

THIS DRAFT LETTER CONTAINS SUGGESTED WORDING FOR USE BY 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 THE CHANGES MADE TO THAT VERSION 4.0 IN THE ALLOWANCES APPENDIX (POWER) (VERSION 5.0/FEBRUARY 28, 2018 SO AS TO ENABLE THE PARTIES TO ENTER INTO BOTH PHASE 3 AND PHASE 4 TRANSACTIONS). THIS DRAFT LETTER WAS PREPARED BY EFET'S MEMBERS EXERCISING ALL REASONABLE CARE AND DUE DILIGENCE. 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 FROM ITS USE IN ANY PARTICULAR CASE OR JURISDICTION.

[LETTERHEAD OF SIGNATORY]

[Insert counterparty contact details]

[Insert Date]

Dear [insert name]

Re: Amendments to the Allowances Appendix (Version 4.0/April 3 2012) to the European Federation of Energy Traders ("EFET") General Agreement Concerning the Delivery and Acceptance of Electricity between the Parties.

As you may be aware, EFET has published a new Version 5.0/February 28, 2018 of the Allowances Appendix (Power) which contains differences from the Allowances Appendix (Version 4.0/April 3 2012) to reflect the absence of the use of Kyoto Units as a form of eligible compliance unit and the comparably longer compliance period in Phase IV of the EU Emissions Trading Scheme.

We wish to amend the Allowances Appendix that we have already entered into with you to reflect these changes and to ensure that we continue to trade in accordance with standard market terms.

By executing this amendment letter (the "**Letter**"), the parties agree to modify, supplement, amend and restate the terms of the Allowances Appendix (Version 4.0/April 3 2012) (the "**Allowances Appendix**") dated as of [], to the EFET General Agreement Concerning the Delivery and Acceptance of Electricity (the "**General Agreement**") dated as of [] between [] ("**Party A**") and [] ("**Party B**") (collectively, the "**Parties**").

Capitalised terms used but not defined in this Letter shall have the same meanings ascribed to them in the Allowances Appendix and the General Agreement (except as amended herein) and all references to a Section (§) or Sections (§§) in this Letter shall be references to a Section or Sections in the General Agreement.

The Parties hereby acknowledge and agree that, in accordance with § 23.3 (**Amendments**), the provisions of the General Agreement, as previously modified, supplemented and amended by the Allowances Appendix are now hereby further modified, supplemented and amended, effective as of the date of this Letter, as follows:

All Allowance Transactions entered into by the Parties on or after the date of this Letter shall become subject to the terms and conditions of the Allowances Appendix as modified, supplemented and amended by this Letter. [and]

[All Allowance Transactions entered into by the Parties before the date of this Letter [that remain unperformed] shall become subject to the terms and conditions of the Allowances Appendix as modified, supplemented and amended by this Letter.]¹

(A) Amendments to the Allowances Appendix (General)

(1) Primary Obligations for Delivery and Acceptance of Allowances. § 4.2 (*Definition of Schedule*) of the Allowances Appendix is hereby amended by adding the words ", to the extent it has not already done so," after the words "shall include" in the seventh (7th) line thereof.

(2) Delivery, Measurement, Transfer and Risk. §6 (*Delivery, Measurement, Transfer and Risk*) of the Allowances Appendix shall be amended as follows:

§6.1 (*Compliance Period/Contract Quantity/Holding Account*) shall be amended by adding the words "A Transfer shall be considered to be completed for the purposes of this Allowances Appendix when the Allowances are received at the relevant Delivery Point, whereupon risk of loss related to the Allowances or any portion of them passes from the Seller to the Buyer." after the end of the last line thereof; and

§6.3(d)(i) (*No Encumbrances*) shall be amended by replacing the reference to "Article 37" therein with "Article 40".

(3) Non-Performance Due to Force Majeure and Suspension Event. §7.4(b)(ii) (*Two-Way Market Quotation Termination Payment*) shall be amended by replacing the two references therein to "five (5)" with "three (3)".

(4) Remedies for Failure to Transfer or Accept. §8 (*Remedies for Failure to Transfer or Accept*) of the Allowances Appendix shall be amended as follows:

§ 8.2(b)(iii) (*Seller's Cover Costs*) of the Allowances Appendix shall be amended by replacing the reference to "§ 8.1(a)" therein with "§ 8.2(a)"; and

§8.3(f) (*Later Mitigation of Recovered EEP or EEP Equivalent*) shall be amended by replacing the reference to "EEPs" at the end of the third line therein with "EEP".

