



International Swaps and Derivatives Association, Inc.

U.S. EMISSIONS ALLOWANCE

TRANSACTION ANNEX

to the Schedule

to the ISDA Master Agreement

dated as of..... (“Effective Date”)

between and
 (“Party A”) (“Party B”)

Part [-] – U.S. Emissions Allowance Transactions

This U.S. Emissions Allowance Transaction Annex (“Emissions Annex”) supplements, forms part of, and is subject to the above-referenced Agreement and is part of the Schedule thereto.

(a) **Emissions Transactions under this Agreement; Credit Support Documents**

(i) **Emissions Transactions.** The provisions of this Emissions Annex apply solely to transactions between the parties for the purchase, sale or exchange of an Emissions Product (as defined below) on a spot or forward basis, or as an option to purchase, sell or exchange an Emissions Product (collectively, “Emissions Transactions”). All Emissions Transactions are deemed to have been entered into in accordance with the terms of this Agreement and are Transactions for the purposes hereof. A subsequent agreement between the parties to settle an Emissions Transaction other than by physical delivery of an Emissions Product will not affect its status as an Emissions Transaction under this Emissions Annex. In the event of any inconsistency among or between the other provisions of this Agreement and this Emissions Annex, this Emissions Annex will govern with respect to Emissions Transactions.

(ii) **Applicability to Outstanding Emissions Transactions.** If elected under clause (i) (Elective Provisions) as being applicable:

Upon the Effective Date of this Emissions Annex, all Emissions Transactions then outstanding, or those Emissions Transactions set forth in Schedule 1, as applicable (“Outstanding Emissions Transactions”), will be Transactions for purposes of this Agreement and will be governed by, and subject to the terms and conditions of, this Agreement. All confirmations evidencing such Outstanding Emissions Transactions constitute “Confirmations” within the meaning of this Agreement and supplement, form part of, and are subject to this Agreement. If any Confirmation evidencing one or more Outstanding Emissions Transactions was issued or entered into pursuant to the terms of a master agreement or in a form that contains non-economic substantive provisions such as those relating to default and termination rights (such master agreement or the portion of such Confirmation containing such non-economic terms referred to herein as the “Prior Master Agreement”), then the terms of the Schedule and the pre-printed form of this Agreement automatically supercede such Prior Master Agreement effective upon the Effective Date of this Emissions Annex.

(iii) ***Credit Support Documents.***

(A) ***Applicability of Credit Support Documents.*** If elected under clause (i) (Elective Provisions) as being applicable:

To the extent that the parties have entered into or subsequently enter into a Credit Support Document in connection with this Agreement that governs the provision of collateral, margin, performance assurance or other similar form of credit support, then one of the following options as elected by the parties in clause (i) (Elective Provisions) will apply with respect to the application of such Credit Support Document(s) to Emissions Transactions:

OPTION A: The Credit Support Document(s) apply to all Emissions Transactions.

OPTION B: The Credit Support Document(s) do not apply to any Emissions Transactions.

OPTION C: The Credit Support Document(s) apply to all Emissions Transactions except Immediately-Delivered Emissions Transactions as defined herein.

OPTION D: The Credit Support Document(s) apply to all Emissions Transactions except those Emissions Transactions set forth in Schedule 2 as amended from time to time.

(B) ***Outstanding Credit Support.*** If elected under clause (i) (Elective Provisions) as being applicable:

