

*in cooperation with*

**EFET**

**European Federation of Energy Traders**

E-mail: secretariat@efet.org
Webpage: www.efet.org

**Individual Power Purchase Agreement**

**for Corporates and Utilities**

**WAIVER: THE FOLLOWING INDIVIDUAL POWER PURCHASE AGREEMENT FOR UTILITIES AND CORPORATES WAS PREPARED BY MEMBERS OF EFET AND THE RE-SOURCE PLATFORM EXERCISING ALL REASONABLE CARE. HOWEVER, EFET, THE EFET MEMBERS, RE-SOURCE PLATFORM, MEMBERS OF SOLAR POWER EUROPE, WINDEUROPE, RE100, WBCSD, REPRESENTATIVES AND COUNSEL INVOLVED IN ITS PREPARATION AND APPROVAL SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ITS USE AND ANY DAMAGES OR LOSSES RESULTING OUT OF ITS USE IN ANY INDIVIDUAL CASE AND IN WHATEVER JURISDICTION. IT IS THEREFORE THE RESPONSIBILITY OF EACH PARTY WISHING TO USE THIS AGREEMENT TO ENSURE THAT ITS TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND BEST SERVE TO PROTECT THE USER'S LEGAL INTEREST. USERS OF THIS AGREEMENT ARE URGED TO CONSULT RELEVANT LEGAL OPINIONS MADE AVAILABLE THROUGH EFET AS WELL AS THEIR OWN COUNSEL.[[1]](#footnote-1)**

**NOTE: USERS USING THIS INDIVIDUAL POWER PURCHASE AGREEMENT AFTER 4 NOVEMBER 2021 ARE STRONGLY RECOMMENDED TO INCLUDE THE CLAUSE UPDATING THE IBOR INTEREST RATE DEFINITIONS PUBLISHED BY EFET ON ITS WEBSITE ON 4 NOVEMBER 2021.**

**EFET**

**European Federation of Energy Traders**

**PART I (Individual Terms) of the
Individual Power Purchase Agreement**

**between:**

having its registered office at

*[renewable source electricity generator]* (**"Seller"**); and

having its registered office at

*[corporate buyer or utility]* (**"Buyer"**)

(referred to jointly as the **"Parties"** and individually as a **"Party"**)

on the date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (**"Signature Date"**), where the commercial terms of this individual power purchase agreement are set forth below in this Part I (*Individual Terms*), and the general provisions of which are set forth below in Part II (*General Provisions*), and which incorporate by reference herein, and form a part hereof.

**SECTION A: COMMERCIAL PROVISIONS**

**1. SETTLEMENT AND TOTAL SUPPLY PERIOD**

**1.1** The basis on which this Agreement shall be settled shall be:

[ ] Physical settlement of electricity (**"Physical Settlement"**); or
[ ] Financial settlement of electricity (**"Financial Settlement"**)

**1.2** The Total Supply Period shall be:

[ ] The period commencing at 00:00 CET on the first day immediately following the Commercial Operation Date and expiring on the termination or expiry of this Agreement in accordance with its terms; or

[ ] The period commencing on the later of (i) 00:00 CET on the first day immediately following the Commercial Operation Date, and (ii) 00:00 CET on *[specify date]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and expiring on the termination or expiry of this Agreement in accordance with its terms

**2. ELECTRICITY**

**2.1** **Contract Quantity:** The **"Contract Quantity"** of electricity shall be: *[specify one option]*

**2.1(a)** [ ] All Metered Output of the Facility for the Total Supply Period
(**"All Metered Output"**);

**2.1(b)** [ ] An agreed part of the Metered Output of the Facility for the Total Supply Period, as follows: *[specify]*(**"Agreed Part of Metered Output"**); or

**2.1(c)** [ ] A fixed quantity or quantities in accordance with the following delivery schedule (**"Delivery Schedule Quantity"**):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Period No.*** | ***Period Duration*** | Time fromCET | Time toCET | Contract Quantity of electricityMWh |
|  | First Date | Last Date |
| Period 1 |  |  |  |  |  |
| Period 2 |  |  |  |  |  |
| Period 3 |  |  |  |  |  |
| … |  |  |  |  |  |
| Period *n* |  |  |  |  |  |

