulations

- § 39.27(b), as the Amendments specify that ICE NGX may assign its rights, benefits and interests under the CPA to any provider of default insurance to ICE NGX;
- § 39.27(b), as the Amendments update and clarify the general provisions notices in the CPA and the provisions relating to notices by ICE NGX of changes to the CPA;
- § 39.27(b)(2), as the Amendments clarify ICE NGX's netting arrangements as between Contracting Party Affiliates (as that term is defined in the CPA);
- § 39.27(b)(3), as the Amendments clarify certain provisions relating to collateral;
- § 39.27(b)(6), as the Amendments simplify the calculation and payment of interest by ICE NGX to Contracting Parties on cash collateral;
- § 39.27(b)(6), as the Amendments clarify the definition of Business Day; and
- § 39.27(b)(6), as the Amendments improve the finality of resolution of a disputed invoice item.

## 5. Certifications

ICE NGX hereby certifies that the Amendments to the CPA discussed in this submission comply with the Act and the rules and regulations promulgated by the Commission thereunder. ICE NGX is not aware of any substantive opposing views expressed regarding the Amendments. ICE NGX further certifies that, concurrent with this filing, a copy of the submission was posted on ICE NGX's website and may be accessed at <https://www.ice.com/ngx>.



Please do not hesitate to contact me (403-974-1701) or our General Counsel and CCO, Martin McGregor (403-974-1740) for any further information the Commission or its staff may require in connection with this notice.

Yours truly,

*“signed by”*

Greg Abbott  
President & COO

Encls.



## AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

### TERMS AND CONDITIONS

[Note: Insertions are underscored; deletions are struck through.]

#### ARTICLE 1 - INTERPRETATION

##### 1.2 Definitions

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“Business Day” means any day except Saturday, Sunday and statutory holidays in the Province of Alberta, except when referred to in the context of a Physically Settled Power Futures Product with U.S. Delivery Points and Physically Settled Gas Futures Products with U.S. Delivery Points, where Business Day shall mean any day except Saturday, Sunday and any day upon which federal reserve banks are closed for regular business;

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#### ARTICLE 7 - INVOICES AND TAXES

##### 7.1 Invoices

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- c. Invoices Final and Binding - Unless either the Contracting Party or Exchange has advised ~~Exchange~~ the other of any error in, or dispute in respect of an Invoice, the Invoice will be final and binding, absent manifest error, for all purposes on both the Contracting Party and Exchange;
- (i) ~~For~~for Invoices for Physically Settled Gas Futures Transactions, 120 days after the Physical Settlement Date on which the Invoice was due;
  - (ii) ~~For~~for Invoices for Physically Settled Power Futures Transactions, 120 days after the Physical Settlement Date on which the Invoice was due, unless the Contracting Party has made a Failure to Schedule to Deliver or a Failure to Schedule to Take, in which case, Invoices payable will not be considered final until 180 days after the Physical Power Delivery Date;
  - (iii) ~~For~~for Daily Financially Settled Futures Transactions, 120 days after the MTM Settlement Date on which the Invoice was due;
  - (iv) ~~For~~for all other Financially Settled Futures Transactions, 120 days after the Settlement Date on which the Invoice was due;
  - (v) ~~For~~for Option Transactions, 120 days after the Premium Payment Date on which the Invoice was due; ~~and~~



- (vi) ~~For~~ Invoices for Forward (Bilateral) Transactions, 120 days after the Physical Settlement Date on which the Invoice was due ~~and~~;
- (vii) for any adjustment resulting from a disputed invoice item previously notified to Exchange, 60 days after the Invoice implementing the adjustment was due.

