



February 15, 2024

**VIA CFTC PORTAL**

Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st St., N.W.  
Washington, D.C. 20581

**Re: Amendment to ICE NGX Canada Inc. Rules - Submission Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and CFTC Regulation § 40.6(a): Environmental Products (CPA and RMF Amendments)**

Dear Mr. Kirkpatrick:

Pursuant to 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 relating to changes to

- 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(i), and
- the ICE NGX Risk Management Framework (“RMF”) - the RMF is a “rule” as that term is defined under Commission Regulation 40.1(i),

each relating to ICE NGX’s planned launch of trading and clearing services for physically settled contracts for delivery of environmental credits, offsets, etc. (the “Environmental Products”).

ICE NGX intends to implement the amendments to the CPA (the “CPA Amendments”) and the amendments to the RMF (the “RMF Amendments” and, together with the CPA Amendments, the “Amendments”) on March 11, 2024, concurrent with the planned launch of the new Environmental Products, slated for that date.

**1. Overview**

Subject to obtaining the necessary regulatory approvals, ICE NGX intends to launch trading and clearing services for physically settled environmental products.

ICE NGX’s initial focus is on physically settled contracts for Alberta Emission Performance Credits (“EPCs”) and Alberta Emission Offsets (“Offsets”). EPCs and Offsets are issued, and are eligible for compliance, under Alberta’s Technology Innovation and Emissions Reduction program. EPCs and Offsets can be retired for compliance under the TIER program for a prescribed period; the compliance date for retirement is June 30<sup>th</sup> of each year, for the previous year’s emissions.

**ICE NGX Canada Inc.**  
Suite 2610, 225 – 6<sup>th</sup> Avenue SW  
Calgary, AB  
Canada T2P 1N2  
**ice.com**



ICE NGX is making this submission to establish the trading, clearing and delivery rules and procedures relating to the new Environmental Products generally and the Alberta EPCs and Offsets specifically, including:

- general product terms;
- margin coverage, including a new “delivery margin” concept;
- acceptable instruments for delivery;
- procedures for physical delivery, via the applicable registry, intermediated by ICE NGX;
- invoicing processes and cycle;
- procedures upon revocation of an EPC or Offset, including a revocation warranty by the seller; and
- applicable transaction fees.

The RMF Amendments describe the framework for managing risks specific to the Environmental Products, including:

- margin coverage, including a new “delivery margin” concept;
- settlement cycle and application of accounts payable/ accounts receivable (“AP/AR”);
- stress testing;
- revocation warranty and revocation warranty insurance.

For greater certainty, no change is anticipated to the Minimum Qualification Requirements for a participant to become a Contracting Party with ICE NGX.

The Amendments reflect feedback gathered through direct consultation sessions with market participants, both current and potential future Contracting Parties.

The text of the amended CPA provisions is attached as the Appendix to this letter. Concurrently with this submission, ICE NGX is submitting the text of the RMF Amendments, for which ICE NGX has respectfully requested confidential treatment.

Note: Capitalized terms not otherwise defined herein have the meaning given to them in the CPA.



## 2. Details of Rule Changes

### ***Minimum Qualification Requirements***

No change is currently intended to the Minimum Qualification Requirements for a participant that seeks to trade and clear Environmental Products.

### ***Initial Margin, Variation Margin and Minimum Available Margin***

Typically, ICE NGX calculates initial margin ("IM") using a portfolio margin model ("PMM"). However, because the Environmental Products will have no price history available at launch, ICE NGX will initially apply a conservative product-level initial margin rate.

Consistent with the treatment of variation margin for ICE NGX's physically settled natural gas and power products, ICE NGX will, on a daily basis, calculate and post mark-to-market gains and losses on Environmental Products to each Contracting Party's total margin requirement, using its accrued variation margin model. This means that a Contracting Party's mark-to-market gains and losses are credited or debited to the Contracting Party's overall margin requirements, as is currently the case for ICE NGX's physically settled gas and power products.

The Amendments set the minimum Available Margin for a Contracting Party that trades only Environmental Products as CAD \$500,000, consistent with the minimum Available Margin level for natural gas.

### ***Delivery Margin and Early Delivery***

The Amendments introduce a new IM component, "Delivery Margin", designed to mitigate against the risk that either the seller or buyer fails to perform its obligations to make or take delivery of EPCs or Offsets, as applicable, after the expiry of trading and during the delivery period. The introduction of Delivery Margin reflects the extended delivery timeline for EPCs and Offsets. Delivery Margin will apply after contract expiry from the 1<sup>st</sup> calendar day of the settlement month up until the end of the 5<sup>th</sup> business day of the settlement month (i.e., until the seller's delivery deadline).

The Amendments provide that the seller may deliver credits as early as the 6<sup>th</sup> business day of the expiry month. Once delivery by the seller has been confirmed by ICE NGX, the delivered volumes are no longer subject to Delivery Margin - whether delivered early or during the normal delivery cycle.

### ***Physical Delivery***

Ownership and transfer of title to EPCs and Offsets is only possible via the applicable registry. ICE NGX has established registry accounts to facilitate intermediated physical delivery. At expiry of trading, net deliverable positions in each product will be determined. On or before the 5<sup>th</sup> business day of the delivery month, the seller must deliver the EPCs or Offsets contracted for, into ICE NGX's account at the applicable registry. On or before the 10<sup>th</sup> business day, ICE NGX will deliver the relevant credits to the buyer's account at the applicable registry.

### ***Settlement and Invoicing***

The CPA Amendments set out the process for invoicing and settlement of Invoice amounts. ICE NGX is introducing a new Environmental Settlement Date, on the 20<sup>th</sup> calendar day of each month

**ICE NGX Canada Inc.**

Suite 2610, 225 – 6<sup>th</sup> Avenue SW

Calgary, AB

Canada T2P 1N2

**ice.com**



(or the next Business Day if the 20<sup>th</sup> is not a Business Day). Environmental Invoices will include the Purchase Price for EPCs and Offsets delivered during that calendar month, as well as Transaction Fees for Environmental Products incurred during the previous calendar month, plus applicable taxes.

### ***Seller's Warranty, Default and Liquidation and Revocation Warranty Insurance***

EPCs and Offsets are subject to audit and revocation by the Alberta government. The historical revocation rate is very small - 0.5% of all Offsets generated since 2012, and 0.11% of all EPCs ever generated. The CPA Amendments provide that each seller that delivers an EPC or Offset in the ICE NGX market (each a "Warranting Seller") guarantees that credit against revocation for a period of 3 years following the month of delivery. If a credit is revoked, the buyer has recourse via ICE NGX to the Warranting Seller. ICE NGX will "daisy chain" the Revocation Warranty through each Warranting Seller of the revoked credit in the ICE NGX markets, back to the earliest delivery within the 3-year warranty period (the "First Warranting Seller"). The Revocation Warranty concept is designed taking into consideration the seller's warranty currently provided in many bilateral transactions for EPCs and Offsets.

Each Warranting Seller is liable to pay the Revocation Value - prescribed as the monthly index price for the expiry month of the contract under which the Revoked Credit was delivered - or, in the case of the First Warranting Seller, may provide Replacement Credits. A Warranting Seller that also benefits from a warranty, as the buyer in an ICE NGX transaction for the same revoked credit, would be liable only for the net difference between its warranted amount and the amount it has warranted the credit for. The Revocation Warranty is a post-delivery obligation, that survives termination of the Contracting Party's Agreement.

If a Warranting Seller fails to pay the Revocation Value or provide Replacement Credits, ICE NGX would have authority to declare an Event of Default in respect of the the Warranting Seller's entire portfolio with ICE NGX, including all Environmental Products, natural gas and power positions. Any residual loss relating to open positions - including open Environmental Products - would be managed under ICE NGX's current default waterfall and guarantee fund, with no changes contemplated thereto. Any residual gain would be applied against the outstanding Revocation Warranty amount.

ICE NGX will maintain a fund (the "Revocation Warranty Fund"), in the amount of CAD 10 million or such other amount as specified by ICE NGX, to provide additional protection to buyers of Environmental Products against the risk of a Warranting Seller defaulting on its Revocation Obligations, on a first-come, first-served basis. ICE NGX intends to procure insurance to backstop the Revocation Warranty Fund, to mitigate the risk of loss to ICE NGX.

### **3. Compliance with Core Principles**

ICE NGX reviewed the Amendments and determined that they comply with the rules and regulations of the Commission. In this regard, ICE NGX reviewed the derivatives clearing organization ("DCO") core principles (each a "Core Principle") and determined that the Amendments are potentially relevant to the following Core Principles and 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.

Financial Resources (Core Principle B): The Amendments are consistent with Core Principle B - Financial Resources and Commission Regulations

- § 39.11(c)(1), as the Amendments establish new financial resources stress testing scenarios for Environmental products; and
- § 39.11(e), as the treatment of variation margin for Environmental Products does not change the calculation of ICE NGX's average of average daily settlement pays pursuant to, and therefore ICE NGX's liquidity resource requirements for the purposes of, § 39.11(e)(1)(ii), yet the Amendments nevertheless establish a new Environmental Settlement Date, designed in part for prudent liquidity risk management purposes by distributing liquidity resource requirements relating to monthly settlements across an additional settlement date.

Participant and Product Eligibility (Core Principle C): The Amendments are consistent with Core Principle C - Participant and Product Eligibility and Commission Regulations

- § 39.12(a)(1)(i), (ii) and (iii), as the Amendments permit fair and open access to market participants seeking to trade and clear Alberta Environmental Products through participant eligibility requirements that are consistent with the participation requirements applicable to ICE NGX's other asset classes and that are not more restrictive than necessary to reasonably manage the risks relating to the new asset class;
- § 39.12(a)(2)(i), (ii) and (iii), as the Amendments establish financial resource and capital requirements for market participants seeking to trade and clear Alberta Environmental Products that are objective, transparent, and commonly accepted standards and that are consistent with the corresponding requirements applicable to ICE NGX's other asset classes;
- § 39.12(b)(1), as the Environmental Products meet ICE NGX's requirements for providing clearing services; and
- § 39.12(b)(5), as the Amendments adopt product unit sizes (1 contract (or "lot") = 1,000 EPCs or Offsets, as applicable) that are consistent with industry standards applicable to futures contracts for delivery of environmental credits and are therefore designed to maximize liquidity and facilitate transparency in pricing, and that are designed to promote open access and allow for effective risk management.

