

Allowances Appendix (Power) v 5.0 (“EFET”)

USAGE NOTES to (i) the Allowances Appendix (Power) (Version 5.0/February 28, 2018) (the “**Phase IV Appendix**”), (ii) Ratification Letter for the Phase IV Appendix (the “**Ratification Letter**”) and (iii) the Change Letter to the Allowances Appendix (Power) 4.0/April 3, 2012).

1. The Phase IV Appendix:

a) **Annex 1: Definitions:** The defined terms of the Phase IV Appendix have been amended to reflect the absence, in the fourth compliance period of the EU Emissions Trading Scheme (“**EU ETS**”) commencing 1 January 2021 (the “**Fourth Compliance Period**”), of the use of Kyoto Units as a form of eligible compliance unit. Therefore, references to former terms such as CERs, ERUs and ITL etc. have been removed in the Phase IV Appendix. Furthermore, the Fourth Compliance Period is longer than the compliance period for the previous EU ETS compliance period (i.e. the “**Third Compliance Period**”). In this regard, the trigger periods within the definition of Long Stop Date have been amended accordingly.

b) **Use of Allowances Appendix with Options:** Please note that the Phase IV Appendix does not expressly cater for entry by the Parties into Options Transactions with respect to Allowances. Consequently, Parties to such Options Transactions are encouraged to insert additional, specific terms as appropriate.

c) **General drafting update:** In consultation with EFET’s Members, certain minor amendments have also been made to the Phase IV Appendix in order to clarify the drafting where the interpretation is not entirely clear or to reflect the impact of market changes. For example, the requirement to obtain five (5) market quotations at § 7.4(b)(ii) has been reduced to three (3).

2. The Ratification Letter and the use of the EDRS mechanism:

a) **Purpose of the EDRS mechanism:** The EFET Document Ratification System (“**EDRS**”) is a web-based solution to enable market participants to swiftly transition from one version of an EFET published document to another via a system of online ratification to ease the amendment process for existing EFET documents in place between the Parties. It is not designed to be a process that allows people wishing to sign a new Allowances Appendix where they have never done one before because the EDRS mechanism is not designed to make any elections between the Parties.

b) **Scope of the EDRS mechanism:** Parties that wish to amend their existing Allowances Appendix (Power) for either the second compliance period (i.e. Version 3.0/June 20, 2008) or the Third Compliance Period (i.e. Version 4.0/April 3, 2012) may use the Ratification Letter to adopt the Phase IV Appendix acknowledging that any elections made in respect of their most recent Allowances Appendix would apply to the Phase IV Appendix. Please note that the Ratification Letter does not allow Parties to tailor the specific elections that they would seek to make for the purposes of negotiating different elections from those which they have previously made. Again this is because the EDRS process is not designed for Parties to make elections. Please also note that a Party that has only previously signed an Allowances Appendix for the first compliance period of the EU ETS (the “**Phase I Appendix**”) may not use the Ratification Letter to adopt the Phase IV Appendix. This is because the electives of the Phase I Appendix are not compatible with the Phase IV Appendix.

c) **Ratification Letter vs the Change Letter:** The Ratification Letter may be used by Parties who already have a prior form of Allowances Appendix (whether for the second or Third Compliance Period) in place and who wish to ‘bolt on’ the Phase IV Appendix on top of that without making any changes to existing elections made in the former Allowances Appendix. It therefore, leaves the Parties with the ability to transact Allowance Transactions for former compliance periods and the Fourth Compliance period under the same EFET General Agreement. As such, the Ratification Letter has the benefit of speed but the detriment of restricting any amendments to be made between the Parties other than those strictly prescribed by the wording of the Ratification Letter. In contrast, the Change Letter may be used only by Parties who already have in place the Allowances Appendix (Power)

(Version 4.0/April 3, 2012) but wish to use that same document to transact in Allowance Transactions for the Fourth Compliance Period. It is an amendment to Allowances Appendix (Power) (Version 4.0/April 3, 2012) and not a 'bolt-on' of the Phase IV Appendix. However, if Parties wish to use the form of Change Letter to tailor their own amendments to the Phase IV Appendix, they could adapt the form of the Change Letter to facilitate this, provided that they acknowledge that they do so by deviating from the form proposed by EFET and for which EFET takes no responsibility.

3. The Change Letter:

a) **Purpose:** The purpose of the Change Letter is to act as an amendment agreement for Parties who have already entered into an EFET Allowances Appendix (Power) (Version 4.0/April 3, 2012) without amendment and who now wish to incorporate into that version the changes made in the Phase IV Appendix, so as to enable the Parties to enter into Allowance Transactions for both the Fourth Compliance Period and the Third Compliance Period.

b) **Key changes:** The Change Letter makes two sets of amendments. The first set of amendments applies to Allowance Transactions for both the Third Compliance Period and Fourth Compliance Period. As such, they are general in nature and not specific to the Fourth Compliance Period. These changes reflect those updates made in the Phase IV Appendix that are referred to above at paragraph 1(c) of these usage notes. The second set of amendments applies to Allowance Transactions specific to the Fourth Compliance Period only. These changes reflect those updates made in the Phase IV Appendix that are referred to above at paragraph 1(a) of these usage notes.

c) **Effect:** Please note the effect of the Change Letter is not to replace the Allowances Appendix (Power) Version 4.0/April 3, 2012 but to amend it so that the changes necessary to affect Allowance Transactions relating to the Fourth Compliance Period may be carried out using the amended for the Allowances Appendix (Power) Version 4.0/April 3, 2012.