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## ARTICLE 9 - MISCELLANEOUS

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### 9.6 Assignment

This Agreement or the rights, benefits or Obligations hereunder shall not be assignable by the parties hereto without the consent in writing of the other party to this Agreement. Notwithstanding any other provision to the contrary in this Agreement, Exchange may assign as security its ~~entire~~ rights, benefits and interest hereunder to any bank, trust company, financial institution or any other person providing credit facilities or other financing to Exchange and to any corporation or insurance company providing default insurance to Exchange, provided however that such bank, trust company, institution or other person or corporation or insurance company (the "Security Holder") shall not have any rights or benefits under this Agreement that are greater than the rights and benefits of Exchange hereunder. The Security Holder shall be entitled to utilize the assignment solely for the purpose of accessing the remedies against the Contracting Party available to Exchange under, and pursuant to, the provisions of this Agreement, including, without limitation of the foregoing, under Section 5.5 relating to Physically Settled Futures Transactions and under Section 8.2 relating to Financially Settled Futures Transactions or Option Transactions, provided however that the Security Holder will not be liable or responsible for the observation or performance of any term, covenant, condition or obligation of Exchange by virtue of any assignment of this Agreement to the Security Holder by Exchange.



## PROPOSED AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

### TERMS AND CONDITIONS

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

#### ARTICLE 3 – GENERAL

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#### 3.3 Eligible Collateral Support and Collateral

a. Eligible Collateral Support and Collateral – Each Contracting Party shall ~~to~~ provide from time to time, as security for the Contracting Party's Obligations, and in such amounts, such forms, at such times and in accordance with such systems as may be prescribed by or pursuant to this Agreement, including Schedule "C", or Exchange's stated policies in respect thereof, credit support consisting of one or more of the following:

(i) an irrevocable letter of credit issued by an Approved Financial Institution in favour of Exchange in a form acceptable to Exchange; or

(ii) Cash Collateral

(collectively, "Eligible Collateral Support").

In addition, Exchange may, in its discretion, withhold payables or any other amounts owing to the Contracting Party or its Contracting Party Affiliates from Exchange as additional Collateral and may otherwise deduct, net, recoup, setoff, or otherwise credit any such payables, other amounts, or obligations against payables or other amounts or obligations owing by the Exchange to the Contracting Party or its Contracting Party Affiliates, and the Contracting Party hereby consents to any such withholding, deduction, netting, recoupment, setoff, or credit on behalf of itself and its Contracting Party Affiliates.

b. Grant of Security – As security for the payment and performance of its Obligations, the Contracting Party does hereby assign, pledge and grant to Exchange a first-ranking security interest in and lien on all estate, right, title and interest of the Contracting Party in and to:

(i) any and all cash (including, ~~without limitation,~~ any and all Cash Collateral or other cash delivered as constituting Eligible Collateral Support), ~~monies and interest-bearing instruments contemplated by Section 3.3~~ delivered to, deposited with, or held by or on behalf of Exchange;

(ii) any rights to payment or performance owing from Exchange to the Contracting Party including, without limitation:

(l) any Previous Month Accounts Net Payable ~~for such Contracting Party;~~



- (II) any Current Month Accounts Net Payable ~~owed by Exchange to the Contracting Party~~;
  - (III) any Financially Settled Futures Settlement Net Payable, MTM Settlement Net Payable or Daily Financially Settled Futures Settlement Net Payable ~~for such Contracting Party~~; and
  - (IV) any Variation Margin ~~for such Contracting Party~~; and
- (iii) all proceeds (as such term is defined in the Personal Property Security Act (Alberta) of any of the foregoing

(collectively, and together with any letter of credit constituting Eligible Collateral Support, the "Collateral").

Upon any of the Collateral being returned or paid to the Contracting Party, the said Collateral shall be released from the Liens granted to Exchange by the Contracting Party hereunder. Any Lien granted as contemplated above attaches upon execution and delivery of this Agreement or, in the case of Collateral delivered to, deposited with, or held by or on behalf of Exchange, upon the delivery, deposit or holding of such Collateral to, with, by or on behalf of Exchange, or in the case of rights to payment or performance in favour of the Contracting Party under any Transaction, at the time such Transaction is entered into.