*[Where the sum of all individual periods shall constitute the Total Supply Period]*

**2.2 Pricing:** The **"Electricity Contract Price"** shall be:

In the case of Physical Settlement: *[specify one option]*

 **2.2(a)** [ ] Fixed price for all periods: *[specify]* EURO/MWh;

 **2.2(b)** [ ] The price applicable for the Delivery Schedule Quantity during the relevant period:

|  |  |
| --- | --- |
| ***Period No.*** | PriceEURO/MWh |
| Period 1 |  |
| Period 2 |  |
| Period 3 |  |
| … |  |
| Period *n* |  |

*[Where the sum of all individual periods shall constitute the
Total Supply Period]*

 **2.2(c)** [ ] As follows: *[specify alternative pricing mechanism]*

In the case of Financial Settlement:

 **2.2(d)** A fixed price of: *[specify]* EURO/MWh; and

**2.2(e)** The **"Electricity Reference Price - Financial"** shall be: *[specify one option]*

[ ] The average Market Price for a Calculation Period, being the (unweighted) sum of all hourly prices published by the Electricity Reference Price Source in a Calculation Period divided by the total number of all hours in that applicable Calculation Period for which a price is published by the Electricity Reference Price Source; or

[ ] As follows: *[specify alternative reference price definition]*

 ; and

The **"Electricity Reference Price Source"**: *[specify exchange or index]*
 ; and

 The **"Calculation Period"**: *[specify]*

**3. CERTIFICATES**

In the case of Physical Settlement and Financial Settlement:

**3.1 Certificates:** A **"Certificate"** shall be: *[specify one option]*

 **3.1(a)** [ ] A \_\_\_\_\_\_\_\_\_\_\_\_\_ *[specify National Scheme certificate name]* issued by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[specify national Issuing Authority]* to evidence the production of renewable source electricity issued in accordance with the Issuance and Registry Rules, as specified in this Part I (*Individual Terms*) below (a **"National Scheme Certificate"**, where 1 National Scheme Certificate
= *[specify, e.g. 1 MWh or kWh]*); or

 **3.1(b)** A certificate under this Agreement which is either:

 **3.1(b)(i)** [ ] A certificate issued as an EECS GO under the Electricity Scheme of the EECS Rules in the Domain of Production; or

**3.1(b)(ii)** [ ] A certificate issued as an EECS-Disclosure Certificate under the Electricity Scheme of the EECS Rules in the Domain of Production which is a valid certificate pursuant to the EECS Rules,

an **"EECS Certificate"**, where 1 EECS Certificate = 1 MWh

**3.2 Pricing:** The **"Certificate Contract Price"** shall be: *[specify one option]*

 **3.2(a)** [ ] As follows: *[specify]* ; or

 **3.2(b)** [ ] Zero (0), whereby the price is included in the Electricity Contract Price

**3.3 Certificate regime and Delivery:**

**3.3(a)** If a Certificate is a National Scheme Certificate:

**Issuing Authority:** *[specify]*

**Registry:** *[specify name and website of National Scheme Certificate Registry established and maintained by the relevant authority]*

**Issuance and Registry Rules:** *[specify, which may include legislation or rules enacted by the Competent Authority]*

**Delivery type:** *[specify]*

**Additional requirements** *[specify]* **(if any):**

**3.3(b)** If a Certificate is an EECS Certificate:

**Domain of Production:** Domain: *[specify]*

Authorised *[specify]*
Issuing Body:

**Domain of Delivery:** Domain / Applicable *[specify]*
EECS Registration
Database for Buyer:

 Authorised *[specify]*
Issuing Body:

 Buyer's *[specify]*
Account number:

**Transfer by Cancellation** [ ] Transfer by Cancellation Statement shall apply;

**Statement:** ***otherwise*** Transfer by Cancellation Statement shall not apply and Electronic Transfer shall apply

**Applicable EECS** *[specify applicable Domain]* **Registration Database
for issuance of
Cancellation Statement:**

**EECS Rules:** EECS Rules, in the version applicable from time to time, shall apply

**Additional requirements** *[specify]* **(if any):**

**4. GENERAL PROVISIONS & FACILITY**

**"Delivery Period" of electricity:** [ ] every calendar month; or
[ ] \_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[specify]*

