# CZECH BANKING ASSOCIATION

## On the basis of standard documentation published by the European Banking Federation

## MASTER AGREEMENT FOR FINANCIAL TRANSACTIONS

## SUPPLEMENT TO THE DERIVATIVES ANNEX

## EU EMISSIONS ALLOWANCE TRANSACTIONS

Edition 2010

This Supplement complements the General Provisions and the Derivatives Annex which form part of a Master Agreement for Financial Transactions based on the form published by the CBA.

**1. Purpose; Interpretation**

*(1)* *Purpose.* The purpose of this Supplement ("**Emissions Allowance Supplement**" or "**Supplement**") is to govern EU Emissions Allowance Transactions, which mean an Allowance Forward, an Allowance Swap, an Allowance Option or any other Transaction so agreed by the parties in respect of an individual Transaction or in the Special Provisions ("**EU Emissions Allowance Transactions**").

*(2)* *Interpretation.* This Supplement forms an integral part of the Derivatives Annex. The term "Annex" as used in Section 1(3) of the General Provisions should be construed as to include this Supplement. In the event of any conflict between different parts of the Derivatives Annex and this Supplement, this Supplement shall prevail.

**2. EU Emissions Allowance Transactions**

"**Allowance Forward Transaction**" means an EU Emissions Allowance Transaction identified as an Allowance Forward Transaction in the related Confirmation.

"**Allowance Option Transaction**" means an EU Emissions Allowance Transaction identified as an Allowance Option Transaction in the related Confirmation.

"**Allowance Swap Transaction**" means an EU Emissions Allowance Transaction identified as an Allowance Swap Transaction in the related Confirmation.

**3. Definitions**

"**Allowance**" means, in respect of an EU Emissions Allowance Transaction, an allowance of the specified Allowance Type and of the Specified Compliance Period.

"**Allowances to be Delivered**" means in respect of an EU Emissions Allowance Transaction that is: (1) an Allowance Forward Transaction or an Allowance Swap Transaction, a number of Allowances equal to the Number of Allowances; or (2) an Allowance Option Transaction and in respect of an Exercise Date, a number of Allowances equal to the number of Options exercised or deemed exercised on that Exercise Date multiplied by the Option Entitlement.

"**Allowance Initial Purchase Price**" means in respect of an EU Emissions Allowance Transaction which is an Allowance Swap Transaction, the amount specified or otherwise determined as provided in the related Confirmation.

"**Allowance Later Purchase Price**" means in respect of an EU Emissions Allowance Transaction which is an Allowance Swap Transaction, the amount specified or otherwise determined as provided in the related Confirmation.

"**Allowance Purchase Price**" means

(i) in respect of an EU Emissions Allowance Transaction which is an Allowance Forward Transaction, the amount specified or otherwise determined as provided in the related Confirmation; and

(ii) in respect of an EU Emissions Allowance Transaction which is an Allowance Swap Transaction, an Allowance Initial Purchase Price or an Allowance Later Purchase Price.

"**Allowance Strike Price**" means in respect of an EU Emissions Allowance Transaction which is an Allowance Option Transaction, the price per Allowance specified or otherwise determined as provided in the related Confirmation.

"**Allowance Type**" means in respect of an EU Emissions Allowance Transaction, any of an EU Allowance, an EU Credit or an Alternative Allowance as specified in the related Confirmation.

"**Alternative Allowance**" means a unit of account, representing a right to emit one tonne of carbon dioxide equivalent, either (i) issued by a Member State in return for a similar unit from an emissions trading scheme in a

non-Member State or (ii) an allowance from an emissions trading scheme in a non-Member State recognised by the EU Commission in either case resulting from a mutual recognition agreement entered into pursuant to Article 25 of the Directive, that may be used for determining compliance with emissions limitation commitments pursuant to the Scheme.

"**Buyer**" means in respect of an EU Emissions Allowance Transaction, the party specified as such in the related Confirmation.

"**Call**" means a type of an Allowance Option Transaction entitling, but not obligating, Buyer to purchase Allowances from Seller at the Allowance Strike Price per Allowance.

"**Cash Settlement**" shall have the meaning given that term in Section 5(1) of this Supplement.

"**Cash Settlement Amount**" means:

(i) in respect of an EU Emissions Allowance Transaction that is an Allowance Forward Transaction, an amount equal to the product of (a) the absolute value of the difference between the Allowance Purchase Price and the Floating Price and (b) the Number of Allowances;

(ii) in respect of an Option under an EU Emissions Allowance Transaction that is an Allowance Option Transaction, an amount equal to the product of (a) the absolute value of the difference between the Allowance Strike Price and the Floating Price and (b) the number of Allowances to be Delivered; and

(iii) in respect of an EU Emissions Allowance Transaction that is an Allowance Swap Transaction, an amount equal to the product of (a) the absolute value of the difference between the Allowance Later Purchase Price and the Floating Price and (b) the Number of Allowances.

"**Cash Settlement Notice**" means, in respect of an EU Emissions Allowance Transaction, an irrevocable notice delivered by the Entitled Party to the other party to an EU Emissions Allowance Transaction (which may be delivered on a Business Day during the Cash Settlement Option Period by facsimile or orally (including by telephone) unless the parties specify otherwise in the related Confirmation) of the Entitled Party's exercise of the Cash Settlement Option.

"**Cash Settlement Option**" shall have the meaning given that term in Section 5(1) of this Supplement.

"**Cash Settlement Option Period**" means:

(i) in respect of an EU Emissions Allowance Transaction that is an Allowance Forward Transaction, the period commencing on the Trade Date and ending two (2) Delivery Business Days before the Delivery Date;

(ii) in respect of each Option under any EU Emissions Allowance Transaction that is an Allowance Option Transaction, the period commencing on the Trade Date and ending (i) at the moment an Exercise Notice is delivered to Seller or, (ii) if no Exercise Notice has been delivered to Seller during the Exercise Period, at the Latest Exercise Time on the Expiration Date; and

(iii) in respect of an EU Emissions Allowance Transaction that is an Allowance Swap Transaction, the period commencing on the Trade Date and ending two (2) Delivery Business Days before the Later Delivery Date.

"**CDM Registry**" means the registry established pursuant to the International Rules for the issuance, holding and transfer of Certified Emissions Reductions.

"**Central European Time**" means the standard time adopted by Western European countries one hour ahead of Greenwich Mean Time.

"**CITL**" or "**Community Independent Transaction Log**" means the independent transaction log provided for in Article 20(1) of the Directive.

"**Clean Development Mechanism**" or "**CDM**" means the Clean Development Mechanism as defined in Article 12 of the Kyoto Protocol.

"**Close-out Cost of Carry Amount**" means an amount in EUR equal to:

(a) the Close-out Cost of Carry Rate; multiplied by:

(b)(i) in respect of an Allowance Forward Transaction, the Allowance Purchase Price; or (ii) in respect of an Allowance Option Transaction, the Allowance Strike Price; or (iii) in respect of an Allowance Swap Transaction, the Allowance Initial Purchase Price or the Allowance Later Purchase Price (depending on whether the Close-out Cost of Carry Amount is calculated in relation to Initial Delivery Date or Later Delivery Date); multiplied by:

(c) the Close-out Cost of Carry Delay, divided by (d) 360.

"**Close-out Cost of Carry Delay**" means the number of days in the period from (and including) the scheduled Payment Date to (but excluding) the date that would be the Payment Date if delivery had been made on the Final Delivery Date or Final Compliance Date (as the case may be).

"**Close-out Cost of Carry Rate**" means a rate equal to the Floating Rate that would be determined for the period from the scheduled Payment Date to the Early Termination Date, if the Reset Date were the date that would be the Payment Date if delivery had been made on the Final Delivery Date or Final Compliance Date (as the case may be) and the applicable Floating Rate Option were "EUR-EONIA-OIS-COMPOUND".

"**Commitment Period Reserve**" means the commitment period reserve requirements set out in paragraphs 6 to 10 of the Annex to Decision 11/CMP.1, as amended from time to time.

"**COP/MOP**" means a conference of the parties serving as the meeting of the parties to the Kyoto Protocol.

"**Cost of Carry Amount**" means an amount in EUR equal to:

(a) the Cost of Carry Rate multiplied by:

(b)(i) in respect of an Allowance Forward Transaction, the Allowance Purchase Price multiplied by the Number of Allowances delivered on or before the Delayed Delivery Date following the occurrence of a Suspension Event; or (ii) in respect of an Allowance Option Transaction, the Allowance Strike Price multiplied by the Number of Allowances delivered on or before the Delayed Delivery Date following the occurrence of a Suspension Event; or (iii) in respect of an Allowance Swap Transaction, the Allowance Initial Purchase Price or the Allowance Later Purchase Price (depending on whether the respective Delayed Delivery Date relates to Initial Delivery Date or Later Delivery Date) multiplied by the Number of Allowances delivered on or before the

Delayed Delivery Date following the occurrence of a Suspension Event;

multiplied by: (c) the Cost of Carry Delay, divided by 360.