(5) Annex 1 - Defined Terms. Annex 1 to the Allowance Appendix shall be amended by:

(a) the amendment of the following existing definitions:

"**Administrator Event**" shall be amended by replacing the words "of the EUTL" in the first (1st) line thereof with "or the EUTL";

"**Compliance Year**" shall be amended by adding the words "respect of" after the existing word "in";

"**Delivered Quantity**" shall be amended by replacing the word "Buyer" therein with "Seller" and replacing the word "Seller" therein with "Buyer";

"**EU ETS**" shall be amended by deleting the words "as amended from time to time" at the end of the definition;

"**EUTL**" or "**European Union Transaction Log**" shall be amended by replacing the reference to "Article 5" therein with "Article 6";

"**National Administrator**" shall be amended by replacing the reference to "Article 7" therein with "Article 8";

¹ Delete as applicable

“**Non-Member State**” shall be amended by adding the words “with whom a Participating Agreement has been signed” at the end of the definition;

“**Registries Regulation**” shall be deleted in its entirety and replaced with the following definition: “means the Commission Regulation (EU) No. 389/2013 of 2 May 2013 establishing a Union Registry pursuant to the Directive 2003/87/EC of the European Parliament and of the Council Decisions No. 280/2004/EC and No. 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulation (EU) No. 920/2010 and No. 1193/2011, as amended from time to time;”;

“**UNFCCC**” shall be deleted in its entirety;

and

- (b) the insertion of the following new definitions:

“**Fourth Compliance Period**” means, with respect to EUAs and AEUAs, the period starting 1 January 2021 to 31 December 2030.

(B) Amendments to the Allowances Appendix (Phase IV only)

The following amendments to the Allowances Appendix apply with respect to Allowance Transactions specifying the Fourth Compliance Period as the applicable Specified Compliance Period only:

(1) Non-Performance Due to Force Majeure and Suspension Event. §7.1 (*Definition of Force Majeure*) shall be amended by:

- (a) in the eighth (8th) line thereof, replacing the reference to “Second Compliance Period” with “Third Compliance Period; and
- (b) in the ninth (9th) line thereof, replacing the reference to “Third Compliance Period” with “Fourth Compliance Period”.

(2) Annex 1 - Defined Terms. Annex 1 to the Allowance Appendix shall be amended by the amendment of the following existing definitions:

“**Allowance Type**” shall be amended by the deletion of the words “, an Eligible Kyoto Unit, a CER or an ERU” after the existing words “an EUA”;

“**CDM**” or “**Clean Development Mechanism**” shall be deleted in its entirety;

“**CDM Registry**” shall be deleted in its entirety;

“**CER**” shall be deleted in its entirety;

“**Compliance Period**” shall be amended by replacing the word “Third” therein with “Fourth”;

“**COP/MOP**” shall be deleted in its entirety;

“**Eligible Kyoto Unit**” shall be deleted in its entirety;

“**ERU**” shall be deleted in its entirety;

“**Executive Board**” shall be deleted in its entirety;

“**GHG**” shall be deleted in its entirety;

“**GHG Reductions**” shall be deleted in its entirety;

“**ITL**” shall be deleted in its entirety;

“Kyoto Protocol” shall be deleted in its entirety;

“Long Stop Date” shall be deleted in its entirety and replaced with the following definition: “means, in respect of a Suspension Event:

that occurs in relation to a Transfer or acceptance obligation that would otherwise be required to be performed within the period:

- (i) from (and including) 1 May 2021 to (and including) 31 December 2022, it shall be 1 June 2024;
- (ii) from (and including) 1 January 2023 to (and including) 31 December 2024, it shall be 1 June 2026;
- (iii) from (and including) 1 January 2025 to (and including) 31 December 2026, it shall be 1 June 2028;
- (iv) from (and including) 1 January 2027 to (and including) 31 December 2028, it shall be 1 June 2030;
- (v) from (and including) 1 January 2029 to (and including) the twenty-fifth (25th) calendar day of the month in which the End of Phase Reconciliation Deadline is scheduled to occur, it shall be the twenty-fifth (25th) calendar day of the month in which the End of Phase Reconciliation Deadline is scheduled to occur;”;

