

CLEARING AND SETTLEMENT AGREEMENT

Environmental Products

EMISSIONS CERTIFICATES

Cash Settlement Variant:

Transfer prior to start of auction

NONCOMMITTAL TRANSLATION
ONLY THE GERMAN VERSION HAS LEGAL FORCE

Trading Participant's Data:

Company	
Company name according to the Companies Register and/or Commercial Register	
Registration number in Companies Register and/or number of entry in Commercial Register	
Valued added tax identification number (VAT No.)	
Name of duly authorized representative (s):	

Registered office of company	
Street and number	
Postal code/city:	
Country	

Billing address (if different from company address)	
Street and number	
Postal code/city:	
Country	

Contact data (of an authorized trader as in the "Application for admission to trading as an exchange trader")	
Name	
Phone:	
Fax:	
e-mail:	

Clearing data	
e-mail (Recipient for trade confirmations)	
Name of person responsible for clearing (Access to financial applications)	
e-mail of person responsible for clearing (Recipient for bills and credits)	
Name of bank maintaining the account	
Account number:	
Routing code:	
IBAN:	
BIC	
Holding account no. or person holding account – Number in the Emissions Certificates Register	

The trading participant hereby enters into the following Agreement with EXAA Abwicklungsstelle für Energieprodukte AG, Alserbachstraße 14-16, 1090 Vienna for the (financial) clearing and settlement of exchange transactions in environmental products traded on the Vienna Stock Exchange in its function as a general commodity exchange – Clearing and Settlement Agreement Environmental Products:

PREAMBLE

The Settlement Participant is an exchange member of the Vienna Stock Exchange in its function as a general commodity exchange and participates in the trading in environmental products and/or in the clearing and settlement of exchange transactions concluded in these products.

The Vienna Stock Exchange has commissioned EXAA Abwicklungsstelle mit Energieprodukten AG (hereinafter “EXAA” or “Settlement Agency”) with the task of operating and making available the automated trading and settlement system (hereinafter: Trading System) for trading in environmental products and for the clearing and settlement of exchange transactions concluded in trading in environmental products on the Vienna Stock Exchange in its function as a general commodity exchange and has furthermore charged it to act as settlement agent pursuant to Art. 26 par. 3 Stock Exchange Act for the settlement of exchange transactions concluded in trading in environmental products on the Vienna Stock Exchange as a general commodity exchange. Furthermore, exchange transactions concluded through the Trading System in the meaning of § 1 of the Trading Rules Environmental Products shall be concluded exclusively between EXAA and one exchange member in each case that takes part in settlement (see also § 1 par. 3 of the Clearing Rules Environmental Products).

The requirements for obtaining membership status and participating in the settlement of exchange transactions concluded in trading in environmental products on the Vienna Stock Exchange in its function as a general commodity exchange are set out in Articles 14 et seq Stock Exchange Act 1989 Federal Law Gazette No. 555/1989, as amended, as well as in the “General Terms and Conditions of Business of the Exchange Operating Company, Wiener Börse AG, as a Securities and Commodity Exchange” as well as in the “Rules for the Participation in Trading in Environmental Products and in the Settlement of Exchange Transactions concluded in Trading in Environmental Products on the Vienna Stock Exchange as a General Commodity Exchange – Participation Rules Environmental Products”, in the “Rules for the Trading of Environmental Products on the Vienna Stock Exchange as a General Commodity Exchange – Trading Rules Environmental Products” and in the “Rules for the Settlement of Exchange Transactions concluded in Trading in Environmental Products on the Vienna Stock Exchange in its Function as a General Commodity Exchange – Settlement Rules Environmental Products”, each of which are part of the

General Terms and Conditions of Business of the exchange operating company, Wiener Börse AG pursuant to Art. 13 Stock Exchange Act.

§ 1 Object of the Agreement

(1) The rights and obligations of EXAA and of the Settlement Participant are defined in this Clearing and Settlement Agreement and set out in the Settlement Rules Environmental Products, which are attached to this Agreement and are deemed as agreed between the contractual partners in their currently valid version.