To the extent any collateral, margin, performance assurance or other similar form of credit support (such credit support, excluding guaranties), is held by a party on the Effective Date of this Emissions Annex in connection with the obligations of the other party under Outstanding Emissions Transactions, and the parties have elected to apply the provisions relating to “Outstanding Emissions Transactions” set forth in (a)(ii) above, such credit support (“Outstanding Credit Support”) thereafter is deemed to have been delivered in respect of the obligations of the other party under Outstanding Emissions Transactions. With respect to any Outstanding Credit Support: (x) if the parties have entered into a Credit Support Document in connection with this Agreement that governs the provision of collateral, margin, performance assurance or other similar form of credit support (such Credit Support Document, an “Existing ISDA Credit Support Document”), then, upon the Effective Date of this Emissions Annex, the Outstanding Credit Support shall be deemed to constitute credit support provided under the Existing ISDA Credit Support Document and the Existing ISDA Credit Support Document automatically supercedes any agreement between the parties pursuant to which the Outstanding Credit Support was provided (the “Outstanding Credit Support Document”); and (y) if the parties have not entered into an Existing ISDA Credit Support Document, then the Outstanding Credit Support Document constitutes a Credit Support Document with respect to the party that provided such credit support.

(C) ***Amendments/Guaranties.*** The parties will amend any Outstanding Credit Support Document as necessary to give effect to the terms of clauses (a)(iii)(A) and (B) above. To the extent that a guaranty was delivered in connection with a party’s obligations under Outstanding Emissions Transactions, that party represents and warrants that any amendments or notices necessary to ensure that the guaranty extends to those applicable Outstanding Emissions Transactions, now Emissions Transactions subject to this Agreement, have been made prior to the Effective Date of this Emissions Annex, and the revised guaranty will be delivered to the guaranteed party. Such guaranty constitutes a Credit Support Document with respect to the obligations of such party and the guarantor under such guaranty constitutes a Credit Support Provider with respect to the obligations of such party.

(b) **Obligations and Deliveries**

(i) ***Seller’s and Buyer’s Obligations.*** With respect to each Emissions Transaction, Seller will sell and Transfer and Buyer will purchase and pay the Contract Price for the Quantity of the Emissions Product, or the parties to the Transaction will exchange the agreed upon Quantity of the Emissions Product, as applicable.

However, with respect to any Option Emissions Transaction, the obligations set forth in the preceding sentence only arise if the option is exercised in accordance with its terms. Each party is responsible for its respective costs or charges imposed on or associated with Delivery and receipt of the Emissions Product.

(ii) **Transfer Procedures and Timing.** With respect to each Transaction, the Seller, or each exchanging party, will Transfer the Emissions Product in accordance with the Transfer terms provided in the applicable Emissions Product definition as set forth in the Emissions Product Definition Exhibit and within the following time period unless otherwise set forth in the Confirmation:

(A) Immediately-Delivered Emissions Transaction – if an Immediately-Delivered Emissions Transaction, by no later than three (3) Local Business Days after the Trade Date; or

(B) Option Emissions Transaction – if an Option Emissions Transaction, by no later than three (3) Local Business Days after the date such option was exercised; or

(C) Forward Emissions Transaction – if a Forward Emissions Transaction, upon the date agreed to by the parties in the Transaction; or

(D) Physical Exchange Emissions Transaction – if a Physical Exchange Emissions Transaction, each party will Transfer to the other party the Emissions Product on the date agreed to by the parties in the Transaction.

Seller's obligations hereunder are subject to Buyer providing to Seller any information required to effect Transfer and Delivery in accordance with the applicable Emissions Product definition as set forth in the Emissions Product Definition Exhibit. Seller and Buyer will cooperate fully and assist each other in complying with any and all regulatory obligations relating to the Transfer of the Emissions Product.

If the Administrator notifies the parties that the Administrator will not record the Transfer as contemplated by the Emissions Transaction, the parties promptly will confer and cooperate in taking all reasonable actions necessary to cure any defects in the proposed Transfer to effect Delivery.

(iii) **Abandonment of Scheme.** The parties may designate in the relevant Confirmation that one of the following two options will apply with respect to the applicable Emissions Transaction:

OPTION A: An Abandonment of Scheme, as defined in clause (h)(iv) herein constitutes an Additional Termination Event under Section 5(b)(v) of the Agreement.

