

CLEARING AND SETTLEMENT AGREEMENT

EMISSIONS CERTIFICATES

Direct Debit Variant:

Bank Automatic Debit Order with

Bank Guarantee

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 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 – 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, in its Function 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 in its

Function 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", which are each 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 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 to 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 ./4 for the purpose of reporting suspicious facts pointing to a breach of the Settlement Agreement so as to allow OeKB to report to EXAA and the exchange operating company any suspicious facts.

§ Cash Accounts and Securities Accounts, Collateral

- (1) The Settlement Participant has opened an account with a credit institution in Austria (or in the EEA area if it is technically possible to set up a bank account that enable automatic debit orders) that guarantee the settlement of debits and credits within a period of T+3, enables accounts for automatic debit orders and meets the minimum requirements stated in Annex ./3 (in order to establish EXAA's position as the party entitled to debit from said account under a contractual obligation).
- (2) The requirements for the guarantee agreements shall be derived from the sample contracts in the Annexes ./2 and ./4 to this Agreement that define the

minimum contents (in order to establish EXAA's position as the beneficiary of pledged assets under a contractual obligation and under property law).

(3) The Settlement Participant may charge an Austrian bank or a credit institution in the EEA area with the establishment and maintenance of a settlement account pursuant to § 8 par. 1 of the Settlement Rules Environmental Products. The Settlement Agent must be presented with a power of attorney completed by the Settlement Participant for an Austrian bank or a credit institution from the EEA area.

§ 5 Term of the Agreement

(1) The 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 Settlement Agreement with immediate effect if it becomes known after execution that the requirements for a 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 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 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 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 following 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 in any case be excluded.

(3) Unless the Settlement Rules explicitly state otherwise, EXAA, OeKB and other parties charged by EXAA shall in no case be liable vis-à-vis other third parties who are not Settlement Participant 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 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) (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
ONLY THE GERMAN VERSION HAS LEGAL FORCE

.....

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: Letter of Guarantee

Annex 3: Automatic debit order

Annex 4: Release from the Bond to Banking Secrecy

Annex .I/2:

EXAA

Abwicklungsstelle für Energieprodukte AG

Alserbachstraße 14-16

A-1090 Vienna

1.1 Letter of Guarantee

pursuant to the Settlement Rules for the settlement of exchange transactions concluded in trading in environmental products on the Vienna Stock Exchange as a general commodity exchange (Settlement Rules Environmental Products) issued in favour of EXAA.

Ladies and Gentlemen,

our firm hereby agrees to act as guarantor for an unlimited period of time, unconditionally and irrevocably for the collateral deposited as security by

(Company and registered office of exchange member)

within the scope of the obligations of an exchange member pursuant to Art. 18 fig. 4 Stock Exchange Act and § 13 par 1 Item III of the Settlement Rules Environmental Products of Wiener Börse AG, especially to serve as security for the fulfilment of obligations arising from exchange transactions concluded by an exchange member for the amount indicated to us up to a maximum of EUR

EUR

EUR

i)

plus prorated interest and costs upon the first written request of EXAA, waiving the right to raise objections and without examining the underlying legal grounds or contractual relationship, to one of the accounts maintained with EXAA by said firm.

This Letter of Guarantee serves exclusively as security pursuant to the Settlement Rules Environmental Products within the scope of transactions under the Rules for Trading in

Environmental Products on the Vienna Stock Exchange as a general commodity exchange (Trading Rules Environmental Products).

Exclusive jurisdiction is Vienna. This guarantee has been construed under Austrian law and shall be interpreted accordingly.

After termination of the contractual relationship with the exchange member and the complete fulfilment of the obligations under said contractual relationship, you will return this letter of guarantee to us.

Sincerely,

(Place, date)

(Company name and registered office of credit institution)

(Signatures)

Annex ./3:

Please return to:

Oesterreichische Kontrollbank AG (OeKB)
EnergiamarktService

c/o **EXAA Abwicklungsstelle für Energieprodukte AG**
Alserbachstraße 14-16
A-1090 Vienna

Authorization to debit an account for receivables by automatic debit orders

We hereby **revocably** authorize you to automatically debit our account for the payments due. This also authorizes the bank at which our account is maintained to release the funds for the debit orders. We undertake to ensure that our account has sufficient coverage. In the event of insufficient funds, the recipient of the payment (=EXAA) shall be notified. The amounts to be debited from the account shall not be subject to any limitations as regards the amount. In the event of a withdrawal of the authorisation, EXAA shall be notified in writing.

Name and address of payor (= contractual partner of EXAA and account holder):

Name of bank: _____

Place: _____

Routing code: _____

Account no. of party
obliged to pay: _____

Payments for Transactions and fees

Payee:

EXAA
Abwicklungsstelle für Energieprodukte AG
Alserbachstraße 14-16
A-1090 Vienna

.....
Place, date

Signature(s) of the party authorized to draw on the account

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 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 Settlement Agreement – explicitly from the obligation to maintain banking and data secrecy with respect to all suspicious incidents relating to a breach of this 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 Settlement Agreement.

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

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Place, date

(Authorized representative of the exchange member)