**Waiver: The following standard wording was prepared by EFET's Members exercising all reasonable care. However, EFET, the EFET Members, representatives and counsel involved in its preparation and approval shall not be liable or otherwise responsible for its use and any damages or losses resulting out of its use in any individual case and in whatever jurisdiction. It is therefore the responsibility of each party wishing to use this standard wording to ensure that its terms and conditions are legally binding, valid and enforceable and best served to protect the user's legal interest. Users of this standard wording are urged to consult the relevant guidance notes made available through EFET as well as legal opinion by their own counsel.**

**EFET ELECTRICITY TRADE RESTRICTION CLAUSE**

The General Agreement is amended by the addition of a new clause § 7(a) (***Non-Performance Due to Trade Restriction***), as follows:

***§ 7(a)***

**Non-Performance Due to Trade Restriction**

**1.** **Definition of Trade Restriction:** For purposes of the Agreement, "**Trade Restriction**" means any law, regulation, decree, ordinance or legally binding order, rule or requirement of the United Nations or under the laws of the European Union, any EU Member State,

[ ] the United States of America, [or]

[ ] \_\_\_\_\_\_\_\_\_\_,

relating to trade sanctions, trade embargoes and other foreign trade controls, export controls, non-proliferation, anti-terrorism and similar laws.

**2. Release from Delivery, Acceptance and Payment Obligations:** If a Trade Restriction: (i) is directly applicable to a Party; and (ii) fully or partially prevents this Party (the "**Trade Affected Party**") from performing or procuring the performance of any obligation otherwise required by this Agreement including, without limitation, its obligations to: (a) deliver, accept, sell or purchase electricity or pay or receive monies under one or more Individual Contracts to, from, or through an Entity; or (b) engage in any other acts under the Agreement (each an "**Affected Obligation**"), because this would constitute a violation of, be inconsistent with, or expose the Trade Affected Party to a punitive measure under such Trade Restriction, and provided that the Trade Affected Party can legally bind itself under the national laws of the place of the Trade Affected Party’s incorporation, registration, or establishment to comply with such Trade Restriction (such Trade Restriction being an "**Applicable Trade Restriction**"), then, without prejudice to § 7(a).6 (***Long Term Trade Restriction Limit***), no breach or default of this Agreement on the part of the Trade Affected Party as a result of the Applicable Trade Restriction shall be deemed to have occurred and, subject to § 7(a).5 (***Accrued Amounts***), it shall be released (and not merely suspended) from those Affected Obligations but only for the period of time and to the extent that such Applicable Trade Restriction prevents its performance. Without prejudice to § 7(a).6 (***Long Term Trade Restriction Limit***), the Trade Affected Party and the other Party (the "**Trade Restricted Party**") shall have no obligation to pay damages pursuant to § 8 (***Remedies for Failure to Deliver or Accept the Contract Quantity***) with respect to any Contract Quantities which are undelivered or non-accepted arising under any Individual Contracts concluded under the Agreement as a result of any Applicable Trade Restriction affecting the Trade Affected Party's obligations under this Agreement nor shall any right to terminate the Agreement pursuant to § 10.5 (a) (***Non-Performance***) or § 10.5 (d) (***Failure to Deliver or Accept***) arise for the Trade Restricted Party or the Trade Affected Party as a result of any failure to perform or procure the performance of any Affected Obligation due to any Applicable Trade Restriction.

**3.** Notification and Mitigation of Applicable Trade Restriction: The Trade Affected Party shall to the extent permissible and as soon as practicable after learning of the Applicable Trade Restriction notify the Trade Restricted Party of the commencement of an Applicable Trade Restriction and of the Individual Contract(s) affected thereby and, to the extent then available, provide to the Trade Restricted Party a bona fide non-binding estimate of the extent and expected duration of its inability to perform. The Trade Restricted Party and the Trade Affected Party shall, to the extent permissible under any Applicable Trade Restriction: (i) use all commercially reasonable efforts to mitigate and overcome the effects of the applicable Trade Restriction, which shall however not include an obligation to procure a licence to perform; and (ii) during the continuation of the Applicable Trade Restriction, provide the other Party with reasonable bona fide updates, when, and if available, of the extent and expected duration of its inability to perform such Individual Contract(s).

**4.** Effects of Applicable Trade Restriction on Trade Restricted Party: In the event, and to the extent, that a Trade Affected Party's delivery obligations are released due to an Applicable Trade Restriction (and if delivery and acceptance have not yet been performed), subject to § 7(a).5 (***Accrued Amounts***), the Trade Restricted Party's corresponding acceptance and payment obligations shall also be released. In the event, and to the extent that the Trade Affected Party's acceptance or payment obligations are released due to an Applicable Trade Restriction, the Trade Restricted Party's corresponding delivery obligations shall also be released.

**5.** Accrued Amounts: If, at the time any Applicable Trade Restriction comes into force preventing the payment or receipt of any monies by either Party, any monies have already accrued between the Parties for deliveries of electricity or otherwise in respect of the period before such Applicable Trade Restriction came into force ("**Accrued Amounts**"), then the obligation to pay any such Accrued Amounts shall be suspended until such time as payments of monies may lawfully be made under any Applicable Trade Restriction or after the Applicable Trade Restriction ceases to apply.

6. Long Term Trade Restriction Limit: Where in respect of an Individual Contract the obligations of the Trade Affected Party have been adversely affected by an Applicable Trade Restriction on each day for a consecutive period of [10] days and by on average more than fifty (50) per cent of the aggregate contracted quantity during such period, then the Trade Affected Party and the Trade Restricted Party shall have the right to terminate such Individual Contract forthwith. In case of such termination, the terminating Party shall only be required to send notice of termination of such an Individual Contract to the other Party to the extent permissible. Such termination shall be without prejudice to the accrued rights and obligations of the Parties under such Individual Contract up to the date of termination (including, without limitation, the obligation to pay any Accrued Amounts once so permitted) but neither Party shall have any liability whatsoever to the other in respect of the unexpired portion of the Total Supply Period under such Individual Contract after the date of termination.

**7. Consequential Amendments:** References to "Force Majeure" in § 8.1 (***Failure to deliver***) and 8.2 (***Failure to Accept***) shall be understood as references to "Force Majeure in accordance with § 7 (***Non-Performance Due to Force Majeure***) or any Applicable Trade Restriction in accordance with § 7(a) (***Non-Performance Due to Trade Restriction)***" and references to "§ 7 (***Non-Performance Due to Force Majeure***)" in § 10.5(a) (***Non-Performance***) and § 10.5(d) (***Failure to Deliver or Accept***) shall be understood as references to "§ 7 (***Non-Performance Due to Force Majeure***) or § 7(a) (***Non-Performance Due to Trade Restriction)***".