**"Delivery Period" of Certificates:** *[specify, subject to Issuance and Registry Rules]*

**"Facility":** *[specify]*

**Facility generation type:** *[specify]*

**"Capacity":** *[specify]*

**"Capacity Tolerance":** *[specify as a percentage the tolerance of the Capacity within which the Facility is deemed fully Commissioned]*

**Physical address of Site:** *[specify]*

**"Delivery Point":** *[specify]*

**Location of Metering Device:** *[specify]*

**"Network Operator":** *[specify]*

**"Transmission System Operator":** *[specify where the Network Operator is not a transmission system operator]*

**"Metering Entity":** *[specify]*

**"Relevant Codes and Rules":** *[specify use of system agreements, grid codes and ancillary documentation to be entered into]*

If "*Provisions of this Agreement on Balancing Services*" are specified to apply in Section B of Part I (*Individual Terms*):

**"Balancing Responsible Party":**

Where the Delivery Point is within the Facility or at the connection point between the Facility and the Network: *[specify one option]*

 [ ] the Buyer; or
[ ] a third party nominated by the Buyer, such party being:
 ,

 shall be Balancing Responsible Party from the Delivery Point; or

Where the Delivery Point is on the Network or within Buyer's property:
*[specify one option]*

[ ] the Buyer, acting on behalf of the Seller; or
[ ] a third party nominated by the Seller, such party being:
 ,

shall be Balancing Responsible Party up to the Delivery Point, and
*[specify one option]*

 [ ] the Buyer; or
[ ] a third party nominated by the Buyer, such party being:
 ,

shall be Balancing Responsible Party from the Delivery Point

**"Balancing Costs":** *[specify]*

**SECTION B: ELECTIONS FOR THE PURPOSES OF PART II (GENERAL PROVISIONS)**

**§ 1**

**Subject of Agreement**

**§ 1.2 Balancing Services:**

[ ] Provisions of this Agreement on Balancing Services shall apply; or

***otherwise*** Provisions of this Agreement on Balancing Services shall not apply

**§ 2**

Definitions and Construction

**§ 2.4 References to Time:**

[ ] All reference to time shall be to: *[insert time zone]*  ;

***otherwise*** § 2.4 shall apply

**§ 3**

**Conditions Precedent**

**§ 3.1 Seller's Conditions Precedent:**

[ ] § 3.1(a)(i) shall not apply to Seller;
***otherwise*** § 3.1(a)(i) shall apply

[ ] § 3.1(a)(ii) shall not apply to the Seller;
***otherwise*** § 3.1(a)(ii) shall apply

[ ] § 3.1(a)(iii) shall not apply to the Seller;
***otherwise*** § 3.1(a)(iii) shall apply

[ ] § 3.1(a)(iv) shall not apply to the Seller;
***otherwise*** § 3.1(a)(iv) shall apply

[ ] § 3.1(a)(v) shall not apply to the Seller;
***otherwise*** § 3.1(a)(v) shall apply

[ ] The following additional conditions precedent shall apply to the Seller:

**§ 3.2 Buyer's Conditions Precedent:**

[ ] § 3.2(a)(i) shall not apply to the Buyer;
***otherwise*** § 3.2(a)(i) shall apply

[ ] § 3.2(a)(ii) shall not apply to the Buyer;
***otherwise*** § 3.2(a)(ii) shall apply

[ ] The following additional conditions precedent shall apply to the Buyer:

**§ 3.4 Termination Where Conditions Precedent Not Completed:**

[ ] § 3.4 shall apply, and the Conditions Precedent Longstop Date is:

 ;
***otherwise*** § 3.4 shall not apply

[ ] § 3.4(b)(ii) shall apply, and the Conditions Precedent Termination Amount to be paid to the Seller is: ;
***otherwise*** § 3.4(b)(i) shall apply

[ ] § 3.4(c)(ii) shall apply, and the Conditions Precedent Termination Amount to be paid to the Buyer is:
 ;
***otherwise*** § 3.4(c)(i) shall apply

**§ 4**

**Construction and Commissioning of Facility**

**§ 4.1 Application:**

[ ] § 4 shall apply;
***otherwise*** § 4 shall not apply

**§ 4.2 Construction and Commissioning:**

The **"Scheduled Commissioning Date"** is:

