

EMISSION ALLOWANCES SINGLE TRADE AGREEMENT FOR PHASE IV OF THE EU ETS[©]

Version 6.0 2019

This draft Agreement has been developed by the International Emissions Trading Association (IETA) to facilitate trading under the EU emissions trading system. IETA encourages the use of this document by all interested parties.

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IETA: Climate Challenges, Market Solutions

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Foreword

The International Emissions Trading Association (IETA) was created in June 1999 to promote carbon pricing and emissions trading at national and international levels, as an essential part of the business response to global climate change. Our members include leading multinational companies from across the carbon trading cycle: emitters, solution providers, brokers, financial services, verifiers and law firms.

IETA works for the development of an active, global greenhouse gas market, in order to ensure that carbon becomes a global commodity and lower cost carbon reductions can be valued and captured wherever they occur. Cross-border trading, hedging and derivative instruments are an essential part of a global carbon market.

The vision of the architects of the UN Kyoto Protocol system was that compliance markets and project-based emissions reductions could be brought together in a single system across the world. Since the Protocol was completed, greenhouse gas compliance systems have developed more at national and regional levels, but the desire to link these systems directly or indirectly is shared by Governments, economists and alike. For this to happen in a consistent way across national boundaries the market needs to develop consistent and harmonised units of value and reliable legal instruments that reduce the risks and transaction costs of trading.

In recent years, substantial new systems have started or are emerging in California and other US States, in New Zealand, Mexico, Korea, China, Canadian Provinces and many other cities, states and regions across the world, along with a rapidly-growing voluntary sector. The need for rapid growth of these systems into a truly global market, liquid enough to promote an efficient private sector response to emissions reduction policies across the world, has never been greater. And the experience gained in the early days of the EUETS and CDM markets – for instance how design features, and details of registries and transaction systems can create or destroy security and trust – needs to be built into the instruments used in the new markets, as well as the reforms of the old ones.

From its inception, IETA has focussed on the creation of systems and instruments that will promote and ensure effective business participation. The first specialist carbon emissions trading contracts and agreements were produced by IETA and are still used by many market participants. This version 6.0 of IETA's SINGLE TRADE AGREEMENT FOR THE EU ETS (the "STA"), builds on that history and responds to today's more complex needs in the EU ETS. It reflects input from market players across Europe and the world.

The intention of the new STA is to provide a document that is complimentary to the updated version of the IETMA and to provide the market with a version that is provisioned for Phase IV of the EU ETS. We believe that this new STA will promote efficiency and help increase liquidity in all segments of the EU ETS.



Dirk Forrister, President & CEO, IETA
19 June 2019

Questions or comments?

For general comments regarding this document and questions concerning the work of IETA please contact Simon Henry (henry@ieta.org) +41 22 737 05 07

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EMISSION ALLOWANCES SINGLE TRADE AGREEMENT FOR THE EU ETS

Dated _____

Between

[Entity name] a **[corporation, limited partnership, etc.]** existing under the laws of **[•]** (Registered No: **[•]**) whose **[registered/principal/operational]** office is at **[•]** (the “**Delivering Party**”);

and

[Entity name] a **[corporation, limited partnership, etc.]** existing under the laws of **[•]** (Registered No: **[•]**) whose **[registered/principal/operational]** office is at **[•]** (the “**Receiving Party**”).

Recitals

- A. The EU (as defined below) and the Member States (as defined below) have established a Trading System (as defined below) under which participants may buy and sell allowances for greenhouse gas emissions.
- B. The Delivering Party wishes to sell, and the Receiving Party wishes to purchase, certain allowances under the Trading System.

In consideration of the mutual undertakings in this Emissions Allowances Single Trade Agreement for the EU ETS (the “**Agreement**”) and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

1 Interpretation and Construction

The following interpretive provisions apply to this Agreement.

- (a) Reference to any legal instrument includes amendments, consolidations, re-enactments and replacements of it.
- (b) Unless otherwise specified, any reference to a “clause” or “schedule” is a reference to a clause or schedule of this Agreement.
- (c) Words in the singular are to be interpreted as including the plural, and vice versa, to the extent the context permits or requires.
- (d) Any reference to “time” is deemed to be CET unless otherwise specified.
- (e) Unless otherwise specified, where a date specified in this Agreement to be a Delivery Date would otherwise fall on a day that is not a Banking Day, then such date will be deemed to be the next following day that is a Banking Day.

2 General Obligations, Representations and Warranties

2.1 Each Party represents and warrants to the other Party that:

- (a) it has the power and authority to enter into and perform its obligations under this

Agreement;

- (b) by entering into this Agreement, it will not breach the terms of any contract with any third party;
- (c) it is not relying upon any representations of the other Party other than those expressly set out in this Agreement;
- (d) it has entered into this Agreement after a full opportunity to review its terms and conditions, has a full understanding of those terms and conditions and of their risks, and is capable of assuming those risks;
- (e) the other Party is not acting as a fiduciary or an advisor for it, nor has the other Party given to it any advice, representation, assurance or guarantee as to the expected performance, benefit or result of this Agreement;
- (f) it has, if the Delivering Party, taken all necessary steps to create or otherwise obtain the Allowances that are the subject of this Agreement;
- (g) it has at all times fully complied with the Trading System Rules to the extent necessary to permit the Transfer contemplated by this Agreement;
- (h) it has negotiated, entered into and executed this Agreement as principal (and not as agent or in any other capacity, fiduciary or otherwise); and
- (i) it is entering into this Agreement in a commercial capacity and that, with respect to the Agreement, it is in all respects subject to civil and commercial law.

2.2 Each Party shall maintain in full force and effect all Required Authorisations at all times during the term of the Agreement.

2.3 Without prejudice to clause 2.2, each Party shall:

- (a) conduct its affairs, otherwise than as addressed by clause 5, so as not to give the Relevant Authority cause to refuse, reject or cancel the Transfer (whether in whole or in part) requested to be made pursuant to clause 3;
- (b) ensure that on a Delivery Date, it has or will have one or more Accounts validly registered in a Registry in accordance with the Trading System Rules; and
- (c) it has, in respect of each Account it has specified in this Agreement and when the facility to do so has become available, nominated all of the other Party's specified Accounts in this Agreement as 'trusted accounts' for the purposes of the Registries Regulation.

