

AMPELIUS TRADING LIMITED (Company number SC491365)

TERMS OF BUSINESS

The Ampelius Terms (defined below) govern your dealings with Ampelius Trading Limited. You and all Designated Users (both as defined below) shall be deemed to have accepted the Ampelius Terms whenever you or any Designated Users access and use the Services and System Data (both as defined below).

1. Agreement

1.1 These terms of business constitute a legally binding agreement between us and you in relation to the Services (as defined in clause 1.3 below). References in these terms to “**Ampelius**” or “**we**” or “**us**” or “**our**” mean Ampelius Trading Limited.

1.2 References to “**you**” in this agreement means .

1.3 Ampelius offers the following routes to market for energy parts and services:

(a) an electronic Multilateral Trading Facility (“**MTF**”); and

(b) a voice-only brokerage service.

(together referred to as the “**Services**” in these Terms of Business).

1.4 The MTF allows for the electronic posting of bids and offers and enables participants to interact directly with orders posted on the relevant screens by other participants in order to execute transactions.

1.5 In addition to these terms of business, users of the MTF shall be subject to the provisions of the rule book relating to use of the MTF (as amended by Ampelius from time to time) (“**Rule Book**”);

If there is any conflict, between the provisions of these terms of business and the Rule Book, these terms of business shall take precedence.

1.6 These terms of business, taken together with the Rule Book and any relevant fee schedule (the “**Ampelius Terms**”), comprise the terms which govern your and Designated Users’ use of the Services.

1.7 In these Terms of Business the expression “**Designated User**” means those individuals (employed by you or otherwise) who we agree with you in writing from time to time shall be entitled to access and use the Services and the System Data (the latter as defined in clause 7.1 below).

2. The Services

2.1 You and all Designated Users shall act as principal and we shall act upon instructions which we reasonably believe have been given by someone who is authorised to act on your behalf or by a Designated User. To avoid any confusion, you should, from time to time, provide us with updated lists of individuals who are authorised to act on your behalf.

2.2 We may record our telephone calls with you and we acknowledge that you may also make recordings of our telephone calls.

3. Fees

3.1 We will charge fees for the Services at rates which will be agreed between us and you in writing from time to time.

3.2 You will pay our fees without deductions (including any bank charges) and must account for VAT wherever appropriate.

3.3 Our invoices shall be paid within 30 days of their receipt by you. We shall be entitled to charge interest on any late payments at the rate of 2% above LIBOR from time to time.

3.4 You hereby agree to inform Ampelius if you cease to be registered for VAT, obtain a new VAT number or transfer your business as a going concern.

4. Use of the Services

4.1 Ampelius grants you and all Designated Users a non-exclusive, non-transferable, revocable licence to access and use the Services and the System Data (the latter as defined in clause 7.1 below) in accordance with the Ampelius Terms. You shall at all times remain fully responsible for the adherence in full by all Designated Users and all your employees to the Ampelius Terms.

4.2 Unless we notify you in writing otherwise from time to time, the Services shall be available 24 hours a day and 7 days per week.

5. Confirmations

5.1 Any transaction confirmation we send to you or to any Designated Users shall contain details of the relevant transaction.

You or a Designated User must notify us by email of any errors on a transaction confirmation sent by us within 24 hours of receipt by you or a Designated User of the relevant confirmation.

6. Confidentiality

6.1 Any and all non-public information in any form obtained by either you or us or our respective employees or by any Designated Users arising out of or related to the provision or use of the Services including but not limited to trade secrets, processes, computer software and other proprietary data, research,

information or documentation related thereto (all relating to us or you) (“**Confidential Information**”), shall be deemed to be confidential and proprietary information. You, all Designated Users and Ampelius therefore agree to hold such Confidential Information concerning or relating to the other party in strict confidence and not to disclose such Confidential Information to third parties (other than:- (i) with the prior written consent of the other party; (ii) to all Designated Users and our respective employees; or (iii) where such disclosure is required by law, by a court of competent jurisdiction or by another appropriate regulatory body) or to use such Confidential Information concerning or relating to the other party for any purpose whatsoever other than as contemplated by the Ampelius Terms and to advise our respective Employees and all Designated Users who may be exposed to such Confidential Information concerning or relating to the other party of their obligations to keep such Confidential Information confidential in accordance with this clause 6.