**§ 4.4 Late Commissioning Date:**

[ ] § 4.4 shall apply;
***otherwise*** § 4.4 shall not apply

The **"Late Commissioning Date"** is:

The **"Daily Liquidated Damages Amount"** is:

**§ 4.5 Reduction of Capacity Where Commissioning Not Completed:**

The **"Commissioning Longstop Date"** is:

[ ] § 4.5 shall apply; or
***otherwise*** § 4.5 shall not apply

**§ 4.6 Termination Where Commissioning Not Completed:**

[ ] § 4.6(b) shall apply; or
***otherwise*** § 4.6(a) shall apply

**§ 7**

Obligations Concerning the Facility

**§ 7.1 Operation and Maintenance:**

[ ] § 7.1 shall not apply;
***otherwise*** § 7.1 shall apply

**§ 7.2 Technical Modifications:**

[ ] § 7.2 shall not apply;
***otherwise*** § 7.2 shall apply

**§ 9**

Delivery, Measurement, Transmission, Risk and No Encumbrances of Electricity

**§ 9.4 No Encumbrances:**

[ ] § 9.4 shall apply;
***otherwise*** § 9.4 shall not apply

**§ 12**

**Remedies for Failure to Deliver and Accept Electricity**

**§ 12.3 Right to Refuse Certificates:**

[ ] § 12.3 shall apply;
***otherwise*** § 12.3 shall not apply

**§ 13**

**Remedies for Failure to Deliver and Accept Certificates**

**§ 13.2 Replacement Certificates:**

[ ] § 13.2 shall apply;
***otherwise*** § 13.2 shall not apply

**§ 13.3 Right to Refuse Electricity:**

[ ] § 13.3 shall apply;
***otherwise*** § 13.3 shall not apply

**§ 14**

Special Provisions Applicable to the Financial Settlement

**§ 14.3 Price Differential:**

The Price Differential shall be calculated by:
[ ] the Seller; or
[ ] the Buyer

**§ 14.4 Deemed Delivery Volume:**

The **"Deemed Delivery Volume"** is:
*[specify either figure or formula]*

**§ 15**

**Non-Performance Due to Force Majeure**

**§ 15.1 Definition of Force Majeure:**

[ ] The definition of **"Force Majeure"** shall not apply as written in
§ 15.1 but shall instead be as follows:

 ;
***otherwise*** the definition of **"Force Majeure"** shall apply as written in § 15.1

**§ 15.3 Right to Refuse Electricity:**

[ ] § 15.3 shall not apply;
***otherwise*** § 15.3 shall apply

**§ 15.4 Right to Refuse Certificates:**

[ ] § 15.4 shall not apply;
***otherwise*** § 15.4 shall apply

**§ 16**

**Change in Law**

**§ 16.2 Change in Law and Price Adjustments:**

[ ] § 16.2 shall apply;

***otherwise*** § 16.2 shall not apply

**§ 18**

**Term and Termination Rights**

**§ 18.2 Expiration Date:**

 The Expiration Date is: *[insert date and time]*

**§ 18.3(b) Termination for Material Reason:**

[ ] Termination Amount shall not be payable as a result of an event of Force Majeure which occurs in accordance with § 18.5(d) (*Long Term Force Majeure*);

***otherwise*** Termination Amount shall be payable as a result of an event of Force Majeure which occurs in accordance with § 18.5(d) (*Long Term Force Majeure*)

**§ 18.4** **Automatic Termination:**

[ ] § 18.4 shall apply to Seller, with the Early Termination Event being:
*[specify date and time]*  ;

***otherwise*** § 18.4 shall not apply to Seller

[ ] § 18.4 shall apply to Buyer, with the Early Termination Event being:
*[specify date and time]*  ;

***otherwise*** § 18.4 shall not apply to Buyer

**§ 18.5(b)(iv) Winding-up/lnsolvency/Attachment:**

[ ] § 18.5(b)(iv) shall apply and the applicable time period is within
 days;***otherwise*** § 18.5(b)(iv) shall not apply

**§ 18.5(c) Failure to Deliver or Accept:**

[ ] § 18.5(c) shall apply to electricity;