2.4 The Delivering Party shall Transfer to the Receiving Party the Validity Period Traded Allowances free and clear of all liens, security interests, claims and encumbrances or any interest in or to them by any person (the "**No Encumbrance Obligation**"). The consequences of a breach by a Party of the No Encumbrance Obligation under this clause 2.4 will be in accordance with the terms specified in clauses 2.5 to clause 2.7 below.

2.5 Without prejudice to any defences available to the Delivering Party (including, but not limited to, any defences of statutes of limitation or similar), following written notice of that breach from the Receiving Party to the Delivering Party (irrespective of how long after the relevant Delivery Date such notice is provided) and subject to clause 2.7 below, the Receiving Party:

- (a) shall determine the Encumbrance Loss arising from that breach either on the date

such notice is deemed to be received or as soon as reasonably practicable thereafter (the "**Encumbrance Loss Amount**"); and

- (b) shall notify the Delivering Party of such Encumbrance Loss Amount due, including detailed support for its calculation.

The Receiving Party is not required to enter into replacement transactions in order to determine such Encumbrance Loss Amount.

2.6 By no later than the third (3rd) Banking Day after the later of (i) receipt of a valid invoice in connection with such Encumbrance Loss Amount and (ii) receipt of the abovementioned notice of such Encumbrance Loss Amount, the Delivering Party shall pay the Encumbrance Loss Amount to the Receiving Party, which amount shall bear interest in accordance with clause 4.4. Upon payment of the Encumbrance Loss Amount by the Delivering Party, the Parties shall have no further obligations in respect of that breach. The Receiving Party acknowledges that its exclusive remedies in respect of such breach are those set out in clauses 2.4 to 2.5.

2.7 Where a breach of the No Encumbrances Obligation is caused by the Transfer of an Affected Allowance, the Delivering Party shall be liable for the Encumbrance Loss Amount if, at the date it first acquired, received or purchased such Affected Allowance it was not acting in good faith; otherwise, the Delivering Party shall only be liable for the Encumbrances Loss Amount if, and without prejudice to any other defences available to the Delivering Party (including, but not limited to, any defences of statutes of limitation or similar):

- (a) the Receiving Party, whether or not the holder of such Affected Allowance, who is subject to a claim of the Original Affected Party, has, in order to resist or avoid any Encumbrance Loss Amount from arising, used its best endeavours to defend such a claim in respect of that Affected Allowance (including, if available, by relying on Article 40 of the Registries Regulation or any equivalent legal principle under its applicable national law) and was unsuccessful (other than for reasons of its own lack of good faith); or
- (b) the Receiving Party, whether or not the holder of such Affected Allowance, who acted in good faith in respect of its purchase of such Affected Allowance and who is subject to a claim of a third party (other than the Original Affected Party) in respect of that Affected Allowance, has used all reasonable endeavours to mitigate the Encumbrance Loss Amount.

3 Allowance Transfers

3.1 The Delivering Party agrees to sell and the Receiving Party agrees to buy Validity Period Traded Allowances that are [**EU Allowances/ Aviation EU Allowances*]¹ on the terms and conditions of this Agreement and the Trading System Rules and laws applicable for the Transfer.

3.2 The Delivery Date(s) together with the corresponding Periodic Quantity are set out in the delivery schedule below:

(A)	(B)
Delivery Date(s)	Periodic Quantity
[•]	[•]

¹ Delete as applicable

[•]	[•]
[•]	[•]
[•]	[•]
[•]	[•]

- 3.3 With respect to each Delivery Date referred to in column (A) of the delivery schedule in clause 3.2, the Delivering Party shall Transfer (or procure the Transfer of) the corresponding Periodic Quantity of Allowances referred to in column (B) of the delivery schedule in clause 3.2 by no later than that Delivery Date from any Account in any Registry to the relevant Receiving Party's Account (as set out in the table below); provided, however, that if one or more Delivering Party's Accounts are specified in the table below, the Receiving Party agrees that the Delivering Party's obligation to Transfer Allowances under this Agreement shall be limited to an obligation to Transfer such Allowances from any such specified Delivering Party's Account(s) to the relevant Receiving Party's Account.

Where more than one Receiving Party's Account has been specified, such Accounts are set out in order of preference and the Delivering Party shall Transfer Allowances from either:

- (a) any Account (where no Delivery Party Account is specified); or
- (b) any Delivering Party's Account,

to the first listed Receiving Party's Account, unless in respect of such Receiving Party's Account, it is prevented from so doing by an event or circumstance that would be a Force Majeure or Suspension Event if the first listed Receiving Party's Account were the only Receiving Party's Account so listed. In such circumstances, the provisions of this paragraph will apply iteratively as though the next listed Receiving Party's Account were the first listed.

- 3.4 Details of the Delivering Party's Account(s) (if specified) are as follows:

Delivering Party's Account(s) Details	
1	[•]
2	[•]
3	[•]

Details of the Receiving Party's Account(s), are as follows:

Receiving Party's Account(s) Details	
1	[•]
2	[•]
3	[•]

- 3.5 The Transfer shall be considered to be completed for the purposes of this Agreement when the Allowances are received in the Receiving Party's Account in accordance with the Registries Regulation, whereupon risk of loss, related to the Allowances, or any portion thereof, shall transfer from the Delivering Party to the Receiving Party.
- 3.6 The Parties agree to co-operate with each other in relation to the Transfer and to do such things as are necessary in accordance with, and as required by, the Trading System in order to Transfer the Allowances to the Receiving Party's Account by each Delivery Date referred to in column (A) of the delivery schedule in clause 3.2.
- 3.7 Each Party agrees with the other that, so long as either Party has any obligation under this Agreement and where either Party has specified particular Receiving Party's Account(s) or Delivering Party's Account(s) in the tables set out in clause 3.4 above:
- (a) the Receiving Party may with the consent of the Delivering Party:
- (i) amend the order in which the Receiving Party's Accounts are listed; and/or
- (ii) specify additional Receiving Party's Account(s),
- provided that the Receiving Party notifies the Delivering Party in writing of such amendment or addition no later than thirty (30) calendar days before a Delivery Date under this Agreement and the Delivering Party has provided its consent in writing to such amendment or addition no later than ten (10) Banking Days before the relevant Delivery Date;
- (b) the Delivering Party may specify additional Delivering Party's Account(s) provided that the Delivering Party notifies the Receiving Party in writing of such addition no later than ten (10) Banking Days before a Delivery Date.