OPTION B: Upon the occurrence of an Abandonment of Scheme, as defined in clause (h)(iv) herein, the following terms apply with respect to the applicable Emissions Transaction:

(1) If, before the date of Delivery, there occurs an Abandonment of Scheme, each Emissions Transaction subject to such Scheme will be an Affected Transaction and either party may, by written notice to the other party in accordance with Section 6(b)(i) of the Agreement, terminate the relevant Emissions Transaction(s); provided that, notwithstanding the provisions of Sections 6(d) and 6(e) of the Agreement, neither party will have any further Delivery or payment obligations, including any termination payment obligations, under or in respect of such Emissions Transaction(s).

(2) In the event of a termination in accordance with sub-clause (1) above, the Seller promptly must refund to the Buyer any amount that may have been paid by the Buyer in respect of the Emissions Transaction(s) together with interest on that amount for the period from (and including) the date that amount was paid to (but excluding) the date of termination of the Emissions Transaction(s) in accordance with sub-clause (1), at the Non-default Rate.

(3) If the parties elect Option B in a Confirmation, any Abandonment of Scheme with respect to the Scheme applicable to the relevant Emissions Transaction will not constitute an Illegality under the Agreement.

Unless stated otherwise in a Confirmation, Option A shall apply.

(c) **Remedies for Failure to Deliver or Receive**

(i) **Seller Failure.** If Seller fails to deliver all or part of the Quantity pursuant to an Emissions Transaction, and the failure is not excused under the terms of the Emissions Product or Transaction, by Buyer's failure to perform or by the terms of this Agreement, then Seller will pay Buyer, within three (3) Local Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice will include a written statement explaining the calculation in reasonable detail. All determinations must be made in a commercially reasonable manner and Buyer is not required to enter into any actual replacement Transaction in order to determine the Replacement Price.

(ii) **Buyer Failure.** If Buyer fails to receive all or part of the Quantity pursuant to an Emissions Transaction and the failure is not excused under the terms of the Emissions Product or Transaction, by Seller's failure to perform or by the terms of this Agreement, then Buyer will pay Seller, within three (3) Local Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice must include a written statement explaining the calculation in reasonable detail. All determinations must be made in a commercially reasonable manner and the Seller is not required to enter into any actual replacement Transaction in order to determine the Sales Price.

(d) **Payment**

(i) **Timeliness of Payment.** Within three (3) Local Business Days after Buyer's receipt of written or electronic notification that the applicable Emissions Product has been Delivered to Buyer's account, or, as otherwise set forth in the applicable Confirmation, Buyer will pay Seller the Contract Price. Each party will make payments by electronic funds transfer, or by any other mutually agreeable method(s), to the account designated by the other party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Default Rate, such interest to be calculated from and including the due date, to but excluding the date the delinquent amount is paid in full.

(ii) **Disputes.** If the invoiced party, in good faith, disputes the amount of any invoice or any part thereof, subject to the terms of clause (d)(iii) below, the invoiced party will pay the amount that it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve the dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this clause (d)(ii).

(iii) **Verification Rights.** A party may, at its own expense, upon reasonable notice and at reasonable times, obtain copies of the relevant portion of the books, records and telephone recordings of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment or computation made under this Emissions Annex. This right to obtain copies is not available with respect to proprietary information not directly relevant to Emissions Transactions. All invoices and billings will be presumed final and accurate, and all associated claims for underpayments or overpayments will be deemed waived, unless such invoices or billings are objected to in writing, with adequate explanation and documentation, within one (1) year after the month the Emissions Product has been Delivered. Any retroactive adjustment under clause (d) of this Emissions Annex must be paid in full by the party owing payment within three (3) Local Business Days of notice and reasonable substantiation of the amount due.

(iv) **Payment for Options.** The premium amount for the purchase of an option must be paid within two (2) Local Business Days after the Trade Date. Upon exercise of an option, payment for the Emissions Product underlying such option will be due in accordance with clause (d)(i) above.