***otherwise*** § 18.5(c) shall not apply to electricity

[ ] § 18.5(c) shall apply to Certificates;

***otherwise*** § 18.5(c) shall not apply to Certificates

**§ 18.5(f) Other Material Reasons:**

 [ ] The following additional Material Reason(s) shall apply to the Seller:

 ;

***otherwise*** the Material Reasons for Seller shall be limited to those stated in
§ 18.5

[ ] The following additional Material Reason(s) shall apply to the Buyer:

 ;

***otherwise*** the Material Reasons for Buyer shall be limited to those stated in
§ 18.5

**§ 19**

**Calculation of the Termination Amount**

**§ 19.1 Termination Amount:**

Where the Buyer is the Terminating Party, the following shall apply to the Buyer: *[specify one option]*
[ ] § 19.2 (*Mark-to-Market Termination Amount*); or
[ ] § 19.4 (*Alternative Termination Amount*) as follows:

Where the Seller is the Terminating Party, the following shall apply to the Seller: *[specify one option]*
[ ] § 19.2 (*Mark-to-Market Termination Amount*);
[ ] § 19.3 (*Outstanding Debt Termination Amount*); or
[ ] § 19.4 (*Alternative Termination Amount*) as follows:

**§ 19.5(c) Termination Amount Payment:**

The Termination Amount shall be due and payable Business Days after the Termination Date

**§ 20**

**Insurance**

**§ 20.1 Maintenance of Insurance:**

 [ ] § 20.1 shall apply as written in Part II (*General Provisions*) and the Seller's insurance cover shall be: ;

***otherwise*** § 20.1 shall not apply as written in Part II (*General Provisions*), but shall instead be as follows:

**§ 21**

**Limitation of Liability**

**§ 21.1 Application:**

 [ ] § 21 shall not apply as written in Part II (*General Provisions*), but shall instead be as follows: ;
***otherwise*** § 21 shall apply as written in Part II (*General Provisions*)

**§ 21.3(b) Consequential Damages and Limitation of Liability:**

 The limitation amount shall be: *[insert numeric value or reference]*

**§ 21.4 Intentional Default, Fraud and Fundamental Rights:**

 [ ] § 21.4 shall not apply as written in Part II (*General Provisions*), but shall instead be as follows: ;
***otherwise*** § 21.4 shall apply as written in Part II (*General Provisions*)

**§ 22**

**Invoicing and Payment**

**§ 22.2 Payment:**

 Initial billing and payment information for each Party is set out in
§ 32 (*Miscellaneous*) of this Part I (*Individual Terms*)

**§ 22.3 Payment Netting:**

 [ ] § 22.3 shall apply;

***otherwise*** § 22.3 shall not apply

**§ 22.4** **Default** **Interest:**

 The Interest Rate shall be *[specify index, e.g. one month* *EURIBOR]* interest rate for 11:00 CET on the
Due Date, plus \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ percent ( \_\_\_ %) per annum

**§ 22.5 Disputed Amounts:**

 [ ] § 22.5(a) shall apply; or

[ ] § 22.5(b) shall apply

**§ 23**

**VAT and Taxes**

**§ 23.3 Withholding Tax:**

 [ ] § 23.3 shall apply;

***otherwise*** § 23.3 shall not apply

The Receiving Party shall provide the following documents:

[ ] The Receiving Party makes no Tax representations; or
[ ] The Receiving Party makes the following Tax representations:

**§ 24**

Fallback Prices and Fallback Procedure for Market Disruption

**§ 24.3 Replacement Index:**

[ ] § 24.3 shall not apply as written in Part II (*General Provisions*), but shall instead be as follows:

 ;
***otherwise*** § 24.3 shall apply as written in Part II (*General Provisions*)

**§ 25**

**Guarantees and Credit Support**

**§ 25.1 Application:**

[ ] § 25 shall apply;
***otherwise*** § 25 shall not apply

**§ 25.2 Provision and Maintenance of Credit Support:**

The Seller shall provide the Buyer with the following Credit Support Document(s):
 ,

which shall be in the minimum amount of:

 ; and

The Credit Support Provider(s) of Seller shall be:

The Buyer shall provide the Seller with the following Credit Support Document(s):
 ,

which shall be in the minimum amount of:

