

*Ratification Letter for Amendments to EFET principal agreements governed by German law concerning the giving of notices*

Send to: [edrsAdmin@efet.org](mailto:edrsAdmin@efet.org)

Cc: [secretariat@efet.org](mailto:secretariat@efet.org)

Dear Sirs

## **NOTICE AMENDMENTS (German law) – Ratification**

The purpose of this letter (the “**Ratification Letter**”) is to confirm our ratification of certain amendments to the Covered Principal Agreements (as defined below) as set out in Schedule 1 to this Ratification Letter (the “**Amendments**”).

By ratifying the Amendments in accordance with the terms of this Ratification Letter (each person so ratifying the Amendments, including ourselves, being a “**Ratifying Party**”), any Covered Principal Agreement (as defined below) shall be deemed modified, amended and supplemented by the Amendments as if we had signed such Amendments bilaterally with each other corresponding Ratifying Party.

“**Principal Agreement**” means any of the agreements listed in Schedule 2 to this Ratification Letter.

“**Covered Principal Agreement**” shall mean any Principal Agreement:

- (a) executed by ourselves and another Ratifying Party and entered into by the two Ratifying Parties on or prior to the Ratification Date (as defined below);
- (b) governed by German law; and
- (c) which both the Ratifying Parties specify in Schedule 2 to their respective Ratification Letters as being subject to the Amendments.

As between ourselves and the corresponding Ratifying Party, the agreement to make the amendments stated in the Amendments to any Covered Principal Agreements will take effect as of the date the European Federation of Energy Traders (“**EFET**”), as agent, first publishes on the EDRS website at <https://edrs.efet.org> (the “**Website**”) a list of parties who have ratified the Amendments that lists both Ratifying Parties as having ratified the Amendments for any Covered Principal Agreements and uploads on the Website the Ratification Letters from both such Ratifying Parties to ratify the Amendments (such date, as stated on the Website, being with respect to the relevant Ratifying Parties, the “**Ratification Date**”).

We acknowledge that such modification, amendment and supplementation by ratifying the Amendments in accordance with the terms of this Ratification Letter and also any modification, amendment and supplementation made in the context of the process described in this Ratification Letter shall have binding effect, irrespective of any requirements pursuant to the relevant clauses of a Covered Principal Agreement that any amendments shall be made only in writing signed by both parties thereto. This is however not to be considered as a general waiver of relevant form requirements agreed in a Covered Principal Agreement beyond the scope of the Amendments and this Ratification Letter.

All terms not otherwise defined in this Ratification Letter shall have the meanings given to them in the Covered Principal Agreements.

## 1. Process; General Provisions

The following shall also apply in relation to the Amendments:

- (a) EFET shall have the right, in its sole and absolute discretion, upon thirty (30) calendar days' notice on the Website (or by other suitable means) to designate a closing date for ratification of the Amendments (such closing date, the "**Limitation Date**"). After the Limitation Date, EFET will not accept any further Ratification Letters in respect of the Amendments.
- (b) Each Ratifying Party will access the Website to enter information online that is required to generate the appropriate form of Ratification Letter. Each Ratifying Party will print out and sign by way of handwritten signature the Ratification Letter and upload a scan of the signed Ratification Letter as a PDF attachment into the "EDRS" system of the Website.
- (c) If EFET, as agent, determines prior to its publication on the Website that a purported ratification is incomplete, not readable, contains extraneous material, is unsigned or is not in compliance with the terms of this Ratification Letter, EFET will not upload the purported ratification document and will attempt to contact the Ratifying Party. If there is reasonable evidence that a published Ratification Letter is the result of fraud or other criminal activity, then EFET reserves the right, as agent, to remove the name of such party from the list of those having ratified the Amendments and remove the published Ratification Letter from the Website, whereupon, without prejudice to any existing agreement to make the amendments set out in the Amendments based on such Ratification Letter, such purported ratification shall be incapable of forming the basis of any subsequent agreement to make the amendments set out in the Amendments.
- (d) A copy of each Ratification Letter as uploaded by the Ratifying Party will be published by EFET on the Website and in accordance with the Terms of Use of the EFET Document Ratification System in force from time to time so that it may be viewed and downloaded and/or printed by all Ratifying Parties.
- (e) This Ratification Letter is intended for use without negotiation, but without prejudice to any amendment, modification or waiver in respect of a Covered Principal Agreement that the parties may otherwise effect in accordance with the terms of that Covered Principal Agreement.
- (f) Each Ratification Letter and any non-contractual obligations arising out of or in connection with it will, as between two Ratifying Parties, be governed by and construed in accordance with the substantive law of the Federal Republic of Germany, provided that the Amendments to each Covered Principal Agreement shall be governed by and construed in accordance with the governing law specified in that Covered Principal Agreement.
- (g) Any dispute between two Ratifying Parties arising out of or in connection with this Ratification Letter or any non-contractual obligations arising out of or

