

# European Energy Certificate System - Guarantee of Origin Standard Agreement

## For Single Delivery

version 1.3

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This Standard Agreement is made for a single delivery, i.e. for cases where EECS-GOs are delivered in one batch. There is another standard agreement being developed / prepared for a situation where the delivery happens in several batches or multiple deliveries.

**User information:**

*This contract can best be viewed and filled in with Acrobat Reader, minimum version 9.0.*

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## EECS-GO Agreement – Single Delivery

The purpose of this Agreement is to set out the terms and conditions of the transaction entered into by and between the Seller and the Buyer (referred to jointly as the “Parties”, and individually referred to as a “Party”) on the Trade Date specified below, whereas the Seller agrees to sell and the Buyer agrees to buy a number of EECS-GO certificates as specified herein (the “Transaction”).

The definitions and provisions contained in the Principles and Rules of Operation of the Association of Issuing Bodies for the European Energy Certification System, as amended from time to time, (the “EECS Rules”) including its appendices, are incorporated into this Agreement.

In the event of any inconsistency between the EECS Rules or the Domain Protocol as specified below in clause 4 and this Agreement, this Agreement will prevail. In the event of any inconsistency between the EECS Rules and the Domain Protocol, the Domain Protocol will prevail.

It is hereby agreed as follows:

<b>1.</b>	<b>Trade Date</b>
Date	: <input type="text"/>
<b>2.</b>	<b>Seller</b>
Company	: <input type="text"/>
Registration nr.	: <input type="text"/>
<b>Address</b>	
Street	: <input type="text"/>
Postal-code	: <input type="text"/>
Town	: <input type="text"/>
Country	: <input type="text"/>
Contact person	: <input type="text"/>
Phone	: <input type="text"/>
Fax	: <input type="text"/>
E-mail	: <input type="text"/>
<b>Bank details</b>	
Bank name	: <input type="text"/>
Account Number	: <input type="text"/>
Swift code	: <input type="text"/>
IBAN	: <input type="text"/>
VAT	: <input type="text"/>
Account No. with the Issuing Body	: <input type="text"/>

### 3. Buyer

Company :

Registration nr. :

**Address** Street :

Postal-code :

Town :

Country :

Contact person :

Phone :

Fax :

E-mail :

#### Bank details

Bank name :

Account Number :

Swift code :

IBAN :

VAT :

Account No.  
with the Issuing Body :

### 4. Product

#### Type of Certificate *(tick as appropriate)*

- An EECS Certificate issued as an EECS GO under the Electricity Scheme of the EECS Rules in the Country of Production, and which has the meaning given to 'Guarantee of Origin' under Article 2 and Article 15 of the EU Directive 2009/28/EC of the European Parliament on the promotion of electricity produced from renewable energy sources in the internal electricity market.
- An EECS Certificate issued as a RECS Certificate under the Electricity Scheme of the EECS Rules in the Country of Production.

#### Country/Countries of Production

Domain Protocol/Protocols :

Authorised Issuing Body/Bodies :

**Production device number/numbers**

If applicable

:

**Country of Delivery**

Country

:

Authorised Issuing Body

:

Production Year/Years

:

Technology Code/Codes

:

EECS Earmark/Earmarks

:

Earliest expiry date of the Certificates

:

Vintage/Vintages Year-Month

:

Special conditions

:

**5. Quantity**

Certificates. *Where one Certificate equals 1 MWh.*

**6. Price**

*(if other, fill in)* for one (1) Certificate

*(if other, fill in)* in total (the "Total Agreement Price").

## 7. VAT

All amounts referred to in this Agreement are exclusive of any applicable value added tax (“VAT”). The VAT treatment of the supplies under this Agreement shall be determined pursuant to the VAT laws of the jurisdiction where a taxable transaction for VAT purposes is deemed to take place. If VAT is payable on such amounts, Buyer shall pay an amount equal to the VAT at the rate applicable from time to time, provided that such amount shall only be required to be paid once the Seller has provided a valid VAT invoice (applicable in the jurisdiction of supply) in relation to that amount.

