

# EFET

## European Federation of Energy Traders

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# EECS CERTIFICATE & NATIONAL SCHEME CERTIFICATE APPENDIX

to the  
EFET General Agreement  
Concerning the Delivery and Acceptance of Electricity  
Version 2.1(a)/September 21, 2007  
("Certificates Appendix")

**WAIVER: THE FOLLOWING CERTIFICATES APPENDIX WAS PREPARED BY EFET'S MEMBERS WHILST EXERCISING THEIR RESPECTIVE REASONABLE CARE AND DUE DILIGENCE. HOWEVER, EFET, EFET'S MEMBERS, REPRESENTATIVES AND COUNSEL INVOLVED IN ITS PREPARATION AND APPROVAL SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ITS USE, OR FOR ANY DAMAGES OR LOSSES RESULTING FROM ITS USE, IN ANY INDIVIDUAL CASE OR JURISDICTION. IT IS THEREFORE THE RESPONSIBILITY OF EACH PARTY WISHING TO USE THE CERTIFICATES APPENDIX TO ENSURE THAT ITS TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND THAT THEY BEST SERVE TO PROTECT THE USER'S LEGAL INTEREST. USERS OF THE CERTIFICATES APPENDIX ARE URGED TO CONSULT RELEVANT LEGAL OPINIONS WHERE AVAILABLE AS WELL AS THEIR OWN COUNSEL.**

# EFET

## European Federation of Energy Traders

Certificates Appendix  
to the  
General Agreement  
Concerning the Delivery and Acceptance of Electricity  
Version 2.1(a)/September 21, 2007

### EECS CERTIFICATE & NATIONAL SCHEME CERTIFICATE APPENDIX

dated as of \_\_\_\_\_

("Certificates Appendix Effective Date")

Between

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

and

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

**Check the box and fill in date ONLY if you are using the Certificates Appendix to modify and supplement a previously executed General Agreement between the Parties:**

[  ] By executing the Certificates Appendix in the signature block at the end hereof, the Parties modify, supplement and amend, to the extent set forth herein, certain provisions of that previously executed General Agreement entered into and dated as of \_\_\_\_\_, \_\_\_\_\_ to provide that the terms of the Certificates Appendix shall be incorporated therein and shall be applicable to and thereafter govern all Certificates Transactions (as hereinafter defined).

[  ] All Certificates Transactions entered into by the Parties for and concerning the delivery of Certificates, which were entered into prior to this Certificates Appendix, but which remain either fully or partially unperformed as of this Certificates Appendix Effective Date (each such transaction a "**Pre-Existing Certificates Transaction**") shall, as of the Certificates Appendix Effective Date:

[  ] become a Certificates Transaction hereunder, subject to the terms and conditions of the General Agreement, as modified by the Certificates Appendix; or

[  ] not become a Certificates Transaction hereunder and instead shall remain governed by and subject only to their original terms and conditions.

The provisions of the General Agreement are hereby modified, supplemented and amended in respect of Certificates Transactions (as defined below) in accordance with the following:

**1. Incorporation of EECS Rules and the National Scheme Rules and Defined Terms**

Capitalised terms used in the Agreement not otherwise defined herein (including in Annex 1 of the Certificates Appendix) shall have the meanings given to them (a) in the case of EECS Certificates, in the version number of the EECS Rules and in the Relevant Domain Protocol in force at the date each Certificates Transaction (as defined below) is entered into, and (b) in the case of National Scheme Certificates, in the National Scheme Rules in force at the date each Certificates Transaction (as defined below) is entered into.

In respect of EECS Certificates, the version of the EECS Rules specified in the Confirmation as published by the Association of Issuing Bodies for the European Energy Certificate System at <https://www.aib-net.org/eecs/eecsr-rules> are expressly incorporated into this Agreement by reference.

For the purposes of Certificates Transactions, Annex 1 to the General Agreement shall be amended by the deletion of the following definitions:

**"Alternative Commodity Reference Price", "Alternative Settlement Price", "American Style Option", "Calculation Agent", "Calculation Date", "Calculation Method", "Call Option", "Commodity Reference Price", "Contract Capacity", "Dealers", "Delivery Schedule", "European Style Option", "Exercise", "Exercise Deadline", "Exercise Period", "Fallback Mechanism", "Floating Price", "General Agreement", "Holder", "Market Disruption Event", "Network Operator", "Option", "Premium", "Premium Payment Date", "Price Source", "Put Option", "Settlement Date", "Settlement Price", "Valid Certificate", and "Writer".**

For the purposes of Certificates Transactions, the definitions in Annex 1 to the Certificates Appendix shall be inserted into Annex 1 to the General Agreement. In the event of any inconsistency between individual definitions in Annex 1 to the General Agreement and Annex 1 to this Certificates Appendix, the definitions in the latter shall prevail.

**2. Applicability of the Certificates Appendix**

2.1 The Certificates Appendix to the General Agreement modifies, amends and supplements, to the extent set forth herein, certain provisions of the General Agreement (which pursuant to § 1.1 (*Subject of Agreement*) of the General Agreement includes its Annexes and Election Sheet) and, shall apply to and govern all Individual Contracts entered into by the Parties for the delivery and acceptance of Certificates (each such Individual Contract being a **"Certificates Transaction"** and, collectively **"Certificates Transactions"**). Any and all future Individual Contracts between the Parties that constitute Certificates Transactions shall be automatically subject to the General Agreement as it is modified, amended and supplemented by its Annexes, Election Sheet and the Certificates Appendix without further action by the Parties, unless the terms of such Individual Contract expressly provide that it shall not be subject to the Certificates Appendix. For all other types of Individual Contracts which are not Certificates Transactions, the General Agreement shall remain unmodified by the Certificates Appendix. In the event of any inconsistency between the General Agreement and the Certificates Appendix, the Certificates Appendix shall prevail for purposes of all Certificates Transactions. In the event of any inconsistency between the terms of a Certificates Transaction (whether evidenced in a Confirmation or otherwise) and the provisions of either the Certificates Appendix or the General Agreement, the terms of the Certificates Transaction shall prevail for the purposes of that Certificates Transaction. In the event of any inconsistency between the EECS Rules or the Relevant Domain Protocol and the Certificates Appendix, the EECS Rules shall prevail. In the event of any inconsistency between the EECS Rules and the Relevant Domain Protocol, the Relevant Domain Protocol shall prevail. In the event of any inconsistency between the Issuance and Registry Rules and this Agreement, the Issuance and Registry Rules shall prevail.