4 Price, taxes and payment

- 4.1 The Receiving Party shall pay the Delivering Party [**insert detail*] per Allowance (the "**Allowance Price**"). With respect to each Delivery Date, the purchase price shall be the product of the relevant Periodic Quantity and the Allowance Price (the "**Periodic Purchase Price**").
- 4.2 All amounts referred to in this Agreement are exclusive of any applicable VAT chargeable on the supply or supplies for which such amounts form the whole or part of the consideration for VAT purposes. The VAT treatment of any Transfer shall be determined pursuant to the VAT law of the jurisdiction where the relevant supply or supplies are deemed to take place for VAT purposes. If VAT is properly chargeable on any such supply or supplies, the Receiving Party shall pay to the Delivering Party an amount equal to the VAT, if any, chargeable in the Delivering Party's jurisdiction; provided, however, that (i) such amount shall only be required to be paid once the Delivering Party provides the Receiving Party with a valid VAT invoice in relation to that amount and (ii) the Receiving Party shall be under no obligation to make any payment to the Delivering Party in respect of VAT which the Receiving Party must self-assess under the reverse charge rule or any similar system in the Receiving Party's jurisdiction. Each Party shall, to the extent permitted by law, provide the other with any additional valid VAT invoices as required for the purposes of this Agreement and, to the extent required by law, shall correctly account for any VAT properly due in its jurisdiction.

Subject to each Party's obligations relating to VAT, each Party shall cause all royalties, taxes, duties, levies and other sums (including, without limitation, any stamp duty, other documentary taxes, climate change levy or other environmental tax or levy) ("**Other Taxes**") legally payable by that Party arising in connection with this Agreement to be paid. In addition, in the event that the Delivering Party is required by law to pay any Other Taxes which are

properly for the account of the Receiving Party, the Receiving Party shall promptly indemnify or reimburse the Delivering Party in respect of such Other Taxes. In the event that the Receiving Party is required by law to pay, deduct or withhold any Other Taxes which are properly for the account of the Delivering Party, the Receiving Party may deduct or withhold such amount of any such Other Taxes from the Periodic Purchase Price referred to in clause 4.1, and the Delivering Party shall promptly indemnify or reimburse the Receiving Party in respect of such Other Taxes not so deducted or withheld.

- 4.3 By no later than the fifth (5th) Banking Day after a Delivery Date and to and to the extent that Allowances to be Transferred in accordance with clause 3 of this Agreement have been Transferred by the Delivering Party and received by the Receiving Party in the Receiving Party's Account on or before that Delivery Date (the "**Payment Due Date**"), the Receiving Party shall pay the Periodic Purchase Price by transfer to the Delivering Party's nominated bank account number, account details of which are as follows:

[*insert detail]

- 4.4 If either Party is overdue with any payment due under this Agreement, then without prejudice to the other Party's other rights or remedies, the late-paying Party shall be liable to pay interest on the overdue amount at an annual rate equal to EURIBOR applicable from time to time plus 3% compounded monthly from and including the date payment becomes overdue to but excluding the date on which the other Party receives payment of the overdue amount together with all interest that has accrued.
- 4.5 If the rate in clause 4.4 ceases temporarily or permanently to be published then the Party owed money may substitute a rate that it considers in good faith to be equivalent to that rate published by a European clearing bank.
- 4.6 Except as otherwise expressly provided in this Agreement, each Party shall be responsible for its own costs incurred in performing its obligations under this Agreement.

5 Force Majeure and Suspension Event

5.1 Force Majeure

Upon the occurrence of a Force Majeure, either Party may notify the other Party in writing of the commencement of the Force Majeure. Where the notification is from the Party affected by the Force Majeure (the "**FM Affected Party**"), to the extent available to such Party, it should also provide details of the Force Majeure and a non-binding estimate of the extent and the expected duration of its inability to perform its obligations due to the Force Majeure.

The obligations of both Parties under this Agreement will be suspended for the duration of the Force Majeure. During the continuation of the Force Majeure, the FM Affected Party shall use all reasonable endeavours to overcome the Force Majeure. Upon the Force Majeure being overcome or it ceasing to subsist, both Parties will, as soon as reasonably practicable thereafter, resume full performance of their obligations under this Agreement (including, for the avoidance of doubt, any suspended obligations).

Where a Force Majeure (a) continues for a period of nine (9) Banking Days or (b) continues up until three (3) Banking Days prior to any End of Phase Reconciliation Deadline (if sooner), either Party may, by written notice to the other Party, terminate this Agreement.

- 5.2 If this Agreement is terminated in accordance with clause 5.1, the Parties' corresponding Transfer and acceptance obligations shall be released and discharged. The Force Majeure termination payment shall be calculated by each Party determining its FM Loss and an amount will be payable equal to one half of the difference between the FM Loss of the Party with the higher FM Loss ("X") and the FM Loss of the Party with the lower FM Loss ("Y"). If

the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of such amount to Y.

- 5.3 Where an event or circumstance that would otherwise constitute or give rise to a default also constitutes a Force Majeure or Suspension Event, it is to be treated as Force Majeure or Suspension Event and not as a default. Where an event or circumstance that would otherwise constitute Force Majeure also constitutes Suspension Event, it is to be treated as Suspension Event and not as Force Majeure.