(e) **Limitation on Remedies; Liability and Damages**

THE FOLLOWING PROVISION APPLIES SOLELY TO EMISSIONS TRANSACTIONS:

THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES IS THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY IS LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN AN EMISSIONS TRANSACTION, THE OBLIGOR'S LIABILITY IS LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE ACTUAL HARM OR LOSS. NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE EXCEPT TO THE EXTENT THAT THE PAYMENTS REQUIRED TO BE MADE PURSUANT TO THIS AGREEMENT ARE DEEMED TO BE SUCH DAMAGES. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE IS SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

(f) **Taxes**

(i) **Cooperation.** Each party must use reasonable efforts to implement the provisions of and to administer this Agreement insofar as it applies to Emissions Transactions in accordance with the intent of the parties to minimize all Taxes, so long as neither party is materially adversely affected by such efforts.

(ii) **Taxes.** Notwithstanding Section 2(d) of this Agreement, Seller will pay or cause to be paid all Taxes imposed by any governmental authority on or with respect to the Emissions Product or an Emissions Transaction arising prior to Delivery. Buyer will pay or cause to be paid all Taxes on or with respect to the Emissions Product or an Emissions Transaction at and after Delivery (other than ad valorem, franchise or income taxes which are related to the sale of the Emissions Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Taxes that are Buyer's responsibility hereunder, Buyer promptly will reimburse Seller for such Taxes. If Buyer is required by law or regulation to remit or pay Taxes that are Seller's responsibility hereunder, Buyer may deduct the amount of any such Taxes from the sums due to Seller under this Agreement. Nothing herein obligates or causes a party to pay or be liable to pay any Taxes for which it is exempt under the law.

(g) **Title and Risk of Loss; Seller's Warranties; Indemnity**

(i) **Title and Risk of Loss; Seller's Warranties.** Title to and risk of loss related to the Emissions Product will transfer from Seller to Buyer upon completion of Delivery. Seller warrants to Buyer that at the time of Transfer and Delivery, Seller will possess the Quantity of the Emissions Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person. Seller further warrants to Buyer that at the time of Transfer, Seller has the right to sell or exchange and Transfer to Buyer the Emissions Product as required under the relevant Emissions Transaction.

(ii) **Indemnity.** Each party agrees to indemnify, defend and hold harmless the other party, and each of the other party's affiliates, directors, officers, employees, agents and permitted assigns, from and against any and all claims, losses, liabilities, damages, judgments, awards, fines, penalties, costs and expenses (including reasonable attorneys' fees and disbursements) directly incurred in connection with or directly arising from or out of: (A) any breach of representation or warranty or failure to perform any covenant or agreement in this Agreement or in a Confirmation for an Emissions Transaction by said party; (B) any violation of applicable law, regulation or order by said party; and/or (C) any claims by a third party arising out of any act or omission by said party. In addition, each party agrees to indemnify, defend and hold harmless the other party against any Taxes for which such party is responsible pursuant to the Emissions Transactions.

(h) **Certain Modifications to this Agreement**

(i) **Limitation on Condition Precedent.** Section 2(a)(iii) of the Agreement is hereby amended by adding the following phrase at the end of clause (1) immediately before the last comma of such phrase:

“(provided, however, that in relation to any Transaction that is an Emissions Transaction, if an Event of Default or a Potential Event of Default has occurred and is continuing for longer than ten (10) Local Business Days without an Early Termination Date being designated, then the condition specified in this clause (i) will cease to be a condition precedent to the obligations under Section 2(a)(i)).”

(ii) **Events of Default.**

(A) With respect to all Emissions Transactions, the words “or delivery” are hereby deleted in Section 5(a)(i) of this Agreement.

(B) With respect to all Emissions Transactions, the words “(or to deliver or receive the Emissions Product, the exclusive remedy for which is provided in clause (c) of the Part [-] of the Schedule)” are hereby added at the end of the parenthetical of Section [5(a)(ii)][5(a)(ii)(1)] of this Agreement.