Exchange may file or record this Agreement or any financing statement, security notice or similar instrument in any public office as may be necessary to establish, perfect or maintain the interests of Exchange as a secured party. The Contracting Party hereby waives any requirement of the applicable personal property security legislation or similar legislation to provide a verification statement to the Contracting Party upon registration of any such Agreement, financing statement, security notice or similar instrument. Upon the full, final and indefeasible satisfaction of all Obligations, and termination of this Agreement, the Lien shall cease and determine, all rights and interests in the Collateral granted hereunder and hereby will revert to and revest in the Contracting Party without further act or formality whatsoever, whereupon Exchange shall, at the request and cost of the Contracting Party, execute such releases or discharges of the Lien or of such filings or recordations, prepared by or on behalf of the Contracting Party and acceptable to Exchange, without recourse to or warranty by Exchange. Exchange shall not have any duty or obligation in respect of any Collateral except the obligation to keep the same with the same degree of care as it keeps its own property of a similar type, and in particular shall not be responsible for or by reason of any loss arising from any failure of Exchange's Principal Banker (whether as a result of bankruptcy, insolvency or otherwise) with which any amount paid by or on behalf of the Contracting Party as Collateral will have been deposited or placed for safekeeping. No Obligation shall be considered to have been discharged by reason of the existence of the Lien or the rights herein provided unless (and then only to the extent that) Exchange has finally and indefeasibly collected and applied to such Obligation any amount held as or obtained in respect of Collateral or the net proceeds (after satisfying any costs of realization) of realization of any Collateral or has drawn down upon any letter of credit and applied the same to such Obligation or has applied any amount owing by Exchange to the



satisfaction thereof and so advised the Contracting Party in writing. The Contracting Party hereby represents and warrants that all Collateral provided to Exchange from time to time is and will be free and clear from any Liens ranking in priority to or equally with the rights of Exchange to such Collateral and that the Lien herein provided to Exchange is and will be a valid first ranking Lien on the Collateral. Exchange and the Contracting Party agree that all Eligible Collateral Support and all Collateral shall constitute “financial collateral” as that term is used in the CCAA, the BIA, the WURA, and any successor or like Canadian statutory provisions. In addition, without limiting any other rights or protections hereunder of under FDICIA or other applicable law, Exchange and the Contracting Party agree that the rights set forth herein are “contractual rights” as defined in 11 U.S.C. §556; that this is a “commodity contract” as defined in 11 U.S.C. § 761 and/or a “master netting agreement” as defined in 11 U.S.C. § 101(38A); that Exchange is a “financial participant” as defined in 11 U.S.C. § 101(22A); and that Exchange is entitled to the rights and protections set forth in 11 U.S.C. §§546(e) and ~~and~~(j), 556, 561, 562, and 761.

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- e. Exercising on Collateral – Upon a Default with respect to any Contracting Party, Exchange shall also be entitled to:
- (i) exercise all rights and remedies of a secured party under applicable law with respect to the Collateral ~~provided by of~~ the Contracting Party or any of its Contracting Party Affiliates;

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- g. Interest on Eligible Cash Collateral Support – Exchange will provide the Contracting Party with direct viewing access to its Cash Collateral Account, failing which, and upon request by the Contracting Party, Exchange will account monthly to the Contracting Party for all daily interest earned in a Cash Collateral Account. ICE NGX will, on a monthly basis, credit to the Cash Collateral Account, interest earned on each day on the amount of the balance in the Cash Collateral Account as of the end of that day 6:00 p.m. (Eastern time) that exceeds \$100,000 or U.S. \$100,000, as applicable, at an interest rate as notified by ICE NGX from time to time (“Contracting Party Interest”). The Contracting Party acknowledges and agrees that Exchange’s records are the final and binding records of daily balances in a Cash Collateral account for the purpose of calculating Contracting Party Interest. Contracting Party Interest credited to the Cash Collateral Account becomes Eligible Cash Collateral Support as of the time it is deposited in the Cash Collateral Account by Exchange.
- h. Return of Eligible Collateral Support – A Contracting Party may request a return of Eligible Collateral Support, and Exchange agrees to return excess Eligible Collateral Support to the Contracting Party, to the extent and pursuant to the terms provided for under Schedule “C” - Risk Management Policy. ¶
- i. Wire Payment of Cash Collateral – All transfers or deposits of Cash Collateral to or with Exchange by or on behalf of a Contracting Party, ~~and all returns of Cash Collateral by Exchange to a Contracting Party~~, shall be made by wire payment to the banking