5.4 **Suspension Event**

- (a) Upon the occurrence of a Suspension Event, the Party affected by the Suspension Event shall, as soon as practicable by written notice, notify the other Party of the commencement of the Suspension Event. To the extent available to the Party affected by the Suspension Event, it shall also provide details of the Suspension Event including a non-binding estimate of the duration of its inability to perform its obligations due to the Suspension Event.
- (b) Where a Suspension Event occurs, the obligations of both Parties, which would otherwise be required to be performed under this Agreement, shall be suspended for the duration of the Suspension Event. Subject to paragraph (c) below, upon the Suspension Event ceasing to exist both Parties will resume full performance of their obligations under this Agreement (including for the avoidance of doubt any suspended obligations) as soon as possible but no later than the day that is ten (10) Banking Days thereafter or, if earlier, three (3) Banking Days prior to the End of Phase Reconciliation Deadline (such date being the "**Delayed Delivery Date**"). For the avoidance of doubt, where a Delivery Date is adjusted in accordance with this clause 5.4(b), then the use of the term "Delivery Date" elsewhere in this Agreement shall be construed to be a reference to the Delayed Delivery Date.
- (c) In the event that Allowances are Transferred to the Receiving Party on or before the Delayed Delivery Date following the occurrence of a Suspension Event as contemplated by paragraph (a) above, the Receiving Party agrees to pay the Delivering Party the Periodic Purchase Price adjusted by the Cost of Carry Amount.
- (d) Where a Suspension Event continues to exist on the Long Stop Date then either Party may, by written notice to the other Party terminate this Agreement. If this Agreement is terminated in accordance with this clause 5.4(d), the Parties' corresponding Transfer and acceptance obligations under this Agreement shall be released and discharged.

6 **Transfer Failure**

6.1 **Failure to Transfer by the Delivering Party**

Except to the extent:

- (a) caused by the Receiving Party's non-performance under this Agreement; or
- (b) that the Delivering Party is relieved from complying with a relevant obligation under clause 5.1; or
- (c) that the Delivering Party is relieved from complying with a relevant obligation under clause 5.4,

if the Delivering Party fails to make a Transfer to the relevant Receiving Party's Account on or before a Delivery Date for any reason, then the Receiving Party may, by notice to the Delivering Party (which, notwithstanding clause 10.2, shall be effective on the date of receipt

(or if such day is not a Banking Day, on the next Banking Day)), require the Delivering Party to remedy such failure and:

- (x) if such failure is remedied by the Delivering Party within one (1) Banking Day after receipt of such notice (the "**Notice Delivery Date**"), then (i) the Receiving Party shall pay to the Delivering Party the Periodic Purchase Price and (ii) the Delivering Party shall pay to the Receiving Party interest on an amount equal to the Allowance Price multiplied by the number of Validity Period Traded Allowances not Transferred to such Receiving Party's Account by that Delivery Date for the period from (and including) that Delivery Date to (but excluding) the actual date of Transfer to the Receiving Party at the rate specified in clause 4.4; but
- (y) if such failure is not remedied by the Delivering Party on or before the Notice Delivery Date, the Receiving Party may, by written notice to the Delivering Party, demand the Delivering Party pay to the Receiving Party the Receiving Party's Replacement Cost. In such a case, the Delivering Party shall pay to the Receiving Party the Receiving Party's Replacement Cost on or before the third (3rd) Banking Day following receipt of such written notice from the Receiving Party. Upon the Receiving Party's receipt of the Receiving Party's Replacement Cost, the Delivering Party's obligation to Transfer the number of Validity Period Traded Allowances not Transferred to the relevant Receiving Party's Account by the relevant Delivery Date, and the corresponding payment obligation of the Receiving Party, shall both be fully discharged and the other and future obligations of the Parties under this Agreement shall remain in full force and effect. In the event that the Delivering Party fails to make a Transfer on or before the Delayed Delivery Date following the occurrence of a Suspension Event, then, for the purposes of determining the Receiving Party's Replacement Cost, the Allowance Price will be adjusted by applying the Cost of Carry Rate for the Cost of Carry Calculation Period to the Allowance Price,

in either case adjusted to take into account any amount previously paid by the Receiving Party to the Delivering Party under this Agreement.

6.2 Failure to accept by the Receiving Party

Except to the extent:

- (a) caused by the Delivering Party's non-performance under this Agreement; or
- (b) that the Receiving Party is relieved from complying with a relevant obligation under clause 5.1; or
- (c) that the Receiving Party is relieved from complying with a relevant obligation under clause 5.4,

if the Receiving Party fails to accept a Transfer to the relevant Receiving Party's Account by a Delivery Date for any reason, then the Delivering Party may, by notice to the Receiving Party (which, notwithstanding clause 10.2), shall be effective on the date of receipt (or if such day is not a Banking Day, on the next Banking Day)), require the Receiving Party to remedy such failure and:

- (x) if such failure is remedied by the Receiving Party within one (1) Banking Day after receipt of such notice (the "**Notice Delivery Date**"), then (i) the Receiving Party shall pay to the Delivering Party the Periodic Purchase Price and (ii) the Receiving Party shall pay to the Delivering Party interest on an amount equal to the Allowance Price multiplied by the number of Validity Period Traded Allowances not Transferred to such Receiving Party's Account by that Delivery Date for the period from (and

including) that Delivery Date to (but excluding) the actual date of Transfer to the Receiving Party at the rate specified in clause 4.4; but

- (y) if such failure is not remedied by the Receiving Party on or before the Notice Delivery Date, the Delivering Party may, by written notice to the Receiving Party, demand the Receiving Party pay to the Delivering Party the Delivering Party's Replacement Cost. In such a case, the Receiving Party shall pay to the Delivering Party the Delivering Party's Replacement Cost on or before the third (3rd) Banking Day following receipt of such written notice from the Delivering Party. Upon the Delivering Party's receipt of the Delivering Party's Replacement Cost, the Receiving Party's obligation to accept and make payment for the relevant Transfer shall be fully discharged and the other and future obligations of the Parties under this Agreement shall remain in full force and effect. In the event that the Receiving Party fails to accept a Transfer on or before the Delayed Delivery Date following the occurrence of a Suspension Event, then, for the purposes of determining the Delivering Party's Replacement Cost, the Contract Price will be adjusted by applying the Cost of Carry Rate for the Cost of Carry Calculation Period to the Allowance Price,

in either case adjusted to take into account any amount previously paid by the Receiving Party to the Delivering Party under this Agreement.

- 6.3 If, on a Delivery Date, the Delivering Party delivers to the Receiving Party fewer Validity Period Traded Allowances than the Periodic Quantity, the Receiving Party's obligation to pay pursuant to clause 4 shall be reduced by an amount equal to the Default Quantity multiplied by the Allowance Price, and clauses 6.1 and 6.2 will apply in respect of the Default Quantity.