(2) EXAA is a contractual partner of the exchange member with respect to the exchange transactions concluded through the Trading System – directly, or indirectly through a broker – in the name of and for the account of said exchange member in the meaning of Art. 1 of the Trading Rules for Environmental Products and assumes as a party charged with tasks by the exchange operating company, the financial clearing, settlement and risk management for exchange transactions concluded in trading in Environmental Products on the Vienna Stock Exchange as a general commodity exchange unless specific tasks have been assigned to third parties by EXAA. The Settlement Participant undertakes to fulfil the obligations arising from the Settlement Rules Environmental Products, especially those regarding the fulfilment of exchange transactions, the financial obligations arising from membership status under the Schedule of Fees, the timely deposit of sufficient collateral, the opening of the required bank accounts and emissions certificates; moreover the Settlement Participant agrees to apply all rules of caution defined in the Settlement Rules and to observe the procedures for raising objections. Furthermore, the Settlement Participant also agrees to present the Declaration on the Release from the Bond of Secrecy mentioned in the Settlement Rules.

(3) This contract is to be interpreted in accordance with the Stock Exchange Act, the Preamble, the Participation Rules Environmental Products, the General Terms and Conditions of Business of the Exchange Operating Company and the Membership Agreement. If a reference is made to other provisions in the Settlement Rules Environmental Products, these shall be deemed as agreed by the contractual parties.

§ 2 Commissioning of Third Parties

(1) The Settlement Agent has charged OeKB with the task of financial clearing and settlement, and the Settlement Participant hereby declares its consent to this arrangement.

(2) The Settlement Agent has the right within the scope of Art. 1 par. 4 of the Settlement Rules Environmental Products to commission further parties to act on its

instructions and the Settlement Participant hereby declares its consent to this arrangement.

§ 3 Use of the Data

(1) The Settlement Participant hereby agrees to the use of the data, especially the transmission of membership, surveillance, and settlement data as well as data related to the termination of settlement by EXAA, the exchange operating company and OeKB to each of the other two legal entities mentioned for the purpose of fulfilling Articles 2 par. 2, 3 par. 2, 3 par. 3 and 3 par. 10 of the Settlement Rules Environmental Products.

(2) The Settlement Participant hereby explicitly agrees to the use of data that relate to the start of any default it may fall into pursuant to §§ 17 - 19 Settlement Rules Environmental Products.

(3) The Settlement Participant undertakes to sign the OeKB's Declaration of Release from the Bond of Banking Secrecy and Data Secrecy contained in Annex ./2 for the purpose of reporting suspicious facts pointing to a breach of the Clearing and Settlement Agreement so as to allow OeKB to report to EXAA and the exchange operating company any suspicious facts.

§ 4 Bank Accounts and Emission Certificates Accounts

(1) By entering into this Agreement, the Settlement Participant opts for financial settlement via funds transfers to the cash account maintained at EXAA as follows:

Account number: 31103727006

Routing code: 10.000

Bank: OeKB - Oesterreichische Kontrollbank AG

IBAN: AT551000031103727006

EXAA maintains the following account as an account for emissions certificates registered in the Austrian Emissions Register:

Account number: AT-121-121-0

EXAA has the right to change the account data for the bank account and the emissions certificates account at any time provided EXAA informs all Settlement Participants of the new account data within seven exchange trading days in writing in advance.

(2) The Settlement Participant shall indicate the bank account given above as the sole account through which the exchange member may execute settlement pursuant to § 10b (2) of the Settlement Rules Environmental Products. The exchange member has

the right to change the account data from which the transfers are made to EXAA's bank account provided the new account data are notified to EXAA seven exchange trading days in advance in writing. The same shall apply accordingly to the emissions account of the participant.

(3) Fund transfer fees and bank charges as well as the risks of the bank procedures for funds transfers shall be borne by the Settlement Participant. As the cash account of EXAA is a purely settlement account, no interest is paid on any deposits that may be credited to the exchange member.