Risk Management (Core Principle D): The Amendments are consistent with Core Principle D - Risk Management and Commission Regulations



- § 39.13(g)(9), as the Amendments specify the time deadline for clearing participants to provide additional collateral if certain conditions are met; and
- § 39.13(h)(9), as the CPA Amendments enhance ICE NGX's authority to act in an Emergency Situation.

Settlement Procedures (Core Principle E): The Amendments are consistent with Core Principle E - Settlement Procedures and Commission Regulations

- § 39.14(b), as the Amendments specify that ICE NGX will settle variation margins gains or losses using its accrued variation margin approach, in accordance with the Amended Order of Registration issued on March 20, 2013 by the Commission to ICE NGX under its previous name, Natural Gas Exchange Inc.; and
- § 39.14(g)(1) and (2), as the Amendments establish the timeline and procedures for physical delivery of EPCs and Offsets via the applicable registry accounts, the role of ICE NGX in the physical delivery process and the allocation of risk during delivery.

Public Information (Core Principle L): The Amendments are consistent with Core Principle L - Public Information and Commission Regulations

- § 39.21(a), as the Amendments establish clear and comprehensive rules and procedures designed to enable market participants to identify and evaluate accurately the risks and costs associated with clearing Environmental Products through ICE NGX, including relating to Transaction Fees, IM rates and accrued variation margin, Delivery Margin, delivery procedures, seller's Revocation Warranty and Revocation Warranty Insurance; and
- § 39.21(c)(1), (2), (6) and (9) as the Amendments would implement the relevant elements into the CPA, the current version of which is publicly available free of charge on the ICE NGX website;

#### **4. Certifications**

ICE NGX certifies that the proposed Amendments discussed in this submission comply with the Commodity Exchange Act, including the Core Principles and the Regulations of the Commission thereunder. ICE NGX is not aware of opposing views expressed regarding the Amendments. ICE



NGX further certifies that, concurrent with this filing, a copy of this submission was posted to ICE NGX's website.

Yours truly,

A handwritten signature in black ink, appearing to read "G. Abbott", is written above a horizontal line.

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By: Greg Abbott  
Title: President & COO  
Date: February 15, 2024



## AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

### TERMS AND CONDITIONS

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

#### ARTICLE 1 - INTERPRETATION

##### 1.1 General

- a. Incorporation into Agreement - The Terms and Conditions have been incorporated as part of the Agreement between the Contracting Party and Exchange. The following Schedules attached hereto are also incorporated as part of the Agreement:

- Schedule "A" - Fee Schedule
- Schedule "B" - Mediation and Arbitration
- Schedule "C" - Risk Management Policy
- Schedule "D" - ICE NGX Product List
- Schedule "E" - Natural Gas Options and Gas and Power Financially Settled Futures Transactions
- Schedule "F" - Physically Settled Gas Futures Transactions – Canadian Delivery Points
- Schedule "G" - Physically Settled Gas Futures Transactions – U.S. Delivery Points
- Schedule "H" - ~~Reserved~~ Physically Settled Environmental Futures Transactions
- Schedule "I" - Forward (Bilateral) Transactions
- Schedule "J" - Physically Settled Gas Futures Transactions – U.S. Delivery Points with Assigned Delivery
- Schedule "K" - Physically Settled Power Futures Transactions – U.S. Delivery Points

To the extent that any Schedule (including, without limitation, any appendices thereto) conflicts with these Terms and Conditions, these Terms and Conditions shall prevail.

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##### 1.2 Definitions

"Confirmation" means any Physically Settled Gas Futures Confirmations, Physically Settled Power Futures Confirmations, Physically Settled Environmental Futures Confirmation, Financially Settled Futures Confirmation, Option Confirmation, EFRP Confirmation or Forward Confirmation;

"Contract Quantity" means the total quantity of gas, ~~or~~ Physical Power or Environmental Products, as applicable, to be delivered or taken during the term of a Physically Settled Futures Transaction;

"Default" means, with respect to a Contracting Party, any of the following:



- (i) any one or more of a Failure to Deliver, Failure to Pay, Failure to Take, Failure to Provide Eligible Collateral Support, Failure to Satisfy Revocation Obligations, Financially Settled Futures Party's Default, or Option Party's Default by the Contracting Party or a Contracting Party Affiliate Default of any of its Contracting Party Affiliates, and
- (ii) with respect to a Physically Settled Power Futures Transaction, in addition to the events listed in paragraph (i), as determined by Exchange pursuant to Schedule "K";

"Delivery Margin" means, for each Contracting Party, an amount established by Exchange from time to time in accordance with the applicable margin policies of the Exchange as implemented from time to time, as further described in Schedule "C" - Risk Management Policy;

"Delivery Period" means, in respect of a Physically Settled Environmental Futures Transaction, the period of time in which physical delivery of the relevant Environmental Products is required to be completed, as determined by Exchange from time to time and posted on Exchange's Website not less than one month prior to the occurrence of such period;

"Environmental Product" means an allowance, certificate, credit, offset or other instrument that is valid for delivery under a Physically Settled Environmental Futures Product, as more particularly set out in Schedule "H";

"Environmental Settlement Date" means for each Physically Settled Environmental Futures Transaction, the day determined by Exchange from time to time, as posted on Exchange's Website not less than one month prior to the occurrence of such date, other than for any Revocation Value and any amounts declared immediately due and payable as a result of a Default or under the Liquidation Procedure or Close-out Procedure;

"Failure to Deliver" means

- (i) in the case of a Physically Settled Gas Futures Transaction, the failure of a Seller or Exchange to make delivery of any portion of the Contract Quantity to be delivered in accordance with a Physically Settled Futures Transaction as determined by the applicable Transportation System and as more particularly set forth in Schedules "F", "G", or "J", as applicable; ~~or~~
- (ii) in the case of a Physically Settled Power Futures Transactions, a Failure to Schedule to Deliver; and
- (iii) in the case of a Physically Settled Environmental Futures Transaction, a Failure to make delivery of any portion of the Contract Quantity to be delivered in accordance with a Physically Settled Environmental Futures Transaction as determined in accordance with the records of the applicable Registry, as more particularly set forth in Schedule "H";



"Failure to Satisfy Revocation Obligations" means the failure of a Warranting Seller to pay the Revocation Value or provide Replacement Credits, each as defined and as set out in Schedule "H";

"Failure to Take" means

- (i) in the case of a Physically Settled Gas Futures Transaction, the failure of a Buyer or Exchange to take delivery of any portion of the Contract Quantity to be received in accordance with a Physically Settled Futures Transaction as determined by the applicable Transportation System and as more particularly set forth in Schedules "F", "G", or "J", as applicable; ~~or~~
- (ii) in the case of a Physically Settled Power Futures Transaction, a Failure to Schedule to Take; and
- (iii) in the case of a Physically Settled Environmental Futures Transaction, a failure to accept delivery of any portion of the Contract Quantity to be delivered in accordance with a Physically Settled Environmental Futures Transaction as determined in accordance with the records of the applicable Registry, as more particularly set forth in Schedule "H";

"Open Position Limit" means the maximum quantity of gas, ~~or~~ power or Environmental Products in respect of which the Contracting Party may incur obligations for payment for or deliveries or receipts of gas, ~~or~~ Physical Power or Environmental Products or for payment for financial power pursuant to any Transactions, as determined by Exchange for any Trading Day in respect of each Product;

"Physically Settled Environmental Futures Confirmation" means the notification by Exchange as to any Physically Settled Environmental Futures Transaction entered into by the Contracting Party on a day, which will include particulars of the respective Physically Settled Environmental Futures Transactions including the Purchase Price, Contract Quantity, Registry and Physically Settled Environmental Futures Product;

"Physically Settled Environmental Futures Product" means a physically settled product for the purchase or sale of an Environmental Product that is designated as "Phys" in the ICE NGX Product List and may be made available on the ICE NGX Trading System, and/or ICE NGX Clearing System from time to time with such further particulars as may be applicable in Schedule "H";

"Physically Settled Environmental Futures Transaction" means a purchase or sale of a Physically Settled Environmental Futures Product, the terms of which shall include this Agreement and, for greater certainty, also includes the particulars applicable to such Physically Settled Environmental Futures Product as set out in the ICE NGX Product List and Schedule "H";



“Physically Settled Futures Product” means any [Physically Settled Environmental Futures Product](#), Physically Settled Gas Futures Product or Physically Settled Power Futures Product, including available Same-Day Delivery Tenors of such Physically Settled Futures Product;

“Physically Settled Futures Transaction” means any [Physically Settled Environmental Futures Transaction](#), Physically Settled Gas Futures Transaction or Physically Settled Power Futures Transaction, including available Same-Day Delivery Tenors of such Physically Settled Futures Transaction, as applicable;

“Quantification Protocol” means, in respect of an Alberta Emission Offset, an [emission offset quantification protocol approved and published by the department \(as defined in the TIER Regulation\)](#), as amended or replaced from time to time;

“Registry” means [a registry, custodian, depository or other system approved by Exchange for purposes of physical delivery of Environmental Products pursuant to a Physically Settled Environmental Futures Transaction, as specified in Schedule “D” for each particular Physically Settled Environmental Futures Product](#);

“Registry Operator” means [the operator of a Registry](#);

“Revocation Obligations” has the meaning [ascribed thereto in Schedule “H”](#);

“Services” means the services that Exchange provides to the Contracting Party in connection with this Agreement, including access to and use of the ICE NGX Data Products but excluding, for greater clarity, Exchange’s obligations to deliver, take or pay for gas, ~~or~~ Physical Power [or Environmental Products](#) as required under any Transaction and Exchange’s obligations to pay any amount under any Financially Settled Futures Transaction or Option Transaction;