instructions provided by Exchange. All returns of Cash Collateral by Exchange to a Contracting Party shall be made by wire payment to the banking instructions provided by the Contracting Party and confirmed by Exchange. ~~The Contracting Party shall be responsible for any and all wire transfer fees applied or deducted by Exchange's bank and any corresponding bank, if applicable, relating to the receipt, deposit, return or transfer of Cash Collateral.~~

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## 7.2 Payment of Invoices

- a. Wire Payment of Invoices - Except for payment of MTM Settlement Amounts or as otherwise agreed between the Exchange and the Contracting Party, payment of Invoices by Contracting Party to Exchange and by Exchange to Contracting Party shall be made by wire payment to the banking instructions provided in accordance with this Agreement and Exchange's stated policies. ~~The Contracting Party shall be responsible for any and all wire transfer fees applied or deducted by Exchange's bank and any corresponding bank, if applicable, relating to payment or receipt of Invoice amounts, in accordance with this Agreement and Exchange's stated policies.~~

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## 7.4 Banking Instructions

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



## AMENDMENTS TO SCHEDULE "C" - RISK MANAGEMENT POLICY

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

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### 3. Determination of Margin Limits

- a. The Margin Limit for each Contracting Party is the amount at which the Contracting Party's Initial Margin is equal to eighty percent (80%) of the Contracting Party's Net Equity. A Contracting Party may increase its Margin Limit with Exchange, by increasing its ~~providing additional Eligible Collateral-Support to Exchange.~~

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### 9. Request for Eligible Collateral Support by Exchange

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- c. A Contracting Party may request a return of ~~Eligible Collateral Support it has provided to Exchange in the form of cash~~ ("Cash Collateral"), or a reduction of Eligible Collateral Support it has provided to Exchange in the form of a letter of credit ~~as Collateral~~ if:

### 12. Contracting Party Affiliate Netting

- a. Except as Exchange may otherwise agree, and without limitation to any other provision in this Agreement, Exchange will net the Transactions and related financial obligations of any Contracting Party and its Contracting Party Affiliates under this Agreement as follows:
- (i) the Initial Margin will be determined on the aggregate of the Net Open Positions of the Contracting Party and its Contracting Party Affiliates;
  - (ii) the Variation Margin applicable to all Transactions of the Contracting Party and its Contracting Party Affiliates will be netted; and
  - (iii) the accounts payable and accounts receivable for all Transactions of the Contracting Party and its Contracting Party Affiliates will be netted.
- b. Exchange may, in its sole discretion and upon request of the Contracting Party, agree ~~The Contracting Party may elect~~ not to net the Contracting Party's Transactions and Net Open Positions ~~continue to have its Physical Transactions, Futures Transactions and Option Transactions with Exchange netted~~ with its those of the Contracting Party's affiliates ~~Affiliates by agreement with Exchange.~~ If Exchange determines to do so, Exchange will only agree after the Contracting Party and each such affiliated ~~the~~ Contracting Party ~~Affiliate~~ have provided to Exchange Collateral sufficient to cover the Margin Requirements for each party.



