

# Service Order Form

## On Preparation of Bids for Participation in EPEX Spot's Auctions

**To:**

**European Energy Exchange AG**

Augustusplatz 9

04109 Leipzig

Germany

– hereinafter referred to as „EEX“ –

**Company Name:** \_\_\_\_\_

**Member ID EEX:** \_\_\_\_\_

**Member ID EPEX Spot:** \_\_\_\_\_

**Registered Office:** \_\_\_\_\_

*(street, street number)*

\_\_\_\_\_  
*(postal code, city, region)*

\_\_\_\_\_  
*(country)*

– hereinafter referred to as „CLIENT“ –

– CLIENT and EEX hereinafter jointly referred to as the „PARTIES“ –

**By having duly completed and signed this Service Order Form as well as the “Appendix to Service Order Form”, the CLIENT hereby accepts EEX’s offer to be provided with EEX’s service to prepare CLIENT’s bids for participation in EPEX Spot’s auctions according to its relevant derivatives market positions subject to the following terms and conditions:**

### **§ 1 Scope of the Agreement**

This Agreement shall set the legal framework for the service of EEX towards CLIENT of initiating the process of entering CLIENT’s bids in correspondence to its positions in power products as specified in the Appendix to Service Order Form (“PRODUCTS”) into the EPEX Spot Auction System.

### **§ 2 Procedure**

The services to be provided by EEX will be performed according to the following procedure:

- (1) EEX will take a snapshot of CLIENT’s derivatives market position in each contract of PRODUCTS that will enter next into its delivery period (“CONTRACT”) between 11 a.m. and 11.15 a.m. two

- (2) ECC business days (in case of a monthly product) or one (1) ECC business day (in case of a weekly product) prior to the first delivery day of the contract.
- (2) According to the positions in the CONTRACT determined by this snapshot, EEX will calculate the total net amount for peak and off-peak hours in the respective delivery period ("Total Net Amount"), whereby peak hours comprise all hours from 8 a.m. until 8 p.m. and off-peak hours comprise all remaining hours of each delivery day.
- (3) In line with the processes described in section "**Transmissions of Orders**" of the EPEX Spot Operational Rules, EEX will fill out the trading form "Bidding Form for Positions in Financial Month/Week Futures" ("Bid") on the basis of the Total Net Amount calculated according to paragraph (2), and send it, on behalf of the CLIENT, in xml-format to the e-mail address [fts.service@epexspot.com](mailto:fts.service@epexspot.com) ("E-MAIL"). Additionally, a confirmation e-mail will be sent to the e-mail address provided by the CLIENT in the Appendix.
- (4) This E-MAIL will be sent by EEX at 01.00 pm CET two (2) ECC business days (in case of a monthly product) or one (1) ECC business day (in case of a weekly product) prior to the first delivery day of the contract, as provided under article "**Transmissions of Orders**" of the EPEX Spot Operational Rules.
- (5) CLIENT must review the Bid transmitted to EPEX Spot by EEX in due time and confirm the Bid in the auction system of EPEX Spot, as set forth in Article "**Transmissions of Orders**" of the EPEX Spot Operational Rules. Without the confirmation by CLIENT the CLIENT Bid will not participate in the EPEX auction.
- (6) If CLIENT should detect errors in the Bid it must inform EEX via e-mail without undue delay.
- (7) Upon confirmation of the Bid by CLIENT, the Bid will be activated within the EPEX Spot's Auction system and the procedure follows the regular process of EPEX Spot Auctions.

### **§ 3 Compensation**

EEX will not charge any fees for the services provided under this Agreement.

### **§ 4 Responsibility, Liability and Indemnification**

- (1) It shall remain the sole responsibility of CLIENT to review the Bid prepared by EEX in due time. By confirming the Bid in the Auction System of EPEX Spot, CLIENT verifies the Bid as being correct.
- (2) Neither EEX nor EPEX Spot shall be liable for any direct, indirect or consequential loss or damage consequential to or otherwise occasioned by the Bid not being correct or not being submitted in due time into the Auction System of EPEX Spot.

### **§ 5 Confidentiality**

- (1) All commercial, financial, technical or other information in connection with this Agreement, regardless of the form of the information shall remain and be treated strictly confidential ("Confidential Information"). Confidential Information also includes embodiments, copies or other reproductions or parts thereof, of such Confidential Information. For the avoidance of doubt a particular designation to show expressly or by necessary implication that Confidential Information is confidential or proprietary is not necessary.
- (2) The PARTIES shall use all reasonable measures to safeguard such Confidential Information from unauthorized disclosure, reproduction or use. Without the prior written consent of the other party, no party shall disclose Confidential Information to third parties, with the exception of its

employees or employees of related companies which are directly involved in the execution of this Agreement (hereinafter referred to as "Employees") and which need access to the Confidential Information for purposes of fulfilling their tasks within the execution of this Agreement ("need-to-know basis"). Both PARTIES will use all reasonable measures to safeguard Confidential Information, regardless of its form, from unauthorized access, use or misappropriation.

- (3) Prior to allowing Employees access to the Confidential Information, each party shall ensure that the Employees are aware of the confidentiality and/or proprietary nature of the Confidential Information and that the Employees owe the same duty of confidentiality to the disclosing party pursuant to the terms of this Agreement as the PARTIES hereto. The PARTIES will use all reasonable efforts to ensure that the Employees comply with the terms of this Agreement.
- (4) In the event that one of the PARTIES receives a request by a court of competent jurisdiction or any other official and binding request, inter alia by a Supervisory Authority for disclosure of the Confidential Information, this party will notify the other party immediately. After such notification the party which received the official and binding request for disclosure is entitled to comply with such request to the extent necessary by law.
- (5) In the event of any unauthorized disclosure of Confidential Information under this Agreement, the other Party shall be entitled to seek any temporary or permanent injunctive or other equitable relief as may be granted by a court of competent jurisdiction in addition to any money damages suffered as a result of a breach of this Agreement.
- (6) The obligations under this § 5 shall survive expiration or termination of this Agreement for any reason. Any Confidential Information which does not become public knowledge shall remain confidential for three (3) years.

## **§ 6 Entry into Force, Term, and Termination**

This Agreement comes into effect and is binding as of the date of signing by both PARTIES. The procedure stipulated in Sect. 2 shall be applicable as of

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(please insert date).

This Agreement shall remain effective for an indefinite period of time until it is terminated according to the following scheme:

- a) Either party may terminate this Agreement at any time with a written notice having a notice period of one month.
- b) This Agreement terminates in any case automatically as of the date EEX has implemented an automatic solution for transferring the positions of EEX participants in financial power futures into the EPEX Spot Auction System or if CLIENT ceases to be a trading participant at EEX.

## **§ 7 Miscellaneous**

- (1) Claims arising under this Agreement may not be assigned to third parties without the expressed consent of the other party.
- (2) Amendments to this Agreement are valid only in writing. This applies to amendments or the abolishment of this clause as well.

- (3) This Agreement shall be governed and construed according to the substantial laws of the Federal Republic of Germany excluding the German law provisions regarding conflict of laws. Sole place of jurisdiction shall be Leipzig, Germany.
- (4) In the event that any of the provisions within this Agreement should be or become ineffective this shall not affect the validity of the remaining provisions. The ineffective provision shall be replaced with a valid one which corresponds to the intended objective pursued as closely as possible.

For CLIENT: (company stamp)

Place, Date:

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*(Signature(s), Name and Position of Signatory/Signatories)*