“Settlement Date” means [an Environmental Settlement Date](#), a Financially Settled Futures Settlement Date, [an MTM Settlement Date](#) or a Physical Settlement Date, as the case may be;

“Unsatisfied Revocation Obligations” has the meaning [ascribed thereto in Schedule “H”](#);

“U.S. dollar” or “U.S. \$” or “USD” means the lawful currency of the United States of America; ~~and~~

“Variation Margin” has the meaning ascribed thereto in Schedule “C”; ~~and~~

“Warranting Seller” has the meaning [ascribed thereto in Schedule “H”](#);

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## ARTICLE 2 - REPRESENTATIONS AND WARRANTIES

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### 2.6 Additional Representations of the Contracting Party

Each Contracting Party represents and warrants that:

- a. Access to ~~Transportation~~ Relevant System(s) – To the extent it wishes to be entitled to enter into a Physically Settled Futures Transaction, the Contracting Party has and will at all times have
  - (i) in the case of a Physically Settled Gas Futures Transaction, access to capacity on the relevant Transportation System to allow the Contracting Party to perform its Obligations under all Physically Settled Gas Futures Transactions; ~~and~~
  - (ii) in the case of a Physically Settled Power Futures Transaction, an agreement with the Transmission Provider, to allow the Contracting Party to perform its Obligations under all Physically Settled Power Futures Transactions; and
  - (iii) in the case of a Physically Settled Environmental Futures Transaction, an account with the applicable Registry to allow the Contracting Party to perform its Obligations under all Physically Settled Environmental Futures Transactions.

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## ARTICLE 3 - GENERAL

### 3.2 Agreements of the Contracting Party

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- i. Block Transactions –

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- (vii)(l)(2) ...

Commodity	Range
Physically Settled Gas Futures Product	2.0 percent
Financially Settled Gas Futures Product	2.0 percent
Financially Settled Power Futures Product	5.0 percent
Physically Settled Power Futures Product	5.0 percent
<u>Physically Settled Environmental Futures Product</u>	<u>5.0 percent</u>



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## ARTICLE 4 - PHYSICALLY SETTLED FUTURES TRANSACTIONS AND PHYSICALLY SETTLED FUTURES PRODUCTS

### ARTICLE 4 - GENERAL PRODUCT TERMS

#### 4.1 Physically Settled Gas Futures Products - General

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##### f. Entering into Physically Settled Gas Futures Transactions –

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- (ii) The Contracting Party agrees to pay the Purchase Amount and any applicable taxes and take receipt of the Contract Quantity of gas or to deliver the Contract Quantity of Gas ~~or to take receipt of the Contract Quantity of gas~~ as may be required pursuant to its Physically Settled Gas Futures Transactions.
- (iii) Exchange agrees to pay the Purchase Amount and any applicable taxes and take or cause to be taken receipt of the Contract Quantity of gas or to deliver or cause to be delivered the Contract Quantity of gas ~~or to take or cause to be taken~~ the Contract Quantity of gas as may be required pursuant to any Physically Settled Gas Futures Transaction.

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#### 4.2 Physically Settled Power Futures Products - General

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##### e. Entering into Physically Settled Power Futures Transactions –

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- (ii) The Contracting Party agrees to pay the Purchase Amount and any applicable taxes and take receipt of the Contract Quantity of Physical Power or to deliver the Contract Quantity of Physical Power ~~or to take receipt of the Contract Quantity of Physical Power or~~ as may be required pursuant to its Physically Settled Power Futures Transactions.
- (iii) Exchange agrees to pay the Purchase Amount and any applicable taxes and take or cause to be taken receipt of the Contract Quantity of Physical Power or to deliver or cause to be delivered the Contract Quantity of Physical Power ~~or to~~



~~take or cause to be taken the Contract Quantity of Physical Power~~ as may be required pursuant to any Physically Settled Power Futures Transaction.

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#### **4.3 Physically Settled Environmental Futures Products - General**

- a. Forms of Physically Settled Environmental Futures Products – The forms of Physically Settled Environmental Futures Products and a description of such Physically Settled Environmental Futures Products which may be made available by Exchange to the Contracting Party from time to time is set forth in the ICE NGX Product List and Schedule “H”.
- b. Entering into Physically Settled Environmental Futures Transactions –
- (i) Each of Exchange and the Contracting Party, in its respective capacity as the Buyer or the Seller, as the case may be, agrees to be bound by any Physically Settled Environmental Futures Transactions entered into by the Contracting Party through the ICE NGX Trading System or under the EFRP provision of Section 3.2.
  - (ii) The Contracting Party agrees to pay the Purchase Amount and any applicable taxes and take receipt of the Contract Quantity of Environmental Products or to deliver the Contract Quantity of Environmental Products as may be required pursuant to its Physically Settled Environmental Futures Transactions.
  - (iii) Exchange agrees to pay the Purchase Amount and any applicable taxes and take receipt of the Contract Quantity of Environmental Products or to deliver or cause to be delivered the Contract Quantity of Environmental Products as may be required pursuant to any Physically Settled Environmental Futures Transaction.
- c. Recourse Against Exchange – The Contracting Party and Exchange hereby agree that the recourse of the Contracting Party in respect of any Physically Settled Environmental Futures Transactions is solely against Exchange. The Contracting Party will be entitled to the rights of recourse against Exchange set forth under this Agreement in the event of any Failure to Deliver, Failure to Pay or Failure to Take by Exchange relating to a Physically Settled Environmental Futures Transaction.
- d. Settlement and Netting of Invoice Amounts – All amounts payable by a Contracting Party under any Physically Settled Environmental Futures Transaction are due and are payable and are to be settled pursuant to Article 7 and the terms of this Agreement.
- e. Netting of Obligations to Deliver or Take – All Obligations of Exchange and the Contracting Party to deliver or cause the delivery of the Contract Quantity of Environmental Products or take or cause to be taken the Contract Quantity of Environmental Products at the relevant Registry in satisfaction of a Physically Settled Environmental Futures Transaction will be satisfied by the delivery or taking of the Contract Quantity of Environmental Products to or from Exchange, as the case may be, on a net basis in accordance with this Agreement.



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## ARTICLE 5 - RECOURSE AND LIABILITY

### 5.1 Failure to Deliver

- a. By the Seller – In the event of a Failure to Deliver by the Seller, the Seller will pay to Exchange an amount equal to:
- (i) the reasonable direct costs, claims, expenses and damages suffered or incurred by Exchange as a result of the Seller's failure to deliver the Failure Quantity including, without limitation or duplication, (a) any excess of the cost of (I) obtaining a quantity of gas, ~~or~~ (II) scheduling to obtain a quantity of Physical Power, or (III) obtaining a quantity of Environmental Products, as applicable, equal to the Failure Quantity over that portion of the Purchase Amount that would have been payable with respect to the Failure Quantity (the "Seller Replacement Amount"); (b) the costs or charges, if any, levied by the applicable Transportation System, ~~or~~ Transmission Provider or Registry as a result of such Failure to Deliver; (c) transportation, storage and other costs, if any, related to obtaining the Failure Quantity, and (d) in the case of a Failure to Schedule to Deliver, any additional Transmission Provider fees, charges, collateral calls or penalties; plus
  - (ii) interest from the date of the occurrence of the Failure to Deliver at the Default Rate to and including the date of payment to Exchange of all such amounts; plus,
  - (iii) liquidated damages of:
    - (I) with respect to Physically Settled Gas Futures Transactions, \$5,000 representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if (a) the Failure to Deliver occurs during a System Constraint Period, and (b) Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages; and
    - (II) with respect to Physically Settled Power Futures Transactions and Physically Settled Environmental Futures Transactions, \$5,000, representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages.



Exchange will deliver to the Seller a separate Invoice in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Deliver itemizing separately the amounts payable by the Seller under (i), (ii) and, if applicable, (iii).

- b. By Exchange – In the event of a Failure to Deliver by Exchange, Exchange will pay to the Buyer an amount equal to:
- (i) the reasonable direct costs, claims, expenses and damages suffered or incurred by the Buyer as a result of Exchange's failure to deliver the Failure Quantity including, without limitation or duplication, (a) any excess of the cost of obtaining (I) obtaining a quantity of gas ~~or~~ (II) scheduling to obtain a quantity of Physical Power, or (III) obtaining a quantity of Environmental Products, as applicable, equal to the Failure Quantity over that portion of the Purchase Amount that would have been payable with respect to the Failure Quantity, (b) the costs or charges levied, if any, by the Transportation System, ~~or~~ Transmission Provider or Registry, as a result of such Failure to Deliver, (c) transportation, transmission, storage and other costs, if any, related to obtaining the Failure Quantity, (d) in the case of Physical Power, any additional Transmission Provider fees, charges, collateral calls or penalties; plus
  - (ii) interest from the date of the occurrence of the Failure to Deliver at the Default Rate to and including the date of payment to the Buyer of all such amounts.

The Buyer will deliver to Exchange a separate Invoice in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Deliver itemizing separately the amounts payable by Exchange under (i) and (ii).

...

### 5.3 Failure to Take

- a. By the Buyer – In the event of a Failure to Take by the Buyer, the Buyer will pay to Exchange an amount equal to:
- (i) the reasonable direct costs, claims, expenses and damages suffered or incurred by Exchange as a result of the Buyer's failure to take the Failure Quantity including without limitation or duplication, (a) any excess of that portion of the Purchase Amount payable with respect to the Failure Quantity over the proceeds from the sale of the Failure Quantity, if any (the "Buyer Replacement Amount"); (b) the cost of storing or selling a quantity of gas, equal to the Failure Quantity; (c) the costs or charges levied by the Transportation System, ~~or~~ Transmission Provider or Registry, as a result of such Failure to Take; (d) transportation, transmission, storage and other costs, if any, related to the Failure to Take the Failure Quantity; and (e) in the case of Physical Power, any additional Transmission Provider fees, charges or penalties (including any collateral calls); plus,





- (ii) interest from the date of the occurrence of the Failure to Take at the Default Rate to and including the date of payment to Exchange of all such amounts; plus
- (iii) liquidated damages of:
  - (I) with respect to Physically Settled Gas Futures Transactions, \$5,000 representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if (a) the Failure to Take occurs during a System Constraint Period, and (b) Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages; [and](#)
  - (II) with respect to Physically Settled Power Futures Transactions [and Physically Settled Environmental Futures Transactions](#), \$5,000 representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages.