*For the purpose of article 44 of Council Directive 2006/112/EC (the “Directive”) concerning the place of supply of services, the Buyer gives the following VAT Representations:*

- (a) it is a taxable person acting as such, and
- (b) it acts through *(tick as appropriate)*
- its head office
- its fixed establishment
- (c) and the place/places where it has established his business is/are:

with VAT Registration Number:

The Party undertake to inform the other Party if the representations given under this subsection have failed or ceased to be true and accurate at any time after the Trade Date.

The Parties are mindful in their relations to other counterparties to comply with VAT requirements; the Parties represent not to knowingly deal with counterparties being involved in VAT frauds.

## 8. Transaction Costs

The Seller and the Buyer will each bear its own fees and expenses incurred in connection with the negotiations, preparation and execution of this Agreement and the Transaction contemplated by this Agreement.

## 9. Transfer

Date of Transfer :

**Transfer** *(tick as appropriate)*

- transfer by electronic transfer

No later than on the Date of Transfer, Seller shall initiate the transfer of the Quantity as set out in clause 5 to Buyer’s account specified in clause 3 with the Issuing Body.

Seller initiates the transfer by entering the transaction to the applicable registry of the Domain.

- transfer by cancellation statement

No later than on the Date of Transfer, provided that Seller has received the cancellation purpose from Buyer, Seller shall initiate the cancellation by entering the transaction in the CMO of the Domain. As soon as practicable thereafter the Seller shall notify the Buyer in writing by sending a cancellation statement including information on:

- Volume of certificates to cancel;
- Cancel to Country;
- Cancel to Company; and
- Cancellation purpose; (the “Cancellation Statement”)

by fax or by email to the Buyer.

Title and risk of the transferred EECS Certificate(s) will be pass from the Seller to the Buyer when the Transfer has been completed as above defined.

## 10. Invoicing and Payment

### Invoicing and Payment Date

The Seller will invoice the Buyer for the EECS Certificate(s) transferred into the account after Transfer. "Due Date" shall be the later to occur of:

- (a) the twentieth (20<sup>th</sup>) day of the calendar month (if not a Business Day the immediately following Business Day); or
- (b) the fifth (5<sup>th</sup>) Business Day after receipt of an invoice.

"Business Day" means a day (other than Saturday or Sunday) on which the banks in the jurisdiction of the Seller and the Buyer are open for general business.

### Payment

The Buyer shall pay the Total Agreement Price on the Due Date to the Seller's bank account specified in clause 2, free of any expenses and without any withholdings and deductions. Payment shall be remitted by bank transfer. Such payment shall be made, unless otherwise agreed, in:

(if other, fill in)

### Default Interest Rate

As from the Due Date the Seller shall be entitled to charge default interest at a rate of three (3) percentage points above the one-month EURIBOR interest rate released on the Payment. Interest may be charged from, and including, the Due Date and to, and excluding, the date of complete payment.

### Disputed Amount

If a Party, in good faith, disputes the accuracy of an invoice, it shall on or before the Due Date provide a written explanation of the basis for the dispute and shall pay the undisputed amount invoiced no later than the Due Date. If any amount withheld under dispute is finally determined to have been due, such withheld amount shall, at the election of the owed Party, be credited or returned to it within five (5) Business Days of such determination, along with interest as specified above in "Default Interest Rate".

## 11. Warranties of the Seller and the Buyer

Seller hereby warrants that on the Date of Transfer:

- Seller is entitled to dispose, deliver and transfer of the Certificates;
- the Certificates are not subject to any pledge interest or other encumbrance;
- the Certificates are transferable; and
- the Certificates are corresponding to the specification specified in clause 4

Buyer hereby warrants that on the Date of Transfer:

- it has an account number as specified in clause 3 which is validly registered in the Country of Delivery to facilitate the Transfer, if applicable.

Each Party warrants and represents to the other Party as of the date hereof that:

- (a) It is duly organised and existing under the laws of the jurisdiction of its organisation and has full power and legal right to execute, deliver and perform under this Agreement.
- (b) Its execution, delivery and performance of this Agreement does not constitute a violation of any law, governmental regulation, its memorandum and articles of association, other agreements or undertakings, and that it possesses the necessary knowledge in order to be able to perform pursuant to the Agreement, and the person signing this Agreement is authorised and empowered to do so.
- (c) It has obtained or submitted any authorisation or approval or other action by, or notice to or filing with, any governmental authority or regulatory body that is required for the due execution, delivery and performance of this Agreement.
- (d) this Agreement has been duly and validly executed and delivered by it and constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms, except as enforceability may

be limited by bankruptcy, insolvency, reorganisation, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

- (e) There are no pending or threatened legal or administrative proceedings to which it is a party, which to the best of its knowledge would materially adversely affect its ability to perform its obligations under this Agreement.
- (f) It has entered into this Agreement in connection with its line of business and the terms hereof have been individually tailored and negotiated.
- (g) It is not relying upon any representation or warranty of the other Party other than those expressly set forth in this Agreement.
- (h) It has entered into this Agreement as principal (and not as agent or in any other capacity, fiduciary or otherwise).
- (i) It has entered into this Agreement with a full understanding of the material terms and risks hereof, and is capable of assuming those risks.
- (j) It has made its investment and trading decisions (including regarding the suitability hereof) based upon its own judgement and any advice from such advisors as it has deemed necessary, and not in reliance upon any view expressed by the other party.
- (k) The other Party is not acting as a fiduciary or an advisor for it, nor has given to it any assurance or guarantee as to the expected performance or result of this Agreement.

## 12. Limitation of Liability

The liability of each Party, irrespective of from whatever legal base it might be claimed, for any actions, omissions or failures of itself, its employees, officers, contractors and/or agents, that causes any damage, loss, cost or expense incurred by the other Party is limited to an amount equal to the Total Agreement Price and to the fact that the damage is not due to gross negligence, intentional default or fraud of the Party, its employees, officers, contractors or agents used by such Party in performing its obligation under the Agreement.

The liability does in no event include any indirect or consequential damages, loss of profit, business opportunity, goodwill or anticipated savings.

Each Party shall use best effort to mitigate in a commercially reasonable manner its damage, loss, cost or expense in connection with the Agreement.

## 13. Force Majeure

**"Force Majeure"** means any event or circumstance beyond the reasonable control of the Party claiming the Force Majeure (the **"Claiming Party"**) which it could not reasonably have avoided or overcome and which makes it impossible for the Claiming Party to perform its obligations under this Agreement, including, but not limited to, suspension, failure or malfunction of EECs Transfer System which prevents the Transfer or acceptance of the Certificates.

If the Claiming Party is fully or partly prevented, hindered or delayed in its performance of any of its obligations under this Agreement by reason of Force Majeure, then the Claiming Party is relieved of such obligations to the extent that it is prevented by Force Majeure from complying with them, subject to the remaining provisions of this clause, as long as:

- (a) the Claiming Party advises the other Party in writing as soon as reasonably practicable with such date of notification being the Notification Day of:
  - (1) the event or circumstance constituting Force Majeure;
  - (2) its estimate of the likely effect of that Force Majeure on its ability to perform its obligations; and
  - (3) its non-binding estimate of the likely period of that Force Majeure, and
- (b) the Claiming Party uses all reasonable endeavors to terminate or overcome the event or circumstance constituting Force Majeure and resumes full performance of its obligations as soon as reasonably practicable.

If the Claiming Party is relieved from its obligations due to Force Majeure, the corresponding obligations of the other Party shall also be relieved.

#### 14. Confidentiality

Neither Party shall disclose the terms of the Agreement (“**Confidential Information**”) to a third party. Confidential Information shall not include information which:

- (a) is disclosed with the other Party’s prior written consent;
- (b) is disclosed by a Party to the Issuing Bodies, its directors, employees, affiliates, agents, professional advisers, bank or other financing institution, rating agency or intended assignee;
- (c) is disclosed to comply with any applicable law, regulation, or rule of any exchange, system operator or regulatory body, or in connection with any court or regulatory proceeding; provided that each Party shall, to the extent practicable and permissible under such law, regulation, or rule, use reasonable efforts to prevent or limit the disclosure and to give the other Party prompt notice of it;
- (d) is in or lawfully comes into the public domain other than by a breach of this provision; or
- (e) is disclosed to price reporting agencies or for the calculation of an index provided that such disclosure shall not include the identity of the other Party.