"**Cost of Carry Delay**" means the number of days in the period from (and including) the scheduled Payment Date to (but excluding) the Delayed Payment Date.

"**Cost of Carry Rate**" means a rate equal to the Floating Rate that would be determined for a Calculation Period commencing on (and including) the scheduled Payment Date and ending on (but excluding) the Delayed Payment Date, if the Reset Date were the last day of that Calculation Period and the applicable Floating Rate Option were "EUR-EONIA-OIS-COMPOUND".

"**Decision**" means a decision adopted by the COP/MOP, as amended or replaced from time to time.

"**Delayed Delivery Date**" shall have the meaning given that term in Section 7(A) of this Supplement.

"**Delayed Payment Date**" shall have the meaning given that term in the definition of Payment Date in this Supplement.

"**Delivering Party**" means, in respect of: (1) an Allowance Forward Transaction, the Seller; (2) an Allowance Option Transaction which is a Call, the Seller; (3) an Allowance Option Transaction which is a Put, the Buyer; or (4) a Delivery to be provided under an Allowance Swap Transaction on the Initial Delivery Date, the Seller, and on the Later Delivery Date, the Buyer.

"**Delivering Party's Delivery Business Day Location**" means, in respect of an EU Emissions Allowance Transaction, the place specified as such in the Confirmation for the relevant EU Emissions Allowance Transaction or, if a place is not so specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Delivering Party; or (ii) if no such place is specified, the place in which the Delivering Party's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which Delivering Party has its registered office.

"**Delivering Party's Replacement Cost**" means, in respect of a failure of the Receiving Party to accept Delivery of a number of Allowances (the "**DPRC Shortfall**"), an amount equal to:

(i) (1) the Allowance Purchase Price or Allowance Initial Purchase Price or Allowance Later Purchase Price or Allowance Strike Price, as applicable, as set out in the Confirmation for the relevant EU Emissions Allowance Transaction plus, in those circumstances in which the relevant termination of the parties' obligations under Sections 4, 6 and 7 of this Supplement occurs following a Suspension Event, the Close-out Cost of Carry Amount; less

(2) the price (per Allowance) Delivering Party, acting in a commercially reasonable manner, does or would, in the determination of the Calculation Agent, receive in an arm's length transaction concluded on the Final Compliance Date for an equivalent number of Allowances to be delivered on the Final Compliance Date or, if later, the Delivery Business Day on which Allowances would be delivered in accordance with prevailing market practice under a spot transaction concluded on the Final Compliance Date; multiplied by:

(ii) the DPRC Shortfall; plus

(iii) interest at the Default Rate for the period from (and including) the Delivery Date to (but excluding) the date of termination in accordance with Section 8(B)(II) of this Supplement on an amount equal to the product of the DPRC Shortfall and an amount equal to the excess, if any, of the Allowance Purchase Price or Allowance Initial Purchase Price or Allowance Later Purchase Price or Allowance Strike Price, as applicable, over the price determined pursuant to paragraph (i)(2) above.

"**Delivery**" means any obligation of Delivering Party to deliver Allowances pursuant to an EU Emissions Allowance Transaction that shall be discharged by the completed transfer of those Allowances to a Trading Account of the Receiving Party under and in accordance with the Scheme which transfer shall, if one or more Trading Accounts are specified for Delivering Party, be from a Trading Account of Delivering Party. If a transfer of Allowances is completed after 5:00 p.m., Central European Time, on a Delivery Business Day or at any time on any other day, then those Allowances will be deemed to have been delivered at 9:00 a.m., Central European Time, on the next following Delivery Business Day. If a transfer of Allowances is completed before 9:00 a.m., Central European Time, on a Delivery Business Day, then those Allowances will be deemed to have been delivered at 9:00 a.m., Central European Time, on that day. Where more than one Receiving Party's Trading Account has been specified in respect of an EU Emissions Allowance Transaction, such Trading Accounts are set out in order of preference. Delivering Party shall deliver the Allowances to be Delivered from a Delivering Party's Trading Account to the first listed Receiving Party's Trading Account on the Delivery Date unless, in respect of such Trading Accounts, it is prevented from so doing by an event or circumstance that would be a Settlement Disruption Event or a Suspension Event if the first listed Receiving Party's Trading Account were the only Trading Account so listed. In such circumstances, the provisions of this paragraph will apply iteratively.

"**Delivery Business Day**" means, in respect of an EU Emissions Allowance Transaction, any day, which is not a Saturday or Sunday, on which commercial banks are open for general business in both Delivering Party's Delivery Business Day Location and the Receiving Party's Delivery Business Day Location.

"**Delivery Date**" means, in relation to an EU Emissions Allowance Transaction, the date specified as such in the related Confirmation, including Initial Delivery Date and Later Delivery Date (subject to any adjustment in accordance with Section 7 of this Supplement).

"**Directive**" means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, as amended from time to time.

"**Eligibility Criteria**" means the eligibility requirements for emissions trading pursuant to Article 17 of the Kyoto Protocol which are required to be satisfied in order that Allowances to be delivered in respect of the relevant EU Emissions Allowance Transaction can be delivered or accepted on a cross border basis in accordance with the relevant Confirmation.

"**End of Phase Reconciliation Deadline**" means in respect of an EU Emissions Allowance Transaction, the final Reconciliation Deadline in respect of any period referred to in Article 11(1) or (2) of the Directive next following the Delivery Date or Delayed Delivery Date (as the case may be) in respect of such EU Emissions Allowance Transaction.

"**Entitled Party**" shall have the meaning given that term in Section 5(2) of this Supplement.

"**EU Allowance**" means an "allowance" as defined in the Directive that has been issued by a competent authority pursuant to Article 11(4) of the Directive.

"**EU Credit**" means a Certified Emissions Reduction or an Emissions Reduction Unit as defined in the Directive that may be used for determining compliance with emissions limitation commitments pursuant to and in accordance with the Scheme.

"**EU Emissions Allowance Transaction**" shall have the meaning given that term in Section 1(1) of this Supplement.

"**Exercise Notice**" means, in respect of an EU Emissions Allowance Transaction which is an Allowance Option Transaction, an Option notice given by Buyer to Seller (which may be given orally (including by telephone) unless the parties specify otherwise in the related Confirmation) of its exercise of the right or rights granted pursuant to the Allowance Option Transaction during the hours specified in the relevant Confirmation on a Seller Business Day during the Exercise Period, which shall be irrevocable once effective. If the Exercise Notice is received on any Seller Business Day after the latest time so specified, the Exercise Notice will be deemed to have been received on the next following Seller Business Day, if any, in the Exercise Period. Buyer may exercise the right or rights granted pursuant to the Allowance Option Transaction only by giving an Exercise Notice.

"**Executive Board**" or "**EB**" means the Executive Board of the Clean Development Mechanism that is referred to in Article 12(4) of the Kyoto Protocol, and as constituted under the International Rules.

"**Expiration Date**" means in respect of an EU Emissions Allowance Transaction which is an Allowance Option Transaction, the date specified as such in the related Confirmation (or determined pursuant to a method specified for such purpose) or, if that date is not a Business Day, the next following day that is a Business Day.

"**Final Compliance Date**" shall have the meaning given that term in Section 8(B)(II) of this Supplement.

"**Final Delivery Date**" shall have the meaning given that term in Section 8(A)(II) of this Supplement.

"**Floating Price**" means:

(i) in respect of an EU Emissions Allowance Transaction that is an Allowance Forward Transaction, the price per Allowance that Buyer, acting in a commercially reasonable manner, does or would, in the determination of the Calculation Agent, pay in an arm`s length transaction concluded on the Delivery Date for an equivalent number of Allowances to be Delivered on the Delivery Date or, if later, the Delivery Business Day on which Allowances would be delivered in accordance with prevailing market practice under a spot transaction concluded on the Delivery Date;

(ii) in respect of an EU Emissions Allowance Transaction that is an Allowance Option Transaction and in relation to each Exercise Date, the price per Allowance that Receiving Party, acting in a commercially reasonable manner, does or would, in the determination of the Calculation Agent, pay in an arm`s length transaction concluded on a Delivery Date for an equivalent number of Allowances to be Delivered on the Delivery Date or, if later, the Delivery Business Day on which Allowances would be delivered in accordance with prevailing market practice under a spot transaction concluded on the Delivery Date; or

(iii) in respect of an EU Emissions Allowance Transaction that is an Allowance Swap Transaction, the price per Allowance that Seller, acting in a commercially reasonable manner, does or would, in the determination of the Calculation Agent, pay in an arm`s length transaction concluded on the Later Delivery Date for an equivalent number of Allowances to be Delivered on the Later Delivery Date or, if later, the Delivery Business Day on which Allowances would be delivered in accordance with prevailing market practice under a spot transaction concluded on the Later Delivery Date.