 ; and

The Credit Support Provider(s) of Buyer shall be:

**§ 25.3 Replacement of Credit Support:**

 The minimum rating of the Credit Support Provider shall be:

**§ 26**

**Performance Assurance**

**§ 26.1 Application:**

 [ ] § 26 shall not apply;

***otherwise*** § 26 shall apply

**§ 26.3 Material Adverse Change:**

 The following categories of Material Adverse Change shall apply to Seller:

[ ] § 26.3(a) (*Credit Rating*), and the minimum rating shall be: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, whereby:

[ ] § 26.3(a)(iii) shall apply;
***otherwise***§ 26.3(a)(iii) shall not apply

[ ] § 26.3(b) (*Credit Rating of Credit Support Provider that is a Bank*) and the minimum rating shall be:

[ ] § 26.3(c) (*Financial Covenants*), and the EBIT to Interest ratio shall be: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Funds From Operations to Total Debt ratio shall be: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and the Total Debt to Total Capitalisation ratio shall be:
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] § 26.3(d) (*Decline in Tangible Net Worth*), and the relevant figure is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] § 26.3(e) (*Expiry of Performance Assurance or Credit Support*), and

[ ] the relevant time period shall be ;
***otherwise*** no time period shall apply

[ ] § 26.3(f) (*Failure of Performance Assurance or Credit Support*)
[ ] § 26.3(g) (*Failure of Control and Profit Transfer Agreement*)
[ ] § 26.3(h) (*Impaired Ability to Perform*)
[ ] § 26.3(i) (*Amalgamation/Merger*)

The following categories of Material Adverse Change shall apply to Buyer:

[ ] § 26.3(a) (*Credit Rating*), and the minimum rating shall be: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, whereby

[ ] § 26.3(a)(iii) shall apply;
***otherwise***§ 26.3(a)(iii) shall not apply

[ ] § 26.3(b) (*Credit Rating of Credit Support Provider that is a Bank*)

[ ] § 26.3(c) (*Financial Covenants*), and the EBIT to Interest ratio shall be: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Funds From Operations to Total Debt ratio shall be: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and the Total Debt to Total Capitalisation ratio shall be:
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

[ ] § 26.3(d) (*Decline in Tangible Net Worth*), and the relevant figure is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

[ ] § 26.3(e) (*Expiry of Performance Assurance or Credit Support*); and

[ ] the relevant time period shall be ;
***otherwise*** no time period shall apply

[ ] § 26.3(f) (*Failure of Performance Assurance or Credit Support*)
[ ] § 26.3(g) (*Failure of Control and Profit Transfer Agreement*)
[ ] § 26.3(h) (*Impaired Ability to Perform*)
[ ] § 26.3(i) (*Amalgamation/Merger*)

**§ 27**

**Provision of Financial Statements and Tangible Net Worth**

**§ 27.1(a) Provision of Financial Statements:**

 [ ] Seller need not deliver annual reports;

***otherwise*** Seller shall deliver annual reports

[ ] Buyer need not deliver annual reports;

***otherwise*** Buyer shall deliver annual reports

**§ 27.1(b) Provision of Financial Statements:**

 [ ] Seller need not deliver quarterly reports;

 ***otherwise*** Seller shall deliver quarterly reports

 [ ] Buyer need not deliver quarterly reports;

 ***otherwise*** Buyer shall deliver quarterly reports

**§ 27.2 Decline in Tangible Net Worth:**

 [ ] Seller shall have a duty to notify as provided in § 27.2, and the applicable figure for it shall be ;

 ***otherwise*** Seller shall have no duty to notify as provided in § 27.2

 [ ] Buyer shall have a duty to notify as provided in § 27.2, and the applicable figure for it shall be ;

 ***otherwise*** Buyer shall have no duty to notify as provided in § 27.2

**§ 28**

**Assignment**

**§ 28.2 Assignment to Affiliates:**

 [ ] § 28.2 shall apply to the Seller;

***otherwise*** § 28.2 shall not apply to the Seller

[ ] § 28.2 shall apply to the Buyer;

***otherwise*** § 28.2 shall not apply to the Buyer

**§ 29**

**Confidentiality**

**§ 29.1 Confidentiality Obligation:**

[ ] § 29 shall not apply;