This confidentiality obligation shall expire one (1) year after Date of Transfer.

#### 15. Termination

This Agreement enters into force on the date hereof and shall terminate automatically on

Date :  (tick above if applicable)

This Agreement may be terminated at any time upon the occurrence of one or more of the following events (each, a “Termination Event”):

- (a) bankruptcy, insolvency or liquidation of a Party whether voluntarily or involuntarily or any other event, which, under the jurisdiction of the relevant Party has an analogous effect to the causes mentioned above;
- (b) failure of a Party to make a payment when due and required, which is not cured within five (5) Business Days after the receipt of a written demand;
- (c) failure of a Party to initiate Transfer of one or more Certificates on the Date of Transfer or failure of a Party to accept Transfer of one or more Certificates on the Date of Transfer and such failure is not cured within ten (10) days after the receipt of a written demand;
- (d) material breach of this Agreement, which is not cured within ten (10) days after the receipt of a written demand;
- (e) Party is unable to Transfer or accept Transfer for reasons of Force Majeure and such inability has lasted for more than thirty (30) consecutive days; and
- (f) change in law referred to in Clause 16 below.

If a Termination Event with respect to a Party has occurred and is continuing, the other Party (the “Terminating Party”) may terminate without any juridical intervention this Agreement (“Early Termination”) by giving the other Party a notice. A notice of Early Termination may be given by telephone if that notice is confirmed in writing in accordance with Clause 19 within one (1) Business Day.

The notice of Early Termination shall specify the relevant Termination Event and designate a day as an early termination date (the “Early Termination Date”). The Early Termination Date may not be earlier than the day the notice is deemed to have been received under this Agreement and not later than twenty (20) days after such date. With effect from the Early Termination Date there shall be no obligation to deliver, transfer or to take any Certificates under this Agreement and to make payments therefor.

The Party which has terminated this Agreement based on any of the items a) – e) listed above in this Clause and has not been (the “Non-Defaulting Party”) shall be entitled to receive a termination amount (the “Termination Amount”) from the other Party (the “Defaulting Party”) as follows:



If Seller is the Defaulting Party, the Termination Amount shall be (if positive) the difference between:

- (a) the market price, in Euros, to be determined in good faith and in a commercially reasonable manner, for each Certificates Buyer must purchase as a result of failure of delivery by the Defaulting Party; and
- (b) the price as set out in clause 6 per Certificate multiplied by the quantity not delivered. The Termination amount will be increased by any direct cost related to purchase of each Certificates Buyer must purchase as a result of failure of delivery by the Defaulting Party and all outstanding payments, if any.

If Buyer is the Defaulting Party, the Termination Amount shall be (if positive) the difference between:

- (a) the market price, in Euros, to be determined in good faith and in a commercially reasonable manner, for each Certificates Seller must sell as a result of failure of accept the delivery by the Defaulting Party; and
- (b) the price as set out in clause 6 per Certificate multiplied by the quantity not delivered. The Termination amount will be increased by any direct cost related to sales of each Certificates Buyer must sell as a result of failure of delivery by the Defaulting Party and all outstanding payments, if any.

With effect of the Early Termination Date the Non-Defaulting Party shall calculate the Termination Amount. The Termination Amount shall be deemed to be the sole and all-inclusive compensation for the damage and costs incurred by the Non-Defaulting Party as a result of the Early Termination. The Termination Amount will be invoiced to the Defaulting Party and payment shall be due within five (5) Business Days after the receipt of the invoice. By paying the Termination Amount the Defaulting Party will be released from its obligations to deliver and thereafter no other remedies are enforceable towards the Non-Defaulting Party.

## 16. Change in Law

In case of any change in an applicable law or regulation, including any amendment or revision of EU Directive 2009/28/EC, that (i) renders the Transaction illegal or; (ii) makes it impossible for a Party to perform its delivery or acceptance obligations under this Agreement, the Parties will try to find an agreement within 30 (thirty) Business days of such Change in Law. In case the Parties are not able to reach an agreement within the foresaid period, either Party may terminate this Agreement.

Where an event or circumstance that would otherwise constitute Force Majeure also constitutes Change in Law, it is to be treated as Change in Law and not as Force Majeure.