connection with it will be subject to the dispute resolution mechanisms that apply to the first Principal Agreement listed in Schedule 2 to this Ratification Letter that is a Covered Principal Agreement with respect to those Ratifying Parties, and the provisions setting forth such dispute resolution mechanisms shall be incorporated into and shall apply to this Ratification Letter (as if references in the Covered Principal Agreement to the Covered Principal Agreement were references to this Ratification Letter), provided that any dispute between two Ratifying Parties arising out of or in connection with any Amendments to a Covered Principal Agreement will be subject to the dispute resolution mechanisms that apply to that Covered Principal Agreement.

## **2. Appointment; Release**

We hereby appoint EFET as our agent for the purpose of administering our ratification of the Amendments and accordingly we waive, and hereby release EFET from, any claims or actions whatsoever (whether in contract, tort or otherwise) arising out of or in any way relating to this Ratification Letter or our ratification of the Amendments. For the purpose of administering our ratification of the Amendments, EFET shall also be exempted from the restrictions of Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*).

## **3. Representations and Undertakings**

As of the Ratification Date, each Ratifying Party represents to the other corresponding Ratifying Party that:

- (a) it is duly organised, validly existing and, if relevant under such laws, in good standing under the laws of its jurisdiction of incorporation, or, if it otherwise represents its status in or pursuant to the Covered Principal Agreement, has such status;
- (b) the signing and the entering into by it of this Ratification Letter shall not violate any provision of its constitutional documents;
- (c) it has the power and is authorised to execute, deliver and perform its obligations under this Ratification Letter and has taken all necessary action to authorise that execution, delivery and performance, and its execution, delivery and performance of this Ratification Letter does not violate or conflict with any other term or condition of any contract to which it is party or any constitutional document, rules, law or regulation applicable to it;
- (d) it has all governmental, regulatory and other authorisations, licenses, approvals and consents necessary for it legally to perform its obligations under this Ratification Letter; and
- (e) its entry into this Ratification Letter will not, in and of itself, adversely affect the enforceability, effectiveness or validity of any obligations owed, whether by it or by any third party, under any credit support document (howsoever described) in respect of its obligations relating to the Covered Principal Agreement as amended by this Ratification Letter.

#### 4. Amendments

- (a) In ratifying the Amendments, a Ratifying Party may not specify additional provisions, conditions or limitations to the Amendments in its Ratification Letter. Any such added provisions, conditions or limitations shall not be recognised and shall have no legal effect, and such Ratification Letter may not be accepted by EFET.
- (b) Each Ratifying Party acknowledges and agrees that ratification of the Amendments is irrevocable.
- (c) An amendment, modification or waiver in respect of the matters contemplated by the Amendments will only be effective in respect of a Covered Principal Agreement if made in accordance with the terms of the Covered Principal Agreement and then only with effect between the parties to that Covered Principal Agreement (and will only be effective to amend or override the provisions set forth in this Ratification Letter if it expressly refers in writing to this paragraph of this Ratification Letter).

#### 5. Contact Details

Our contact details for the purposes of this Ratification Letter are:

Name:

Address:

Telephone:

E-mail:

We consent to the disclosure by EFET of the name of the undersigned Ratifying Party and the Ratification Date on the Website. We also consent to the publication by EFET as described herein of a final copy of this Ratification Letter with the printed or typewritten name of each signatory to the Ratification Letter and we confirm that each such signatory has consented to such publication.