7 Default and Consequences

7.1 Subject to clause 5, a Party shall be in default:

- (a) if it fails to comply with any of its obligations under this Agreement (other than an obligation referred to in clauses 7.1(b) and 7.1(c) or otherwise addressed under clause 6) and that failure is not remedied within five (5) Banking Days of the other Party's giving notice of that failure;
- (b) if it fails to make payment when due under this Agreement, and that failure is not remedied on or before the third Banking Day after the other Party's giving notice of that failure;
- (c) if it breaches any of the warranties set out in clause 2;
- (d) if the Party:
 - (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (ii) becomes insolvent or is unable to pay its debts generally as they fall due, fails generally to pay, or admits in writing its inability generally to pay its debts as they become due;
 - (iii) makes a general assignment, arrangement, composition or other arrangement with or for the benefit of its creditors;
 - (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such

proceeding or petition instituted or presented against it, that proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not withdrawn, dismissed, discharged, stayed or restrained in each case within thirty days of the institution or presentation of that proceeding or petition;

- (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (vii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and that secured party maintains possession, or that process is not withdrawn, dismissed, discharged, stayed or restrained, in each case within fifteen (15) days of that event;
- (viii) causes or is subject to any event with respect to it that, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in sub-paragraphs (i) to (vii) (inclusive) of this clause 7.1(d); or
- (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts referred to in this clause 7.1(d).

7.2 In the event of a default by the Receiving Party, the Delivering Party may terminate this Agreement immediately upon written notice to the Receiving Party. The Delivering Party shall calculate the termination payment which is the Event of Default Loss and shall notify the Receiving Party of such amount, including detailed support for the calculation of such amount. If the termination payment is:

- (a) a positive number, the Receiving Party shall pay this amount to the Delivering Party within three Banking Days of invoice or notification of the termination payment amount, which amount bears interest in accordance with clause 4.4; or
- (b) a negative number, the Delivering Party shall pay an amount equal to the absolute value of the termination payment to the Receiving Party within thirty Banking Days of the invoice or notification of the termination payment amount, which amount bears interest in accordance with clause 4.4.

7.3 In the event of a default by the Delivering Party, the Receiving Party may terminate this Agreement immediately upon written notice to the Delivering Party. The Receiving Party shall calculate the termination payment which is the Event of Default Loss and shall notify the Delivering Party of such amount, including detailed support for the calculation of such amount. If the termination payment is:

- (a) a positive number, the Delivering Party shall pay this amount to the Receiving Party within three Banking Days of invoice or notification of the termination payment amount, which amount bears interest in accordance with clause 4.4; or
- (b) a negative number, the Receiving Party shall pay an amount equal to the absolute value of the termination payment to the Delivering Party within thirty Banking Days of the invoice or notification of the termination payment amount, which amount bears interest in accordance with clause 4.4.

- 7.4 The amounts set out in clauses 7.2 and 7.3 are the Parties' reasonable pre-estimate of the losses that would flow from the events of default contemplated by the Parties and each Party waives the right to contest those payments as an unreasonable penalty or otherwise. No other amounts (except for interest for late payment pursuant to clause 4.4) shall be payable by either Party in respect of a default.
- 7.5 The Party not in default pursuant to the provisions of either clauses 7.2 or 7.3 (as the case may be) shall have the right to set-off any amounts owing pursuant to the provisions of either clauses 7.2 or 7.3 (as the case may be) against any Other Amounts Owing. This right of set-off shall be without prejudice to any other right of set-off, counterclaim, combination of accounts, lien, charge or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise). If an amount is unascertained, the relevant Party may reasonably estimate the amount to be set off and the Parties shall make any adjustment payment required within three (3) Banking Days of the amount becoming ascertained.

8 Limitation of Liability

- 8.1 This Agreement sets forth the full extent of the Parties' obligations and liabilities arising out of or in connection with this Agreement, and there are no conditions, warranties, representations or terms, express or implied, that are binding on the Parties except as specifically stated in this Agreement. Any condition, warranty, representation or other term which might otherwise be implied into or incorporated in this Agreement, whether by statute, common law or otherwise, is hereby expressly excluded.
- 8.2 Save as expressly provided otherwise in this Agreement, and in particular in clause 8.3 of this Agreement, neither Party shall be liable under or in connection with this Agreement for any loss of income, loss of profits or loss of contracts, or for any indirect or consequential loss or damage of any kind, in each case howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise.
- [8.3 Nothing in this Agreement shall exclude or in any way limit either Party's liability for fraud, or for death or personal injury caused by its negligence.]

*[*Alternatively, those in continental jurisdictions might prefer the following clause 8.3 – delete one as appropriate]*

- [*8.3 Nothing in this Agreement shall exclude or in any way limit either Party's liability for fraud, or for death or personal injury caused by either Party's negligence, for any damage caused intentionally by either Party or for any damage caused by the gross negligence of either Party.]

9 Confidentiality

Neither Party may make any public disclosure, communication or announcement about the contents of this Agreement or of any of the other information of which it has become aware in connection with this Agreement except:

- (a) with the prior written consent of the other Party;
- (b) to the extent required by applicable law or a competent court or other competent authority;
- (c) to the professional advisers of each Party, provided that each Party ensures that the matters disclosed are kept confidential; or
- (d) in respect of information which is lawfully in the public domain.

10 Miscellaneous

10.1 This Agreement shall be governed by [**insert detail*] law.

[*The Parties submit to the non-exclusive jurisdiction of the [**insert detail*] courts to resolve any disputes that arise between them relating to this Agreement.]

[*Alternatively, if arbitration is preferred, the following clause should be selected instead-delete as appropriate]

[*Any dispute arising under, out of or in connection with this Agreement shall be resolved by arbitration. The language of arbitration shall be [**insert detail (e.g. English)*]. The appointing authority shall be the [**insert detail (e.g. Secretary General of the Permanent Court of Arbitration)*]. The number of arbitrators shall be [**insert detail (e.g. three)*]. The place of arbitration shall be [**insert detail, (eg London)*], and the applicable rules of arbitration shall be [**insert detail (e.g. the Optional Rules for Arbitration of Disputes Relating to Natural Resources and/or the Environment of the Permanent Court of Arbitration)*].