2.2 For the purposes of Certificates Transactions, the Election Sheet to the General Agreement shall continue to apply, whereby the elections in Annex 3 to the Certificates Appendix shall be inserted into the Election Sheet to the General Agreement. In the event of any inconsistency between individual elections in the Election Sheet to the General Agreement and in Annex 3 to this Certificates Appendix, the elections in the latter shall prevail.

### 3. Special Conditions for Certificates Transactions

For the purposes of Certificates Transactions, each reference in the General Agreement to:

- (a) "electricity" shall be replaced with the words "Certificates";
- (b) "delivery" shall be replaced with the word "Delivery";
- (c) "delivered" shall be replaced with the word "Delivered";
- (d) subject to § 3.1(e) of the Certificates Appendix below, "law" shall be replaced with the word "Law";
- (e) "applicable law" shall be replaced with the words "Applicable Law"; and
- (f) "General Agreement" shall be replaced with the words "Certificate Agreement".

### 4. Definitions and Construction

For the purposes of a Certificates Transaction, § 2.2 (*Inconsistencies*) of the General Agreement shall be amended by inserted the following to the end of that clause: "In the event of any inconsistency between the Issuance and Registry Rules and this Agreement, the Issuance and Registry Rules shall prevail. In the case of EECS Certificates, in the event of any inconsistency between the EECS Rules and the Relevant Domain Protocol, the Relevant Domain Protocol shall prevail."

### 5. Concluding and Confirming Individual Contracts

- 5.1 For purposes of a Certificates Transaction, § 3.2 (*Confirmations*) of the General Agreement shall be amended by deleting the words "Annex 2a – d" and replacing this with the words "Annex 2" in the last line.
- 5.2 For purposes of a Certificates Transaction, Annexes 2a – d to the General Agreement shall be deleted and replaced with Annex 2 to the Certificates Appendix as "Annex 2".

### 6. Primary Obligations for Delivery and Acceptance of Certificates

For the purposes of a Certificates Transaction, § 4 (*Primary Obligations for Delivery and Acceptance of Electricity*) of the General Agreement shall be deleted in its entirety and replaced with the following:

#### "§ 4 Primary Obligations for Delivery and Acceptance of Certificates

**1. Delivery and Acceptance:** In accordance with each Certificates Transaction, the modalities of transfer set out in § 4.2 (*Electronic Transfer of Certificates*) or § 4.3 (*Transfer by Cancellation Statement*), and the provisions of the Issuance and Registry Rules, the Seller shall Schedule, sell and Deliver, or cause to be Delivered, the Contract Quantity of:

- (a) EECS Certificates in accordance with the EECS Rules and the Relevant Domain Protocol; or
- (b) National Scheme Certificates in accordance with the National Scheme Rules,

and the Buyer shall purchase and accept, or cause to be accepted, the Contract Quantity and pay to the Seller the relevant Contract Price.

**2. Electronic Transfer of Certificates:** Unless "Transfer by Cancellation Statement" is specified to apply in the Certificates Transaction, no later than on the relevant Delivery Date, the Seller shall Schedule the Delivery of the Contract Quantity of:

- (a) EECS Certificates to the Delivery Point in accordance with the EECS Rules and the Relevant Domain Protocol; or
- (b) National Scheme Certificates to the Delivery Point in accordance with National Scheme Rules.

("Electronic Transfer").

**3. Transfer Cancellation Statement:** If the Parties so specify in the Certificates Transaction, the Seller shall Schedule the initiation of the cancellation of the Certificates held in the Registry equalling the Contract Quantity to be Delivered. The Seller shall, for the purposes of the Cancellation Statement to be issued by the applicable Registry Operator, specify the Buyer as the named recipient of the cancelled Certificates. By no later than the Delivery Date, the Seller shall submit a statement in an agreed format to the Delivery Point, including information on the:

- (a) quantity of Certificates cancelled;
- (b) cancelling Domain (in the case of EECS Certificates);
- (c) recipient of the cancelled Certificates; and
- (d) cancellation purpose.

For the avoidance of doubt, the Parties will not specify in the Individual Contract that transfer by Cancellation Statement shall apply unless:

- (e) in the case of EECS Certificates, there is a Cancellation Agreement in place between the cancelling Domain and the Domain of Delivery specified in the Individual Contract; or
- (f) in the case of National Scheme Certificates, the National Scheme Rules expressly permit transfer by Cancellation Statement.

**4. Documentation of Actual Deliveries and Receipts:** The Seller shall provide the documentation necessary to the Buyer:

- (a) as prescribed by any Applicable Law; and/or
- (b) relating to Certificates to be transferred pursuant to this Agreement,

in each case as specified in the Election Sheet or in the Individual Contract.

**5. Reimbursement of External Costs:** In the event a Party, at the request of the other Party or to resolve a dispute raised by the other Party, incurs reasonable external expenses in verifying that the other Party has failed to properly perform its obligations under the terms of an Individual Contract, such expenses shall be reimbursed upon demand by the Party that failed to perform."

## 7. Primary Obligations for Options

For the purposes of a Certificates Transaction, § 5 (*Primary Obligations for Options*) of the General Agreement shall be deleted in its entirety and replaced with the words "[Not Used]".

## 8. Transfer, Risk, No Encumbrances and Ineffectiveness

For the purposes of a Certificates Transaction, § 6 (*Delivery, Measurement, Transmission and Risk*) of the General Agreement shall be deleted in its entirety and replaced with the following:

### "§ 6 Transfer, Risk, No Encumbrances and Ineffectiveness

**1. Transfer of Title and Risk:** Subject to § 15A.3 (*Event of Change in Law and Ineffectiveness*):

- (a) for Electronic Transfer, risk and title in the Certificates shall pass from the Seller to the Buyer at the Delivery Point; and

- (b) for transfer by Cancellation Statement, risk and title in the attributes conferred by the cancelled Certificates as well as in the Cancellation Statement shall pass from the Seller to the Buyer at the Delivery Point.

**2. No Encumbrances:** In respect of each Individual Contract, by each Delivery Date the Seller shall Deliver to the Buyer at the Delivery Point, the Contract Quantity free and clear of any liens, security interests, encumbrances or similar adverse claims by any person ("**No Encumbrances Obligation**").