6.2 The restrictions in clause 6.1 above shall not apply to Confidential Information concerning or relating to the other party which:- (i) is in or becomes part of the public domain other than by disclosure in violation of this agreement; (ii) is known to or obtained previously without an obligation of confidentiality; or (iii) is independently developed outside of this agreement.

6.3 If a party or its employees or any Designated User in receipt of Confidential Information concerning or relating to the other party (“**the Recipient**”) becomes compelled by law, by a court of competent jurisdiction or by another appropriate regulatory body to disclose any such Confidential Information, the Recipient shall to the extent permitted by law promptly notify the disclosing party of such requirement so that the disclosing party may seek injunctive relief or other appropriate remedy. If such injunctive relief or other remedy is not obtained, the Recipient shall disclose only that portion of such Confidential Information which it is legally required to disclose and shall take all reasonable steps to preserve the confidentiality of such Confidential Information. In addition, the Recipient shall not oppose any action (and will, if and to the extent requested by the disclosing party, co-operate with, assist and join with the disclosing party, at the disclosing party’s expense, in any reasonable action) by the disclosing party to obtain injunctive relief or other reliable assurance that confidential treatment will be accorded to such Confidential Information.

6.4 You and all Designated Users shall promptly provide us with information relating to use of the Services that is reasonably requested by us from time to time if such information is reasonably necessary in order to enable us to assess the identity of persons or entities accessing the Services and/or the System Data through your or any Designated Users’ passwords, to maintain the integrity of the Services, or to comply with applicable laws or regulations, and such information which you and all Designated Users provide to us will be accurate and complete in all material respects. Should you or any Designated User refuse to provide information to us upon a request by us to that effect, or if the information which you or any Designated User provide to us demonstrates a potential violation of this agreement or the Ampelius Terms, Ampelius shall have the right to terminate this agreement forthwith by notice in writing to you.

7. Representations, Warranties and Covenants

7.1 You and all Designated Users acknowledge and agree that all information (including, without limitation, price and trading data) displayed and distributed to you and all Designated Users via the Services (“**System Data**”) is, except as set forth in clause 8.5, the exclusive proprietary property of Ampelius or Ampelius’ third party providers.

7.2 You and all Designated Users have been granted a limited licence by us to use the Services and the System Data solely for the purposes set forth in clause 1.4 above and you and all Designated Users will have no other rights with respect to the Services or the System Data. You and all Designated Users shall not provide access to the Services or any System Data to any third party save for a third party which has first been authorised by Ampelius in writing.

7.3 You and all Designated Users agree that you will not copy, modify, reverse engineer, reverse assemble or reverse compile any software relating to the Services or any of the System Data displayed on the Services or issued by Ampelius. You and all Designated Users further agree that you will not distribute, rent, sell, retransmit, redistribute, release or license the Services, any System Data, or any part thereof to any third party.

7.4 You and all Designated Users further agree that you will not communicate, redistribute, or otherwise furnish, or permit to be communicated, redistributed or otherwise furnished, all or any portion of the System Data, in any format, to any third party.

7.5 Notwithstanding the foregoing, it is understood and agreed that any and all data submitted to the Services by you and any Designated Users (including, but not limited to, bids and offers) and all information related to transactions entered into by you and any Designated Users in connection with the Services shall be the non-exclusive property of you and us, and that each party shall have the right to use, sell, retransmit or redistribute such information, subject to the provisions of clause 6.

7.6 You and all Designated Users shall comply with the provisions of the Ampelius Terms and any and all laws, rules, regulations or orders applicable to your and all Designated Users' access to and use of the Services and the System Data.

7.7 You and all Designated Users acknowledge and accept that you shall be solely responsible for any and all costs or expenses associated with your and all Designated Users accessing and utilising the Services.