(C) With respect to all Emissions Transactions, the parenthetical “(other than by failing to make a delivery)” is inserted after the word “default” in clause (1) of Section 5(a)(v), and the words “or delivery” are deleted from clause (2) of Section 5(a)(v) of this Agreement.

(iii) **Force Majeure.** If the pre-printed portion of this Agreement is the 2002 ISDA Master Agreement, Section 5(b)(ii) of this Agreement will not apply to any Emissions Transaction.

(iv) **Definitions: Section 14.** Section 14 of this Agreement is hereby amended by adding the following definitions:

“Abandonment of Scheme” means that the relevant Scheme is discontinued, suspended or otherwise no longer scheduled to proceed.

“Administrator” means the U.S. Environmental Protection Agency or any successor agency with similar jurisdiction (“EPA”) administrator of the SO₂ Allowance Tracking System or the NO_x Allowance Tracking System (as established by the EPA), the applicable state agency administrator of any U.S. state Scheme Tracking System, the administrator of the Chicago Climate Exchange Tracking System or any other administrator of an Emissions Product Tracking System specified by the parties, as the case may be.

“Buyer” means the party to an Emissions Transaction that is obligated to purchase and receive, or cause to be received, the Emissions Product, as specified in an Emissions Transaction.

“Contract Price” means the price in U.S. Dollars (unless otherwise provided) to be paid by Buyer to Seller for the purchase of the Emissions Product, as specified in an Emissions Transaction.

“Deliver(y)” is deemed to occur as provided in the relevant Emissions Product definition as set forth in the Emissions Product Definition Exhibit or in a Confirmation, as the case may be.

“Emissions Product(s)” means a product as defined in the Emissions Product Definitions Exhibit or as otherwise defined in a Confirmation. An Emissions Product may be either a Regulatorily Continuing Emissions Product or a Regulatorily Non-Continuing Emissions Product. Unless stated otherwise in a Confirmation, an Emissions Product is a Regulatorily Non-Continuing Emissions Product.

“Forward Emissions Transaction” means an Emissions Transaction, pursuant to which the Emissions Products will be Transferred to Buyer on the date set forth in the Transaction.

“Immediately-Delivered Emissions Transaction” means an Emissions Transaction in which Transfer is to occur within three (3) Local Business Days after the Trade Date.

“Option Emissions Transaction” means an Emissions Transaction pursuant to which the buyer of the option has the right, but not the obligation unless exercised, to purchase, sell or exchange as the case may be, one or more Emissions Products pursuant to the terms of the Transaction.

“Physical Exchange Emissions Transaction” means an Emissions Transaction pursuant to which each party Transfers to the other party the Emissions Products on the date set forth in the Transaction.

“Quantity” means the quantity of the Emissions Product that Seller agrees to make available or sell and Deliver, or cause to be Delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller, or the quantity of the Emissions Products the parties agree to exchange, as specified in an Emissions Transaction.

“Regulatorily Continuing Emissions Product(s)” means, if elected with respect to an Emissions Transaction, that the parties have agreed that the Emissions Product to be Transferred and Delivered must comply with the relevant Scheme and/or any law or regulations applicable to the use of the Emissions Product as of the Trade Date and at the time of Delivery, regardless of whether there have been any modifications to the relevant Scheme between the Trade Date and Delivery; provided, however, that if there is an Abandonment of Scheme, as defined herein, the parties’ elections in any Emissions Transaction Confirmation pursuant to clause (b)(iii) above will apply to such Emissions Transaction.

“Regulatorily Non-Continuing Emissions Product(s)” means, with respect to an Emissions Transaction, that the parties have agreed that the Emissions Product to be Transferred and Delivered must comply with the relevant Scheme and/or any law or regulations applicable to the use of the Emissions Product on the Trade Date, or the Emissions Product to be Delivered otherwise must comply with the characteristics specified in the Confirmation, regardless of any change in the relevant Scheme prior to Delivery; provided however, that if there is an Abandonment of Scheme, as defined herein, the parties’ elections in any Emissions Transaction Confirmation pursuant to clause (b)(iii) above will apply to such Emissions Transaction.