**3. Breach of the No Encumbrances Obligation:** Where a Party is in breach of the No Encumbrances Obligation in relation to Certificates under one or more Individual Contracts, the following shall apply:

- (a) the General Agreement and all Individual Contracts agreed by the Parties under the General Agreement shall continue unaffected; and
- (b) the Buyer shall send to the Seller written notice of that breach (irrespective of how long after the relevant transfer date such notice is provided) and the Buyer shall at its sole discretion either:
  - (i) request that such Certificate is replaced within twenty (20) Business Days of the date of such notice. Where the Buyer has not yet paid for such Certificate, the Buyer shall not be obliged to pay for such Certificate until ten (10) Business Days following receipt by the Buyer of the replacement Certificate. Where the Seller is in breach of this obligation, § 5.3(b)(ii) shall apply; or
  - (ii) without prejudice to any defences available to the Seller (including but not limited to any defences of statutes of limitation or similar), the Buyer shall:
    - (a) determine the Encumbrance Loss arising from that breach ("Encumbrance Loss Amount") either on the date such notice is deemed to be received or as soon as reasonably practicable thereafter; and
    - (b) notify the Seller of such Encumbrance Loss Amount due in the form of an invoice, including detailed support for its calculation.

The Buyer is not required to enter into one or more replacement transaction(s) in order to determine the Encumbrance Loss Amount.

**4. Ineffectiveness:** If a Certificate becomes Ineffective, the following shall apply:

- (a) where a Certificate is or becomes Ineffective as a result of any act or omission by the Buyer, the Buyer shall remain liable to pay for it; and
- (b) where a Certificate is or becomes Ineffective as a result of any act or omission by the Seller, the Buyer shall send to the Seller written notice thereof (irrespective of how long after the relevant transfer date such notice is provided) and the Party specified in the Election Sheet shall determine that:
  - (i) the Seller shall replace such Certificate within twenty (20) Business Days of the date of such notice. Where the Buyer has not yet paid for such Certificate, the Buyer shall not be obliged to pay for such Certificate until ten (10) Business Days following receipt

by the Buyer of the replacement Certificate. Where the Seller is in breach of this obligation, § 6.4(b)(ii) shall apply; or

- (ii) without prejudice to any defences available to the Seller (including but not limited to any defences of statutes of limitation or similar), the Buyer shall:
  - (a) determine Ineffectiveness Loss Amount; and
  - (b) notify the Seller of such Ineffectiveness Loss Amount due in the form of an invoice, including detailed support for its calculation.

The Buyer is not required to enter into one or more replacement transaction(s) in order to determine the Ineffectiveness Loss Amount.

**5. Payment of Encumbrance Loss Amount or Ineffective Loss Amount:** By no later than the tenth (10th) Business Day after the later of:

- (a) receipt of detailed support of the Buyer's calculation of the Encumbrance Loss Amount and/or Ineffectiveness Loss Amount; and
- (b) receipt of a valid invoice in connection with each Encumbrance Loss Amount and/or Ineffectiveness Loss Amount,

the Seller shall pay the Encumbrance Loss Amount and/or Ineffectiveness Loss Amount to the Buyer, which amount shall bear interest in accordance with § 13.5 (*Default Interest*). Upon payment of the Encumbrance Loss Amount and/or the Ineffectiveness Loss Amount by the Seller, the Parties shall have no further obligations in respect of that Individual Contract and that breach.

**6. Exclusive Remedies:** The Buyer acknowledges that its exclusive remedies in respect of a breach of the No Encumbrances Obligation and in cases of Ineffectiveness are those set out in this § 6."

## 9. Non-Performance due to Force Majeure

For the purposes of a Certificates Transaction, § 7.1 (*Definition of Force Majeure*) of the General Agreement shall be deleted in its entirety and replaced with the following:

**"1. Definition of Force Majeure:** Unless otherwise specified in the Election Sheet, for purposes of the Agreement, "**Force Majeure**" means an occurrence beyond the reasonable control of the Party claiming Force Majeure ("**Claiming Party**") which it could not reasonably have avoided or overcome and which makes it impossible for the Claiming Party to perform its Delivery or acceptance obligations, including but without limitation:

- (a) for Electronic Transfer:
  - (i) in the case of EECS Certificates, the suspension, failure or malfunction of the EECS Transfer System, Transfer Links, the AIB Hub, or an individual EECS Registration Database; or
  - (ii) in the case of National Scheme Certificates, the suspension, failure or malfunction of the Registry;
- (b) for transfer by Cancellation Statement, a delay or a rejection of the cancellation of Certificates by the Registry Operator;
- (c) if the Individual Contract specifies that Certificates are to be delivered from a specific Production Device, a failure of the Authorised Issuing Body to create, issue and give legal effect to such Certificates; or
- (d) any other event or circumstance specified in the Election Sheet."

## 10. Remedies for Failure to Deliver and Accept

For the purposes of a Certificates Transaction, § 8.1 (*Failure to Deliver*) and Transaction § 8.2 (*Failure to Accept*) of the General Agreement shall be deleted in their entirety and replaced with the following:

"1. **Failure to Deliver:** To the extent that the Party obliged to Deliver Certificates ("**Delivering Party**") fails to Deliver the Contract Quantity in whole or in part in accordance with the terms of an Individual Contract, and such failure is not remedied within three (3) Business Days after receipt by the Delivering Party of a written notice from the other Party ("**Accepting Party**") to remedy such failure or is not excused by an event of Force Majeure or the Accepting Party's non-performance, the Delivering Party shall pay the Accepting Party as compensation for damages an amount for such quantity of undelivered Certificates equal to the product of:

- (a) the amount, if positive, by which the price (if any) at which the Accepting Party acting in a commercially reasonable manner is or would be able to purchase or otherwise acquire in the market the quantity of undelivered Certificates exceeds the Contract Price; and
- (b) the quantity of undelivered Certificates.

2. **Failure to Accept:** To the extent that the Accepting Party fails in whole or in part to accept the Contract Quantity in accordance with an Individual Contract, and such failure is not remedied within three (3) Business Days after receipt by the Accepting Party of a written notice from the Delivering Party to remedy such failure or is not excused by an event of Force Majeure or the Delivering Party's non-performance, the Accepting Party shall pay the Delivering Party as compensation for damages an amount for the quantity of non-accepted Certificates equal to the product of:

- (a) the amount, if positive, by which the Contract Price exceeds the price (if any) at which the Delivering Party is or would be able to sell the quantity of non-accepted Certificates in the market acting in a commercially reasonable manner; and
- (b) the quantity of the non-accepted Certificates.

Such amount shall not be increased by any costs and expenses incurred by the Delivering Party as a result of the Accepting Party's failure."

## 11. Term and Termination Right

11.1 For the purposes of a Certificates Transaction, § 10.5(d) (*Failure to Deliver or Accept*) of the General Agreement shall be deleted and replaced with the following:

"(d) **Failure to Deliver or Accept:** If specified as applying in the Election Sheet, except where such obligation is released pursuant to § 7 (*Non-Performance Due to Force Majeure*), the failure of a Party to comply with its obligation to Deliver or accept the Certificates under an Individual Contract on the Delivery Date(s) specified in the Election Sheet, such failure having not been remedied within any grace period pursuant to § 8 (*Remedies for Failure to Deliver and Accept*)."