## AMENDMENTS TO SCHEDULE “K” -

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

### 7. ERCOT

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#### b. Performance of the Physically Settled Power Futures Transactions

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##### 1. Procedures on Non-Performance

###### 1. Non-Performance by Seller or Buyer

If Seller’s or Buyer’s schedule is not in balance at or prior to 2:30 p.m. on the day following the Physical Power Delivery Day with respect to all or part of the Physical Power in a Physically Settled Power Futures Transaction, which results in the Exchange incurring costs equal to one or all of the amounts set out in Sections 5.1. or 5.3 of this Agreement, then, Exchange may:

- a. liquidate any Collateral ~~collateral~~ held by it on behalf of the Contracting Party;
- b. make an immediate request for additional Eligible Collateral Support ~~demand for further collateral~~ from the Contracting Party;

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#### h. Invoice Amount

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- b. all fees as outlined in Schedule “A” of this Agreement ~~the Fee schedule~~; plus

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## PROPOSED AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

### TERMS AND CONDITIONS

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

#### ARTICLE 1 – INTERPRETATION

##### 1.1 General

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b. Revision of Agreement – The Terms and Conditions and Schedules may be revised from time to time by Exchange upon notice to the Contracting ~~Party~~ Parties, such revisions to be effective for the purpose of this Agreement on the following basis:

~~(i) Reserved~~

~~(ii) revisions~~

c. Effective Date of Revisions to Agreement – Revisions to the Terms and Conditions and Schedules will be effective

(i) six (6) Business Days following ~~receipt of notice by the Contracting Parties of such revision~~ in accordance with this Section 1.1, or

(~~ii~~a) at such later date as may be designated as the Revision Effective Date (defined in Section 1.1), or as may be otherwise designated in such notice, or

(~~iii~~b) at such earlier date as may be required for compliance with applicable laws or regulations, to protect the integrity of the ICE NGX Trading System or ICE NGX Clearing System or for the correction of errors,

provided that any such revisions which alter adversely any rights, benefits, liabilities or Obligations of any Contracting Party, except to the extent required by applicable law or regulation, shall not be effective in respect of Transactions which are not then fully performed. Revisions to this Agreement result in the Contracting Party having certain rights of termination of this Agreement as more particularly set forth in Section 9.1.

d. Notice of Revisions to Agreement – ~~Notwithstanding the above, specifically with respect to any revisions to the Schedules or the addition of a new schedule to this Agreement (collectively, referred to as “Schedule Revisions”), notice by way of electronic communication~~ Notice of revisions to the Terms and Conditions and Schedules shall be sufficiently given ~~by ICE NGX if either~~ (a) providing the revisions to the Terms and Conditions and Schedules (the “Revisions”) and a notice summarizing the revisions (a “Summary Notice”) ~~containing Schedule Revisions in their entirety (the “Complete Schedule Revisions”) is provided~~ to the Contracting Party by email ~~(with return receipt) (the “Standard Electronic Forms”), or and~~ (b) posting the Revisions and Summary Notice ~~notice summarizing Product Schedule Revisions is provided to the Contracting Party by one of the Standard Electronic Forms (a “Summary Notice”) and the Complete Schedule~~



~~Revisions are posted~~ on Exchange's Website in a publicly accessible location-secured access section for Contracting Parties on the same day that such Summary Notice was provided.

~~e.e.-~~ Revision Date – Any section of the Agreement which is revised from time to time will contain a revision date set forth below the applicable section which will be the effective date of such revision(s) (the "Revision Effective Date") having accounted for the notice requirements in Section 1.1. A Revision Effective Date may be deleted from copies of the Agreement which are distributed ninety (90) days following any such Revision Effective Date.

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## ARTICLE 3 – GENERAL

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### 3.2 Agreements of the Contracting Party

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#### ~~d. Exchange Information~~