"**Initial Delivery Date**" means, in respect of an Allowance Swap Transaction, the date specified as such or otherwise determined pursuant to a method specified in the related Confirmation.

"**Initial Payment Date**" means, in respect of an Allowance Swap Transaction, the date specified as such or otherwise determined pursuant to a method specified in the related Confirmation.

"**International Emissions Trading**" or "**IET**" means the mechanism referred to in Article 17 of the Kyoto Protocol.

"**International Rules**" means all laws, regulations, rules, guidelines, directions, modalities and procedures pertaining to the CDM, JI and IET as stipulated in the UNFCCC, the Kyoto Protocol, all Decisions, public records of the Executive Board and all findings and rulings of all subsidiary bodies and technical panels pursuant to the Kyoto Protocol.

"**ITL**" or "**International Transaction Log**" means the international transaction log established pursuant to paragraph 38 of the Annex to Decision 13/CMP.1.

"**ITL-Registry Operation**" means the establishment and continuing functioning of the link between the ITL, the CITL, the relevant Registry or Registries (as the case may be) and, where applicable, the CDM Registry.

"**Joint Implementation**" or "**JI**" means the mechanism referred to in Article 6 of the Kyoto Protocol.

"**Kyoto Protocol**" means the Kyoto Protocol to the United Nations Framework Convention on Climate Change adopted at the third Conference of the Parties and signed in Kyoto, Japan on December 11, 1997, as amended from time to time.

"**Later Delivery Date**" means, in respect of an Allowance Swap Transaction, the date specified as such

or otherwise determined pursuant to a method specified in the related Confirmation.

"**Later Payment Date**" means, in respect of an Allowance Swap Transaction, the date specified as such or otherwise determined pursuant to a method specified in the related Confirmation.

"**Long-Stop Date**" means:

(1) in respect of a Suspension Event which relates to an absence of ITL-Registry Operation, 3 Delivery Business Days prior to the End of Phase Reconciliation Deadline; and

(2) in respect of a Suspension Event which does not relate to an absence of ITL-Registry Operation, 1 December of the year immediately preceding the End of Phase Reconciliation Deadline (or if such date is not a Delivery Business Day, the next following Delivery Business Day), unless:

(A) the Suspension Event occurs on a date that is less than 9 Delivery Business Days before 1 December of the year immediately preceding the End of Phase Reconciliation Deadline (or if such date is not a Delivery Business Day, the next following Delivery Business Day), in which case the Long-Stop Date shall be the date that is 9 Delivery Business Days from the day the Suspension Event commenced; or

(B) the Suspension Event occurs with respect to an EU Emissions Allowance Transaction which has a Delivery Date scheduled to fall after 1 December of the year immediately preceding the End of Phase Reconciliation Deadline, in which case the Long-Stop Date shall be 3 Delivery Business Days prior to the End of Phase Reconciliation Deadline.

"**Member States**" means the Member States of the European Union from time to time.

"**Multiple Exercise**" means:

(1) If "Multiple Exercise" is specified to be applicable to an EU Emissions Allowance Transaction which is an American Allowance Option Transaction or a Bermuda Allowance Option Transaction, Buyer may exercise all or less than all the unexercised Options on one or more Business Days during the Exercise Period but (except as set forth below) on any such Business Day may not exercise less than the Minimum Number of Options or more than the Maximum Number of Options and, if a number is specified as "Integral Multiple" in the related Confirmation, the number of exercised Options must be equal to, or be an integral multiple of, the number so specified. Except as set forth below, any attempt to exercise on any such Business Day:

(A) more than the Maximum Number of Options will be deemed to be an exercise of the Maximum Number of Options (the number of Options exceeding the Maximum Number of Options being deemed to remain unexercised);

(B) less than the Minimum Number of Options will be ineffective; and

(C) an amount of Options not equal to or an integral multiple of the Integral Multiple will be deemed to be an exercise of a number of Options equal to the next lowest integral multiple of the Integral Multiple (the number of Options exceeding that number being deemed to remain unexercised).

(2) Notwithstanding the foregoing, on any such Business Day, Buyer may exercise any number of Options that does not exceed the Maximum Number of Options if it exercises all the Options remaining unexercised. On the Expiration Date, Buyer may exercise any number of Options remaining unexercised.

"**Minimum Number of Options**" means, in respect of an Allowance Option Transaction to which Multiple Exercise is applicable, the number specified as such in the related Confirmation.

"**Maximum Number of Options**" means, in respect of an Allowance Option Transaction to which Multiple Exercise is applicable, the number specified as such in the related Confirmation.

"**Number of Allowances**" means, in respect of an EU Emissions Allowance Transaction, the number specified as such in the related Confirmation.

"**Number of Options**" means, in respect of an EU Emissions Allowance Transaction which is an Allowance Option Transaction, the number specified as such in the related Confirmation, being the number of Options comprised in the relevant Allowance Option Transaction.

"**Option**" means, in respect of an Allowance Option Transaction, each unit into which the Option Transaction is divided for purposes of exercise or settlement.

"**Option Entitlement**" means, in respect of an EU Emissions Allowance Transaction which is an Allowance Option Transaction, the number of Allowances per Option specified as such in the related Confirmation. In the event that no Option Entitlement is specified in the related Confirmation, the Option Entitlement in respect of any Allowance Option Transaction shall be one Allowance per Option.

"**Payment Date**" means, in respect of an EU Emissions Allowance Transaction, the date specified as such or otherwise determined pursuant to a method specified in the related Confirmation (including Initial Payment Date and Later Payment Date), provided that, in the case of delayed Delivery pursuant to Section 7 of this Supplement, the Payment Date shall be determined accordingly from the Delayed Delivery Date (such Payment Date being the "**Delayed Payment Date**").

"**Potential Exercise Date**" means, in respect of an EU Emissions Allowance Transaction which is a Bermuda Allowance Option Transaction, each date specified as such in the related Confirmation or, if that date is not a Business Day, the next following day that is a Business Day.

"**Premium**" means, in respect of an EU Emissions Allowance Transaction which is an Allowance Option Transaction, the amount specified or otherwise determined as provided in the related Confirmation. If a Premium per Allowance is specified in the related Confirmation, the Premium shall be the product of the Premium per Allowance, the Number of Options and the Option Entitlement.

"**Put**" means a type of Allowance Option Transaction entitling, but not obligating, the Buyer to sell Allowances to Seller at the Allowance Strike Price per Allowance.

"**Receiving Party**" means, in respect of: (1) an Allowance Forward Transaction, the Buyer; (2) an Allowance Option Transaction which is a Call, the Buyer; (3) an Allowance Option Transaction which is a Put, the Seller; or (4) a Delivery to be provided under an Allowance Swap Transaction on the Initial Delivery Date, the Buyer, and on the Later Delivery Date, the Seller.

"**Receiving Party's Delivery Business Day Location**" means, in respect of an EU Emissions Allowance Transaction, the place specified as such in the Confirmation for the relevant EU Emissions Allowance Transaction or, if a place is not so specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for the Receiving Party; or (ii) if no such place is specified, the place in which the Receiving Party's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which the Receiving Party has its registered office.

"**Receiving Party's Replacement Cost**" means, in respect of a failure of the Delivering Party to deliver a number of Allowances (the "**RPRC Shortfall**"), an amount equal to:

(i) (1) the price (per Allowance) that the Receiving Party, acting in a commercially reasonable manner, does or would, in the determination of the Calculation Agent, pay in an arm's length transaction concluded on the Final Delivery Date for an equivalent number of Allowances to be delivered on the Final Delivery Date or, if later, the Delivery Business Day on which Allowances would be delivered in accordance with prevailing market practice under a spot transaction concluded on the Final Delivery Date; less

(2) the Allowance Purchase Price or Allowance Initial Purchase Price or Allowance Later Purchase Price or Allowance Strike Price, as applicable, as set out in the Confirmation for the relevant EU Emissions Allowance Transaction Confirmation plus, in those circumstances in which the relevant termination of the parties' obligations under Sections 4, 6 and 7 of this Supplement occurs following a Suspension Event, the Close-out Cost of Carry Amount; multiplied by:

(ii) the RPRC Shortfall; plus

(iii) interest at the Default Rate for the period from (and including) the Delivery Date to (but excluding) the date of termination in accordance with Section 8(A)(II) on an amount equal to the product of the RPRC Shortfall and an amount equal to the excess, if any, of the price determined pursuant to paragraph (i)(1) above over the Allowance Purchase Price or Allowance Initial Purchase Price or Allowance Later Purchase Price or the Allowance Strike Price, as applicable; or.