11.2 For the purposes of a Certificates Transaction, § 10.5(e) (*Force Majeure*) of the General Agreement shall be deleted and replaced with the words "[Not Used]".

## 12. VAT and Taxes

12.1 For the purposes of a Certificates Transaction, § 14.1 (*VAT*) of the General Agreement shall be amended by replacing the words "Articles 38, 39 or 195" in the second paragraph of that clause with the words "Articles 44, 196 or 199a".



12.2 For the purposes of a Certificates Transaction, § 14.4 (*Taxes Targeted at End Users*), § 14.5 (*Exemption Certificates*) and § 14.6 (*Indemnity*) of the General Agreement shall each be deleted and replaced with the words "[Not Used]".

**13. Floating Prices, and Fallback Procedure for Market Disruption**

For the purposes of a Certificates Transaction, § 15 (*Floating Prices and Fallback Procedure for Market Disruption*) shall be deleted and replaced with the words "[Not Used]".

**14. Change in Law**

For the purposes of a Certificates Transaction, a new § 15A (*Change of Law*) shall be inserted as follows:

"1. **Change in Law:** In case of any Change in Law that:

- (a) renders it impossible or unlawful to give effect to this Agreement;
- (b) renders any material matter required to be ascertained under this Agreement impossible to ascertain;
- (c) causes the provisions of this Agreement to become inconsistent with Applicable Law (including where any word or expression defined in this Agreement is defined by reference to its meaning in any Applicable Law);
- (d) introduces, replaces, modifies or extinguishes any scheme which confers benefits on holders of Certificates and/or alters the transfer arrangements in respect thereof which materially and adversely affects either Party in relation to this Agreement; or
- (e) without prejudice to § 15A.1(a) to § 15A.1(d) (inclusive), materially and adversely affects the benefit of this Agreement to either or both of the Parties,

then either Party may serve a notice on the other Party requesting that the Parties meet to discuss such circumstances in good faith and seek to agree the amendments which should be made to this Agreement as are necessary to:

- (f) preserve the economic intent of this Agreement as of the Effective Date, as specified in an Individual Contract; and
- (g) to the extent possible, permit the Parties to continue to perform their obligations under this Agreement in accordance with Applicable Law.

Where the Parties fail to agree amendments to the Agreement pursuant to this § 15A.1 within thirty (30) calendar days after notification, either Party may elect to refer the dispute to Expert Determination (if § 22.3 (*Expert Determination*) is specified as applying in the Election Sheet).

Where neither Party exercises its right to refer such dispute within fifteen (15) further calendar days, either Party may terminate the affected Individual Contracts(s). No obligation to pay damages pursuant to this Agreement will accrue to either Party with respect to any quantities of Certificates or Cancellation Statements not Delivered or accepted due to the occurrence of Change in Law under this § 15A.1.

**2. Change in Law and Price Adjustments:** If § 15A.2 is specified as applying in the Election Sheet, any amendments made to this Agreement in accordance with § 15A.1 (*Change in Law*) shall not include any upward or downward adjustments to the Contract Price.

**3. Event of Change in Law and Ineffectiveness:**

- (a) unless §15A.3(b) is specified as applying in the Election Sheet, if an event or circumstance that would otherwise constitute or give rise to a Change in Law also constitutes an Ineffectiveness, it is to be treated as a Change in Law and shall not constitute an Ineffectiveness; or

- (b) if §15A.3(b) is specified as applying in the Election Sheet, if an event or circumstance that would otherwise constitute or give rise to a Change in Law also constitutes an Ineffectiveness, where such event or circumstance occurs:
  - (i) within the number of days after the Delivery Date specified in the Individual Contract (inclusive), it is to be treated as an Ineffectiveness and shall not constitute a Change in Law; or
  - (ii) after the number of days after the Delivery Date specified in the Individual Contract, it is to be treated as a Change in Law and shall not constitute an Ineffectiveness.

**4. Expert Determination:** If the Parties are unable to agree pursuant to § 15A.1 (*Change in Law*), then either Party may refer the issue for determination by an Expert to determine the amendments which should be made to this Agreement as are necessary to achieve the economic intent of this Agreement as of the Effective Date.

**5. Parties Agreement Following Change in Law:** Where an agreement or determination under § 15A.1 (*Change in Law*) or § 15A.4 (*Expert Determination*) occurs after the Change in Law, such agreement or determination should take into account any reconciliation required in order to put the Parties in the position in which they would have been if such agreement or determination had occurred immediately prior to the relevant Change in Law.

**6. Further Undertakings Following Change in Law:** Without prejudice to the other provisions of this § 15A, the Parties agree that:

- (a) neither Party shall be liable to the other Party for a failure to perform any obligation under this Agreement which becomes prohibited or impossible to perform by reason of a Change in Law (and such circumstance shall constitute Force Majeure for the purposes of § 7 (*Non-Performance Due to Force Majeure*));
- (b) subject to § 15A.6(a), the occurrence of a Change in Law will not of itself constitute an event of Force Majeure, or otherwise entitle either Party to suspend or terminate its obligations under this Agreement; and
- (c) each of them shall use its reasonable endeavours to minimise and mitigate the consequences of a Change in Law on the performance of its obligations under this Agreement."

## 15. Representations and Warranties

For the purposes of a Certificates Transaction, § 21 (*Representations and Warranties*) of the General Agreement shall become § 21.2 (*Additional Representations and Warranties*), and shall be amended by the insertion of the following new § 21.1 (*Representations and Warranties of the Seller*):

**"1. Representations and Warranties of the Seller:** If specified as applying to a Party in the Election Sheet, the Seller hereby represents and warrants to the Buyer in respect of each Individual Contract on the relevant Delivery Date that:

- (a) Seller is entitled to dispose of the Certificates;
- (b) the Certificates are capable of being Delivered in accordance with § 4.2 (*Electronic Transfer of Certificates*);
- (c) the Certificates fulfil and correspond to the specifications agreed by the Parties as applicable and set out in the Individual Contract; and
- (d) where Transfer by Cancellation Statement has been specified in the Individual Contract, after a Delivery Date and the successful discharge of its Delivery obligation, the Seller shall not request a Cancellation Statement in respect of the cancelled Certificates which are the subject of the Individual Contract to any other person or to any third party."