- ~~(i) The Contracting Party will file with Exchange the Contracting Party's audited or, if audited are not available, unaudited consolidated financial statements for its fiscal year within 140 days of the end of fiscal year.~~
- ~~(ii) On request of Exchange, the Contracting Party will file with Exchange (A) unaudited consolidated financial statements for each of the Contracting Party's first three fiscal quarters within 60 days of the end of such fiscal quarter or such substitutional financial information as may be acceptable to Exchange and such Contracting Party; (B) such reasonable additional financial or other information as may be requested by Exchange from time to time and which is reasonably necessary for the administration or prudent operation of the ICE NGX Trading System or the ICE NGX Clearing System; and (C) reasonable confirmation in respect of the representations and warranties of the Contracting Party provided in Sections 2.1 and 2.3 and of the Credit Support Provider provided in Section 2.2.~~
- ~~(iii) The Contracting Party agrees to file a notice with Exchange in respect of any material adverse change in the financial condition of the Contracting Party or the Credit Support Provider, or of any material change to any of the information provided to Exchange in the Application or pursuant to any inquiry by Exchange.~~
- ~~(iv) The Contracting Party agrees to Exchange making such further investigations, inquiries or credit checks as Exchange may deem reasonably necessary and agrees to provide such documentation or information as is requested by Exchange in the conduct of such investigation or inquiry.~~



d.i. ~~Further Information – The Contracting Party agrees to provide such further documentation or information as is required from time to time by Exchange, including but not limited to supporting documentation or information relating to tax matters.~~

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q. ~~Prior Notice of Corporate Transaction or Name Change – Contracting Party will provide Exchange 30 days' prior written notice of any name change, merger, amalgamation, division, consolidation or similar non-recurring transaction, arrangement or agreement in respect of the Contracting Party. In connection with any such name change, merger, amalgamation, division, consolidation, or other non-recurring transaction, arrangement or agreement, Contracting Party will execute any further instruments and take further action as Exchange reasonably requests to perfect or continue Exchange's first ranking Lien on the Collateral.~~

*[Note: The numbering of section 3.2 will be updated to reflect the amendments above.]*

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### **3.9.1 Notice of Event of Default**

~~The Contracting Party is required to, and agrees to and acknowledges the requirement to, notify Exchange promptly upon~~

- a. ~~the occurrence of any event listed in paragraph 3.9.c, in respect of the Contracting Party or any Credit Support Provider or any Specified Entity;~~
- b. ~~becoming aware of an intention for a merger without assumption as described in Section 3.9, in respect of the Contracting Party or any Credit Support Provider.~~

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### **3.11 Required Information and Required Notices to Exchange**

#### **a. Required Information –**

(i) Annual Financial Statements – Within 140 days of the end of fiscal year, the ~~The~~ Contracting Party will file with Exchange ~~the Contracting Party's~~ audited or, if audited are not available, unaudited consolidated financial statements for ~~it's~~ the fiscal year within 140 days of the end of fiscal year to evidence that the Contracting Party continues to satisfy the Minimum Qualification Requirement.

(ii) Interim Financial Statements – On request of Exchange, the Contracting Party will file with Exchange the Contracting Party's unaudited consolidated financial statements for each of the Contracting Party's first three fiscal quarters within 60 days of the end of such fiscal quarter or such substitutional financial information as may be acceptable to Exchange and such Contracting Party.;

(iii) Further Information – The Contracting Party agrees to provide



- (A) such reasonable additional financial or other information as may be requested by Exchange from time to time and which is reasonably necessary for the administration or prudent operation of the ICE NGX Trading System or the ICE NGX Clearing System; ~~and~~
  - (B) reasonable confirmation in respect of the representations and warranties of the Contracting Party provided in Sections 2.1 and 2.3 and of the Credit Support Provider provided in Section 2.2; ~~and~~
  - (C) such further documentation or information as is required from time to time by Exchange, including but not limited to supporting documentation or information relating to tax matters.
- (iv) **Further Inquiries** – The Contracting Party agrees to Exchange making such further investigations, inquiries or credit checks as Exchange may deem reasonably necessary and agrees to provide such documentation or information as is requested by Exchange in the conduct of such investigation or inquiry.