"**Reconciliation Deadline**" means 30th April in each year from and including 30th April, 2006 or such later date in each year as may be determined in accordance with the Scheme for the surrender of Allowances pursuant to the Scheme.

"**Registry**" means a registry established pursuant to the Registry Regulation.

"**Registry Regulation**" means EU Commission Regulation (EC) No. 916/2007 of 31 July 2007 amending EU Commission Regulation (EC) No. 2216/2004 of 21 December 2004 for a standardised and secured system of registries pursuant to Article 19(3) of Directive 2003/87/EC and Article 6(1) of Decision 280/2004/EC and applicable national implementing legislation, each as amended from time to time.

"**Relevant Authority**" shall mean the competent authority, the registry administrator and/or the Central Administrator as those terms are defined in the Registry Regulation or any other authority having power pursuant to the Directive and/or the Registry Regulation to block, suspend, refuse, reject, cancel or otherwise affect the transfer (whether in whole or in part) of Allowances.

"**Scheme**" means the scheme for transferring Allowances established pursuant to the Directive and the Registry Regulation, and as implemented by the national laws of Member States.

"**Seller**" means, in respect of an EU Emissions Allowance Transaction, the party specified as such in the related Confirmation.

"**Seller Business Day**" means, in respect of an EU Emissions Allowance Transaction which is an Allowance Option Transaction, any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the city in which Seller is located for purposes of receiving notices.

"**Settlement Disruption Event**" means an event or circumstance beyond the control of the party affected that cannot, after the use of all reasonable efforts, be overcome and which makes it impossible for that party to perform its obligations either to deliver or to accept Allowances in accordance with the terms of an EU Emissions Allowance Transaction. For the avoidance of doubt, the inability of a party to deliver Allowances as a result of insufficient Allowances in the relevant Trading Account whether caused by the low or non-allocation of Allowances by a Member State or any other state or the failure of a party to procure sufficient Allowances to meet its delivery obligations shall not constitute a Settlement Disruption Event. This is not an exhaustive list of events which will not constitute a Settlement Disruption Event and is provided for the avoidance of doubt only. If an event or circumstance which would otherwise constitute or give rise to a Settlement Disruption Event also constitutes a Suspension Event, it will be treated as a Suspension Event and will not constitute a Settlement Disruption Event.

"**Specified Compliance Period**" means, in respect of an Allowance and an EU Emissions Allowance Transaction, the three-year period referred to in Article 11(1) of the Directive or, as the case may be, the relevant subsequent five-year period referred to in Article 11(2) of the Directive for which that Allowance is issued, as specified in the related Confirmation.

"**Suspension Event**" occurs when on any date a party to the Agreement is unable to perform its Delivery or acceptance obligations under and in accordance with an EU Emissions Allowance Transaction as a result of the occurrence of any of the following events:

(i) absence of ITL-Registry Operation;

(ii) all Trading Accounts of Receiving Party and/or all Trading Accounts of Delivering Party are in Registries of Member States that have not met or do not meet the Eligibility Criteria or, in the case the parties have agreed "third-party Member State" as applicable in the Special Provisions or in the relevant Confirmation, such Member State specified in the Special Provisions or in the relevant Confirmation does not meet the Eligibility Criteria; or

(iii) all Trading Accounts of Delivering Party are in Registries of Member States that have breached their Commitment Period Reserve or, in the case the parties have agreed "third-party Member State" as applicable in the Special Provisions or in the relevant Confirmation, such Member State specified in the Special Provisions or in the relevant Confirmation has breached its Commitment Period Reserve.

"**Trade Date**" means, in respect of an EU Emissions Allowance Transaction, the date specified in the related Confirmation.

"**Trading Account**" means, in respect of a party and an EU Emissions Allowance Transaction, (i) the accounts specified as such in the Confirmation for the relevant EU Emissions Allowance Transaction; or (ii) where no such accounts are specified in accordance with (i), in the Special Provisions; in either case as supplemented by agreement or notice (as applicable) in accordance with Section 15 of this Supplement. With respect to accounts so specified, a Trading Account shall be a digital record in any relevant Member State Registry that is able to be used to record the holding and transfer of Allowances (including Certified Emissions Reductions and/or Emission Reduction Units) pursuant to and in accordance with the Registry Regulation.

"**UNFCCC**" means the United Nations Framework Convention on Climate Change.

"**VAT Jurisdiction**" means, in respect of a party and an EU Emissions Allowance Transaction, the place specified as such in the related Confirmation.

**4. Deliveries and Payments**

*(1)* *Allowance Forward.* For purposes of an Allowance Forward Transaction, on the Payment Date, Buyer shall pay to Seller an amount equal to the Allowance Purchase Price multiplied by the Number of Allowances and on the Delivery Date Seller shall deliver to Buyer the Allowances to be Delivered, subject to and in accordance with the terms and conditions of this Supplement and the related Confirmation.

*(2)* *Allowance Option.* For purposes of an Allowance Option Transaction, in respect of each Exercise Date, on the relevant Payment Date Receiving Party shall pay to Delivering Party an amount equal to the Allowance Strike Price multiplied by the number of Allowances to be Delivered and on the relevant Delivery Date Delivering Party will deliver to Receiving Party the Allowances to be Delivered, subject to and in accordance with the terms and conditions of this Supplement and the related Confirmation.

*(3)* *Allowance Swap.* For purposes of an Allowance Swap Transaction,

(i) on the Initial Payment Date, Buyer shall pay to Seller an amount equal to the Allowance Initial Purchase Price multiplied by the Number of Allowances and on the Initial Delivery Date Seller shall deliver to Buyer the Allowances to be Delivered; and

(ii) on the Later Payment Date, Seller shall pay to Buyer an amount equal to the Allowance Later Purchase Price multiplied by the Number of Allowances and on the Later Delivery Date Buyer shall deliver to Seller the Allowances to be Delivered;

all these subject to and in accordance with the terms and conditions of this Supplement and the related Confirmation.

*(4)* *Netting.* If on any date Allowances of the same Allowance Type and Specified Compliance Period would otherwise be deliverable in respect of two or more EU Emissions Allowance Transactions by each party to the other and, if applicable, between the same pair of Trading Accounts of the parties, then, on such date, each party's obligation to make delivery of any such Allowances will be automatically satisfied and discharged and, if the aggregate amount of Allowances that would otherwise have been deliverable by one party exceeds the aggregate amount of Allowances that would otherwise have been deliverable by the other party, replaced by an obligation upon the party by which the larger aggregate amount would have been deliverable to deliver to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

**5. Cash Settlement Option**

*(1)* *Cash Settlement Option.* Each party to an EU Emissions Allowance Transaction shall have an option (the "**Cash Settlement Option**") at any time during the Cash Settlement Option Period to elect the EU Emissions Allowance Transaction (or, in relation to an Allowance Option Transaction, any Option) to be settled by cash settlement instead of settlement by delivery of the Allowances (the "**Cash Settlement**"), unless a Confirmation of the EU Emissions Allowance Transaction expressly stipulates that the Cash Settlement Option only pertains to one party to the EU Emissions Allowance Transaction specified in the Confirmation.

*(2)* *Cash Settlement Option Exercise.* Each party to an EU Emissions Allowance Transaction entitled according to Section 5(1) of this Supplement and the relevant Confirmation to elect the Cash Settlement (the "**Entitled Party**") may exercise the Cash Settlement Option by giving a Cash Settlement Notice to the other party to the EU Emissions Allowance Transaction at any time during the Cash Settlement Option Period. If a Cash Settlement Notice has not been received by the other party prior to the end of Cash Settlement Option Period, the right granted pursuant to the Cash Settlement Option shall expire and cease to exist. Unless otherwise specified in a Confirmation, a Cash Settlement Option may be exercised only in whole.

*(3)* *Allowance Forward Cash Settlement.* If Cash Settlement Option has been exercised in respect of an Allowance Forward Transaction, settlement according to Section 4(1) of this Supplement shall not apply to this Allowance Forward Transaction and on the Payment Date for this Allowance Forward Transaction:

(i) Seller shall pay to Buyer the Cash Settlement Amount if the Floating Price is above the Allowance Purchase Price; or

(ii) Buyer shall pay to Seller the Cash Settlement Amount if the Floating Price is below the Allowance Purchase Price.