**2. Governing law and Arbitration**

For the purposes of a Certificates Transaction, § 22 (*Governing Law and Arbitration*) shall be amended by inserting the following sub-clause 3:

**"3 Expert Determination:**

(a) **General:**

- (i) This § 21.3 shall only apply if specified in the Election Sheet.
- (ii) Whenever any matter is to be referred to Expert determination in accordance with this Agreement or the Parties otherwise agree in writing that a dispute in connection with this Agreement will be determined by an Expert, such matter or dispute shall be submitted to administered expertise proceedings in accordance with the Rules for Expertise of the International Chamber of Commerce ("**ICC Expertise Rules**"), which, save as modified by this § 21.3, shall apply to the selection and appointment of any Expert and the administration of any expertise proceedings.
- (iii) Any valid reference by a Party to an Expert for determination in accordance with this § 21.3 may only be withdrawn by the written agreement of the Parties.

(b) **Commencement:** The procedure for commencing Expert determination is as follows:

- (i) The Party wishing to appoint an Expert in accordance with a right granted by this Agreement ("**Applicant**") shall give notice to the other Party ("**Expert Notice**") along with full details of the matter for which it is seeking Expert determination.
- (ii) Within ten (10) Business Days of delivery of an Expert Notice, each Party shall nominate one (1) Expert meeting the criteria set out in § 21.3(b)(iii) below, following which the two (2) nominated Experts shall meet to discuss the selection of a third (3rd) Expert, with a view to reaching agreement on such selection within thirty (30) calendar days following delivery of the Expert Notice.
- (iii) The criteria for selection of each Expert are that he or she is:
  - (a) available and willing to act upon the terms of this § 21.3 within twenty (20) Business Days of appointment;
  - (b) an independent natural person possessing expert knowledge applicable to the matters to be resolved by an Expert as set out in the Expert Notice;
  - (c) sufficiently fluent in English to conduct the Expert determination and deliver the Decision in the English language; and
  - (d) independent of the Parties and has no conflict of interest in acting as an Expert.
- (iv) Following agreement on the selection of the Experts or if the Parties do not agree on the selection of any Expert pursuant to § 22.3(c) (*Appointment of an Expert*), the Parties may apply in writing to the ICC to select and appoint one or more Experts (as may be applicable) to resolve the matter or dispute ("**Application**"), enclosing a copy of this Agreement, a statement describing the nature and circumstances of the matter or dispute and, if the Parties do not agree on the selection of an Expert pursuant to § 22.3(c) (*Appointment of an Expert*), any matters that the Applicant wishes to bring to the attention of the ICC for the purpose of selecting the Expert (including the required criteria for selecting an Expert as set out in § 22.3(c) (*Appointment of an Expert*)). The Application shall be simultaneously copied to the other Party.

- (v) Within thirty (30) calendar days of service of the Application, the other Party to this Agreement shall send to the ICC, with simultaneous copy sent to the Applicant, a reply to any matters raised by the Applicant in the Application ("**Reply**").
- (c) **Appointment of an Expert:**
  - (i) The Parties shall use reasonable endeavours to procure that the ICC appoints the Experts within ten (10) Business Days of service of the Reply or as soon as reasonably practicable thereafter.
  - (ii) Without prejudice to a Party's entitlement to challenge the appointment of an Expert pursuant to § 22.3(c)(iii) and except where selected by the Parties, the decision of the ICC as to the identity of any Expert shall be final.
  - (iii) Prior to their appointment, each Expert shall provide the Parties and the ICC with a written resume of his or her past and present professional positions, shall agree in writing a fee rate conforming to the ICC Expertise Rules and shall sign a declaration to the effect that there are no circumstances known to him or her likely to give rise to justifiable doubts as to his or her independence and impartiality. The Experts shall each assume a continuing duty to disclose any such circumstances to the ICC and to the Parties, if such circumstances should arise after the date of such declaration and before the Expert determination is concluded.
  - (iv) An Expert shall act as an expert to determine a point of fact and not as an arbitrator.
- (d) **Further Written Submissions:** The filing of written submissions in addition to the Application and the Reply shall be upon the application of a Party and at the discretion of the Experts.
- (e) **Hearing:** Unless otherwise agreed by the Parties, the Experts shall fix a date, time and venue for a hearing which, unless such time limit is extended in accordance with § 22.3(h) (**Challenges**), shall be no later than sixty (60) calendar days after the latest date on which any written submission may be served pursuant to § 22.3(b)(iv) (**Commencement**) or no later than sixty (60) calendar days of the appointment of the Experts if no further written submissions are to be filed. Otherwise, the Experts may adopt such procedures and may conduct their determination in such manner as they consider appropriate.
- (f) **The Decision:**
  - (i) Where the Experts fail to agree on any issue, the Experts shall decide that issue by a majority.
  - (ii) The Experts shall endeavour to issue their decision in writing ("**Decision**") with written reasons for the Decision to the Parties within thirty (30) calendar days of the hearing, or as soon as reasonably practicable thereafter.
  - (iii) The Decision shall (unless fraud or manifest error is shown) be final and binding on the Parties.
  - (iv) All matters under this § 22.3 must be conducted, and the Decision and the written reasons for the Decision shall be written, in the English language.
- (g) **Communications and Time Limits:**
  - (i) All communications between the Parties concerning the Expert determination shall be:
    - (a) copied to the ICC and, once appointed, to each of the Experts; and
    - (b) be by fax or email, with a hard copy following by post.

- (ii) The time limits set out in this § 22.3 may be extended only by written agreement by the Parties or by the Experts.
- (h) **Challenges:** The Experts may be challenged by either Party if circumstances exist that give rise to justifiable doubts as to any of their impartiality or independence. In such circumstances the challenge shall be brought by written notice to the ICC copied to the other Party within fourteen (14) calendar days of the appointment of the relevant Expert or within fourteen (14) calendar days of the challenging Party becoming aware of the circumstances giving rise to the challenge. Unless the challenged Expert withdraws, or whichever of the Parties that has not brought the challenge agrees to the challenge, within fourteen (14) calendar days of the challenge, the ICC shall decide the challenge and, if appropriate, shall appoint a replacement Expert in accordance with the criteria set out herein.
- (i) **Costs:**
  - (i) The costs of the Expert determination shall be in accordance with the ICC Expertise Rules and shall be borne in such proportions as the Expert shall determine, in his or her absolute discretion.
  - (ii) The Parties shall bear their own legal and other costs incurred in connection with the Expert determination."

