

SCHEDULE K – PHYSICALLY SETTLED POWER FUTURES TRANSACTIONS

1. Product Availability

This Schedule K contains clearing and settlement provisions for all Physically Settled Power Futures Products offered at Delivery Points that are listed on the ICE NGX Product List and designated as cleared through the ICE NGX Clearing system.

2. Relationship to Agreement

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

3. Interpretation

- a. All times referred to in this Schedule K are to Central Prevailing Time.
- b. All amounts of money referred to herein or in this Agreement in respect of the ERCOT Delivery Points are in U.S. dollars.
- c. Capitalized words and phrases used in this schedule and not defined in this Schedule will have the same meaning as set out in this Agreement.

4. Pre-Delivery Procedures

To transact Physically Settled Power Futures Products with ICE NGX, Contracting Party must represent and, if requested demonstrate, that it is in good standing with: (i) FERC if it is engaging in interstate commerce, and/or (ii) PUCT (with respect to ERCOT Transactions) or other state regulatory authorities in the locations in which the Contracting Party intends to transact, as applicable. Contracting Party must be capable, either directly or via agent, of scheduling energy or other ancillary products (i.e., physical capacity products) in accordance with the tariffs of the Transmission Provider(s). If Contracting Party proposes to schedule through an agent, Exchange must be satisfied as to: (i) the validity of the appointment of the agent; and (ii) the enforceability of Contracting Party's Obligations pursuant to the Agreement, notwithstanding the agent appointment.

5. Representations and Warranties of the Contracting Party

The Contracting Party represents and warrants in respect of any Physically Settled Power Futures Transaction entered into by such Contracting Party that at the time of delivery or receipt:

- a. If it is the Seller:
 - (i) it owns and has title to Physical Power, or has the irrevocable authority to sell Physical Power;
 - (ii) it has the full right and authority to sell Physical Power and to carry out its obligations under this Agreement;
 - (iii) any Physical Power delivered to Exchange shall be free from all royalty payments, Liens or encumbrances whatsoever; and
 - (iv) it has all necessary rights and entitlements with the applicable state regulatory authority and/or FERC, as applicable, for the delivery of Physical Power at the applicable Delivery Point.

- b. If the Buyer:
 - (i) it has the full right and authority to purchase Physical Power and to carry out its obligations under this Agreement; and
 - (ii) it has all necessary rights and entitlements with the applicable state regulatory authority and FERC, as applicable, to take Physical Power at the applicable Delivery Point.

6. ERCOT

The provisions of this Section 7 apply only to Physically Settled Power Futures Transactions at ERCOT Delivery Points.

- a. Delivery Procedures – With respect to ERCOT Physically Settled Power Futures Transactions, on each day, Exchange and/or the Contracting Parties, as applicable, depending upon the Transmission Provider’s requirements at any ERCOT Delivery Point, will submit schedules for the delivery or receipt of Physical Power under all such Physically Settled Power Futures Transactions as follows:
 - (i) each Contracting Party with an Hourly Contract Quantity to be delivered or to be taken at one or more ERCOT Delivery Points will submit schedules for each Hourly Contract Quantity to the applicable Transmission Provider(s) at or prior to 12:30 p.m. on the day prior to the Physical Power Delivery Day;
 - (ii) Exchange will, for each Contracting Party, offset the Hourly Contract Quantities due for delivery on a Physical Power Delivery Day against the Hourly Contract Quantities due to be taken on a Physical Power Delivery Day for all Physically Settled Power Futures Transactions to determine a net Hourly Contract Quantity at each of the ERCOT Delivery Points; and
 - (iii) Exchange will submit schedules to the applicable Transmission Provider for all net Hourly Contract Quantities of Physical Power to be delivered or to be taken at the applicable ERCOT Delivery Point in a 24 hour period, at or prior to 12:30 p.m. on the day prior to the Physical Power Delivery Day.
- b. Performance of the Physically Settled Power Futures Transactions – The ERCOT Physically Settled Power Futures Transactions at the applicable ERCOT Delivery Points will be performed between the Contracting Party and the Exchange as follows:
 - (i) By the Contracting Party:
 - (A) upon the acceptance of the schedules by the applicable Transmission Provider for the net Hourly Contract Quantities of Power scheduled for delivery or take at the ERCOT Delivery Points; and
 - (B) by the payment to Exchange, as applicable, of the Invoice amounts for the Physically Settled Power Futures Transactions at the ERCOT Delivery Points.
 - (ii) By Exchange:
 - (A) upon the acceptance of the schedules by the applicable Transmission Provider for the net Hourly Contract Quantities of Physical Power scheduled for delivery or take at the ERCOT Delivery Points; and
 - (B) by the payment to the applicable Contracting Party of the Invoice amounts for the Physically Settled Power Futures Transactions at the ERCOT Delivery Points.