Exchange will deliver to the Buyer a separate Invoice in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Take itemizing separately the amounts payable under (i), (ii) and, if applicable, (iii).

- b. By Exchange – In the event of a Failure to Take by Exchange, Exchange will pay to the Seller an amount equal to:
  - (i) the reasonable direct costs, claims, expenses and damages suffered or incurred by the Seller as a result of Exchange's failure to take the Failure Quantity including, without limitation or duplication, (a) any excess of that portion of the Purchase Amount payable with respect to the Failure Quantity over the proceeds from the sale of the Failure Quantity, if any, (b) the cost of storing or selling a quantity of gas, equal to the Failure Quantity, (c) the costs or charges levied by the Transportation System, ~~or~~ Transmission Provider [or Registry](#), as a result of such Failure to Take, and (d) transportation, transmission, storage and other costs, if any, related to the Failure to Take the Failure Quantity; plus
  - (ii) interest from the date of the occurrence of the Failure to Take at the Default Rate to and including the date of payment to the Seller of all such amounts.

The Seller will deliver to Exchange a separate Invoice in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Take itemizing separately the amounts payable under (i) and (ii).

...

## 5.5 Rights of Exchange in Physically Settled Futures Transactions

- a. On the occurrence, or upon Exchange becoming aware, or, in the case of a Physically Settled Power Futures Transaction, upon the determination by Exchange in accordance with Schedule “K”, of a Default with respect to the Contracting Party, or in the event of a dispute over a Transaction entered into pursuant to Sections 3.2, Exchange will notify the Defaulting Party (except that no notice is required where such Defaulting Party becomes insolvent or is unable to pay its debts or institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy) and thereafter without further notice or formality prescribed by law or otherwise, all of which are hereby waived by the Defaulting Party to the extent permitted by applicable law, may exercise any combination of the rights and remedies contained in this Section 5.5 or Sections 5.6, 8.2 or 8.3 and any rights or remedies under this Agreement or at law, equity or otherwise including, without limitation, its rights to:
- (i) pursuant to Section 3.3 and Schedule “C”, request an additional amount of Eligible Collateral Support from the Defaulting Party;
  - (ii) pursuant to Section 6.4, cause a Contracting Party Suspension for a period, which may be in excess of the period during which the Defaulting Party is in Default, or permanently;
  - (iii) declare any amounts for gas delivered, any amounts of Physical Power scheduled for delivery, [any amounts for Environmental Products delivered](#), any unpaid Invoices immediately due and payable or any unsatisfied Revocation Obligations immediately due and payable in cash and to withhold payments under this Agreement (including, without limitation, under any Transaction) as if paid or provided to Exchange as Collateral;
  - ~~(iv) — Reserved;~~
  - (iv) with respect to Physically Settled Power Futures Transactions, cancel or amend any schedules to deliver or take Physical Power from Contracting Party by amending its schedule in the Transmission Provider system;
  - (v) impose a summary sanction on the Contracting Party in accordance with section 6.5; or
  - (vi) terminate any Transaction, or declare immediately payable or to be performed any Obligations in respect of any Physically Settled Futures Transaction, any ICE NGX Liquidation Transaction or this Agreement and, in connection therewith, exercise any of the following rights:
    - (l) pursuant to Section 3.3 or Section 8.3, Set-Off, in whole or in part (including by entering into Offsetting Transactions), any Obligations payable or to be performed by Exchange (to the Defaulting Party or to any Contracting Party Affiliate of the Defaulting Party) against Obligations payable or to be



performed by the Defaulting Party (or by any Contracting Party Affiliate of the Defaulting Party) to Exchange, which Obligations may extend to periods beyond the periods during which the Contracting Party is in Default;

- (II) demand payment under or in respect of, sell, realize upon, use or drawdown the Collateral and apply such Collateral to the Contracting Party's Obligations; or
- (III) terminate this Agreement by notice to the Defaulting Party to be effective upon the date of receipt or deemed receipt (which notice may be the same as that delivered under this Section 5.5 or under Section 8.2 or 8.3); provided, this Agreement shall remain in effect for Transactions entered into prior to the date of termination until all Obligations to Exchange in respect of such Transactions have been paid and performed.

...

## 5.6 Liquidation Procedure

- a. In the event that Exchange acting in a commercially reasonable manner and in accordance with Section 5.5 or Schedule "F", "G" or "K" determines to offset, in whole or in part, Obligations of the Defaulting Party under any Physically Settled Futures Transactions on behalf of such Contracting Party and having notified the Contracting Party of such determination, Exchange may enter orders and ICE NGX Liquidation Transactions to offset, in whole or in part, such Obligations in such manner and on such terms as may be then available to Exchange. As a consequence of Exchange exercising its rights under this Section 5.6:
  - (i) any ICE NGX Liquidation Transactions will be treated as allocated to the Defaulting Party's account;
  - (ii) Exchange hereby agrees that the Defaulting Party will, for the purposes of determining Exchange's damages, be deemed to have performed its Obligations to deliver or take gas [or Environmental Products](#) or schedule to take Physical Power, as applicable, under all ICE NGX Liquidation Transactions allocated to its account and under that portion or all of its Physically Settled Futures Transactions, which are offset by such ICE NGX Liquidation Transactions (any such transaction entered under Section 5.6 or Section 8.3, an "Offsetting Transaction");
  - (iii) for the purposes of determining Exchange's damages, Exchange will Set-Off any and all such amounts that are owed to the Defaulting Party against any and all such amounts that are owed or deemed to be owed by such Defaulting Party under the Offsetting Transactions to arrive at a single net settlement amount payable to or by the Defaulting Party, which shall be immediately due and payable. For clarity, without limitation to any other rights of Exchange under this Agreement, such net settlement amount shall include, without limitation, an amount as liquidated damages representing the pre-estimated amount of the costs of investigation and



damage suffered by Exchange in respect of injury to the development of, reputation, and integrity of the business carried on by Exchange, where Exchange has determined, in its sole discretion, that appropriate circumstances exist for such liquidated damages.

- (iv) Exchange will forthwith provide the Defaulting Party with an Invoice for the Offsetting Transactions setting forth the amounts owed to or by the Defaulting Party and the net settlement amount due to or from the Defaulting Party;
- (v) payment to Exchange of any net settlement amount owed by the Defaulting Party shall be deemed to satisfy all of its Obligations to pay any and all amounts, including, without limitation, the Purchase Amount, with respect to the Offsetting Transactions; and
- (vi) Exchange shall pay any net settlement amount owed to the Defaulting Party with respect to the Offsetting Transactions and upon such payment, shall assume all of the rights of the Defaulting Party under the Offsetting Transactions.

...

## 5.8 Limitations on Liability

...

- g. No Indemnification – For greater certainty, the limitations of liability of Exchange set forth in this Section 5.8 shall not be construed as implying or requiring any indemnification by the Contracting Party of any of the other Contracting Parties, other than under the revocation warranty provisions set out in Schedule “H”.
- h. No Liability for Action by a Governmental Authority – Exchange is not responsible for, and will have no liability whatsoever as a result of, any action taken or not taken by a governmental authority that impacts or may impact the value of the underlying commodity of any Transaction or Physically Settled Futures Product or Financially Settled Futures Product. Neither the Buyer nor the Seller will have any claim against Exchange for any loss, cost, damage or expense incurred or suffered as a result of any action taken or not taken by a governmental authority, including changing the terms, pricing or express or implied value of any commodity or any other tangible or intangible thing including an Environmental Product.

...



## 5.13 Remedies Upon an Unremedied Exchange Default or Exchange Bankruptcy Event of Default

...

### b. Remedies Upon Early Termination –

...

- (i) with respect to Terminated Transactions that are Physically Settled Gas Futures Transactions, Options contemplating the delivery of gas or Options or for which the notional quantity is gas (collectively, “Gas Products”), have traded the highest overall volume of Gas Products listed on the ICE NGX Trading System;
- (ii) with respect to Terminated Transactions that are Physically Settled Power Futures Transactions, have traded the highest overall volume of Physically Settled Power Futures Products listed on the ICE NGX Trading System; ~~or~~
- (iii) ~~Reserved~~ with respect to Terminated Transactions that are Physically Settled Environmental Futures Transactions, have traded the highest overall volume of Physically Settled Environmental Futures Products from the same jurisdiction as the underlying Environmental Product for the Terminated Transactions listed on the ICE NGX Trading System; or
- (iv) with respect to Terminated Transactions that are transactions in Financially Settled Futures Products for which the notional quantity is financial power (collectively, “Financial Power Products”), have traded the highest overall volume of Financial Power Products listed on the ICE NGX Trading System,

...

## ARTICLE 7 - INVOICES AND TAXES

### 7.1 Invoices

- a. Preliminary Invoices – Exchange will post on Exchange’s Website for sole access by the Contracting Party an Invoice in each applicable currency setting forth a net amount owing by or to the Contracting Party, itemizing and applying Set-off to each amount payable or receivable in the same currency:

...

- (iii) in respect of Physically Settled Environmental Futures Transactions, for deliveries and receipts of Environmental Products during that calendar month pursuant to Physically Settled Environmental Futures Transactions, and any amount payable for fees to Exchange and any amounts payable on account of applicable taxes, on or before the 15th day of each calendar month;



*[Note: Subsequent paragraphs of section 7.1.a will be re-numbered to reflect the insertion shown above.]*

- b. Disputed Invoice Items – Any items on any Invoice disputed by any Contracting Party must be noted to Exchange:

...