## 16. Miscellaneous

- 16.1 For the purposes of Certificates Transactions § 23 (*Miscellaneous*) of the General Agreement shall be amended by the insertion of the following new § 23.6 (*Transaction Costs*):

"6. **Transaction Costs:** The Seller and the Buyer will each bear its own fees and expenses incurred in connection with the negotiations, preparation and execution of this Agreement and the transactions contemplated by this Agreement. In the case of EECS Certificates, the Seller will furthermore bear all transfer costs up to the AIB Hub while the Buyer will bear all transfer costs from the AIB Hub to its Account."

**To be executed by the Parties that checked and completed the box on the first page:**

IN WITNESS whereof the Certificates Appendix has been duly executed by the duly authorised representative(s) of each Party on the respective dates set out below with effect from this Certificates Appendix Effective Date.

\_\_\_\_\_  
[Name of Party]

\_\_\_\_\_  
[Name of Party]

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

[Remainder of this page is left intentionally blank]

## **Annex 1 to the Certificates Appendix**

### **Defined Terms**

Terms used in the Certificates Appendix shall have the following meanings:

**"Account"**

- (a) in the case of EECS Certificates, has the meaning as specified in the EECS Rules; or
- (b) in the case of National Scheme Certificates, means an account on the Registry as specified in an Individual Contract;

**"AIB" or "Association of Issuing Bodies"** means the Association of Issuing Bodies IVZW with its registered address at Koning Albert II – laan 20 bus 19, B-1000 Brussels Belgium;

**"AIB Hub"** has the meaning as specified in the EECS Rules;

**"Annex"** means annex 1, 1A 2 or 3 to the General Agreement, as applicable;

**"Applicable Law"** means, with respect to any Party, any constitutional provision, Law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, holding, injunction, registration, or guideline enforceable at law or in equity, including the interpretation and administration thereof by any relevant Competent Authority;

**"Applicant"** has the meaning as specified in § 22.3(b)(i) (*Commencement*);

**"Application"** has the meaning as specified in § 22.3(b)(iv) (*Commencement*);

**"Authorised Issuing Body"**

- (a) in the case of EECS Certificates, has the meaning as specified in the EECS Rules;
- (b) in the case of National Scheme Certificates, has the meaning as specified in an Individual Contract;

**"Buyer"** has the meaning specified in the Individual Contract;

**"Buyer's Account"** has the meaning specified in the Individual Contract;

**"Cancellation Agreement"** has the meaning as specified in the EECS Rules;

**"Cancellation Statement"** means a statement made in relation to the cancellation of a Certificate in a form:

- (a) pursuant to the Issuance and Registry Rules; or
- (b) agreed between the Parties;

**"Certificate"** means an EECS Certificate or a National Scheme Certificate, as applicable;

**"Certificate Agreement"** shall mean the General Agreement as amended by the Certificates Appendix, excluding the Election Sheet and any Individual Contract;

**"Certificates Appendix"** means this appendix in its entirety;

"**Certificates Appendix Effective Date**" has the meaning specified on page two of the Certificates Appendix;

"**Certificates Transaction**" and "**Certificates Transactions**" have the meaning specified in § 2.1 of the Certificates Appendix;

"**Change in Law**" means the enactment, promulgation, execution or ratification of, or any change in or amendment to, or repeal or other cancellation of, any Law (or in the application or official interpretation of any Law by a judgment or decision of any court, tribunal or regulatory bodies);

"**Claiming Party**" has the meaning specified in § 7.1 (*Definition of Force Majeure*);

"**Competent Authority**" means any national, federal, regional, local or other authority, ministry, inspectorate, department, court, arbitral tribunal, administrative agency or commission or any other governmental, municipal, administrative or regulatory body (in each case to the extent each of the foregoing has jurisdiction over either or both of the Parties, this Agreement and/or the subject matter of this Agreement);

"**Delivery**" means (whether used as a verb or noun) the:

- (a) transfer of the relevant Certificate from one Account in the Registry to another Account; or
- (b) removal of the relevant Certificate from one Account in the Registry and subsequent crediting of such Certificate to another Account,

under and in accordance with the Issuance and Registry Rules or, where specified as applying in an Individual Contract, the delivery of the required statement and documentation in accordance with § 4.3 (*Transfer by Cancellation Statement*), and "**Deliver**" and "**Delivered**" will be construed accordingly;

"**Delivery Date**" means, in respect of an Individual Contract, the Delivery date agreed between the Parties and specified in the Confirmation;

"**Delivery Point**" has the meaning with respect to Certificates and Cancellation Statements as specified in the Individual Contract;

"**EECS Certificate**" has the meaning as specified in the EECS Rules, the type of which may be specified in the Individual Contract;

"**EECS-Disclosure Certificate**" has the meaning as specified in the EECS Rules;

"**EECS GO**" has the meaning as specified in the EECS Rules;

"**EECS Registration Database**" has the meaning as specified in the EECS Rules;

"**EECS Rules**" means the EECS Rules (updated from time to time) as published by the Association of Issuing Bodies for the European Energy Certificate System at <https://www.aib-net.org/eecs/eecsr-rules>;

"**Election Sheet**" means the Election Sheet to the General Agreement as amended by Annex 2 of this Certificate Appendix;

"**Electricity Scheme**" has the meaning as specified in the EECS Rules;

"**Electronic Transfer**" has the meaning specified in § 4.2 (*Electronic Transfer of Certificates*);

"**Encumbrance Loss**" means an amount reasonably determined by the Buyer in good faith to be its total losses and costs in connection with an Individual Contract, including but not limited to any loss of bargain, cost of funding or, at the election of the Buyer but without duplication, loss or costs incurred as a result of it terminating, liquidating, obtaining or re-establishing any hedge or related trading position. Such amount shall include losses and costs in respect of any payment already made under an Individual Contract prior to delivery of the written notice by the Buyer and the Buyer's legal fees and out-of-pocket expenses, but does not include any amount which the Buyer must pay to a third party in respect of any such penalty payable to any other party (including any Competent Authority) by that third party;



**"Encumbrance Loss Amount"** has the meaning specified in § 6.3(b)(ii)(a) (*Breach of the No Encumbrances Obligation*);

**"EU"** means the European Union as it exists from time to time;

**"Expert"** means an individual who is professionally specialised in the issuance and transfer of Certificates, appointed by the Parties in accordance with § 22.3(c) (*Appointment of an Expert*);

**"Expert Notice"** has the meaning as specified in § 22.3(b)(i) (*Commencement*);

**"General Agreement"** means the General Agreement Concerning the Delivery and Acceptance of Electricity, Version 2.1(a)/September 21, 2007, excluding the Election Sheet and any Individual Contract;

