

Notwithstanding the foregoing, Confidential Information may be disclosed (i) by Nodal in accordance with the Rules relating to the use of Confidential Information; (ii) to the extent required by Applicable Law or regulation or the rules of a Self-Regulatory Organization of competent jurisdiction; (iii) by Nodal upon request by the CFTC or the Federal Energy Regulatory Commission; (iv) by Participant upon request from any federal or state agency, any regulatory or self-regulatory body, or any other organization, in each case having competent jurisdiction over such Participant; and (v) pursuant to a subpoena or order of a court or legislative, regulatory or self-regulatory body of competent jurisdiction, provided that, in the case of clauses (iv) and (v) above, the disclosing Party shall, to the fullest extent permitted by law, immediately notify the other Party of such disclosure and cooperate with such Party to obtain appropriate confidential treatment of any Confidential Information to be so disclosed. Participant hereby releases Nodal from any and all liability by reason of disclosing such information.

7. Proprietary Rights.

As between Nodal and Participant, Nodal shall own and retain ownership of all rights, title and interest in and to (i) all information, data and content, including all Transaction data submitted to Nodal, displayed or distributed through the System or Services or submitted to the Clearing House related to Transactions or Additional Services; (ii) the Services and the System (including the Nodal Site and all algorithms utilized by the System), and all underlying technology and all materials provided by Nodal (or its third party service providers) in connection therewith, (iii) all updates, modifications, enhancements and new versions to or of the foregoing, and all derivative works based thereon; and (iv) all copyrights, patents, trade secrets, database rights and other intellectual property associated with the foregoing (collectively, the “**Nodal Property**”). Participant hereby waives any and all challenges to, or claims or defenses regarding, (a) Nodal’s rights in the System and the Services, and (b) Nodal’s right to revoke the rights of access granted to Participant herein.

8. Warranties.

8.1 Participant. Participant represents and warrants that: (i) it has the power and authority, corporate and otherwise, to execute and perform its obligations and exercise its rights under this Agreement, and all necessary action (corporate or otherwise) has been taken by Participant to enter into this Agreement; (ii) neither Participant nor any of its Authorized Users are subject to any trading prohibition by any Governmental Authority, whether under the CEA or otherwise, that could apply to Transactions; (iii) neither its execution of this Agreement nor the performance of its obligations or exercise of its rights under this Agreement will violate the Rules or any law, rule, regulation, order, tariff, rate filing or other agreement or obligation to which it is bound; (iv) there is no conflict or inconsistency between this Agreement or the Rules and Participant’s approved tariffs and rate filings, if any, on file with any Governmental Authority; (v) it will enter into Transactions solely as principal; (vi) it will comply with, and will procure that its Account Administrators and Authorized Users comply with, the Rules and with all applicable laws, rules and regulations relative to its and their use of the Services, the System, and other Nodal Property, including any such laws, rules and regulations pertaining to export controls; (vii) Participant and each of its Authorized Users has all required regulatory approvals and registrations to utilize Nodal, or is qualified to do business in those states and other jurisdictions where its business requires such registration or qualification, and will remain so registered or qualified at all times when utilizing the System or the Services; (viii) Participant has reviewed and understands the Rules and the rules of the Clearing House; (ix) Participant is either a Clearing Member or has entered into an agreement with a Clearing Member in accordance with the Rules; and (x) all information provided to Nodal in connection with Participant’s application and the designation of Account Administrators and Authorized Users is and will at all times in the future be true, complete and accurate in all material respects; ~~and (xi) for purposes of entering into Block Trades only, Participant is an Eligible Contract Participant.~~ Participant shall immediately notify