(iii) for Invoices for Physically Settled Environmental Futures Transactions, no later than the close of business on the second Business Day prior to the Environmental Settlement Date;

*[Note: Subsequent paragraphs of section 7.1.b will be re-numbered to reflect the insertion shown above.]*

...

- d. Invoices Due and Payable - Subject to any amount hereunder becoming due and payable at an earlier time pursuant to the provisions of this Agreement, the amount of the Invoice owed by the Contracting Party to Exchange or to the Contracting Party by Exchange will be due and payable:

...

(iii) for Invoices for Physically Settled Environmental Transactions, on the Environmental Settlement Date;

*[Note: Subsequent paragraphs of section 7.1.d will be re-numbered to reflect the insertion shown above.]*

- e. Full Satisfaction – The payment or receipt by the Contracting Party of the net amount of an Invoice in accordance with this Agreement to or from Exchange will constitute full satisfaction of any settlement amount payable to or receivable by the Contracting Party and Exchange in respect of

...

(iii) for Invoices for Physically Settled Environmental Futures Transactions, the Physically Settled Environmental Futures Transactions including any Purchase Amount;

*[Note: Subsequent paragraphs of section 7.1.e will be re-numbered to reflect the insertion shown above.]*

- g. Invoices Final and Binding - Unless either the Contracting Party or Exchange has advised 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

...

(iii) for Invoices for Physically Settled Environmental Transactions, 30 days after the Environmental Settlement Date on which the Invoice was due;

*[Note: Subsequent paragraphs of section 7.1.g will be re-numbered to reflect the insertion shown above.]*

## 7.2 Payment of Invoices

...

b. Payment of Invoices for MTM Settlement Amounts, Daily Financially Settled Futures Amounts, Cash Settlement Amounts, ~~and~~ Futures Clearing Amounts and Physically Settled Environmental Transactions –

- (i) Exchange will identify a Cash Collateral Account for each Contracting Party that enters into a Financially Settled Futures Transaction or a Physically Settled Environmental Transaction.
- (ii) Unless otherwise agreed to by Exchange, payments in respect of MTM Settlement Amounts, Daily Financially Settled Futures Amounts, Cash Settlement Amounts, ~~and~~ Futures Clearing Amounts and Physically Settled Environmental Transactions;
  - (A) by Exchange to the Contracting Party will be made by wire transfer by Exchange into the Contracting Party's Cash Collateral Account; and
  - (B) by the Contracting Party to Exchange will be made by wire transfer by Exchange from the Contracting Party's Cash Collateral Account into the Exchange Account identified by Exchange for receiving such funds.
- (iii) On each Business Day, Exchange will Set-Off any and all such amounts owing as between the Exchange and the Contracting Party in respect of MTM Settlement Amounts, Daily Financially Settled Futures Amounts, Cash Settlement Amounts, ~~and~~ Futures Clearing Amounts and Physically Settled Environmental Transactions to arrive at a single net settlement amount payable by Exchange to the Contracting Party or by the Contracting Party to Exchange.
- (iv) The Contracting Party is responsible for ensuring its Cash Collateral Account has sufficient funds in excess of the applicable Margin Requirement to satisfy the net settlement amount calculated and instructed by Exchange in accordance with subparagraph (iii), prior to 12:00 p.m. Mountain Prevailing Time on the applicable Settlement Date.



...

## 7.5 Tax Legislation

...

- b. Self Assessment – The Contracting Party hereby agrees with Exchange that should ~~provincial any~~ sales tax under provincial legislation in any of the provinces of Canada or federal legislation in Canada ~~under any other comparable legislation in those provinces~~ or under state legislation ~~any states sales tax~~ in any of the United States or federal legislation in the United States ~~under any other comparable legislation in any states~~, be exigible in respect of any amounts payable to Exchange pursuant to this Agreement or in respect of any Physically Settled Futures Transaction<sub>;</sub> or should there be any reporting requirement in respect of any amounts payable to Exchange or in respect of any Physically Settled Futures Transaction<sub>;</sub> the Contracting Party will be solely liable for such reporting and exigible tax.

## ARTICLE 9 - MISCELLANEOUS

### 9.1 Term

...

- b. Termination – In addition, and without limitation, to any other rights of termination granted under this Agreement, either the Contracting Party or Exchange may give notice of termination to the other at any time and this Agreement will be terminated as of the effective date in such notice on the condition that such date is no earlier than one Business Day following receipt or deemed receipt of such notice or, where there is no effective date, then at the end of the period ending eight weeks after receipt of such notice (the “Termination Date”), provided that:
- (i) this Agreement will continue to be in effect until each of the Contracting Party and Exchange has performed all of its Obligations under all of its Transactions and this Agreement and, for clarity, until any outstanding Invoices of the Contracting Party are deemed paid and settled, as determined in the sole discretion of Exchange; ~~and~~
- (ii) this Agreement including, in particular, the revocation warranty described in Schedule “H”, will continue to be in effect in respect of each Alberta Environmental Product delivered by the Contracting Party in satisfaction of its Obligations under a Physically Settled Environmental Futures Transaction for the period that is three (3) years following the first day of the month in which the Contracting Party delivered such Alberta Environmental Product; and





- (iii) the Contracting Party will not be entitled to enter into any Transactions after the Termination Date.

...

#### **9.4 Relationship of Parties**

...

- b. Agency – The Contracting Party hereby specifically appoints, constitutes and empowers Exchange as its true and lawful power of attorney and agent with full power and authority in respect of those matters set forth in this Agreement where Exchange specifically agrees to act on behalf of the Contracting Party and in respect of the receipt, delivery and execution of any Confirmation, Swap Confirmation, Option Confirmation, agreement or notice in writing necessary to ensure the validity or enforceability of any Transaction entered: (i) into by any Contracting Party through the ICE NGX Trading System; or (ii) into the ICE NGX Clearing System against such Contracting Party, including, without limitation, nominations in respect of the delivery or receipt of gas, scheduling of the delivery or receipt of Physical Power, [transfer of title to Environmental Products](#), the Liquidation Procedure and the Close-out Procedure and in respect of any filing necessary or desirable in respect of any Regulatory Approval required pursuant to any applicable securities legislation. The power of attorney and agency granted hereby is irrevocable, is a power coupled with an interest and shall survive the bankruptcy, liquidation, winding-up, merger, amalgamation or incapacity of the Contracting Party and bind the successors of the Contracting Party and shall only terminate on the termination of this Agreement. The Contracting Party agrees to be bound by any representation or action made or taken by Exchange pursuant to this power of attorney and hereby waives any and all defences which may be available to contest, negate or disaffirm any action of Exchange taken in good faith under this power of attorney.



## AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

### SCHEDULE "A" - FEE SCHEDULE

#### Transaction Fees - Physically Settlement Environmental Transactions

<u>AB Environmental Products - EPCs</u>	<u>CAD/EPC</u> <u>CAD/1,000 EPC lot</u>	<u>\$0.15</u> <u>\$150.00</u>
<u>AB Environmental Products - Offsets</u>	<u>CAD/Offset</u> <u>CAD/1,000 Offset lot</u>	<u>\$0.15</u> <u>\$150.00</u>
<b><u>Spread Products</u></b>		
<u>Spread products on AB Environmental Products - EPCs</u>	<u>CAD/EPC</u> <u>CAD/1,000 EPC lot</u>	<u>\$0.115</u> <u>\$115.00</u>
<u>Spread products on AB Environmental Products - Offsets</u>	<u>CAD/Offset</u> <u>CAD/1,000 Offset lot</u>	<u>\$0.115</u> <u>\$115.00</u>



## AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

### SCHEDULE "C" - RISK MANAGEMENT POLICY

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

#### 1. Definitions

Words and phrases capitalized in this Risk Management Policy and not defined herein have the same meaning as in this Agreement.

In this Schedule "C", the following terms and phrases mean as follows:

"Current Month Accounts Net Payable" means, for a Contracting Party, the sum of

- (i) in respect of Physically Settled Futures Transactions, the accounts payable owing by Exchange to such Contracting Party less the accounts receivable owing by such Contracting Party to Exchange for
  - (A) gas delivered or taken to date during that current month pursuant to all Physically Settled Gas Futures Transactions, other than Physically Settled Gas Futures Transactions with assigned delivery;
  - (B) the Physical Power scheduled for delivery or take to date during that current month pursuant to all Physically Settled Power Futures Transactions; ~~and~~
  - (C) the Environmental Products delivered or taken to date during that current month pursuant to all Physically Settled Environmental Futures Transactions; and
- (ii) in respect of Physically Settled Gas Futures Transactions with assigned delivery (as set out in Schedule "J"), up to 100% of the Discretionary Delivery Credit, as applicable;

"Margin Requirement" means, for each Contracting Party, an amount equal to the sum of the Option Premium Amounts, AR Risk Add-on, Initial Margin, and Variation Margin minus Net Accounts Payable, Futures Settlement Net Payable, MTM Settlement Net Payable and Daily Futures Settlement Net Payable, as applicable, for such Contracting Party, as calculated hereunder;

"Minimum Available Margin Requirement" means,

- (i) with respect to a Contracting Party that transacts in Option Products, \$2,000,000;



- (ii) with respect to a Contracting Party that does not transact in Option Products, but transacts in Financial Power Products and/or Physical Power Products, \$1,000,000 ~~or~~
- (iii) with respect to a Contracting Party that does not transact in either Option Products or Financial Power Products or Physical Power Products, \$500,000.

...

## **2. Determination of Margin and Margin Rates**

- a. Initial Margin Rate – Exchange may determine the Initial Margin Rate applicable to each Product, from time-to-time and at the sole discretion of Exchange.
- b. Variation Margin – In determining Variation Margin, Exchange will consider the reasonable estimation of the current market value using internal and external sources for each Product. Upon request or dispute by a Contracting Party, Exchange will investigate and determine, in its sole discretion, whether Variation Margin should be recalculated and will advise the Contracting Party of its determination as soon as reasonably practicable.
- c. [Delivery Margin – Exchange may determine to apply Delivery Margin in respect of any Product and may determine the Delivery Margin Rate applicable to each such product, each at the sole discretion of Exchange.](#)

...



## AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

### SCHEDULE "H" - ~~RESERVED~~ PHYSICALLY SETTLED ENVIRONMENTAL FUTURES TRANSACTIONS

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

#### 1. Relationship to Agreement

This Schedule "H" and its Appendix I form part of this Agreement. Nothing in this Schedule "H" 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 Environmental Futures Transaction hereby agrees that any such Physically Settled Environmental Futures Transaction includes the provisions of this Schedule "H" and its Appendix I and is subject to the terms of this Agreement.

#### 2. Contract and Delivery Specifications

a. Contract Quantity – Unless otherwise determined by Exchange, in its sole discretion, Physically Settled Environmental Futures Transactions will be for one or more lots of 1000 Environmental Products.

b. Deliverable Instruments: Alberta EPCs – Only the following vintages of Alberta EPCs are acceptable for delivery under Physically Settled Environmental Futures Transactions:

(i) for Physically Settled Environmental Futures Transactions for delivery of Alberta EPCs from Vintage 2017 to Vintage 2022, only EPCS that are eligible for TIER compliance for eight (8) years following the calendar year specified as the Vintage in the contract specifications; and

(ii) for Physically Settled Environmental Futures Transactions for delivery of Alberta EPCs from Vintage 2023 and later, only Alberta EPCs that are eligible for TIER compliance for five years (5) years after the calendar year specified as the Vintage in the contract specifications.

For clarity, a newer-dated Vintage than the Vintage transacted for is acceptable for delivery only if its final eligibility year for TIER compliance matches or exceeds the transacted Vintage. As illustrative and non-exhaustive examples, Vintage 2023 Alberta EPCs are not acceptable for a Vintage 2021 delivery as Vintage 2023 Alberta EPCs will expire one year prior to Vintage 2021 EPCs, and Vintage 2024 Alberta EPCs are not acceptable for a Vintage 2022 delivery as Vintage 2024 Alberta EPCs will expire one year prior to Vintage 2022 Alberta EPCs.

c. Deliverable Instruments: Alberta Offsets – Only the following vintages of Alberta Offsets are acceptable for delivery under Physically Settled Environmental Futures Transactions:

- (i) for Physically Settled Environmental Futures Transactions for delivery of Offsets from Vintage 2017 to Vintage 2022, only Alberta Offsets that are eligible for TIER compliance for eight (8) years following the calendar year specified as the Vintage in the contract specifications; and
- (ii) for Physically Settled Environmental Futures Transactions for delivery of Alberta Offsets from Vintage 2023 and later, only Alberta Offsets that are eligible for TIER compliance for five years (5) years after the calendar year specified as the Vintage in the contract specifications.

For clarity, a newer-dated Vintage than the Vintage transacted for is acceptable for delivery only if its final eligibility year for TIER compliance matches or exceeds the transacted Vintage. As illustrative and non-exhaustive examples, Vintage 2023 Alberta Offsets are not acceptable for a Vintage 2021 delivery as Vintage 2023 Alberta Offsets will expire one year prior to Vintage 2021 Alberta Offsets, and Vintage 2024 Alberta Offsets are not acceptable for a Vintage 2022 delivery as Vintage 2024 Alberta Offsets will expire one year prior to Vintage 2022 Alberta Offsets.

- d. Non-Deliverable Quantification Protocols: Alberta Offsets – Alberta Offsets generated under a Protocol specified in Appendix I to this Schedule “H” are not acceptable for delivery under a Physically Settled Environmental Futures Transaction.
- e. Delivery of Active and Valid Credits Only – Only Alberta Environmental Products that have not been Revoked as of the date Exchange transfers title to the Buyer are acceptable for delivery under a Physically Settled Environmental Futures Transaction.
- f. Delivery at Registry – All deliveries under Physically Settled Environmental Futures Transactions occur by title transfer between accounts at the applicable Registry. All title transfer submissions to the Registry must be in accordance with the rules and procedures of the applicable Registry.

### **3. Verification of Capacity to Make or Take Delivery**

- a. Notice of Deliveries – At any time prior to delivery, Exchange may request verification from the Contracting Party that the Contracting Party has an active account at the applicable Registry to perform its Obligations as Buyer or Seller under its Physically Settled Environmental Futures Transactions.
- b. Verification of Deliveries – Within 24 hours of any such request, the Contracting Party will verify to Exchange its account at the applicable Registry to perform its Obligations as Buyer or Seller under its Physically Settled Environmental Futures Transactions.
- c. Remedial Actions by Contracting Party – If the Contracting Party does not verify its account at the applicable Registry in accordance with paragraph b., the Contracting Party is required to enter into one or more Physically Settled Environmental Futures Transactions to offset, in whole or in part, its delivery or take obligations no later than prior

to the close of trading 3 Trading Days prior to expiry of the relevant Physically Settled Environmental Futures Product.

- d. Remedial Actions by Exchange – If the Contracting Party has not verified to Exchange’s satisfaction, acting reasonably, its account at the applicable Registry or offset its obligations to make or take delivery under Physically Settled Environmental Futures Products prior to the close of trading 3 trading days prior to expiry of the relevant Physically Settled Environmental Futures Product, Exchange may enter into Backstopping Transactions or enact the Liquidation and Close-out Procedures in accordance with this Agreement to offset, in whole or in part, the Contracting Party’s delivery or take obligations, which in the opinion of Exchange may not be performed.

#### **4. Delivery Procedures**

- a. Early-Delivery – Beginning on the sixth (6<sup>th</sup>) Business Day of the Expiry Month, a Seller may deliver Environmental Products in satisfaction of its delivery Obligations under Physically Settled Environmental Futures Transactions by transferring title to the relevant Environmental Product to Exchange’s account at the Registry. Each early delivery remains subject to Section 2.e. of this Schedule “H”.

- b. Contracting Party to Net Contract Quantities – At Contract Expiry, for each type and vintage of Environmental Products, each Contracting Party with Physically Settled Environmental Futures Transactions for delivery during the then-current Delivery Period will offset the Contract Quantities to be delivered by the Contracting Party (minus any relevant Pre-Delivered Credit) against the Contract Quantities to be taken by the Contracting Party.

- c. Delivery by Seller to Exchange – For each Environmental Product for which the Contracting Party has net Contract Quantities to be delivered, the Contracting Party will submit to the applicable Registry transfers of title to Exchange for the net Contract Quantities of such Environmental Products, for completion by the Registry on or before the fifth (5<sup>th</sup>) Business Day of the Settlement Month. Upon delivery to Exchange’s account at the applicable Registry,

(i) Seller has no further right, title or interest in the delivered Credit; and

(ii) Seller may not request a return or exchange of the delivered Credit.

- d. No Delivery of Partial Lots – Delivery of Alberta Environmental Products under a Physically Settled Environmental Futures Transaction may only be made in the full applicable lot size for the Physically Settled Environmental Futures Product, whether delivery is made before or during the applicable Delivery Period.

- e. Confirmation of Receipt by Exchange – Exchange will confirm that title to the Environmental Products has been transferred to Exchange



- (i) within two (2) Business Days of Exchange receiving notice from the Registry of an early delivery title transfer, and
  - (ii) on or before the 6<sup>th</sup> Business Day of the Delivery Month in respect of any other title transfer.
- f. Effect of Confirmed Delivery to Exchange – Subject to Section 2.e. of this Schedule “H”, upon such confirmation:
  - (i) Seller’s physical delivery Obligations under the corresponding Physically Settled Environmental Futures Transaction (the “Delivered Position”) are deemed performed in accordance with this Agreement; and
  - (ii) Delivery Margin will not be applied to the Delivered Position;
- g. Exchange to Net Contract Quantities – At Contract Expiry, for each type and vintage of Environmental Products, Exchange will, for each Contracting Party, offset the Contract Quantities to be delivered by the Contracting Party (minus any relevant Pre-Delivered Credit) against the Contract Quantities to be taken by the Contracting Party.
- h. Allocation – For each type and vintage of Environmental Products received from Sellers, Exchange will allocate the Environmental Products to Buyers using a randomizing algorithm. For greater certainty, Exchange will not accept requests or demands from Buyers to receive or not receive a particular type of credit.
- i. Delivery by Exchange to Buyer – Exchange will submit to the applicable Registry transfers of title to each Contracting Party for the net Contract Quantities of each Environmental Product to be taken by such Contracting Party, as allocated under this section, for completion by the Registry on or before the tenth (10<sup>th</sup>) Business Day of the Settlement Month.
- j. Acceptance by Buyer – Within two (2) Business Days of receiving notice from the Registry of a title transfer by Exchange, the Buyer will perform all steps necessary to accept and confirm the title transfer.