*(4)* *Allowance Option Cash Settlement.* If Cash Settlement Option has been exercised in respect of an

Option under any Allowance Option Transaction, settlement according to Section 4(2) of this Supplement shall not apply to such Option and on a Payment Date in respect of each Exercise Date in respect of such Option:

(i) Delivering Party shall pay to Receiving Party the Cash Settlement Amount if the Floating Price is above the Allowance Strike Price; or

(ii) Receiving Party shall pay to Delivering Party the Cash Settlement Amount if the Floating Price is below the Allowance Strike Price.

*(5)* *Allowance Swap Cash Settlement.* If Cash Settlement Option has been exercised in respect of an Allowance Swap Transaction, settlement according to paragraph (ii) of Section 4(3) of this Supplement shall not apply to this Allowance Swap Transaction and on the Later Payment Date for this Allowance Swap Transaction:

(i) Seller shall pay to Buyer the Cash Settlement Amount if the Floating Price is above the Allowance Later Purchase Price; or

(ii) Buyer shall pay to Seller the Cash Settlement Amount if the Floating Price is below the Allowance Later Purchase Price.

**6. Settlement Disruption Event**

*(1)* *Notification of a Settlement Disruption Event.* Upon the occurrence of a Settlement Disruption Event, either party may, by written notice to the other party, notify that party of the commencement of the Settlement Disruption Event. Where the notification is from the party affected by the Settlement Disruption Event, to the extent available to such party, it shall also provide details of the Settlement Disruption Event and a non-binding estimate of the extent and the expected duration of its inability to perform its obligations due to the Settlement Disruption Event.

(2) *Consequences of a Settlement Disruption Event.* If a Settlement Disruption Event occurs, the obligations of both parties which would otherwise be required to be performed with respect to the relevant EU Emissions Allowance Transaction will be suspended for the duration of the Settlement Disruption Event and will not be required to be performed until the day on which the Settlement Disruption Event ceases to exist. During the continuation of the Settlement Disruption Event, the party affected by the Settlement Disruption Event shall continue to use all reasonable endeavours to overcome the Settlement Disruption Event. Subject to the following paragraph, upon the Settlement Disruption Event being overcome or ceasing to subsist, both parties will resume full performance of their obligations under this Agreement in respect of the relevant EU Emissions Allowance Transaction (including, for the avoidance of doubt, any suspended obligations).

*(3)* *Further consequences of a Settlement Disruption Event.* Where a Settlement Disruption Event continues:

(A) during the period ending 9 Delivery Business Days after the original date that, but for the Settlement Disruption Event, would have been the Delivery Date for an EU Emissions Allowance Transaction; or

(B) if such 9 Delivery Business Day period would end after the Reconciliation Deadline on or immediately following the original date that, but for the Settlement Disruption Event, would have been the Delivery Date for an EU Emissions Allowance Transaction, during the period ending on that Reconciliation Deadline; or

(C) if such 9 Delivery Business Day period would end after the day that is 3 Delivery Business Days preceding the End of Phase Reconciliation Deadline on or immediately following the original date that, but for the Settlement Disruption Event, would have been the Delivery Date for an EU Emissions Allowance Transaction, during the period ending on the day that is 3 Delivery Business Days preceding that End of Phase Reconciliation Deadline,

then on that 9th Delivery Business Day, Reconciliation Deadline or day that is 3 Delivery Business Days preceding the End of Phase Reconciliation Deadline (as the case may be), an Impossibility Event shall be deemed to have occurred in respect of the relevant EU Emissions Allowance Transaction and, if an Early Termination Date results from such event, then, for purposes of determining any amount payable under Section 7 of the General Provisions in respect of that Early Termination Date: (i) if "No Payment on Termination for Settlement Disruption" is not specified to be applicable in the Confirmation for the EU Emissions Allowance Transaction, it will be deemed that performance of the suspended obligations resumed on the Early Termination Date; or (ii) if "No Payment on Termination for Settlement Disruption" is specified to be applicable in the Confirmation for the EU Emissions Allowance Transaction, it will be deemed that the parties had no further delivery or payment obligations in respect of the EU Emissions Allowance Transaction after the occurrence of the Settlement Disruption Event; provided, however, that Delivering Party shall promptly refund to Receiving Party any amount that may have been paid by Receiving Party in respect of the EU Emissions Allowance Transaction together with interest on that amount in the same currency as that amount for the period from (and including) the date that amount was paid to (but excluding) the date of termination of such EU Emissions Allowance Transaction, at the rate certified by Delivering Party to be a rate offered to Delivering Party by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by Delivering Party for purposes of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in the relevant market.

**7. Suspension Event**

(A) Where a Suspension Event occurs, the obligations of both parties which would otherwise be required to be performed with respect to the relevant EU Emissions Allowance Transaction will be suspended for the duration of the Suspension Event and, subject to paragraph (C) below, will not be required to be performed until the day that is the earlier of: (i) the tenth Delivery Business

Day following the date on which the Suspension Event ceases to exist; and (ii) 3 Delivery Business Days prior to the End of Phase Reconciliation Deadline (the "**Delayed Delivery Date**").

(B) In the event that the Allowances to be Delivered are delivered 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:

(I) for the purposes of an Allowance Forward Transaction, an amount equal to the sum of: (X) Allowance Purchase Price multiplied by the Number of Allowances delivered on or before the relevant Delayed Delivery Date; and (Y) the Cost of Carry Amount;

(II) for the purposes of an Allowance Option Transaction, an amount equal to the sum of: (X) the Allowance Strike Price multiplied by the Number of Allowances delivered on or before the relevant Delayed Delivery Date; and (Y) the Cost of Carry Amount;

(III) for the purposes of an Allowance Swap Transaction, an amount equal to the sum of: (X) (i) in respect of Suspension Event occurred in relation to the Initial Delivery Date, Allowance Initial Purchase Price; or (ii) in respect of Suspension Event occurred in relation to the Later Delivery Date, Allowance Later Purchase Price, multiplied by the Number of Allowances delivered on or before the relevant Delayed Delivery Date; and (Y) the Cost of Carry Amount;

For the avoidance of doubt, any increase in (I), (II) or (III) above in respect of the Cost of Carry Amount shall be identified in the relevant VAT Invoice sent to the Receiving Party.

(C) Where: a Suspension Event continues to exist on the Long-Stop Date, then an Impossibility Event shall be deemed to have occurred in respect of the relevant EU Emissions Allowance Transaction. The parties agree that in such case the Long-Stop Date will be the Early Termination Date for the purposes of the relevant EU Emissions Allowance Transaction. For purposes of determining any amount payable under Section 7 of the General Provisions in respect of that Early Termination Date, it will be deemed that the parties had no further delivery or payment obligations in respect of the EU Emissions Allowance Transaction after the occurrence of the Suspension Event; provided, however, that Delivering Party shall promptly refund to Receiving Party any amount that may have been paid by Receiving Party in respect of the EU Emissions Allowance Transaction together with interest on that amount in the same currency as that amount for the period from (and including) the date that amount was paid to (but excluding) the date of termination of such EU Emissions Allowance Transaction, at the rate certified by Delivering Party to be a rate offered to Delivering Party by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by Delivering Party for purposes of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in the relevant market. For the avoidance of doubt, in case of the Allowance Swap Transaction, the refund shall not include already paid Allowance Initial Purchase Price, provided that Allowances to be Delivered on the Initial Delivery Date were delivered.

(D) Upon the occurrence of a Suspension Event, either party may, by written notice to the other party, notify that party of the commencement of the Suspension Event. Where the notification is from the party affected by the Suspension Event, to the extent available to such party, it shall also provide details of the Suspension Event including a non-binding estimate of the extent and the expected duration of its inability to perform its obligations due to the Suspension Event.