**"ICC"** means the International Chamber of Commerce with seat in Paris, France;

**"ICC Expertise Rules"** has the meaning as specified in § 22.3(a)(ii) (*General*);

**"Individual Contract"** means the Individual Contract to the General Agreement as replaced by Annex 3 of this Certificate Appendix;

**"Ineffective"** means, in respect of a Certificate, that any of the following events or circumstances occurs:

- (a) the Certificate has been invalidated, revoked, suspended or withdrawn by the Competent Authority or the Authorised Issuing Body (as appropriate);
- (b) the Certificate has already been cancelled other than in agreement with the Buyer;
- (c) the Certificate is not recognised or has been rejected by a Competent Authority for the Designated Purpose; or
- (d) where § 4.3 (*Transfer by Cancellation Statement*) applies, the issuance of a Cancellation Statement is refused by the Registry Operator, the invalidation, revocation or withdrawal of a Cancellation Statement, or the Buyer or a third party designated by the Buyer not being listed or recognised as beneficiary of a Cancellation Statement,

and **"Ineffectiveness"**, the opposite form **"Effective"** and other cognate expressions shall be construed accordingly;

**"Ineffectiveness Loss Amount"** means the calculation specified in an Individual Contract;

**"Issuance and Registry Rules"** means:

- (a) in the case of EECS Certificates, the EECS Rules and the Relevant Domain Protocol(s); or
- (b) in the case of National Scheme Certificates, the National Scheme Rules;

**"Law"** means any law (including the common law), statute, statutory instrument, regulation, instruction, direction, rule or requirement (in each case) of any Competent Authority (but, for the avoidance of doubt, only to the extent having force of law), which shall include without limitation:

- (a) Directive 2009/28/EC or Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (as applicable on the Effective Date);
- (b) Directive 2009/72/EC or Directive (EU) 2019/944 on common rules for the internal market for electricity (as applicable on the Effective Date);
- (c) Directive 2009/73/EC concerning common rules for the internal market in natural gas;
- (d) national implementing legislation of such Directives (as applicable on the Effective Date);

- (e) national or regional legislation regulating the issuance, transfer, cancellation and use of National Scheme Certificates; and
- (f) the Issuance and Registry Rules;

**"Limitation Amount"** has the meaning specified in the Election Sheet (if applicable);

**"National Scheme Certificate"** means a tradable electronic certificate to evidence the origin of energy produced (including but not limited to renewable origin electricity or gas) regulated by the National Scheme Rules, as specified in an Individual Contract;

**"National Scheme Rules"** means national or regional Law which creates and gives legal effect to, and regulates the issuance, transfer and retirement of National Scheme Certificates, as specified in an Individual Contract;

**"No Encumbrances Obligation"** has the meaning specified in § 6.2 (*No Encumbrance*);

**"Party"** and **"Parties"** have the meaning set out on the first page of the General Agreement;

**"Pre-Existing Certificates Transaction"** has the meaning specified on the second page of the Certificates Appendix;

**"Production Device"**

- (a) in the case of EECS Certificates, has the meaning as specified in the EECS Rules; or
- (b) in the case of National Scheme Certificates, means the generation device or group of devices registered with the Authorised Issuing Body for issuance of National Scheme Certificates in accordance with the Issuance and Registry Rules;

**"RECS Certificate"** has the meaning as specified in the EECS Rules;

**"Relevant Domain Protocol"** means the Domain Protocol approved by the AIB that governs the cancellation or transfer (including by way of export or import) of EECS Certificates from the Registry;

**"Registry"** means:

- (a) in the case of EECS Certificates, the EECS Registration Database; or
- (b) in the case of National Scheme Certificates, the issuance and registry rules as specified in an Individual Contract,

through which a Party is obliged to perform its Delivery, acceptance or cancellation obligation under and in accordance with the Individual Contract;

**"Registry Operator"** means:

- (a) in the case of EECS Certificates, a Scheme Member or the person appointed by the Scheme Member to administer the operation of the EECS Registration Database; or
- (b) in the case of National Scheme Certificates, the entity specified in the Individual Contract which is responsible for the operation of the Registry;

**"Reply"** has the meaning as specified in § 22.3(b)(v) (*Commencement*);

**"Schedule"** shall mean those actions necessary for a Party to effect its Delivery or acceptance (if applicable) obligations, which may include nominating, initiating, requesting and confirming with the Registry Operator (and if applicable, the other Party) the Contract Quantity, the Certificate details (including, the relevant Production Device I.D.(s), the relevant production periods, the usage for any cancellation, the face values, as applicable), the account I.D. of the Buyer's Account and any other relevant terms of the Individual Contract in accordance with the Issuance and Registry Rules, and any other customary industry practices and procedures to ensure that all applicable requirements

for effecting Delivery from the Seller to the Buyer by the Delivery Date are met. For the avoidance of doubt, the Parties' obligations to Schedule shall include the obligation to ensure their respective Accounts in the Registry or Registries are properly established in time to discharge their respective Delivery, cancellation or acceptance obligations under an Individual Contract;

**"Scheme Member"** has the meaning as specified in the EECS Rules; and

**"Transfer Link"** has the meaning as specified in the EECS Rules.

**Annex 2**  
**to the**  
**Certificates Appendix**

**Confirmation of Individual Contract**

between

\_\_\_\_\_ as Seller

and

\_\_\_\_\_ as Buyer.

concluded on: \_\_/\_\_/\_\_\_\_, \_\_. \_\_ hours

Trader/Contact person:

Deal-number:

<b>Database data:</b>	Seller:	Authorised Issuing Body: Account number or Account name:
	Buyer:	Authorised Issuing Body: Account number or Account name:

**Certificate:** An EECS Certificate issued:

[ ] as an EECS GO under the Electricity Scheme of the EECS Rules in the country of production, and which has the meaning given to "Guarantee of Origin" under Articles 2(j) and 15 of the Directive 2009/28/EC on the promotion of electricity produced from renewable energy sources in the internal electricity market (and any successor Law);

[ ] as a RECS Certificate under the Electricity Scheme of the EECS Rules in the Domain of Production; or

[ ] as an EECS-Disclosure Certificate under the Electricity Scheme of the EECS Rules in the Domain of Production; or

[ ] A \_\_\_\_\_ [*specify national scheme certificate name*] issued by \_\_\_\_\_ [*specify Authorised Issuing Body for national scheme certificates*] to evidence the production of renewable source energy issued in accordance with the National Scheme Rules, as specified in this Individual Contract ("**National Scheme Certificate**"),

where one Certificate equals 1 MWh.