### **Delivery Period Timeline**

*[Note: This Delivery Period Timeline is provided for reference only.]*

<b><u>Expiry Month = Month prior to Delivery Month</u></b>	
<u>Last Business Day</u>	<u>Last Trading Day</u>
<b><u>Delivery Month</u></b>	
<u>5<sup>th</sup> Business Day</u>	<u>Deadline for Seller to complete physical delivery to Exchange</u>
<u>6<sup>th</sup> Business Day</u>	<u>Exchange confirms Seller’s physical delivery Obligations are satisfied</u>
<u>10<sup>th</sup> Business Day</u>	<u>Deadline for Exchange to complete physical delivery to Buyer</u>



<u>15<sup>th</sup> calendar day</u>	<u>Preliminary Environmental Invoice available to the Contracting Party</u>
<u>2 Business Days prior to 20<sup>th</sup> calendar day</u>	<u>Environmental Invoice locked for payment</u>
<u>20<sup>th</sup> calendar day (or next Business Day)</u>	<u>Environmental Settlement Date</u>

## **5. Performance of the Physically Settled Environmental Futures Transactions**

- a. Delivery by Seller – Subject to Section 2.e. of this Schedule “H”, the Physically Settled Environmental Futures Transactions will be performed by the Seller upon confirmation by Exchange that title to the Environmental Products to be delivered under the Physically Settled Environmental Futures Transactions has been transferred to Exchange’s account at the applicable Registry.
- b. Receipt by Exchange – Subject to Section 2.e. of this Schedule “H”, the Physically Settled Environmental Futures Transactions will be performed by Exchange by
- (i) confirmation by Exchange that title to the Environmental Products to be received under the Physically Settled Environmental Futures Transactions has been transferred to Exchange’s account at the applicable Registry; and
  - (ii) payment to the Seller of the Purchase Amount in accordance with the Invoice and this Agreement.
- c. Delivery by Exchange – The Physically Settled Environmental Futures Transactions will be performed by Exchange upon successful submission of the request to the applicable Registry to transfer title to the Alberta Environmental Products to Buyer’s account at the Registry.
- d. Receipt by Buyer – The Physically Settled Environmental Futures Transactions will be performed by Buyer by
- (i) acceptance and completion of the transfer of title to the Alberta Environmental Products to Buyer’s account at the applicable Registry; and
  - (ii) payment to the Exchange of the Purchase Amount in accordance with the Invoice and this Agreement.

## **6. Procedures on Failure of Performance**

- a. Good Faith Efforts to Deliver – For greater certainty, a delay or failure by the applicable Registry to process a transfer of title to Environmental Products will not be a Failure to Deliver by Seller or by Exchange, as applicable, provided Seller or Exchange, as applicable, is able to demonstrate that

- (i) the timing of the title transfer request would reasonably have permitted the Registry to process the title transfer request absent the delay;
  - (ii) the Environmental Products that are the subject of the title transfer request are acceptable for delivery in accordance with this Agreement including Schedule H;
  - (ii) it made reasonable good faith efforts to seek the completion of the title transfer request by the Registry.
- b. Default of Seller that has Early-Delivered – If Exchange determines that an Event of Default has occurred in respect of a Seller that has delivered Environmental Products in satisfaction of some or all of its delivery Obligations under Physically Settled Environmental Futures Transactions in accordance with this Section, subject to Section 2.e. of this Schedule “H”, such early-delivered Transactions do not form part of the Defaulting Party’s portfolio for the purposes of the Liquidation and Close-Out Procedures.
- c. Non-deliverable Instrument – If a Contracting Party delivers a credit, offset or other instrument that is not acceptable for delivery in accordance with this Schedule “H” and in particular Section 2 in satisfaction of its Obligations as Seller under a Physically Settled Environmental Futures Transaction
  - (i) the Contracting Party will be automatically in Default under this Agreement;
  - (ii) Exchange will notify the Contracting Party that the credit, offset or other instrument is not acceptable for delivery;
  - (iii) if the Seller’s delivery deadline has not passed, or if Exchange in its sole discretion grants additional time for delivery, the Contracting Party may transfer title to Environmental Products within such additional time to satisfy its Obligations as Seller under the Physically Settled Environmental Futures Transaction.
- d. Failure to Deliver – If a Contracting Party fails to deliver Environmental Products that are acceptable for delivery in accordance with this Schedule “H” in satisfaction of its Obligations as Seller under a Physically Settled Environmental Futures Transaction prior to the Seller’s delivery deadline
  - (i) Exchange will notify the Contracting Party by instant message, phone or email that a Failure to Deliver has occurred, indicating the quantity affected, and that the Contracting Party is in Default under this Agreement; and
  - (ii) Exchange may exercise any of its rights under Section 5.5 of the Terms and Conditions.

## 7. Title

- a. From Seller – Title to and risk of loss of Environmental Products delivered under any Physically Settled Environmental Futures Transaction shall pass from the Seller to



Exchange upon the completion of transfer of title to the Environmental Products through the applicable Registry.

- b. To Buyer – Environmental Products delivered under any Physically Settled Environmental Futures Transaction shall pass from Exchange to the Buyer upon the completion of transfer of title to the Environmental Products through the applicable Registry.
- c. Regarding Exchange – In no event shall this Agreement be construed in a manner whereby title to and risk of loss of Environmental Products delivered under any Physically Settled Environmental Futures Transaction would pass to or be held by Exchange, except in escrow for Buyer(s) under such Physically Settled Environmental Futures Transaction.

## **8. Representations and Warranties of the Contracting Party**

a. The Contracting Party represents and warrants in respect of any Physically Settled Environmental Futures Transaction it enters into that at the time of delivery or receipt:

(i) If it is the Seller:

- (A) it has the full right and authority to sell the Environmental Products;
- (B) it owns and has title to Environmental Products, or irrevocable authority to sell the Environmental Products;
- (C) any Environmental Product delivered to Exchange is free from all royalty payments, Liens or encumbrances whatsoever; and
- (D) it has an account with the applicable Registry that is active and in good standing to deliver the net Contract Quantity for the Delivery Period.

(i) If it is the Buyer:

- (A) it has the full right and authority to purchase the Environmental Products;  
and
- (b) it has an account with the applicable Registry that is active and in good standing to take delivery of the net Contract Quantity for the Delivery Period.

## **9. Liability**

a. 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 Deliver, Failure to Pay or Failure to Take in respect of a Physically Settled Environmental Futures Transaction, Exchange or such Contracting Party shall have no further liability under such Physically Settled Environmental Futures Transaction or this Agreement in respect of any such Failure to Deliver, Failure to Pay or Failure to Take.

- b. No Indirect Damages – Other than as specifically set forth in this Agreement, in no event shall Exchange or a party to a Physically Settled Environmental Futures Transaction be liable under this Agreement or any Physically Settled Environmental 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 or Failure to Pay or any other matter for which liability may be assessed under this Agreement or any Physically Settled Environmental Futures Transaction.
- c. No Liability for Registry Non-Performance – Exchange is not responsible for, and will have no liability whatsoever as a result of, the performance or non-performance of any Registry or Registry Operator. Neither the Buyer nor the Seller will have any claim against Exchange for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of any Registry or the performance or non-performance of any Registry Operator.
- D. No Representation – Exchange makes no representation regarding the authenticity, validity or accuracy of any delivery tender notice, description of a Registry, market tracking system or any other Registry instructions, confirmation of transfer or any other notice, document, file, record or instrument used or delivered pursuant to the Rules and Procedures or pursuant to the procedures of any Registry.

## **10. Revocation**

- a. Revocation Warranty for Alberta Environmental Products – Each Seller that delivers an Alberta Environmental Product in satisfaction of its delivery obligations under a Physically Settled Environment Futures Transaction (each a “Warranting Seller”) warrants such Alberta Environmental Product against Revocation for the period of three (3) years following the first day of the Delivery Period for the Physically Settled Environment Futures Transaction.
- b. Procedures on Revocation –
  - (i) Within 5 Business Days of receiving notice of Revocation from Alberta Environment in respect of an Alberta Environmental Product that was delivered under a Physically Settled Environmental Futures Transaction, the Buyer of a Revoked Credit must notify Exchange of the Revocation in writing. Failure to notify Exchange within this timeframe, except where proven for good cause, will be deemed a waiver of the revocation warranty provided for in this Section.
  - (ii) Within 5 Business Days of receipt of notice from Buyer under subparagraph (i), Exchange will inform each Warranting Seller that delivered the Revoked Credit under a Physically Settled Environmental Futures Product within the past 36 months of the Revocation in writing accompanied by an Invoice for the Revocation Value, offsetting any Revocation Value that the Warranting Seller would be entitled to claim as Buyer in a previous Transaction for the same Revoked Credit.

- (iii) Within 5 Business Days of receipt of a notice from Exchange under subparagraph (ii), the Warranting Seller must, for each Revoked Credit, (A) pay the Revocation Value, or (B) if the Warranting Seller is the first Warranting Seller within the past 36 months (the “First Warranting Seller”), deliver a replacement Environmental Product (“Replacement Credit”) to Exchange’s account at the applicable Registry in accordance with paragraph d. of this Section (the “Revocation Obligations”).
- (iv) Any Replacement Credit delivered in accordance with this section must meet the delivery specifications of the Physically Settled Environmental Futures Transaction under which the Revoked Credit was delivered by the First Warranting Seller, in particular Section 2 of this Schedule “H”.
- (v) Within 5 Business Days of receipt of funds from the Warranting Seller in satisfaction of the Revocation Value or receipt of a Replacement Credit, as applicable, Exchange will remit any such amount to the Buyer and deliver any such Replacement Credit to the Buyer’s account at the applicable Registry.
- c. Extension of Revocation Warranty to Replacement Credits – A Warranting Seller that delivers a Replacement Credit in satisfaction of its Obligations under this section warrants such Replacement Credit against Revocation for the period of three (3) years following the first day of the month in which it delivered the Replacement Credits, on the same terms as are set out in this Section.
- d. Pro-Rata Distribution of Partial Revocation Value or Replacement Credits – In the event that one or more Revocations are notified to a Warranting Seller within 15 Business Days of another Revocation, and the aggregate of the Revocation Value and Replacement Credits provided by the Warranting Seller constitutes only partial satisfaction of the aggregate Revocation Obligations for such Revocations, the disbursement of Revocation Value and Replacement Credits to each affected Buyer will be prorated as a proportion of the Warranting Seller’s aggregate Revocation Obligation.