**8. Failure to deliver**

If Delivering Party fails to deliver the Allowances to be Delivered on the Delivery Date, such failure shall not constitute an Event of Default (as defined in the Agreement) in respect of Delivering Party, but:

(A) if the failure to deliver occurs other than as a result of the failure of Receiving Party to comply with the Requirements under the Scheme as specified below, the existence of an Illegality, the existence of a Settlement Disruption Event or the existence of a Suspension Event, the Payment Date will be postponed and Receiving Party may, by notice to Delivering Party, require Delivering Party to remedy such failure, and:

(I) if Delivering Party delivers the Allowances to be Delivered on or before the first Delivery Business Day after such notice is given or, if earlier, the Reconciliation Deadline on or immediately following the Delivery Date:

(X) (i) In respect of an Allowance Forward Transaction, Receiving Party shall pay to Delivering Party on the Payment Date an amount equal to the Allowance Purchase Price multiplied by the Number of Allowances, (ii) in respect of an Allowance Option Transaction, Receiving Party shall pay to Delivering Party on the Payment Date an amount equal to the Allowance Strike Price multiplied by

the number of Allowances to be Delivered, and (iii) in respect of an Allowance Swap Transaction, Receiving Party shall pay to Delivering Party on the Payment Date an amount equal to the Allowance Initial Purchase Price (when paid on the Initial Payment Date) or the Allowance Later Purchase Price (when paid on the Later Payment Date) multiplied by the Number of Allowances (and, in each case, for purposes of determining the Payment Date, the date of delivery shall be deemed to be the Delivery Date);

(Y) Delivering Party shall pay to Receiving Party on the Payment Date interest on an amount equal to the number of Allowances that were required to be delivered on the Delivery Date (but which were not delivered on such date) multiplied by (i) the Allowance Purchase Price (in respect of an Allowance Forward Transaction) or (ii) the Allowance Strike Price (in respect of an Allowance Option Transaction) or (iii) the Allowance Initial Purchase Price (in respect of failure to deliver the Allowances to be Delivered under an Allowance Swap Transaction on the Initial Delivery Date) or (iv) the Allowance Later Purchase Price (in respect of failure to deliver the Allowances to be Delivered under an Allowance Swap Transaction on the Later Delivery Date) for the period from (and including) the Delivery Date to (but excluding) the date of actual delivery at the Default Rate; or

(II) if the failure is not remedied on or before the first Delivery Business Day after such notice is given, or, if earlier, the Reconciliation Deadline on or immediately following the Delivery Date (in either case the "**Final Delivery Date**"), Receiving Party may, by written notice to Delivering Party, terminate the parties' obligations under Section 4 of this Supplement and Delivering Party shall pay to Receiving Party an amount determined in accordance with Receiving Party's Replacement Cost (if a positive number) on the first succeeding Business Day, adjusted to take into account any amount previously paid by Receiving Party to Delivering Party in respect of the relevant EU Emissions Allowance Transaction; for the avoidance of doubt, if, in case of the Allowance Swap Transaction, the failure to deliver occurs in respect of the Later Delivery Date, such adjustment shall not include the Allowance Initial Purchase Price.

(B) if the failure to deliver occurs as a result of the failure of Receiving Party to comply with the Requirements under the Scheme as specified below, the Payment Date will be postponed and Delivering Party may, by notice to Receiving Party, require Receiving Party so to comply, and:

(I) if Receiving Party complies on or before the first Delivery Business Day after such notice is given or, if earlier, the Reconciliation Deadline on or immediately following the Delivery Date:

(X) Delivering Party shall deliver to Receiving Party the Allowances to be Delivered and, (i) in respect of an Allowance Forward Transaction, Receiving Party shall pay to Delivering Party on the Payment Date an amount equal to the Allowance Purchase Price multiplied by the Number of Allowances, (ii) in respect of an Allowance Option Transaction, Receiving Party shall pay to Delivering Party on the Payment Date an amount equal to the Allowance Strike Price multiplied by the number of Allowances to be Delivered, and (iii) in respect of an Allowance Swap Transaction, Receiving Party shall pay to Delivering Party on the Payment Date an amount equal to the Allowance Initial Purchase Price (when paid on the Initial Payment Date) or the Allowance Later Purchase Price (when paid on the Later Payment Date) multiplied by the Number of Allowances (and, in each case, for purposes of determining the Payment Date, the date of delivery shall be deemed to be the Delivery Date); and

(Y) Receiving Party shall pay to Delivering Party on the Payment Date interest on an amount equal to the number of Allowances that were required to be delivered on the Delivery Date (but which were not delivered on that date) multiplied by (i) the Allowance Purchase Price (in respect of an Allowance Forward Transaction) or (ii) the Allowance Strike Price (in respect of an Allowance Option Transaction) or (iii) the Allowance Initial Purchase Price (in respect of failure to deliver the Allowances to be Delivered under an Allowance Swap Transaction on the Initial Delivery Date) or (iv) the Allowance Later Purchase Price (in respect of failure to deliver the Allowances to be Delivered under an Allowance Swap Transaction on the Later Delivery Date) for the period from (and including) the Delivery

Date to (but excluding) the date of actual delivery at the Default Rate; or

(II) if Receiving Party fails to comply on or before the first Delivery Business Day after such notice is given, or, if earlier, the Reconciliation Deadline on or immediately following the Delivery Date (in either case the "**Final Compliance Date**"), Delivering Party may, by written notice to Receiving Party, terminate the parties' obligations under Section 4 of this Supplement and Receiving Party shall pay to Delivering Party Delivering Party's Replacement Cost (if a positive number) on the first succeeding Business Day, adjusted to take into account any amount previously paid by Receiving Party to Delivering Party in respect of the relevant EU Emissions Allowance Transaction; for the avoidance of doubt, if, in case of the Allowance Swap Transaction, the failure to deliver occurs in respect of the Later Delivery Date, such adjustment shall not include the Allowance Initial Purchase Price.

**9. Partial Settlement**

If, on the Delivery Date, Delivering Party delivers to Receiving Party fewer Allowances than the Allowances to be Delivered (such shortfall the "**Allowance Shortfall**"), Receiving Party's obligation to pay pursuant to Section 4 of this Supplement above shall be reduced by an amount equal to the Allowance Shortfall multiplied by either (i) the Allowance Purchase Price (in respect of an Allowance Forward Transaction) or (ii) the Allowance Strike Price (in respect of an Allowance Option Transaction) or (iii) the Allowance Initial Purchase Price (in respect of Allowance Shortfall occurred on the Initial Delivery Date in connection with an Allowance Swap Transaction) or the Allowance Later Purchase Price (in respect of Allowance Shortfall occurred on the Later Delivery Date in connection with an Allowance Swap Transaction), and the provisions of "Failure to Deliver" above will apply in respect of the Allowance Shortfall (with references to Number of Allowances (in the case of an Allowance Forward Transaction or an Allowance Swap Transaction) and Allowances to be Delivered (in the case of an Allowance Option Transaction) being read as references to the Allowance Shortfall).

**10. Abandonment of Scheme**

*(1)* If before the Delivery Date the Scheme is, as a result of official written public pronouncement by the European Community, no longer scheduled to proceed or is to be discontinued, either party may, by written notice to the other party, terminate the relevant EU Emissions Allowance Transaction, in which case neither party shall have any further delivery or payment obligations under or in respect of that EU Emissions Allowance Transaction and, for the avoidance of doubt, a payment shall not be due under Section 7 of the General Provisions or otherwise in respect of such termination.

*(2)* In the event of a termination in accordance with sub-clause (1) Delivering Party shall promptly refund to Receiving Party any amount that may have been paid by Receiving Party in respect of the EU Emissions Allowance Transaction together with interest on that amount in the same currency as that amount for the period from (and including) the date that amount was paid to (but excluding) the date of termination of the EU Emissions Allowance Transaction in accordance with sub-clause (1), at the rate certified by Delivering Party to be a rate offered to Delivering Party by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by Delivering Party for purposes of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in the relevant market.

*(3)* For the avoidance of doubt, with respect to EU Emissions Allowance Transactions establishing more than one Delivery Date, the provisions of paragraphs (1) and (2) above regarding delivery and payment obligations of the parties shall only apply in respect of Delivery Dates to occur on or after abandonment of the Scheme according to Section 10(1) of this Supplement.

**11. Invoicing and Value Added Taxes**

*(1)* On or after the Delivery Date, Delivering Party shall send to Receiving Party a valid VAT invoice (applicable in the jurisdiction of supply) setting forth the number of Allowances delivered, or that would have been delivered but for the provisions of Section 4(4) of this Supplement, and the Allowance Purchase Price(s) or Allowance Strike Price(s), as applicable, stating the total amount payable by Receiving Party and stating the amount of VAT, if any, properly chargeable thereon (a "**VAT Invoice**").

*(2)* All amounts referred to in this Supplement or in a Confirmation for an EU Emissions Allowance Transaction are exclusive of any applicable Value Added Taxes ("**VAT**") which are or may become chargeable in respect of the supply or supplies for which such sums form the whole or part of the consideration for VAT purposes, and any such VAT shall be payable in addition to any such other consideration in accordance with the provisions set out below.

*(3)* The Receiving Party will either (A) subject to receipt of an appropriate VAT Invoice in respect of such supply or supplies stating *inter alia* the amount of VAT properly chargeable thereon (the "**VAT Amount**"), pay to Delivering Party a sum equal to the VAT Amount on the Payment Date; or (B) where, under the provisions of the applicable VAT legislation, the Receiving Party is required to self-assess and account for any VAT chargeable in respect of such supply, account for such VAT.

*(4)* On each date on which an EU Emissions Allowance Transaction is entered into, Receiving Party represents to Delivering Party that:

(A) For VAT purposes, Receiving Party receives the services supplied pursuant to the EU Emissions Allowance Transaction in connection with an establishment of Receiving Party in that party's VAT Jurisdiction; and

(B) it is a taxable person for the purposes of Article 9 of the European Community Directive 2006/112/EC and receives such supply for the purposes of a business carried on by it.

*(5)* Subject to each party's obligations relating to VAT, each party shall cause all royalties, Taxes, duties, and other sums (including any environmental tax or levy) legally payable by that party arising in connection with an EU Emissions Allowance Transaction to be paid, and shall reimburse the other party to the extent that party is required to pay any such royalties, Taxes, duties or other sums for which the first party is primarily liable.

**12. Requirements under the Scheme**

Each party agrees with the other that, so long as either party has or may have any obligation under an EU Emissions Allowance Transaction, it will:

(A) ensure that, on a Delivery Date or a Delayed Delivery Date (as the case may be), it has one or more Trading Accounts registered in the Registry of each Member State specified in the related Confirmation, or where no such Trading Accounts are specified in the related Confirmation, in each of the Registries specified by such party in the Special Provisions or as may be agreed by the parties in accordance with "Modification of Party Trading Accounts" below;

(B) where a party has not specified any Registry in the Special Provisions or in the related Confirmation, ensure that, on a Delivery Date or a Delayed Delivery Date (as the case may be), it has one or more Trading Accounts registered in a Registry of a Member State; and

(C) conduct its affairs so as not to give any Relevant Authority cause to block, suspend, refuse, reject or cancel the transfer (whether in whole or in part) of Allowances requested to be made pursuant to any EU Emissions Allowance Transaction.

**13. No encumbrances**

(1) In respect of each delivery of Allowances, Delivering Party agrees that it will convey, and, on the date that it delivers such Allowances, represents that it has conveyed the Allowances, free and clear of all liens, security interests, claims and encumbrances.

(2) Neither party shall be liable in respect of any breach of warranty under paragraph (1) above in relation to an EU Emissions Allowance Transaction for any greater sum than it would be liable for under Section 7 of the General Provisions if an Early Termination Date were to occur on the date of that breach in respect of that EU Emissions Allowance Transaction as the result of a Change of Circumstances where that EU Emissions Allowance Transaction was the sole Transaction affected by such change and Delivering Party was the sole Affected Party.

**14. Damages and costs**

*(1)* Except to the extent included in any amount payable under Section 7 of the General Provisions or any payment in respect of Receiving Party's Replacement Cost or Delivering Party's Replacement Cost, neither party is liable to the other for any lost profit.

*(2)* All costs, fees and charges assessed or imposed by a Relevant Authority in connection with the transfer of Allowances pursuant to an EU Emissions Allowance Transaction shall be the responsibility of the party upon whom such costs, fees and/or charges are allocated by the Relevant Authority.

**15. Modifications of Party Trading Accounts**

The parties agree that:

(1) Receiving Party may from time to time (A) amend the order in which its Trading Accounts are listed in the Confirmation related to an EU Emissions Allowance Transaction where it has specified Trading Accounts in such Confirmation or in the Special Provisions; and/or (B) nominate an additional Trading Account, in either case in respect of an EU Emissions Allowance Transaction, provided that Receiving Party notifies Delivering Party in writing of such amendment and/or addition (including the provision of the relevant account details) no less than thirty (30) calendar days prior to the next Delivery Date under that EU Emissions Allowance Transaction, and provided further that in each such case, Delivering Party notifies Receiving Party in writing that it consents to such changes within five (5) Delivery Business Days of receiving such notice from Receiving Party;

(2) Delivering Party may, if one or more Trading Accounts are listed in the Special Provisions or in the related Confirmation in respect of Delivering Party, add an additional Trading Account to those listed in the Special Provisions or such Confirmation, as the case may be, from time to time and at any time prior to the relevant Delivery Date under a particular EU Emissions Allowance Transaction, provided that Delivering Party notifies Receiving Party in writing of such additional Trading Account (including the relevant account details) on or before the day that is ten (10) Delivery Business Day before such Delivery Date.

**16. Provisions applicable to Option Transactions**

Unless otherwise defined in this Supplement, any term relating to Option Transactions is to be construed in accordance with the applicable Options Supplement published by the CBA.

**Suggested Form of Confirmation of an Allowance Forward Transaction**

To:
From:
Date:

We refer to our telephone conversation and hereby confirm our agreement to enter into an Allowance Forward Transaction [which shall be subject to the CBA Master Agreement for Financial Transactions between us, dated ….. (the "Agreement"). Terms defined in the Agreement have the same meaning in this Confirmation]. The terms of the Transaction are as follows:

**General Terms:**

| | |
|---|---|
| Reference Number: | [] |
| Trade Date: | [] |

Party A [Company name, ID, registered office]:

Party B [Company name, ID, registered office]:

| | |
|---|---|
| Buyer: | Party [A/B] |
| Seller: | Party [B/A] |
| Allowance Type: | [][1] |
| Specified Compliance Period: | [][2] |
| Allowance Purchase Price: | [] |
| Number of Allowances: | [] |
| Total Purchase Price: | [] |
| Buyer's VAT Jurisdiction: | [] |
| Seller's VAT Jurisdiction: | [] |

**Settlement Terms:**

| | |
|---|---|
| Contractual Currency: | [] |
| Payment Date: | [], subject to the provisions of "Failure to Deliver" in the Emissions Allowance Supplement |
| Delivery Date: | [] |
| [Buyer's Delivery Business Day Location: | []][3] |
| [Seller's Delivery Business Day Location: | []][4] |
| [No Payment on Termination For Settlement Disruption: | [Applicable]][5] |

**Cash Settlement Option:**

| | |
|---|---|
| [Entitled Party: | [Party A/B]][6] |

[1] An EU Allowance, an EU Credit or an Alternative Allowance.
[2] The relevant five-year period referred to in Article 11(2) of the Directive for which that Allowance is issued.
[3] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Buyer; or (ii) if no such place is specified, the place in which the Buyer's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which the Buyer has its registered office.
[4] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Seller; or (ii) if no such place is specified, the place in which the Seller's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which Seller has its registered office.
[5] Please see Section 6(3) of the Emissions Allowance Supplement

| | |
|---|---|
| [Partial Cash Settlement: | [Applicable]][7] |

**Suspension Event:**

| | |
|---|---|
| [Third-Party Member State: | [Applicable] |
| | [Specification of relevant Member State(s)]][8] |

| | |
|---|---|
| **Calculation Agent:** | [] |

**Account Details:**

| | |
|---|---|
| Account for payments of Party A: | [] |
| Account for payments of Party B: | [] |
| Trading Account of Party A: | [] |
| Trading Account of Party B: | [] |

| | |
|---|---|
| [Agency:] | [The Transaction is an Agency Transaction. [Name of Agent] is acting as agent for [name or identifier of Principal]] |

[**Additional provisions:**]

Please confirm that the foregoing correctly sets forth the terms of our agreement by countersigning this Confirmation and returning it to [ ] or by sending us a confirmation substantially similar to this Confirmation, which confirmation sets forth the material terms of the Transaction to which this Confirmation relates and indicates agreement to those terms.

Yours sincerely,

| | |
|---|---|
| [Signature] | [Signature of counterparty] |

[6] Specify only if the Cash Settlement Option pertains to one of the Parties.
[7] If no Partial Cash Settlement is specified, a Cash Settlement Option may be exercised only in whole.
[8] Please see Section 3 of the Emissions Allowance Supplement, definition of "Suspension Event".