“Registry Operation” shall be amended by:

in (b) deleting the words “and the ITL”; and

in (c) adding the word “and” before the words “the EUTL” and deleting the words “and the ITL, as applicable” at the end of the definition;

“Rules” shall be amended by deleting the words “the UNFCCC, the Kyoto Protocol, the decisions of the COP/MOP, other international treaties,” in the first (1st) line thereof;

“Second Compliance Period” shall be deleted in its entirety; and

“Third Compliance Period” shall be amended by deleting the words “and with respect to CERs and ERUs, the period immediately following the first commitment period under the Kyoto Protocol referencing the period in which the GHG Reductions, which are the subject of the relevant CERs or ERUs, were achieved” at the end of the definition;

(3) Replacing Annex 2(A) of the Allowances Appendix (Confirmation of Allowance Transactions). The Allowances Appendix shall be amended by deleting Annex 2(A) thereto in its entirety and replacing it with the form of Confirmation attached to this Letter at Schedule 1.

This Letter shall be duly executed by the authorised representatives of each Party and, when countersigned by you, constitutes a legally binding agreement between us. In order to record your agreement with and to be bound by the terms of this Letter, please sign and return the enclosed copy of this Letter.

Yours faithfully,

[Signatory’s Name]
For and on behalf of
[COMPANY’S NAME]

We agree with and consent to amendment of the Allowances Appendix to the General Agreement in accordance with the terms contained in his Letter.

[
For and on behalf of
[COUNTERPARTY’S NAME]

Dated: []

Schedule 1

EFET

European Federation of Energy Traders

Annex 2 (A)
to the
ALLOWANCES APPENDIX (POWER)

CONFIRMATION OF ALLOWANCE TRANSACTIONS
(INCLUDING AEUA AND EUA TRANSACTIONS)
(Fixed Price, Fourth Compliance Period)

between

_____ as **Seller**

and

_____ as **Buyer**

as Parties to the

EFET General Agreement Concerning the Delivery and Acceptance of Electricity entered into and dated as of _____, _____

Allowance Transaction concluded on: _____ (**Trade Date**)

Name of Broker (if applicable):

Delivery Schedule

(Delivery Date to each Delivery Point for each Contract Quantity and Compliance Period.)

Transfer Point(s):	Delivery Point(s):	Compliance Period	Contract Quantity	Allowance Type	Delivery Date	Price per Allowance	Contract Price
Holding Account number and Registry of Seller (or, an Account to be determined at the specified national Registry):	Holding Account number and Registry of Buyer (or, an Account to be determined at the specified national Registry):	Fourth Compliance Period	_____	[AEUA] / [EUA]	_____	_____	€ _____ —

(1) Acc. No.: _____ Registry: _____	(1) Acc. No.: _____ Registry: _____						
(2) Acc. No.: _____ Registry: _____	(2) Acc. No.: _____ Registry: _____						
(3) Acc. No.: _____ Registry: _____	(3) Acc. No.: _____ Registry: _____						
(4) Acc. No.: _____ Registry: _____	(4) Acc. No.: _____ Registry: _____						
Total Contract Quantity:					Total Contract Price:		
				Special Conditions & Terms: [INSERT ANY AMENDMENTS OR ADDITIONS TO THIS ALLOWANCES CONFIRMATION HERE] For this specific Allowances Transaction: ☐ EEP shall <u>not</u> apply. ☐ EEP Equivalent shall <u>not</u> apply. ☐ EEP shall apply². ☐ EEP Equivalent shall apply¹. Other: Physical Settlement Netting Accounts: Party A: Account Number(s): [], in			

² Parties need only check the box to apply EEP and/or EEP Equivalent if they have specifically opted-out of either EEP and/or EEP Equivalent in § 8.3(a) (**EEP and EEP Equivalent**) of the EFET Allowances Appendix agreed between them.

	Account Registry(ies): []; and Party B: Account Number(s): [], in Account Registry(ies): []
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This Confirmation confirms the Allowance Transaction entered into pursuant to the EFET General Agreement Concerning the Delivery and Acceptance of Electricity between the Parties (General Agreement) as modified, supplemented and amended by the Allowances Appendix between the Parties (Allowances Appendix) and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the Allowance Transaction, please contact us immediately.

Date: _____ Signature: _____
 Name: _____
 Title: _____
 Company: _____