7.8 You and any relevant Designated Users represent, warrant and undertake to us that as at the date of this agreement and at the point of any transaction which we arrange for you or any relevant Designated Users using the Services:-

- (a) you or any relevant Designated Users have power and authority to enter into the Ampelius Terms and enter into transactions using the Services;
- (b) you or any relevant Designated Users have adequate financial resources to conclude contracts (transactions) through the Services and to enter into any transactions into which you may enter using the Services; and
- (c) the Ampelius Terms and each transaction into which you or any relevant Designated Users enter using the Services shall be binding upon you or any relevant Designated Users.

7.9 You and all Designated Users acknowledge and agree that all intellectual property rights whatsoever in and relating to the software used by Ampelius to provide the Services and the System Data are owned by Ampelius or by relevant third parties.

8. Liability

8.1 Subject to the provisions of this clause 8, neither party shall be liable for any special, indirect, incidental, punitive or consequential damages, even if it has been advised of the possibility of such damages.

8.2 Notwithstanding anything to the contrary contained herein, you shall be liable to us for any damages, including, without limitation, punitive, incidental, or consequential damages (including, but not limited to, lost profits, savings, competitive advantage, goodwill, or business interruption) arising out of your or any Designated Users' infringement or misappropriation of any intellectual property rights related to the Services or the System Data.

8.3 Except with respect to:- (i) a party's gross negligence, wilful misconduct or fraudulent acts; (ii) any claim that you or any Designated Users have intentionally infringed upon or misappropriated any intellectual property rights related to the Services or the System Data; (iii) our indemnification obligations in clause 8.6 below regarding any claim or allegation that the Services infringes upon the intellectual property rights of a third party; or (iv) any amounts owed by you pursuant to clause 3 hereof; the limit of such party's liability to the other party hereunder shall not exceed the aggregate amount of fees payable or paid by you in connection with the Services over the six month period immediately prior to the date of occurrence of the relevant liability.

8.4 Ampelius's liability to you under clause 8.6 below with respect to a claim or allegation that the Services infringes upon the intellectual property rights of a third party shall not exceed £250,000.

8.5 You and all Designated Users acknowledge, understand and accept that we make no warranty whatsoever to you and all Designated Users as to the Services, express or implied, and that the Services are provided on an "as is" basis at your and all Designated Users' sole risk. Neither Ampelius nor its managers, officers, affiliates, subsidiaries, shareholders, employees or agents make any warranty with respect to, and no such party shall have any liability to you or any Designated Users for:- (i) the accuracy, timeliness, completeness, reliability, performance or continued availability of the Services, (ii) delays, omissions or interruptions therein, (iii) the creditworthiness of any other participant or counterparty, or (iv) the acts or omissions of any Designated User. You and all Designated Users acknowledge and agree that no Services provided by Ampelius shall serve as the primary basis for any decisions made by you and all Designated Users and that we are not your or any Designated Users' advisor or fiduciary. We provide no warranty whatsoever to you or any Designated Users as to the quality or standard of any goods or services purchased by you or any Designated Users from any third parties using the Services (including, without limitation, any implied warranties as to merchantability or fitness for a particular purpose). You and all Designated Users warrant to Ampelius the full accuracy of all information supplied by you or any Designated Users for the purposes of you or any Designated Users' concluding transactions using the Services. Your or any Designated Users' use of any template legal documentation provided by Ampelius for the purposes of concluding transactions is entirely at your and any Designated Users' own risk and we shall have no liability whatsoever to you or any Designated Users from any use made of or reliance placed on any such template legal documentation or any of its content. We are not lawyers and accordingly you and all Designated Users should always seek appropriate legal advice in the individual case.

8.6 Subject to clauses 8.1 to 8.5, Ampelius shall indemnify you and hold you harmless against any third-party claim, action, suit or proceeding, including any such claim relating to death or personal injury, against any losses, judgments, liabilities, costs or expenses (including, without limitation, reasonable legal fees and expenses and any other costs and expenses incurred in connection with the defence of any such claim, action, suit or proceeding), and amounts paid in settlement actually and reasonably incurred by you, suffered, incurred, or sustained by you as a result of:- (i) any allegation that the Services infringe the intellectual property rights of a third party, (ii) any fraudulent act, willful misconduct or grossly negligent act or omission by Ampelius, or (iii) any act or omission of, or breach of the Ampelius Terms or violation of law, rule or regulation by Ampelius. The termination of any claim, action, suit or proceeding by settlement or its equivalent shall not create a presumption that the indemnification provisions hereof shall not be applicable. Ampelius shall have full control over the manner in which any third party intellectual property rights claims will be defended and/or settled. Ampelius shall not settle any such claims without

your prior written consent, such consent not to be unreasonably withheld.