Unless expressly set out in this Ratification Letter, this Ratification Letter shall be ratified pursuant to and shall in all respects be subject to the Terms of Use of the EFET Document Ratification System in force from time to time as published on the Website and as may be amended by EFET from time to time.

Yours faithfully

Name:

Title:

Signature:

Date:

## Schedule 1

### Amendments and E-mail Address Details

#### 1) Amendments

The following amendments shall be made to each Covered Principal Agreement:

The paragraph dealing with notices and/or communications shall be amended by adding the following at the end:

“In addition to the above and notwithstanding anything to the contrary in this agreement, any notice, declaration or other communication (including but not limited to a termination notice or default notice) other than an Excluded Communication, may also be sent by e-mail to the e-mail address provided by such Party in its Ratification Letter. The Party sending such notice, declaration or other communication by e-mail shall attach it in PDF format to such e-mail. Nothing in this paragraph shall affect any agreement, arrangement or understanding between the Parties, for the sending or giving of any Excluded Communication by e-mail or otherwise.

Any notice, declaration or other communication sent by e-mail in accordance with this paragraph shall be deemed received and effective on the day the e-mail is sent to the recipient if sent before 17.00 hours (recipient’s time) on a Business Day or otherwise at 09.00 hours (recipient’s time) on the first Business Day after the e-mail is sent. For the avoidance of doubt, the deemed receipt and the effectiveness of a notice, declaration or other communication sent by e-mail shall remain unaffected by any deviating evidence of receipt or non-receipt of the respective e-mail and/or of any attached legal notice or declaration.

Each Party may change the e-mail address to be used to send notices to it in accordance with this paragraph by giving notice to the other by e-mail or otherwise in accordance with this paragraph.

For the purpose of the above:

“**Excluded Communication**” means any invoice, confirmation, notice of option exercise or notice relating to the demand, return or exchange of credit support (including any notice given pursuant to any credit support dispute resolution mechanism); and

“**Ratification Letter**” means in respect of a Party, the Ratification Letter for Amendments to Covered Principal Agreements governed by German law concerning the giving of notices signed and uploaded by such Party.”

- 2) Except as amended above, the Covered Principal Agreement(s) shall remain unamended and continue in full force and effect.

#### 3) E-mail Address

The Party providing this Ratification Letter provides the following email address:

Party: [ ]

E-mail address: [ ]

## Schedule 2

### Covered Principal Agreements

The following Principal Agreements are specified as subject to the Amendments:

<input type="checkbox"/> <b>EFET Power V2.1(a)</b>	Any European Federation of Energy Traders General Agreement Concerning the Delivery and Acceptance of Electricity Version 2.1 (a) published on 21 September 2007 (“ <b>EFET Power V2.1(a)</b> ”), including all amendments thereto.
<input type="checkbox"/> <b>EFET Power (prev)</b>	Any European Federation of Energy Traders General Agreement Concerning the Delivery and Acceptance of Electricity Version 2.1 published on 20 December 2000 (“ <b>EFET Power (prev)</b> ”) and/ or any previous EFET General Agreement for Electricity, including, all amendments thereto.
<input type="checkbox"/> <b>EFET Gas V2.0(a)</b>	Any European Federation of Energy Traders General Agreement Concerning the Delivery and Acceptance of Natural Gas Version 2.0(a) published 11 May 2007 (“ <b>EFET Gas V2.0(a)</b> ”) including all amendments thereto.
<input type="checkbox"/> <b>EFET Gas (prev)</b>	Any European Federation of Energy Traders General Agreement Concerning the Delivery and Acceptance of Natural Gas Version 2.0 published 6 January 2003 (“ <b>EFET Gas (prev)</b> ”) and/ or any previous General Agreement for Natural Gas, including all amendments thereto.
<input type="checkbox"/> <b>MNA</b>	Any European Federation of Energy Traders Master Netting Agreement Version 1.0 published on 1 June 2010, including all amendments thereto.
<input type="checkbox"/> <b>CPMA</b>	Any Cross-Product Master Agreement (February 2000 version) used in conjunction with the EFET/IECA Commodities Schedule Version 1.0 published 23 June 2003, including all amendments thereto.