## **11. Procedures on Failure to Satisfy Revocation Obligations**

### **a. Revocation Warranty Fund –**

- (i) For so long as a Warranting Seller’s Revocation Warranty is effective, Exchange will maintain a Revocation Warranty Fund not to exceed CAD 10 million, funded by Exchange.
- (ii) Following a claim on the Revocation Warranty Fund, Exchange is under no obligation to replenish or reconstitute the Revocation Warranty Fund.
- (iii) Exchange may, in its sole discretion and upon 60-days’ notice to Contracting Parties, increase or decrease the amount of the Revocation Warranty Fund other than as a result of claim on the Revocation Warranty Fund.

b. Failure to Pay Revocation Value or Provide Replacement Credits –

- (i) If the Warranting Seller (the “Defaulting Warranting Seller”) fails to pay the full amount of the Revocation Value or deliver Replacement Credits in accordance with Section 10.b., Exchange may, in its discretion, declare an Event of Default to have occurred in respect of the Defaulting Warranting Seller and any unpaid Revocation Value amount will be for the account of the Defaulting Warranting Seller. For greater certainty, failure by the First Warranting Seller to deliver Replacement Credits in accordance with Section 10.b. results in forfeiture by the First Warranting Seller of its right to provide Replacement Credits, and its outstanding Revocation Obligations are converted to financial obligations.
- (ii) If any Revocation Value remains unsatisfied (the “Unsatisfied Revocation Amount”), Exchange will promptly claim on the Revocation Warranty Fund for the Unsatisfied Revocation Amount, subject to the then-current amount of the Revocation Warranty Fund.
- (iii) Promptly following the expiry of 15 Business Days after the claim is made on the Revocation Warranty Fund, Exchange will pay, or cause to be paid, the proceeds, if any, of such claim to Buyer subject to the then-current amount of the Revocation Warranty Fund and any pro-rata in accordance with section 10.f.

c. Full Satisfaction of Revocation Obligations –

- (i) Payment by the Warranting Seller of the Revocation Value or by delivery of Replacement Credits will constitute full satisfaction of the Warranting Seller’s Revocation Obligations in respect of the Revoked Credit and the Warranting Seller will have no further liability in respect of such Revocation or Revoked Credit, except the extension of the revocation warranty to any Replacement Credits delivered by the Warranting Seller.
- (ii) Receipt by the Buyer of amounts collected by Exchange from the Warranting Seller or pursuant to a claim on the Revocation Warranty Fund will constitute full satisfaction in respect of the Revocation and Buyer will have no further recourse against Exchange or the Warranting Seller in respect of such Revocation or Revoked Credit, except the extension of the revocation warranty to any Replacement Credits delivered by the Warranting Seller.

d. Pro-Rata Distribution on Concurrent Claims - In the event that one or more Unsatisfied Revocation Amounts results in one or more claims on the Revocation Warranty Fund made within 15 Business Days of another claim that, in aggregate, exceed the amount then available under the Revocation Warranty Fund, the disbursement to each affected Contracting Party will be prorated as a proportion of the aggregate Unsatisfied Revocation Amount claimed.

- e. Exchange Not Liable – For greater certainty, Exchange will not be liable to Buyer, and will not provide any indemnification to Buyer, under this Section or any other provision of this Agreement including this Schedule, in respect of a Revoked Credit other than for any Replacement Credits or amount collected from the Warranting Seller or pursuant to a claim on the Revocation Warranty Fund and will not be liable for any Revocation Value or Unsatisfied Revocation Amount greater than the Revocation Warranty Fund.
- f. Survival of Revocation Warranty – For greater certainty, the rights of the Buyer and the liability and obligations of the Warranting Seller under the Revocation Warranty provided under this Section, including the extension of the revocation warranty to any Replacement Credits delivered by the Warranting Seller, survive the termination of this Agreement and enure to the Buyer’s and Warranting Seller’s respective successors and permitted assigns.

## **12. Force Majeure**

- a. Exchange May Declare Force Majeure – A force majeure event may be declared by Exchange at a Registry if the Registry Operator or the relevant governmental authority declares a force majeure event or materially curtails, delays, interrupts or prorates title transfer services for a material number of Contracting Parties. Exchange also reserves the right to declare a force majeure if an event (including, but not limited to, a strike, lockout, national emergency, governmental action or act of God) occurs that materially affects the ability of a material number of Contracting Parties to meet their Obligations and that is beyond the control of the Contracting Parties.
- b. Exchange Will Not Declare Force Majeure – For clarity, Exchange will not declare a force majeure to the extent performance is affected by any of the following circumstances:
  - (i) the curtailment, delay, interruption or prorating of electronic title transfer services by the Registry if the Registry is able to perform title transfer services through non-electronic processes;
  - (ii) an issue, failure or malfunction of a Contracting Party’s electronic systems, or the failure of a Contracting Party to take commercially reasonable efforts to remedy an issue, failure or malfunction of its electronic systems, that impact the Contracting Party’s ability to make or take delivery of the Environmental Product;
  - (iii) the economic hardship of a Contracting Party, including, but not limited to, the Seller’s ability to sell an Environmental Product at a better price than the Purchase Price or the Buyer’s ability to purchase an Environmental Product 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;
  - (iv) the loss of the Buyer’s market or the Buyer’s ability to use or resell an Environmental Product purchased hereunder; or

- (v) the loss of the Seller's Environmental Product or inability or failure of the Seller's assets or operations to generate an Environmental Product.
- c. Effect of Force Majeure on Delivery Timelines – If a force majeure event is declared by Exchange during the delivery period for an Environmental Product, Exchange may, in its sole discretion, extend the Delivery Period until such time as the Registry Operator is able to perform title transfer services.

### **13. Procedures on Force Majeure Event**

- a. Investigation – Exchange will, in consultation with the applicable Registry Operator, make a determination of whether a force majeure event exists, an estimate of its probable duration, and its impact on deliveries of the Environmental Product.
- b. Notice to Contracting Parties – If a force majeure event is determined by Exchange to exist (the "Force Majeure Declaration"), all affected Contracting Parties will be immediately notified by notice on Exchange's Website, phone, instant message or email:
  - (i) that the Force Majeure Declaration has been made; and
  - (ii) the anticipated delay or impact to Obligations to make or take delivery under Physically Settled Environmental Futures Transactions.
- c. Title Transfer – If the Force Majeure Declaration will result in reduced obligations to make or take delivery under Physically Settled Environmental Credits Futures Transactions, the Seller, Buyer and Exchange will make all necessary changes with the applicable Registry to reflect the reduced obligations.
- d. Further Notice – Exchange will promptly advise the affected Contracting Parties of any material changes and updates to the Force Majeure Declaration.

### **14. Invoice Amounts**

- a. Alberta Environmental Products – On a monthly basis, Exchange will determine the amounts owing or payable under Alberta Environmental Products as the sum of:
  - (i) the value of each Alberta Environmental Product delivered or taken during that calendar month,
  - (ii) all fees pertaining to Physically Settled Environmental Futures Transactions as outlined in the Fee Schedule incurred during the previous calendar month, and
  - (iii) any applicable taxes pursuant to Section 7 of the Terms and Conditions.

### **15. Interpretation**

- a. Time – All times referred to in this Schedule are to Mountain Prevailing Time ("MPT").





b. Currency – All amounts of money referred to in this Schedule or in this Agreement in respect of Alberta Environmental Products are in Canadian dollars.

c. Interpretation – Capitalized words and phrases used in this Schedule and not defined in this Schedule will have the same meaning as set forth in this Agreement.

## 16. Definitions

“Alberta Emission Offset” means an “emission offset”, as that term is defined in the TIER Regulation;

“Alberta Emission Performance Credit” or “Alberta EPC” means an “emission performance credit”, as that term is defined in the TIER Regulation;

“Alberta Environmental Product” means an Environmental Product that is one of the following:

(i) an Alberta EPC; or

(iii) an Alberta Emission Offset;

“Delivery Month” means, in respect of a Physically Settled Environmental Product, the calendar month in which the Contracting Party or Exchange, as applicable, is required to make or take physical delivery, as applicable, under the Physically Settled Environmental Product;

“Expiry Month” means, in respect of a Physically Settled Environmental Product, the calendar month in which the last trading day for the Physically Settled Environmental Product occurs;

“Replacement Credit” means an Environmental Product delivered by a Warranting Seller in satisfaction of its Revocation Obligations in respect of a Revoked Credit, which Replacement Credit meets the delivery specifications of the Physically Settled Environmental Futures Transaction under which the Revoked Credit was delivered by the Warranting Seller;

“Revocation” means, in respect of an Alberta Environmental Product, the cancellation by, or directed by, the Director (as defined in the TIER Regulation) of the Alberta EPC or Alberta Offset, as applicable, in accordance with the TIER Regulation, and “Revoked” has the corresponding meaning;

“Revocation Warranty Fund” means an amount made available by Exchange for the benefit of each Buyer of an Alberta Environmental Product which becomes a Revoked Credit to compensate the Buyer, on a first-come, first-served basis and only to the then-current amount of the fund, in the case of an Unsatisfied Revocation Amount in respect of that Revoked Credit;



“Revocation Value” means, in respect of a Revoked Credit, the ICE NGX monthly index price for the applicable type and vintage of Environmental Product at the expiry of trading for the contract under which the Revoked Credit was delivered;

“Revoked Credit” means an Environmental Product that is determined to be Revoked;

“TIER Regulation” means the *Technology Innovation and Emissions Reduction Regulation*, Alta Reg 133/2019, as may be amended, replaced or superseded from time to time.



**APPENDIX I TO SCHEDULE H – PHYSICALLY SETTLED ENVIRONMENTAL FUTURES PRODUCTS**  
**NON-DELIVERABLE INSTRUMENTS UNDER PHYSICALLY SETTLED ENVIRONMENTAL FUTURES**  
**TRANSACTIONS**

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

**1. Definitions**

“Quantification Protocol for Conservation Cropping” means the Quantification Protocol for Conservation Cropping, as published by the department (as defined in the TIER Regulation), as amended or replaced from time to time;

**2. Non-Deliverable Protocols: Alberta Offsets**

Alberta Offsets generated under the Quantification Protocols indicated with an “X” or under a specified Vintage in the table below are not acceptable for delivery in satisfaction of the Obligations to make delivery of Alberta Offsets under a Physically Settled Environmental Futures Transaction for that Vintage.

<u>Protocol</u>	<u>Vintage</u>								
	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
<u>Quantification Protocol for Conservation Cropping</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>