8.7 Subject to clauses 8.1 to 8.5, you shall indemnify and hold harmless Ampelius against any third-party claim, action, suit or proceeding, including any such claim relating to death or personal injury, against any losses, judgments, liabilities, costs or expenses (including, without limitation, reasonable legal fees and expenses and any other costs and expenses incurred in connection with the defence of any such claim, action, suit or proceeding), and amounts paid in settlement actually and reasonably incurred by Ampelius, suffered, incurred, or sustained by Ampelius as a result of:- (i) any allegation that your or any Designated User's modification or use of the Services or the System Data infringes the intellectual property rights of a third party, (ii) any fraudulent act, wilful misconduct or grossly negligent act or omission by you or any Designated User, or (iii) any act or omission of, or breach of the Ampelius Terms or violation of law, rule or regulation by you or any Designated User; (iv) any act or omission by any person obtaining access to the Services or the System Data through your or any Designated User's passwords (other than through the default of Ampelius) whether or not you or any Designated User authorised such access. The termination of any claim, action, suit or proceeding by settlement or its equivalent shall not create a presumption that the indemnification provisions hereof shall not be applicable. You shall have full control over the manner in which any third party intellectual property rights claims will be defended and/or settled. You shall not settle any such claims without Ampelius's prior written consent, such consent not to be unreasonably withheld.

8.8 Each party's liability to the other party for all claims and causes of action, whether in contract, tort or otherwise, arising out of a material failure to perform an obligation hereunder, shall not arise until the party asserting a claim has given the other party written notice of the act, event or circumstance claimed to give rise to liability (the "**Cause**") and, where such Cause is capable of remedy, has afforded the other party thirty (30) days after written notice of such failure to cure the Cause.

8.9 The allocations of liability in this clause 8 represent the material, agreed upon and bargained for understanding of the parties, and each party acknowledges that the other party's rights and obligations hereunder reflect such allocations. These allocations are material inducements for each party entering into this agreement and the parties would not have entered into this agreement but for these allocations.

9. Termination

This agreement may be terminated by you or us immediately at any time by providing 30 days' notice in writing to the other. Any termination of this agreement shall not affect any outstanding obligations owed by, and the accrued rights of, either party under this agreement up to the date of termination.

10. Assignment

Neither party may assign its rights and/or obligations under this agreement without the prior written consent of the other party.

11. Notices

11.1

Any notices served pursuant to this agreement shall be sent by letter or email to the registered office of the other party or such other address as one of us may notify to the other from time to time. The address for each party's registered office is:-

Ampelius Trading Limited: 8 Glassel Park Road, Longniddry, East Lothian, United Kingdom. EH32 0NY

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11.2 Any notice shall be deemed to have been served (a) if sent by first class mail two days after the date of posting; or (b) if sent by email at the time and date indicated on the email transmission report.

12. Force Majeure

Neither party shall be liable for any breach of this agreement or any other obligation which it might owe to the other in the event of any failure by it to perform its obligations due to any act, event or circumstances which are outside of such party's control including, without limitation, any act of God, fire, industrial dispute, war, strikes, failure or malfunction of any telecommunications or computer services.

13. Miscellaneous

13.1 If any provision of this agreement becomes invalid or unenforceable this shall not affect the validity or enforceability of the remaining provisions of this agreement. This agreement shall be governed by the laws of Scotland and us and you hereby agree to submit to the non-exclusive jurisdiction of the Scottish courts.

13.2 You and all Designated Users consent to the processing of any personal data (as defined in the Data Protection Act 1998) relating to you or any Designated Users which is submitted to Ampelius in connection with this agreement for the purposes of the operation or administration of this agreement.