- c. Procedures on Non-Performance by Seller or Buyer – In the event of a Failure to Schedule to Deliver or Failure to Schedule to Take:
- (i) Exchange will notify the Contracting Party by instant message, phone or email that the Contracting Party's Schedule is not in balance indicating the quantity affected;
 - (ii) Exchange may exercise any of its rights under Article 5 of the Terms and Conditions; and
 - (iii) Exchange may impose an administrative cash penalty upon the Contracting Party.
- d. North Hub Index Product – The North Hub Index Product is a Physically Settled Power Futures Product calculated using the arithmetic average of the 15-minute Real Time ERCOT Settlement Point Prices for the ERCOT North Hub as published by ERCOT for the specific hours and ERCOT Operating Days(s) named in the calculation, plus any trading price differential (premium or discount). The North Hub Index Product Purchase Price is determined using the published Real Time ERCOT Settlement Point Prices, as considered final by Exchange at 12:00 p.m. on the fifth business day of the of the month following the time of delivery. For greater clarity, any changes made by ERCOT to the ERCOT Settlement Point Prices following the 12:00 deadline on the fifth of the month will NOT be considered in determining the North Hub Index Product Purchase Price.
- e. ERCOT Force Majeure –
- (i) A force majeure event in the ERCOT control area (“ERCOT Force Majeure Event”) may be declared by Exchange in its sole discretion at an ERCOT Delivery Point if: (i) the Transmission Provider declares a force majeure event or an emergency event, or materially curtails or interrupts Physical Power delivery at an ERCOT Delivery Point which affects a material number of Contracting Parties, or (ii) if an event occurs that materially affects the ability of a material number of Contracting Parties to meet their Obligations that is beyond the control of the Contracting Parties.
- For clarity, Exchange will not declare an ERCOT Force Majeure Event to the extent performance is affected by any of the following circumstances: (i) the economic hardship of a Contracting Party, including but not limited to, transmission constraint issues, the Seller’s ability to sell Physical Power at a better price than the Purchase Price, or the Buyer’s ability to purchase Physical Power at a better price than the Purchase Price, or a regulatory authority disallowing either in whole or in part, the pass through of costs resulting from this Agreement; or (ii) the loss of the Buyer’s market or the Buyer’s ability to use or resell Physical Power purchased under this Agreement.
- (ii) On any day that an ERCOT Force Majeure Event is declared at one of the ERCOT Delivery Points, the Exchange’s and the Contracting Party’s respective obligations to schedule Physical Power pursuant to all Physically Settled Power Futures Transactions at that ERCOT Delivery Point shall be revised or cancelled, as appropriate. Any Physically Settled Power Futures Products affected by the ERCOT Force Majeure Event may be halted from trading for the duration of the ERCOT Force Majeure Event.
- f. Procedures on ERCOT Force Majeure Event –
- (i) Investigation – Exchange will, in consultation with the applicable Transmission Provider, if necessary, make a determination of whether an ERCOT Force Majeure Event exists and an estimate of its probable duration.
 - (ii) Notice to Contracting Parties – If an ERCOT Force Majeure Event is determined by Exchange to exist (the "**ERCOT Force Majeure Declaration**"), all affected Contracting Parties will be immediately notified by notice posted on Exchange’s Website, phone, instant message or email:
 - (A) that the ERCOT Force Majeure Declaration has been made;