§ 5 Term of the Agreement

(1) The Clearing and Settlement Agreement may be terminated as of the next exchange trading day by the Settlement Participant at any time without stating reasons upon written notice. This termination notice shall be considered an application to withdraw from membership status pursuant to Art. 7 par. 3 of the Participation Rules Environmental Products.

(2) EXAA shall have the right to terminate the Clearing and Settlement Agreement with immediate effect if it becomes known after execution that the requirements for a Clearing and Settlement Agreement were not met at the time it was signed or if such requirements cease to be met at a later date. EXAA shall also have the right to immediately terminate the Agreement if the Settlement Participant repeatedly commits breaches of the Settlement Rules for Environmental Products or of the Trading Rules for Environmental Products despite being warned, or if insolvency proceedings or other similar proceedings have been opened against the Settlement Participant, or if due to a lack of funds the initiation of such proceedings has been dismissed or if a credit institution has been placed under receivership pursuant to Art. 83 of the Banking Act or limited measures have been instituted pursuant to Art. 70 par. 2 Banking Act or a similar measure has been ordered. Furthermore, EXAA shall have the right to terminate the Clearing and Settlement Agreement with immediate effect if there are reasons to indicate that the concerned Settlement Participant is or might be at risk of failing to fulfil its exchange transactions. The termination with immediate effect by EXAA shall be notified in writing stating the reasons.

(3) Exchange members without valid a Clearing and Settlement Agreement with EXAA may not enter new orders into the trading system in the name of and for the account of the exchange member; their access to the trading system for the purpose of entering orders shall be technically disabled by EXAA. All existing orders shall be deleted by the exchange member or its broker. If the deletion of the orders is not carried out within an adequate period as specified by EXAA in each case, EXAA shall delete such orders on behalf of the exchange operating company.

(4) The termination of the Clearing and Settlement Agreement does not release the Settlement Participant from its rights and obligations under exchange

transactions already concluded in its name and for its account. The termination of the Clearing and Settlement Agreement means that one of the requirements in the meaning of Art. 19 par. 1 and 20 par. 5 Stock Exchange Act as well as Art. 6 and 7 of the Participation Rules Environmental Products ceases to be given.

§ 6 Liability

(1) Liability shall be excluded for EXAA in its role as a party charged by the exchange operating company, for OeKB in its role as a third party charged by EXAA and for further third parties charged by EXAA to carry out specific tasks with respect to damages due to circumstances beyond the control of EXAA or for damages the cause of which is outside the sphere of influence of EXAA or of OeKB or the other third parties charged by EXAA. The liability of EXAA and OeKB as well as of third parties charged by EXAA for the correctness and appropriateness of the measures taken shall not be affected within the scope of the subsequent paragraph 2.

(2) EXAA, OeKB and other parties charged with tasks by EXAA shall not be liable for losses, profits foregone or damages vis-à-vis Settlement Participants unless these losses, profits foregone or damages are due to wilful conduct or gross negligence. Liability for consequential damages shall be excluded in any case.

(3) Unless the Settlement Rules explicitly state otherwise, EXAA, OeKB and other parties charged with tasks by EXAA shall in no case be liable vis-à-vis other third parties who are not Settlement Participants for any possible losses, damages, consequential damages or profits forgone resulting from or in connection with the transactions concluded on EXAA.

(4) EXAA, OeKB and other parties charged with tasks by EXAA shall not be liable for losses caused by a disruption of operations due to force majeure, revolt, war or natural catastrophes or due to events or incidents for which it is not responsible (e.g. strikes, lawful lock-outs, traffic disruptions) or by acts of sovereign states.

(5) The same shall apply to damages suffered by an exchange member due to technical problems or due to the partial or full failure of the EDP system usually used, or as a consequence of errors in entering data within the scope of trading or settlement and the administration of the records of the collateral deposited as security for the Settlement Participant unless these occur due to wilful conduct or gross negligence, on the part of EXAA, OeKB or other parties charged by EXAA. Third parties acting on instructions of EXAA shall put into operation and maintain the EDP system and other technical installations within the scope of their responsibility only after having sufficiently tested said installations.