“Replacement Price” means (A) the price at which Buyer, acting in a commercially reasonable manner, purchases a replacement for any Emissions Product specified in an Emissions Transaction but not Transferred by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Emissions Product, or, absent a purchase, (B) the market price for an Emissions Product not Transferred (equivalent as to Quantity, Vintage Year and Delivery date, as applicable), as determined by Buyer in a commercially reasonable manner.

“Sales Price” means (A) the price at which Seller, acting in a commercially reasonable manner, resells any Emissions Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Emissions Product, or, absent a sale, (B) the market price for an Emissions Product not received (equivalent as to Quantity, Vintage Year and Delivery date, as applicable), as determined by Seller in a commercially reasonable manner.

“Scheme” means the applicable cap-and-trade program, including any related Tracking System, existing under applicable law and regulations, or by voluntary agreement, and that governs or is utilized to Transfer a particular Emissions Product.

“Seller” means the party to an Emissions Transaction that is obligated to sell and Transfer, or cause to be Transferred, the Emissions Product, as specified in an Emissions Transaction.

“Tracking System” means the systems established by the EPA, U.S. state agency, voluntary Scheme or other Administrator for recording the transfer of Emissions Products among various entities or persons under the applicable law, or any successor regulation thereto, or under any voluntary agreement, as applicable, and includes any internet or electronic transfer system.

“Trade Date” means the date on which the Transaction is executed.

“Transfer” will have the meaning set forth in the relevant Emissions Product definition as set forth in the Emissions Product Definitions Exhibit or in a Confirmation, as the case may be.

“Vintage Year” means the first calendar year during which the Emissions Product may be utilized under the Scheme.

(i) **Elective Provisions**

1. (a)(ii) – Outstanding Emissions Transactions. This Emissions Annex applies to the following pre-existing Emissions Transactions pursuant to clause (a)(ii):

Option A: All Emissions Transactions outstanding between the parties as of the Effective Date of this Emissions Annex.

Option B: The Emissions Transactions listed in Schedule 1 to this Emissions Annex only.

Option C: None of the Emissions Transactions between the parties that were executed prior to the Effective Date of this Emissions Annex.

If none of the above options is selected, Option A applies.

2. (a)(iii)(A) – Applicability of Credit Support Documents

Option A: The Credit Support Document(s) apply to all Emissions Transactions.

Option B: The Credit Support Document(s) do not apply to any Emissions Transactions.

Option C: The Credit Support Document(s) apply to all Emissions Transactions, except Immediately-Delivered Transactions.

Option D: The Credit Support Document(s) apply to all Emissions Transactions except those Emissions Transactions set forth in Schedule 2 as amended from time to time.

If none of the above options is selected, Option A applies.

3. (a)(iii)(B) – Outstanding Credit Support

Outstanding Credit Support held by a party in connection with Outstanding Emissions Transactions is deemed to have been delivered under and in connection with this Agreement pursuant to clause (a)(iii)(B).

If not checked, not applicable.

(j) **Notices for Emissions Transactions**

PARTY A

Invoices:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn:

Phone:

Facsimile:

Confirmations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn:

Phone:

Facsimile:

Option Exercise:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn:

Phone:

Facsimile:

Wire Transfer:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Bank:

ABA:

Account:

Other Details:

PARTY B

Invoices:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn:

Phone:

Facsimile:

Confirmations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn:

Phone:

Facsimile:

Option Exercise:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn:

Phone:

Facsimile:

Wire Transfer:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Bank:

ABA:

Account:

Other Details:

(k) **Other Provisions/Modifications to this Emissions Annex**

EMISSIONS PRODUCT DEFINITIONS EXHIBIT

Last Updated December 21, 2006

As used in the Emissions Annex or any Emissions Transaction Confirmation, the following Emissions Products have the meanings set forth below:

“CCX Emissions Product” means Carbon Financial Instruments or “CFIs” as traded on the Chicago Climate Exchange and Transferred and Delivered pursuant to the applicable procedures as set forth and administered by the CCX as of the time of Transfer and Delivery, respectively.