## 17. Terms

This Agreement comes into force as of the Trade Date. Unless early terminated in accordance with its terms, this Agreement remain in force until 0.00 o'clock p.m. on the last day, whichever being latest, of the following events:

- (a) The Transfer has taken place; or
- (b) All funds in relation to the payment of the Transfer have been received by the Seller.

## 18. Assignment

Neither Party shall be entitled to assign any of its rights or obligations under this Agreement to any person, without the prior written consent of the other Party. Such consent may not be unreasonably refused, withheld or delayed, and any purported assignment, charge or transfer in violation of this clause shall be void. Each Party shall be entitled to assign or transfer its rights or obligations without the prior consent of the other Party to an affiliate controlled by or under common control of the relevant Party of equivalent of greater creditworthiness and which is located in the same jurisdiction as the relevant Party. Such an assignment shall only become effective upon notice being received by the other Party.

**19. Notifications and Correspondence Terms**

All notices or other correspondence under this Agreement shall be in writing and in the  language and shall be deemed to have been received by a party:

*(if other, fill in)*

- (a) if delivered by hand or courier, on the day of delivery;
- (b) if posted, on the 5th Business Day after being mailed;
- (c) if sent by fax, upon receipt by the sender of the confirmation receipt at the end of the transmission; or
- (d) if delivered by email, on the following Business Day.

All such notices and other communications shall be addressed as set out above in clause 2, if to the Seller, and as set out in clause 3, if to the Buyer unless a Party has provably provided another address for the service of notices.

**20. Telephone Recordings**

Each Party is entitled to record telephone conversations held in connection with this Agreement and to use the same as evidence. Each Party waives further notice of such recording and acknowledges that it has obtained all necessary consents of its officers and employees to such recording.

**21. Severability**

In the event that any provision of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent declared invalid or unenforceable without affecting the validity or enforceability of the other provisions of this Agreement, and the remainder of this Agreement shall remain binding on the Parties hereto. However, in the event that any such provision shall be declared unenforceable due to its scope, breadth or duration, then it shall be modified to the scope, breadth or duration permitted by law or governmental or regulatory authority and shall continue to be fully enforceable as so modified.

**22. Entire Agreement**

This Agreement supersedes all prior agreements and understandings, written and oral, between the Parties with respect to its subject matter and constitutes the entire agreement between the Parties.

**23. Amendment**

Any amendments or additions to this Agreement shall be made in writing and shall have no effect unless signed by the duly authorised representatives of the Parties.

**24. Governing law**

This Agreement shall be governed by and construed in accordance with:

*(if other, fill in)*

Any dispute (a "Dispute") arising from or connected with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or the consequences of its termination), shall be referred to and finally resolved by arbitration under the Rules of:

*(if other, fill in)*

(the "Rules"), which Rules are deemed to be incorporated by reference into this clause except as expressly amended.

The tribunal shall consist of three arbitrators, two of whom shall be nominated by each Party respectively. The seat of the arbitration and the venue of all hearings shall be:

*(if other, fill in)*

and the language of the arbitration shall be English.

The Parties agree that the arbitral tribunal shall have power to award on a provisional basis any relief that it would have power to grant on a final award.

Without prejudice to the powers of an arbitrator provided by the Rules, statute or otherwise, the arbitral tribunal shall have power at any time, on the basis of written evidence and the submissions of the Parties alone, to make an award in favour of the claimant (or the respondent if a counterclaim) in respect of any claims (or counterclaims) to which there is no reasonably arguable defence (either substantively or except as to the amount of any damages or other sum to be awarded).

The Parties hereby expressly waive, and agree not to assert, any rights to refer points of law or to appeal to the courts, to the extent that they can validly waive these rights under applicable law.

Nothing in this clause shall be construed as preventing either Party from seeking conservatory or similar interim relief in any court of competent jurisdiction.

**25. Special Conditions**

*[if required, fill in]*

*Executed by the duly authorised representative of each Party on the respective dates specified below with effect from the Trade Date.*

**Seller:**

**Name:**

**Title:**

**Date:**

*[if other, fill in]*

**Seller:**

**Buyer:**

**Name:**

**Title:**

**Date:**

**Buyer:**