***otherwise*** § 29 shall apply

**§ 30**

**Representations and Warranties**

**§ 30.1 General Representations and Warranties:** The following general representations and warranties are made:

 by Seller: by Buyer:

 § 30.1(a) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(b) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(c) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(d) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(e) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(f) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(g) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(h) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(i) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(j) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(k) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.1(l) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

**§ 30.2 Specific Representations and Warranties:** The following specific representations and warranties are made:

 by Seller: by Buyer:

 § 30.2(a) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.2(b) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.2(c) [ ] no, ***otherwise*** yes [ ] no, ***otherwise*** yes

 § 30.2(d) [ ] In addition, the Seller represents and warrants the following:

 [ ] In addition, the Buyer represents and warrants the following:

**§ 31**

**Governing Law and Dispute Resolution**

**§ 31.1 Governing Law:** *[delete as appropriate, or otherwise specify]*

**§ 31.1(a) English Law:** This Agreement shall be construed and governed by English law, excluding any application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980; or

**§ 31.1(b) German Law:** This Agreement shall be construed and governed by the substantive law of the Federal Republic of Germany, excluding any application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980; or

**§ 31.1(c) Other:** *[specify]*

**§ 31.2 Dispute Resolution:** *[delete as appropriate, or otherwise specify]*

**§ 31.2(a) English Law:** *[specify one option]*

 [ ] Courts

 Any disputes (whether such disputes are contractual or non-contractual in nature such as claims in tort, for breach of statute or regulation or otherwise) which arise under or in respect of this Agreement, including any question regarding its existence, validity or termination, shall be subject to the exclusive jurisdiction of the English Courts; or

[ ] Arbitration

Any dispute arising under out of or in connection with this Agreement including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this §32.2(a). The number of arbitrators shall be three (3), each Party having the right to nominate one arbitrator. The place of arbitration shall be London, England where all hearings and meetings shall be held, unless the Parties agree otherwise. The language to be used in the arbitral proceedings shall be English and the Parties hereby expressly waive any right of appeal to any court having jurisdiction on any question of fact or law. It is agreed that the arbitrators shall have no authority to award exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under the relevant applicable law, the Parties hereby waiving their right, if any, to recover such damages; or

**§ 31.2(b) German Law:** *[specify one option]*

 [ ] Courts

 Any disputes arising under, out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be submitted to the exclusive jurisdiction of the German courts; or

[ ] Arbitration

Any dispute arising under, out of or in connection with this Agreement, shall be referred for resolution to the German Institution of Arbitration (*Deutsche Institution für Schiedsgerichtsbarkeit (DIS) e.V.*) with seat in Bonn, Germany, and decided according to its rules, ousting the jurisdiction of the ordinary courts. The number of arbitrators shall be three (3). The arbitration shall be conducted in *[specify location]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and in *[specify language]*  ; or

**§ 31.2(c) Other:** *[specify]*

**§ 32**

**Miscellaneous**

**§ 32.2 Notices and Communications:**

1. **TO SELLER:**

**Notices & Correspondence**

Address:

Telephone No:

Fax No:

Attention: *[Job Title]*

**Invoices**

Fax No:

Attention: *[Job Title]*

Payments

Bank account details

1. **TO BUYER:**

**Notices & Correspondence**

Address:

Telephone No:

Fax No:

Attention: *[Job Title]*

**Invoices**

Fax No:

Attention: *[Job Title]*

Payments

Bank account details

**SECTION C: AMENDMENTS TO PART II (GENERAL PROVISIONS)**

*[This section may be used to include additional provisions and local requirements such as on balancing, licencing requirements, or Delivery requirements for Certificates, as well as recitals to set out the economic balance between the Parties, in particular in relation to a Change in Law in accordance with § 16 (Change in Law)]*

Executed by the duly authorised representative of each Party effective as of the Signature Date.

***[SELLER]******[BUYER]***

*[Name of Signatory/ies] [Name of Signatory/ies]*

*[Title of Signatory/ies] [Title of Signatory/ies]*

1. The content of this Agreement is not necessarily approved by all members of the RE-Source Platform, Solar Power Europe, WindEurope, RE100 AND WBCSD. [↑](#footnote-ref-1)