b. Required Notices

- (i) **Material Adverse Change in Financial Condition** – The Contracting Party agrees to ~~notify file a notice with~~ Exchange ~~in respect~~ of any material adverse change in the financial condition of the Contracting Party or the Credit Support Provider, ~~and~~ ~~or~~ of any material change to any of the information provided to Exchange in the Application or pursuant to any inquiry by Exchange.
- (ii) **Minimum Qualification Requirements Not Met** – The Contracting Party agrees to file a notice with Exchange promptly upon becoming aware that the Contracting Party does not, or will not, satisfy the Minimum Qualification Requirements set out in this Agreement.
- (iii) **Prior Notice of Corporate Transaction or Name Change** – Contracting Party will provide Exchange 30 days' prior written notice of any name change, merger, amalgamation, division, consolidation or similar non-recurring transaction, arrangement or agreement, including any change in control, in respect of the Contracting Party or the Credit Support Provider. In connection with any such name change, merger, amalgamation, division, consolidation, or other non-recurring transaction, arrangement or agreement, Contracting Party will execute any further instruments and take further action as Exchange reasonably requests to perfect or continue Exchange's first ranking Lien on the Collateral.
- (iv) **Notice of Event of Default** – The Contracting Party is required to, and agrees to and acknowledges the requirement to, notify Exchange promptly upon
  - (A) the occurrence of any event listed in paragraph 3.9.c, in respect of the Contracting Party or any Credit Support Provider or any Specified Entity;



(B) becoming aware of an intention for a merger without assumption as described in Section 3.9, in respect of the Contracting Party or any Credit Support Provider.

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## ARTICLE 9 – MISCELLANEOUS

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### 9.2 Notices

Any notice, consent, determination or other communication required or permitted to be given or made hereunder shall be in writing and shall be sufficiently given or made if delivered by hand, email, electronic transmission, mail or telephone during normal business hours on a Business Day. Such delivery shall be effective at the time of delivery (in the case of delivery by hand), at the time the relevant notice, consent determination or other communication is sent (in the case of delivery by email or other electronic transmission) or at the of the relevant communication (in the case of delivery by telephone). ~~and left at the relevant address set forth below; or sent by email or other means of recorded electronic communication; and if~~

Notices and other communication to Exchange, must be addressed to ~~it at:~~

ICE NGX Canada Inc.  
Suite 2610, 225 - 6th Avenue SW  
Calgary, Alberta  
T2P 1N2  
Attention: President  
Email : [legal-ICENGX@ice.com](mailto:legal-ICENGX@ice.com)

~~and if~~ Notices and other communication to the Contracting Party, ~~sent by email or other means of electronic communication and~~ may be addressed to the attention of the person designated from time to time to receive such notices and/or the trader contacts when appropriate.

Other means of electronic communication shall include being available for access by way of the ICE NGX Trading System or the ICE NGX Clearing System. ~~except in the case of communications required in respect of any revisions to this Agreement or as to the occurrence of a Default, in which case notification by email (with return receipt or a comparable electronic confirmation of delivery) are the only accepted methods of electronic communication.~~

~~Notwithstanding the above, specifically with respect to any revisions to the Schedules or the addition of a new schedule to this Agreement (collectively, referred to as "Schedule Revisions"), notice by way of electronic communication shall be sufficiently given if either (a) notice containing Schedule Revisions in their entirety (the "Complete Schedule Revisions") is provided to the Contracting Party by email (with return receipt) (the "Standard Electronic Forms"), or (b) notice summarizing the Product Schedule Revisions is provided to the Contracting Party by one of the Standard Electronic Forms (a "Summary Notice") and the Complete Schedule Revisions are~~



~~posted on Exchange's Website in a secured access section for Contracting Parties on the same day that such Summary Notice was provided.~~

~~Any notice or other communication so given or made shall be deemed to have been given or made on the same day and to have been received on the day of delivery if delivered as aforesaid or on the day of receipt of same by email or other means of electronic communication, as the case may be, provided such day is a Business Day and that such notice is received by the person notified prior to 3:00 p.m. local time, and, if not, on the first Business Day thereafter.~~

Each party may change its mailing address, or email address for the purposes of this Section 9.2 by notice to the other pursuant hereto.