**Energy source:** \_\_\_\_\_ [*specify in relation to Certificate, e.g. electricity, gas, fuel, heating, cooling, etc.*]

## Certificate Details:

Production Year	Technology	Quantity (MWh)	Price per Certificate	Delivery Date
<b>Total Contract Price</b>			<b>(Total)</b>	

Minimum validity of the Certificates upon delivery: \_\_\_\_\_

Earmark/s: \_\_\_\_\_

Additional quality: \_\_\_\_\_

**For EECS Certificates:**

<b>Domain of Production:</b>	Domain/ production device
	Authorised Issuing Body
<b>Domain for Delivery:</b>	Domain
	Authorised Issuing Body
<b>Transfer by Cancellation Statement:</b>	<input type="checkbox"/> Transfer by Cancellation Statement shall apply; <b>otherwise</b> Electronic Transfer shall apply
<b>Registry for issuance of Cancellation Statement:</b>	<i>[specify applicable Domain]</i>
<b>Version of the EECS Rules:</b>	The version of the EECS Rules published by the AIB on the date of conclusion of the transaction shall apply to this Confirmation of Individual Contract

**For National Scheme Certificates:**

<b>Authorised Issuing Body:</b>	<i>[specify]</i>
<b>Registry:</b>	<i>[specify name and website of National Scheme Certificate Registry]</i>
<b>Registry Operator:</b>	<i>[specify]</i>
<b>National Scheme Rules:</b>	<i>[specify, which may include legislation or rules enacted by the Competent Authority]</i>
<b>Transfer by Cancellation Statement:</b>	<input type="checkbox"/> shall apply, subject to a transfer by Cancellation Statement being possible under the National Scheme Rules; <b>otherwise</b> Electronic Transfer shall apply

**For both EECS Certificates and National Scheme Certificates:**

<b>Delivery Point:</b>	with respect to Certificates: <input type="checkbox"/> _____ <i>[specify]</i> ; <b>otherwise</b> Buyer's Account with respect to Cancellation Statements (if applicable): <input type="checkbox"/> _____ <i>[specify, e.g. facsimile]</i> ; <b>otherwise</b> receipt of email (with copy of Cancellation Statement attached) by Buyer in accordance with § 23.2 ( <b>Notices and Communications</b> )
<b>Economic intent of the Parties:</b>	<i>[specify in accordance with § 15A.1(f)]</i>
<b>Designated Purpose:</b>	<i>[specify for the Certificates, e.g. regulatory compliance purpose, in connection with Ineffectiveness definition]</i>
<b>Competent Authority for the Designated Purpose</b>	<i>[specify]</i>
<b>Ineffectiveness Loss Amount:</b>	<i>[specify amount or formula]</i>
<b>Ineffectiveness (days after Delivery Date):</b>	<i>[specify where § 15A.3(b) is specified as applying in the Election Sheet]</i>
<b>Documentation of Actual Deliveries and Receipts:</b>	<i>[specify in accordance with § 4.4, if applicable]</i>
<b>Additional requirements (if any):</b>	

This Confirmation confirms the Individual Contract entered into pursuant to the General Agreement as amended by this Certificates Appendix and supplements and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the Individual Contract, please contact us immediately.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

**Annex 3**  
**to the**  
**Certificates Appendix**

**Election Sheet**

with an Effective Date of .....

between..... and.....  
("Party A") ("Party B")

For the purposes of a Certificates Transaction, the following additional elections shall apply.

**PART I: CUSTOMISATION OF PROVISIONS IN THE  
CERTIFICATES APPENDIX**

**§ 4**

**Primary Obligations For Delivery and Acceptance of Certificates**

**§ 4.4 Documentation of Actual Deliveries and Receipts:**

The documentation to be provided by the Seller pursuant to:

§ 4.4(a) shall be: \_\_\_\_\_; and

§ 4.4(b) shall be: \_\_\_\_\_

**§ 6**

**Transfer, Risk, No Encumbrances and Ineffectiveness**

**§ 6.4 Ineffectiveness:**

the Party responsible for the determination of either § 6.4(b)(i) or § 6.4(b)(ii) shall be \_\_\_\_\_

**§ 7**

**Non-Performance Due to Force Majeure**

**§ 7.1 Definition of Force Majeure:**

§ 7.1(a), (b), (c) or (d) shall not apply as written but instead shall be as follows:

\_\_\_\_\_;

*otherwise* § 7.1 shall apply as written in this Certificates Appendix and/or the General Agreement, whereby:

§ 7.1(a) shall apply;

§ 7.1(b) shall apply;

§ 7.1(c) shall apply; and/or

§ 7.1(d) shall apply and shall be as follows:

\_\_\_\_\_

**§ 10**

**Term and Termination Rights**

**§ 10.5(d) Failure to Deliver or Accept:**

§ 10.5 shall apply and the number of permitted occasions is \_\_\_\_\_,

consecutively; or  
 in aggregate;  
*otherwise* § 10.5 shall not apply

**§ 11**

**Calculation of the Termination Amount**

**§ 11.2(c) Settlement Amount (Losses):**

losses associated with regulatory fines shall apply;  
*otherwise* losses associated with regulatory fines shall not apply

**§ 15A**

**Change in Law**

**§ 15A.2 Change in Law and Price Adjustments:**

§ 15A.2 shall apply;  
*otherwise* § 15A.2 shall not apply

**§ 15A.3 Event of Change in Law and Ineffectiveness:**

§ 15A.3(b) shall apply;  
*otherwise* § 15A.3(a) shall apply

**§ 21**

**Representation and Warranties**

**§ 21.1 Representations and Warranties of the Seller:** The following representations and warranties are made by the Seller:

§ 21(1)(a)	<input type="checkbox"/> no, <i>otherwise</i> yes
§ 21(1)(b)	<input type="checkbox"/> no, <i>otherwise</i> yes
§ 21(1)(c)	<input type="checkbox"/> no, <i>otherwise</i> yes
§ 21(1)(d)	<input type="checkbox"/> no, <i>otherwise</i> yes

**§ 22**

**Governing Law and Arbitration**

**§ 22.3 Expert Determination:**

§22.3 shall apply;  
*otherwise* § 22.3 shall not apply



**PART II: ADDITIONAL PROVISIONS TO THE CERTIFICATES APPENDIX  
OR THE CERTIFICATE AGREEMENT**

Executed by the duly authorised representative of each Party effective as of the Effective Date.

**"Party A"**

*[Name of Party]*

*[Name of Signatory/ies]*

*[Title of Signatory/ies]*

**"Party B"**

*[Name of Party]*

*[Name of Signatory/ies]*

*[Title of Signatory/ies]*