10.2 Any notice or other written communication to be given or made in respect of the Agreement by one Party to the other is to be given or made in writing to the other at the address or contact number that the other Party gives to the notifying Party from time to time or, if no address or contact number has been so given, at the other Party's registered office. A written notice is deemed to have been received:

- (a) if delivered by hand, on the Banking Day of delivery or on the first Banking Day after the date of delivery if delivered on a day other than a Banking Day;
- (b) if sent by registered mail, on the second Banking Day after the date of posting or, if sent from one country to another, on the fifth Banking Day after the date of posting;
- (c) if sent by facsimile transmission and a valid transmission report confirming good receipt is generated, on the day of transmission if transmitted before 11.00am CET on a Banking Day or otherwise on the first Banking Day after transmission; or
- (d) if sent by e-mail, on the day of receipt, if received before 11.00 am CET on a Banking Day, or otherwise on the first Banking Day after receipt.

10.3 Neither Party may assign or transfer all or part of this Agreement without the prior written consent of the other Party.

10.4 The failure of either Party to enforce or to exercise at any time or for any period of time any term of or any right pursuant to this Agreement does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect that Party's right later to enforce or to exercise it.

10.5 If any term of this Agreement is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from this Agreement and shall in no way affect the legality, validity or enforceability of the remaining terms.

10.6 The Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes and extinguishes any representations previously given or made with respect to its subject matter other than those given or made in the Agreement, but nothing in this clause 10.6 limits or excludes any liability for fraud in relation to those representations.

10.7 Clauses 5.2, 5.4(d), 7, 8, 9 and 10 shall remain in full force and effect notwithstanding the

expiry or termination of this Agreement.

- 10.8 The relationship of the Parties is that of independent contractors dealing at arm's length. Except as otherwise stated in this Agreement, nothing in this Agreement shall constitute the Parties as partners, joint venturers, fiduciaries or co-owners, or constitute either Party as the agent, employee or representative of the other, or empower either Party to act for, bind or otherwise create or assume any obligation on behalf of the other, and neither Party shall hold itself out as having authority to do the same.
- 10.9 The Parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given under this Agreement.
- 10.10 No alteration to or variation of this Agreement shall take effect unless and until the same is in writing and signed on behalf of each of the Parties by a duly authorised representative.
- 10.11 Subject to the rights that may accrue to any successor or permitted assignees of the Parties, no provision of the Agreement is to be construed as creating any rights enforceable by a third party, and all third party rights implied by law are, to the extent permissible by law, excluded from this Agreement.
- 10.12 Each Party hereby acknowledges to the other Party and consents that such other Party may, from time to time, and without further notice, electronically record telephone conversations between the Parties' respective representatives in connection with this Agreement or other commercial matters between the Parties.
- 10.13 With reference to the warranty pursuant to clause 2.1(i), each Party hereby consents generally in respect of any legal action or other proceedings arising out of or in connection with the Agreement, to the giving of any relief or to the issue of any process in connection with such action or proceedings, irrespective of the jurisdiction in question. Each Party hereby irrevocably waives any rights of sovereign immunity which it may now or which it may subsequently acquire in respect of its position or any property and/or assets (present or subsequently acquired and wherever located) belonging to it.

11 Definitions

In this Agreement:

"Account" means any digital record of a Party or person in any relevant Registry that will be used to record the issue (if applicable), holding, transfer, acquisition, surrender, cancellation, and replacement of Allowances.

"Administrator Event" means the suspension of some or all of the processes of a Registry or the EUTL in accordance with the Registries Regulation by the National Administrator or the Central Administrator (as applicable) due to:

- A. a security breach or following reasonable suspicion of a breach of security which threatens the integrity of the registries system (including any back up facilities); or
- B. scheduled or emergency maintenance on the Registry; or
- C. the failure to operate and maintain the Registry in accordance with the Registries Regulation or any other applicable law.

"Affected Allowance" means an Allowance which is or is alleged to have been the subject of an Unauthorised Transfer as confirmed by an Appropriate Source.

"Aircraft Operator" means an "aircraft operator" as defined in the Directive.

"Allowance" means any one or more of an EU Allowance and an Aviation EU Allowance as more fully specified in clause 3.1.

"Allowance Price" shall have the meaning given to it in clause 4.1.

"Appropriate Source" means any 'competent authority', 'registry administrator' and/or the 'Central Administrator' (as those terms are defined in the Registries Regulation), or any other authority having power pursuant to the Directive and/or the Registries Regulation to block, suspend, refuse, reject, cancel or otherwise affect the Transfer (whether in whole or in part) of Allowances, any recognised law enforcement or tax authorities of a Member State, European Anti-fraud Office of the European Commission or Europol.

"Aviation EU Allowance" or **"AEUA"** means a unit of account that is an "allowance" as defined in the Directive and is issued pursuant to Chapter II thereof.

"Banking Day" means any day (other than a Saturday or Sunday) in which commercial banks are open for general business in the jurisdictions where both the Receiving Party and the Delivering Party have their registered offices.

"Central Administrator" means the Relevant Authority designated to maintain the EUTL pursuant to Article 20(1) of the Directive.

"Central European Time" or **"CET"** means Central European Time and shall include Central European Winter Time and Central European Summer Time, as applicable.

"Cost of Carry Amount" means the amount calculated by applying the Cost of Carry Rate for the Cost of Carry Calculation Period to the Periodic Purchase Price multiplied by the number of Validity Period Traded Allowances Transferred, divided by 360.

"Cost of Carry Calculation Period" means the number of calendar days from and including the original Payment Due Date to, but excluding, the Delayed Payment Due Date.

"Cost of Carry Rate" means the "EUR-EONIA-OIS-COMPOUND" rate, "EONIA" being a reference rate equal to the overnight rate as calculated by the European Central Bank and appearing on Reuters Screen EONIA Page in respect of each day in the Cost of Carry Calculation Period.

"Default Quantity" means, in respect of a Delivery Date, the quantity equal to the positive difference between (a) the Periodic Quantity and (b) the quantity of Validity Period Traded Allowances duly and timely delivered.

"Delayed Delivery Date" has the meaning given to it in clause 5.4(b).

"Delayed Payment Due Date" has the meaning given to it in the definition of Payment Due Date.

"Delivering Party's Account" means the Account(s) specified by the Delivering Party in the table in clause 3.4 (including any amendment made in accordance with clause 3.7).

"Delivering Party's Replacement Cost" means, in respect of a failure to accept a number of Allowances with respect to a Delivery Date pursuant to clause 6.2:

- (a) the positive difference, if any, between (A) the Allowance Price multiplied by the Default Quantity, and (B) the price the Delivering Party, acting in a commercially reasonable manner, does or would receive in an arm's length transaction to sell a quantity of Validity Period Traded Allowances equivalent to the Default Quantity; plus

- (b) interest for the period from (and including) the relevant Delivery Date to (but excluding) the date of the written notice demanding such Delivering Party's Replacement Cost calculated on the amount determined pursuant to paragraph (a) above at the rate specified in clause 4.4; plus
- (c) the amount of such reasonable costs and expenses which the Delivering Party incurs in respect of the Default Quantity (including, without limitation, broker fees, commissions and legal fees).

"Delivery Date" means the date(s) specified in column (A) of the delivery schedule in clause 3.2 which corresponds to a respective Periodic Quantity in column (B) opposite that Delivery Date and subject to adjustment in accordance with clause 5.4(b).

"Directive" means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emissions allowance trading and amending Council Directive 96/61/EC, as may be amended from time to time, including by Directive (EU) 2018/410.

"Encumbrance Loss" means an amount reasonably determined by the Receiving Party in good faith to be its total losses and costs in connection with this Agreement including, but not limited to, any loss of bargain, cost of funding or, at the election of the Receiving Party but without duplication, loss or costs incurred as a result of its terminating, liquidating, obtaining or re-establishing any hedge or related trading position. Such amount includes losses and costs in respect of any payment already made under this Agreement prior to the delivery of the written notice by the Receiving Party and the Receiving Party's legal fees and out-of-pocket expenses.

The Parties agree that in circumstances where there has been a breach of the No Encumbrances Obligation by the Delivering Party caused by the Transfer of an Affected Allowance, the Receiving Party will be entitled to include in such amount any losses arising out of or in connection with any claim, demand, action or proceeding brought against the Receiving Party by a third party consequent upon the Transfer by the Receiving Party of an Affected Allowance Transferred to it by the Delivering Party under this Agreement.

Notwithstanding anything herein to the contrary, none of the above amounts shall include excess emissions penalty (as defined in the Directive) or any amount which the Receiving Party must pay to a third party in respect of any such penalty payable to any other party (or Relevant Authority) by that third party.

"EU" means the European Union, as it exists from time to time.

"EU Allowance" or **"EUA"** means an "allowance" as defined in the Directive.

"EURIBOR" means, in relation to an amount owed under this Agreement on which interest is to accrue in Euros:

- (a) the interest rate for Euro deposits for a period of one month that appears on Reuters Page EURIBOR01 (or such other screen display or service as may replace it for the purpose of displaying the interest rates for Euro deposits offered in the euro-zone) as at 11.00 a.m. (CET) on the date on which payment is due, and where the amount or any part of it remains overdue one month after the date payment is due such interest rate as appears on such page for such deposits as at such time as at the day one month after the payment is due and thereafter as at monthly intervals until the amount is no longer overdue; or
- (b) if no such interest rate appears on Reuters (or such replacement), the arithmetic mean (rounded upwards to three decimal places) of the rates per annum at which

each of not less than two major banks in the Euro-zone interbank market quoted that they were offering Euro deposits in an amount comparable with that overdue amount to major banks in the Euro-zone interbank market for a period of one month as at 11.00 a.m. (CET) on the date on which payment is due or as at the day one month after the date payment is due or as at monthly intervals thereafter as the case may be.

"Euro" means the lawful currency of the Member States that have adopted the single currency of the EU.

"EUTL" or **"European Union Transaction Log"** means the independent transaction log provided for in Article 20(1) of the Directive, the operation of which is further detailed in the Registries Regulation.

"Event of Default Loss" means an amount that the non-defaulting Party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with the termination of the Agreement pursuant to clause 7, any loss of bargain, cost of funding (based on the actual costs of the non-defaulting Party, whether or not greater than market costs) or, at the election of the non-defaulting Party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or re-establishing any related trading position (or any gain resulting from any of them). It includes losses and costs (or gains) in respect of any payment required to have been made and not made or non-compliance with clause 3 or 4 on or before the termination date. It does not include the non-defaulting Party's legal fees or out-of-pocket expenses. The non-defaulting Party may (but need not) determine its Event of Default Loss by reference to quotations of average relevant rates or prices from two or more leading brokers in the Allowances trading market who are independent of the Parties.

"FM Affected Party" has the meaning ascribed to it in clause 5.1.

"FM Loss" means an amount that each Party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with the termination of this Agreement pursuant to clause 5, any loss of bargain, cost of funding (based on the actual costs of such Party whether or not greater than market costs) or, without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or re-establishing any related trading position (or any gain resulting from any of them). It does not include legal fees or out-of-pocket expenses. Each Party may (but need not) determine its FM Loss by reference to quotations of average relevant rates or prices from two or more leading brokers in the Allowances trading market who are independent of the Parties.

"Force Majeure" means the occurrence of any event or circumstance, beyond the control of the FM Affected Party, that is not a Suspension Event and that could not, after using all reasonable efforts, be overcome and which makes it impossible for the FM Affected Party to either (i) where the Delivering Party, to deliver the Validity Period Traded Allowances from the Delivering Party's Account specified in clause 3.4 or (ii) where the Receiving Party, to accept the Validity Period Traded Allowances into the Receiving Party's Account specified in clause 3.4, in accordance with the Trading System. The inability of a Party to perform a relevant delivery or acceptance obligation as a result of it having insufficient Validity Period Traded Allowances in any relevant Account (whether caused by the low or non-allocation of Allowances from a Member State or non-Member State or the failure of that Party to procure sufficient Allowances to meet its delivery obligations) shall not constitute a Force Majeure; provided, however, that this is not an exhaustive list of events which will not constitute a Force Majeure and is provided for the avoidance of doubt only.

"Long Stop Date" means:

A. from (and including) 1 May 2021 to (and including) 31 December 2022; 1 June 2024;

- B. from (and including) 1 January 2023 to (and including) 31 December 2024: 1 June 2026;
- C. from (and including) 1 January 2025 to (and including) 31 December 2026: 1 June 2028;
- D. from (and including) 1 January 2027 to (and including) 31 December 2028: 1 June 2030;
- E. from (and including) 1 January 2029 to (and including) the twenty-fifth (25th) calendar day of the month in which the Validity Period Reconciliation Deadline is scheduled to occur: the twenty-fifth (25th) calendar day of the month in which the Validity Period Reconciliation Deadline is scheduled to occur.