- (B) the revision or cancellation in relevant Obligations; and
 - (C) which Products, if any, will be halted from trading.
- (iii) Title Transfer – The Seller, Buyer and Exchange will make all necessary changes to the applicable schedules to reflect the reduced obligations.
- (iv) Further Notice – Exchange will promptly advise the affected Contracting Parties of any material changes to the ERCOT Force Majeure Declaration.
- g. Title –
 - (i) From Seller – Title to Physical Power delivered at any ERCOT Delivery Point under any Physically Settled Power Futures Transaction shall pass from the Seller to Exchange at the receipt point specified in any Physically Settled Power Futures Transaction.
 - (ii) To Buyer – Title to Physical Power delivered at any ERCOT Delivery Point under any Physically Settled Power Futures Transaction shall pass from Exchange to the Buyer at the receipt point specified in any Physically Settled Power Futures Transaction.
 - (iii) Regarding Exchange – In no event shall this Agreement be construed in a manner whereby risk of loss of Physical Power delivered under any Physically Settled Power Futures Transaction would be held, or be deemed to be held, by Exchange in acting as the intermediate title holder for the purposes of facilitating transfer of title from Buyer to Seller. The transfers of title from the Seller to the Exchange and the Exchange to the Buyer are deemed to occur concurrently.
- h. Liability –
 - (i) Full Satisfaction – Upon payment, in accordance with this Agreement, of the amounts required to be paid by Exchange or the Contracting Party, as the case may be, in respect of any Failure to Take, Failure to Deliver, Failure to Schedule to Deliver, Failure to Schedule to Take, or Failure to Pay in respect of such Physically Settled Power Futures Transaction, Exchange or such Contracting Party shall have no further liability under such Physically Settled Power Futures Transaction or this Agreement in respect of any such failure.
 - (ii) No Indirect Damages – Other than as specifically set forth in this Agreement, in no event shall Exchange or a party to a Physically Settled Power Futures Transaction be liable under this Agreement or any Physically Settled Power Futures Transaction for any special, consequential or indirect damages or claims, including without limitation, loss of profits or revenues, cost of capital or claims of any of the suppliers or customers of the Contracting Party arising out of any Failure to Deliver, Failure to Take, Failure to Schedule to Deliver, Failure to Schedule to Take, or Failure to Pay, or any other matter for which liability may be assessed under this Agreement or any Physically Settled Power Futures Transaction.
- i. Invoice Amount –

Subject to any accelerated invoicing that occurs in respect of a failure of performance by the Buyer or Seller set out in Article 5 of the Terms and Conditions, Exchange will determine the amounts owing or payable by a Contracting Party on a monthly basis for scheduled Physical Power for the Delivery Points as follows:

- (i) by multiplying: Contract Quantity of Power scheduled at each of the Delivery Points under all Physically Settled Power Futures Transactions for each Delivery Day of the given Month expressed in MWH; by

- (A) the Purchase Price for such period, except for all Physically Settled Power Futures Transactions that are North Hub Index Products; or
 - (B) for all Physically Settled Power Futures Transactions that are North Hub Index Products, by the North Hub Index Product Purchase Price plus a trading price differential, if applicable; plus
- (ii) all fees as outlined in Schedule A of this Agreement; plus
 - (iii) any fees charged to Exchange by any Transmission Providers for the schedules pertaining to the delivery of Physical Power under all such Physically Settled Power Futures Transactions that have not been recovered by Exchange, which may include amounts set out in Sections 5.1, 5.2, or 5.3 of the Terms and Conditions; plus
 - (iv) any applicable taxes pursuant to Section 7 of the Terms and Conditions.