§ 7 Technical System Access

The Exchange Member hereby confirms that it has Microsoft Explorer Version 5.5. or higher required for the trading system and the financial settlement system and will use it for the systems named above (Participation Rules Art. 2 par. 6 lit. I).

§ 8 Final Terms

- (1) The assignment of rights or obligations under the Clearing and Settlement Agreement by the Settlement Participant shall only be possible with the consent of EXAA.
- (2) This Agreement has been construed under Austrian law with the exception of the provisions under International Private Law.
- (3) All disputes arising from or in connection with the fulfilment of exchange transactions including the issue of whether or not a transaction has been concluded between parties shall be decided by the Court of Arbitration of the Vienna Stock Exchange under exclusion of the regular courts of justice and in agreement with the decree of the Federal Ministry of Finance and of the Federal Ministry for Economic Affairs and Labour as accorded with the Federal Ministry of Justice on the implementation of Art XIII Introductory Law to the Code of Civil Procedure (Rules of Arbitration of the Vienna Stock Exchange) Federal Law Gazette II No. 230/2000 in its function as the statutory compulsory court of arbitration.
- (4) All other disputes shall be decided by the competent commercial courts of Vienna as the only competent courts.
- (5) Should any of the individual provisions of this contract become fully or partially ineffective or unenforceable, the capacity to be enforced of the remaining provisions shall not be affected.
- (6) Null and void provisions shall be replaced by mutual consent by provisions that are best suited to meet the economic purpose intended. The same shall apply to cover any omissions in this contract.
- (7) The Settlement Participant shall bear all charges and taxes arising from the execution of this Agreement. Each of the parties to this Agreement shall bear the costs of their own legal counsel.
- (8) This Agreement shall be signed in two German language counterparts. These shall be legally binding. Copies in languages other than German shall serve only information purposes and shall not be binding.
- (9) Amendments to this Agreement and deviations therefrom shall require the written form:

NONCOMMITTAL TRANSLATION
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.....
Place, date

.....
Corporate signature and seal of Settlement Participant

.....
Place, date

.....
EXAA Abwicklungsstelle für Energieprodukte AG

Annexes:

Annex 1: Settlement and Clearing Rules for Environmental Products

Annex 2: Release from the Bond to Banking Secrecy

Annex ./2:

To
Oesterreichische Kontrollbank AG (OeKB)
EnergemarktService

c/o EXAA Abwicklungsstelle für Energieprodukte AG

Alserbachstraße 14-16
A-1090 Vienna

**Release from the bond to banking secrecy pursuant to Article 38 par. 2 fig. 5
Banking Act and data secrecy pursuant to Article 8 par. 1 fig. 2 Data Protection
Act.**

We refer to the obligation of exchange members contained in Art. 3 par. 3 of the Settlement Rules for the Settlement of Exchange Transactions concluded in Trading in Environmental Products on the Vienna Stock Exchange in its Function as a General Commodity Exchange (Settlement Rules Environmental Products) to effectively release OeKB from its bond to banking secrecy and data secrecy for the purpose of reporting suspicious incidents of breaches of the Clearing and Settlement Agreement.

In our function as exchange member, we hereby explicitly release OeKB from the bond to banking secrecy and data secrecy as of the date of receipt of this writing at OeKB for the duration of our membership status and beyond for any circumstances arising during membership – OeKB being aware of the Settlement Rules Environmental Products and the content of the Sample Clearing and Settlement Agreement – explicitly from the obligation to maintain banking and data secrecy with respect to all suspicious incidents relating to a breach of this Clearing and Settlement Agreement vis-à-vis EXAA and in relation to the exchange operating company insofar as it is necessary for monitoring compliance with the membership obligations under the Clearing and Settlement Agreement.

A copy duly of this document signed by us shall be sent to EXAA and Wiener Börse AG.

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Place, date

(Authorized representative of the exchange member)