**Suggested Form of Confirmation of an Allowance Option Transaction**

To:
From:
Date:

We refer to our telephone conversation and hereby confirm our agreement to enter into an Allowance Option Transaction [which shall be subject to the CBA Master Agreement for Financial Transactions between us, dated ….. (the "Agreement"). Terms defined in the Agreement have the same meaning in this Confirmation]. The terms of the Transaction are as follows:

**General Terms:**

| | |
|---|---|
| Reference Number: | [] |
| Trade Date: | [] |

Party A [Company name, ID, registered office]:

Party B [Company name, ID, registered office]:

| | |
|---|---|
| Buyer: | Party [A/B] |
| Seller: | Party [B/A] |
| Option Style: | [American][European][Bermuda][Asian][9] |
| Option Type: | [Put][Call] |
| Allowance Type: | [][10] |
| Specified Compliance Period: | [][11] |
| Number of Options: | [] |
| [Option Entitlement: | [] Allowance(s) per Option][12] |
| Allowance Strike Price: | [][13] |
| Premium: | [ [(Premium per Allowance: )]] |
| Premium Payment Date: | [] |
| [Buyer's Delivery Business Day Location: | []][14] |
| [Seller's Delivery Business Day Location: | []][15] |

**Procedure for Exercise:**

| | |
|---|---|
| Commencement Date: | [] |
| Exercise Period: | [From and including _____ to and including _____][16] between ___ a.m. and ___ p.m. (local time in []). |
| [Potential Exercise Date(s): | []][17] |
| Expiration Date: | [][18] |
| Expiration Time: | [] (local time in []) |

[9] If an Asian style Option, the parties should specify the Calculation Period or, in relation to more Settlement Dates, more Calculation Periods.
[10] An EU Allowance, an EU Credit or an Alternative Allowance
[11] The relevant five-year period referred to in Article 11(2) of the Directive for which that Allowance is issued.
[12] If no Option Entitlement is specified, the default Option Entitlement shall be one Allowance per Option.
[13] This should be expressed as Strike Price per Allowance.
[14] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Buyer; or (ii) if no such place is specified, the place in which the Buyer's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which the Buyer has its registered office.
[15] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Seller; or (ii) if no such place is specified, the place in which the Seller's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which Seller has its registered office.
[16] Include if American style Option.
[17] Include if Bermuda style Option.
[18] Insert if the Allowance Option is exercisable only on the Expiration Date.

| | |
|---|---|
| [Automatic Exercise: | [Applicable]][19] |
| [Knock-in Event: | []] |
| [Knock-out Event: | []] |
| [Partial Exercise: | [Applicable]][20] |
| [Minimum Number of Options: | [] |
| Integral Multiple: | []][21] |
| [Multiple Exercise: | [Applicable]][22] |
| [Minimum Number of Options: | [] |
| Maximum Number of Options | [] |
| Integral Multiple: | []][23] |
| [Written Exercise Notice: | [Applicable] [Not Applicable]] |

**Settlement Terms:**

| | |
|---|---|
| Contractual Currency: | [] |
| Payment Date: | [], subject to the provisions of "Failure to Deliver" in the Emissions Allowance Supplement |
| Delivery Date: | [] |
| [Buyer's Delivery Business Day Location: | []][24] |
| [Seller's Delivery Business Day Location: | []][25] |
| [No Payment on Termination For Settlement Disruption: | [Applicable]][26] |

**Cash Settlement Option**

| | |
|---|---|
| [Entitled Party: | [Party A/B]][27] |
| [Partial Cash Settlement: | [Applicable]][28] |

**Suspension Event:**

| | |
|---|---|
| [Third-Party Member State: | [Applicable] |
| | [Specification of relevant Member State(s)]][29] |

| | |
|---|---|
| **Calculation Agent:** | [] |

**Account Details:**

| | |
|---|---|
| Account for payments of Party A: | [] |
| Account for payments of Party B: | [] |

[19] If Automatic Exercise is not specified as Applicable, it will be deemed not to apply.
[20] If Partial Exercise is not specified as Applicable, it will be deemed not to apply.
[21] Applicable only if the Partial Exercise applies.
[22] Applicable only in respect to American style Option or Bermuda style Option. If Multiple Exercise is not specified as Applicable, it will be deemed not to apply.
[23] Applicable only if the Multiple Exercise applies.
[24] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Buyer; or (ii) if no such place is specified, the place in which the Buyer's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which the Buyer has its registered office.
[25] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Seller; or (ii) if no such place is specified, the place in which the Seller's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which Seller has its registered office.
[26] Please see Section 6(3) of the Emissions Allowance Supplement
[27] Specify only if the Cash Settlement Option pertains to one of the Parties.
[28] If no Partial Cash Settlement is specified, a Cash Settlement Option may be exercised only in whole.
[29] Please see Section 3 of the Emissions Allowance Supplement, definition of "Suspension Event".

Trading Account of Party A: []

Trading Account of Party B: []

[Agency:] [The Transaction is an Agency Transaction. [Name of Agent] is acting as agent for [name or identifier of Principal]]

[VAT Jurisdiction: []]

[**Additional provisions:**]

Please confirm that the foregoing correctly sets forth the terms of our agreement by countersigning this Confirmation and returning it to [ ] or by sending us a confirmation substantially similar to this Confirmation, which confirmation sets forth the material terms of the Transaction to which this Confirmation relates and indicates agreement to those terms.

Yours sincerely,

[Signature] [Signature of counterparty]

**Suggested Form of Confirmation of an Allowance Swap Transaction**

To:
From:
Date:

We refer to our telephone conversation and hereby confirm our agreement to enter into an Allowance Swap Transaction [which shall be subject to the CBA Master Agreement for Financial Transactions between us, dated …. (the "Agreement"). Terms defined in the Agreement have the same meaning in this Confirmation]. The terms of the Transaction are as follows:

**General Terms:**

| | |
|---|---|
| Reference Number: | [] |
| Trade Date: | [] |

Party A [Company name, ID, registered office]:

Party B [Company name, ID, registered office]:

| | |
|---|---|
| Buyer: | Party [A/B] |
| Seller: | Party [B/A] |
| Allowance Type: | [][30] |
| Specified Compliance Period | [][31] |
| Number of Allowances | [] |
| Buyer's VAT Jurisdiction: | [] |
| Seller's VAT Jurisdiction: | [] |

**Settlement Terms:**

| | |
|---|---|
| Contractual Currency: | [] |
| [Buyer's Delivery Business Day Location: | []][32] |
| [Seller's Delivery Business Day Location: | []][33] |
| [No Payment on Termination For Settlement Disruption: | [Applicable]][34] |

**Initial Delivery:**

| | |
|---|---|
| Receiving Party: | Party [A/B] |
| Delivering Party: | Party [B/A] |
| Initial Payment Date: | [], subject to the provisions of "Failure to Deliver" in the Emissions Allowance Supplement |
| Initial Delivery Date: | [] |
| Allowance Initial Purchase Price: | [] |
| Total Initial Purchase Price: | [] |

[30] An EU Allowance, an EU Credit or an Alternative Allowance.
[31] The relevant five-year period referred to in Article 11(2) of the Directive for which that Allowance is issued.
[32] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Buyer; or (ii) if no such place is specified, the place in which the Buyer's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which the Buyer has its registered office.
[33] If a place is not specified: (i) the place specified in the Special Provisions as the Delivery Business Day Location for Seller; or (ii) if no such place is specified, the place in which the Seller's address for purposes of receiving notices connected with the relevant EU Emissions Allowance Transaction is located; or (iii) if no such address has been given, the place in which Seller has its registered office.
[34] Please see Section 6(3) of the Emissions Allowance Supplement

**Later Delivery:**

| | |
|---|---|
| Receiving Party: | Party [B/A] |
| Delivering Party: | Party [A/B] |
| Later Payment Date: | [], subject to the provisions of "Failure to Deliver" in the Agreement |
| Later Delivery Date: | [] |
| Allowance Later Purchase Price: | [] |
| Total Later Purchase Price: | [] |

**Cash Settlement Option:**

| | |
|---|---|
| [Entitled Party: | [Party A/B]][35] |
| [Partial Cash Settlement: | [Applicable]][36] |

**Suspension Event:**

| | |
|---|---|
| [Third-Party Member State: | [Applicable] |
| | [Specification of relevant Member State(s)]][37] |

**Calculation Agent:** []

**Account Details:**

| | |
|---|---|
| Account for payments of Party A: | [] |
| Account for payments of Party B: | [] |
| Trading Account of Party A: | [] |
| Trading Account of Party B: | [] |

| | |
|---|---|
| [Agency:] | [The Transaction is an Agency Transaction. [Name of Agent] is acting as agent for [name or identifier of Principal]] |

[**Additional provisions:**]

Please confirm that the foregoing correctly sets forth the terms of our agreement by countersigning this Confirmation and returning it to [ ] or by sending us a confirmation substantially similar to this Confirmation, which confirmation sets forth the material terms of the Transaction to which this Confirmation relates and indicates agreement to those terms.

Yours sincerely,

| | |
|---|---|
| [Signature] | [Signature of counterparty] |

[35] Specify only if the Cash Settlement Option pertains to one of the Parties.
[36] If no Partial Cash Settlement is specified, a Cash Settlement Option may be exercised only in whole.
[37] Please see Section 3 of the Emissions Allowance Supplement, definition of "Suspension Event".