

EFET GUIDANCE NOTES FOR THE ITALIAN MARKET

WAIVER: THE FOLLOWING GUIDANCE NOTES WERE 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 THE CPPA TO ENSURE THAT ITS TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND BEST SERVE TO PROTECT THE USER'S LEGAL INTEREST. USERS OF THIS CPPA ARE URGED TO CONSULT OWN COUNSEL.

We provide in the table below, on no reliance basis, brief comments on particular provisions of the EFET Power Purchase Agreement for Corporates and Utilities (**CPPA**) if **Italian law** governs the contract to be addressed in the Election Sheet (Section C).

We do not opine on the validity and enforceability of the CPPA provisions and we do not address any tax implications. The comments below are only meant to be a practical guidance on the use of the CPPA.

| § CPPA– PART I Commercial Terms | |
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| 2.1(b)(c) Percentage of Contract Quantity | Under the Italian industry rules, only one entity can dispatch a delivery/off-take point. This means that in case of physical settlement, if the Parties elect one of these options they should also define how to implement this in practice. |
| § CPPA– PART II General Provisions | |
| 1(b) Balancing Services | Under the Italian industry rules, if the Seller wishes to entrust the Buyer or other entities as balancing party for the Facility (“dispatching user” – <i>utente del dispacciamento</i>), it must grant a mandate without power of attorney (<i>mandato senza rappresentanza</i>). In this instance the Agreement should also clarify if it is possible for the Buyer to assign the mandate or confer a sub-mandate and the consequence in case of termination of the mandate. |
| 8.1 Delivery and Acceptance of Electricity | If the Delivery Point is at the Facility and the Buyer is the dispatching user (<i>utente del dispacciamento</i>) no Scheduling by the Seller is necessary under the Italian industry rules. |
| 9.6 Balancing | See comment on § 1(b). |
| 12.2, 12.4 Failure to deliver and Failure to accept | If the Delivery Point is at the Facility and the Buyer is the dispatching user (<i>utente del dispacciamento</i>), <i>de facto</i> , there is no possibility of failure to deliver or to accept if the Facility is operating and the dispatching contract with the TSO is effective. |
| 16 Change in Law | Parties may consider how to address changes in law that may affect the Italian market (i.e. changes in market zones, zonal prices, participation to the ancillary services market, introduction of negative prices etc.). |

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| | In addition, it would be advisable to clarify that, also by way of a derogation to Article 1467 of the Italian Civil Code, the Change in Law is the only circumstance allowing the Parties to renegotiate the Agreement. |
| 17 Suspension | <p>If the Delivery Point is at the Facility and the Buyer is the dispatching user (<i>utente del dispacciamento</i>), <i>de facto</i>, there is no possibility of suspension of delivery of electricity but the mandate for dispatching should be revoked and granted to a different entity according to the timing and procedures set out by the TSO.</p> <p>If Italian law applies, it would be opportune to specify that the Parties acknowledge that the term of three (3) Business Days is adequate ("<i>congruo</i>").</p> |
| 18.5(b) Winding-up/Insolvency/Attachment | On Italian insolvency law matters, please refer to the Italian Legal Opinions on the EFET General Agreements. |
| 21.4 Intentional default, fraud and fundamental rights | If Italian law applies, gross negligence and violations arising under public policy should also be included. |
| 27.1 Provision of Financial Statements | For Italian counterparties, it may be considered an extension of the 120-day term given the requirements of the Civil Code (please refer to our Legal Opinions on the EFET General Agreements). |
| 28 Assignment | If Italian law applies, the Agreement should distinguish between the assignment of the Agreement and the assignment of receivables. |
| 30.1 General Representations and Warranties | The Buyer should represent to be a wholesaler or an end customer. If it is an end customer, it should represent that its off-take points are not connected in low voltage (otherwise the Agreement should include a mandatory withdrawal provision for the benefit of the Buyer). |
| 32.1 Recording Telephone Conversations | <p>In case of Italian counterparties, this provision should be integrated with reference to Law No. 300 of May 20, 1970 (employment Act) and the consent of trade unions (please refer to our Legal Opinions on the EFET General Agreements).</p> <p>In addition, if personal data of natural persons are processed, <i>inter alia</i>, information about the processing must be given to and in certain instances the prior consent must be obtained by the owner of the personal data under the GDPR.</p> |
| 32.6 Third Party Rights | If Italian law applies, in a project financing scenario this provision should be amended since some provisions would be also for the benefit of the lenders under Article 1411 of the Italian Civil Code. |



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| N/A | If Italian law applies, in addition to the signature for acceptance of the Agreement the Parties should specifically approve certain clauses in accordance with Articles 1341 and 1342 of the Civil Code (please refer to our Legal Opinions on the EFET General Agreements). |