"Member State" means any one of the signatories to the treaties establishing the European Union from time to time.

"National Administrator" means the entity responsible for managing, on behalf of a Member State, a set of user accounts under the jurisdiction of a Member State in the Union Registry as designated in accordance with Article 8 of the Registries Regulation.

"Operator" means an "operator" as defined in the Directive.

"Original Affected Party" means the person from whose Account the Unauthorised Transfer of the relevant Affected Allowance occurred.

"Other Amounts Owing" means any or all amounts owing (whether or not matured, invoiced or due as primary obligor or surety) from the Receiving Party or the Delivering Party (as the case may be) under any other agreements between them relating to the sale and purchase of Allowances.

"Other Taxes" has the meaning ascribed to it in clause 4.2.

"Party" means one or other of the parties to the Agreement and **"Parties"** is to be construed accordingly.

"Payment Due Date" has the meaning given to it in clause 4.3, subject to the provisions of clause 5 in which case the Payment Due Date shall be measured accordingly from the Delayed Delivery Date (such Payment Due Date being the **"Delayed Payment Due Date"**).

"Periodic Purchase Price" has the meaning ascribed to it in clause 4.1.

"Periodic Quantity" means, with respect to a Delivery Date, the number of Allowances specified in column (B) of the delivery schedule in clause 3.2.

"Receiving Party's Account" means the Account(s) specified by the Receiving Party in the table in clause 3.4 (including any amendment made in accordance with clause 3.7).

"Receiving Party's Replacement Cost" means, in respect of a failure to Transfer a number of Allowances with respect to a Delivery Date pursuant to clause 6.1:

- (a) the positive difference, if any, between (A) the price the Receiving Party, acting in a commercially reasonable manner, does or would pay in an arm's length transaction for an equivalent quantity of Validity Period Traded Allowances to replace the Default Quantity, and (B) the Allowance Price multiplied by the Default Quantity; plus
- (b) interest for the period from (and including) the relevant Delivery Date to (but excluding) the date of the written notice demanding such Receiving Party's Replacement Cost calculated on the amount determined pursuant to paragraph (a) above at the rate specified in clause 4.4; plus

- (c) the amount of such reasonable costs and expenses which the Receiving Party incurs in respect of the Default Quantity (including, without limitation, broker fees, commissions and legal fees).

"Reconciliation Deadline" means 30 April of any calendar year in relation to the immediately preceding calendar year, or as otherwise specified in the Trading System Rules.

"Registries Regulation" 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 Regulations (EU) No. 920/2010 and No. 1193/2011, as may be amended from time to time, including by Commission Delegated Regulation (EU) 2015/1844 and Commission Regulation (EU) 2018/208.

"Registry" means the registry established by a Member State or the EU pursuant to the Directive or the Registries Regulation, in order to ensure the accurate accounting of the issue, holding, transfer, acquisition, surrender, cancellation and replacement of Allowances. For the avoidance of doubt, references to a Registry shall include (i) the Union Registry and (ii) collectively the Accounts and all other accounts within the Union Registry that are under the jurisdiction of a single National Administrator designated by a Member State. In the case of (ii), such Accounts and other accounts will together be deemed, for the purposes of this Agreement, to be a Registry for that Member State.

"Registry Operation" means, other than by reason of the occurrence of an Administrator Event:

- A. the continuing functioning of the Relevant Registry;
- B. the continuing functioning of the EUTL; and/or
- C. the establishment of and continuing functioning of the link between each of the Relevant Registry and the EUTL, as applicable.

"Relevant Authority" means the body established by a Member State or non-Member State from time to time to administer the Trading System in its jurisdiction.

"Relevant Registry" means a Registry through which either Party is obliged to perform a Transfer or acceptance obligation under and in accordance with this Agreement. Where a Party specifies more than one Registry for Transfer or acceptance purposes, the Relevant Registry shall be identified in accordance with clause 3.3.

"Required Authorisations" means all governmental and other licences, authorisations, permits, consents, contracts and other approvals (if any) that are required to enable a Party to fulfil any of its obligations under this Agreement.

"Suspension Event" A Suspension Event occurs when, on any date, a Party to the Agreement is unable to perform its Transfer or acceptance obligations under and in accordance with this Agreement through a Relevant Registry as a result of the application of any of the following:

- A. an absence of Registry Operation; or
- B. the occurrence of an Administrator Event.

"Trading System" means the system of transferring Allowances between either or both of (a) persons within the EU and (b) persons in third countries, in either case as recognized in

accordance with, and subject to, the procedure of the Directive established in, and as implemented by the national laws of, any Member State and certain non-Member States.

"Trading System Rules" means the rules and regulations of participation in, and operation of, the Trading System as applicable in a Member State and certain non-Member States as amended from time to time.

"Transfer" means (whether used as a verb or a noun) the transfer of Allowances from one Account to another under and in accordance with and for the purposes of the Trading System, and **"Transferred"** and **"Transferring"** are to be construed accordingly.

"Unauthorised Transfer" means the transfer by debiting of any Allowance from an account holder's Account and the crediting of an Account of another person, which Transfer is not initiated by the relevant authorised representative or additional authorised representative (as referred to in the Registries Regulation) of the first account holder.

"Union Registry" means the Registry referred to as the 'Union registry' in Article 19(1) of the Directive.

"Validity Period" means with respect to EUAs and AEUAs, the period referred to in Article 13 of the Directive beginning 1 January 2021.

"Validity Period Reconciliation Deadline" means the final Reconciliation Deadline in the Validity Period with respect to EUAs and AEUAs.

"Validity Period Traded Allowances" means an Allowance that the Delivering Party agrees to transfer to the Receiving Party and the Receiving Party agrees to accept from the Delivering Party that is of the specified Validity Period.

"VAT" means value added tax as levied by the Member States or non-Member States.

IN WITNESS whereof the Parties have duly executed and delivered this Agreement on the respective dates set out below with effect from the date set out on the first page of this document.

[Name of Delivering Party]

[Name of Receiving Party]

By: _____

By: _____

Name: [•]

Name: [•]

Title: [•]

Title: [•]

Date: [•]

Date: [•]