“NO_x Emissions Product” means an authorization from any state that is subject to the NO_x SIP Call Program or the Clean Air Interstate Rule (“CAIR program”) and any amendments thereto to emit nitrogen oxide during or after a specified calendar year, in which:

(1) Transfer shall occur when Seller, or each exchanging party, submits, either electronically or otherwise, to Buyer or the receiving party, (or directly to the Administrator if the receiving party’s authorized account representative signature is on file with the Administrator), a complete, accurate and properly executed Transfer document, Transferring the Quantity from its account in the NO_x Allowance Tracking System to Buyer’s account, or the receiving party’s account, within the time set forth in clause (b)(ii) above, unless otherwise agreed to by the parties in a Confirmation;

(2) If applicable, immediately upon receipt of the applicable Transfer document, Buyer must sign and submit the document via overnight courier to the Administrator for recordation; and

(3) Delivery occurs on the date the Administrator Transfers the NO_x Emissions Product into the Buyer’s account, or into the accounts of both parties to a Physical Exchange Emissions Transaction, as applicable, and/or lists as the date of the Transfer of the NO_x Emissions Products via the NO_x Allowance Tracking System, unless otherwise agreed to by the parties in a Confirmation; provided that, in the event the transfer procedures for NO_x Emissions Products are amended by the EPA or otherwise, Seller or each exchanging party will Transfer and Deliver the NO_x Emissions Product pursuant to an Emissions Transaction in accordance with such amended Transfer procedures.

“SO₂ Emissions Product” means an authorization by the Administrator of the EPA under Title IV of the Clean Air Act Amendments of 1990 (effective November 15, 1990) or the CAIR program, and any amendments thereto and any regulations promulgated thereunder, which are the basis for the federal air pollution control program for sulfur dioxide emissions, to emit sulfur dioxide during or after a specified calendar year, in which:

(1) Transfer shall occur when Seller, or each exchanging party, submits, either electronically or otherwise, to Buyer or the receiving party, (or directly to the Administrator if the receiving party’s authorized account representative signature is on file with the Administrator), a complete, accurate and properly executed Transfer document, Transferring the Quantity from its account in the SO₂ Allowance Tracking System to Buyer’s account, or the receiving party’s account, within the time set forth in clause (b)(ii) above, unless otherwise agreed to by the parties in a Confirmation;

(2) If applicable, immediately upon receipt of the applicable Transfer document, Buyer must sign and submit the document via overnight courier to the Administrator for recordation; and

(3) Delivery occurs on the date the Administrator Transfers the SO₂ Emissions Product into the Buyer’s account, or into the accounts of both parties to a Physical Exchange Transaction, as applicable, and/or lists as the date of the Transfer of SO₂ Emissions Products via the SO₂ Allowance Tracking System, unless otherwise agreed to by the parties in a Confirmation; provided that, in the event the transfer procedures for SO₂ Emissions Products are amended by the EPA or otherwise, Seller or each exchanging party will Transfer and Deliver the SO₂ Emissions Product pursuant to an Emissions Transaction in accordance with such amended Transfer procedures.

“State Emissions Product” means any Emissions allowance or Emissions reduction credit created and promulgated under U.S. state law and/or U.S. state regulation and Transferred and Delivered pursuant to the relevant U.S. state Scheme.

SCHEDULE 1

Outstanding Emissions Transactions

The Emissions Transactions set forth below constitute Outstanding Emissions Transactions:

SCHEDULE 2

Applicability of Credit Support Document(s) – Option D

The Credit Support Document(s) apply to all Emissions Transactions except those Emissions Transactions set forth herein: