**EFET**

**European Federation of Energy Traders**

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**FRENCH CAPACITY CERTIFICATES APPENDIX
(POWER)**

**to the**

**EFET General Agreement**

**Concerning the Delivery and Acceptance of Electricity**

**Version 2.1/December 20, 2000 and Version 2.1(a)/September 21, 2007**

**(the “FR Capacity Certificates Appendix”)**

**WAIVER: THE FOLLOWING FRENCH CAPACITY CERTIFICATES APPENDIX WAS PREPARED BY EFET’S MEMBERS WHILST EXERCISING THEIR RESPECTIVE REASONABLE CARE AND DUE DILIGENCE. HOWEVER, EFET, EFET MEMBERS, REPRESENTATIVES AND COUNSEL INVOLVED IN ITS PREPARATION AND APPROVAL SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ITS USE, OR FOR ANY DAMAGES OR LOSSES RESULTING FROM ITS USE, IN ANY INDIVIDUAL CASE OR JURISDICTION. IT IS THEREFORE THE RESPONSIBILITY OF EACH PARTY WISHING TO USE THIS FRENCH CAPACITY CERTIFICATES APPENDIX TO ENSURE THAT ITS TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND THAT THEY BEST SERVE TO PROTECT THE USER'S LEGAL INTEREST. USERS OF THIS FRENCH CAPACITY CERTIFICATES APPENDIX ARE URGED TO CONSULT RELEVANT LEGAL OPINIONS WHERE AVAILABLE AS WELL AS THEIR OWN COUNSEL.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**FRENCH CAPACITY CERTIFICATES APPENDIX
(POWER)**

to the General Agreement Concerning

the Delivery and Acceptance of Electricity

Version 2.1/December 20, 2000 and Version 2.1(a)/September 21, 2007

dated as of [\*\*\*]

(the **“French Capacity Certificates Appendix Effective Date**”)

Between

[\*\*\*]

(“**Party A**”)

and

[\*\*\*]

(“**Party B**”)

|  |
| --- |
| **Check the applicable box and fill in date ONLY if you are using this French Capacity Certificates Appendix to modify and supplement a previously executed General Agreement between the Parties:****[ ]** By executing this French Capacity Certificates Appendix in the signature block at the end hereof, the Parties hereby modify, supplement and amend the terms of that certain previously executed General Agreement entered into and dated as of [\*\*\*] to provide that the terms of this French Capacity Certificates Appendix shall be incorporated therein, and shall be applicable to and thereafter govern all FR Capacity Certificates Transactions.[ ] All FR Capacity Certificates Transactions entered into by the Parties for and concerning the delivery of Capacity Certificates, which were entered into prior to the French Capacity Certificates Appendix, but which remain either fully or partially unperformed as of the French Capacity Certificates Appendix Effective Date (each such transaction a “**Pre-Existing FR Capacity Certificates** **Transaction**”) shall, as of the French Capacity Certificates Appendix Effective Date:**[ ]** become a FR Capacity Certificates Transaction hereunder, subject to the terms and conditions of the Agreement, as modified by this French Capacity Certificates Appendix; or**[ ]** not become a FR Capacity Certificates Transaction hereunder and instead shall remain governed by and subject only to their original terms and conditions.  |

**Part II:**

**Elections for Customization of Provisions in the CAPACITY Appendix:**

**§ 7**

**Non-Performance Due to Force Majeure**

**§ 7.4(b) Force Majeure Termination Payment:** [ ] § 7.4(b)(i) **(No Termination Payment)** shall apply; or

 [ ] § 7.4(b)(iii) **(Two-Way Loss Termination Payment)** shall

apply

**§ 13**

**Invoicing and Payment**

**§ 13.2 Payment:** [ ] Payment Cycle A shall apply, or

[ ] Payment Cycle B shall apply

**§ 13.3.1 Cross Product Payment Netting:** [ ] Payments due in relation to Individual Contracts in respect

of Electricity shall be netted against payments due in relation

to Capacity Transactions*.*

**§ 14**

**VAT and Taxes**

**§ 14.3 Fixed Establishment:**

|  |  |  |
| --- | --- | --- |
|  | Jurisdiction | VAT Identification Number |
| Party A: | … | … |
| Party B: | … | … |

**§ 17**

**Governing law and Jurisdiction**

**§ 17.1 Governing law:** [ ] shall apply, or

**§ 17.2 Jurisdiction:** [ ] §17.2(a) Jurisdiction of courts or France shall apply, or

[ ] §17.2(b) Arbitration shall apply and the language is [ ].

**Annex 1**

**Delivery Business Day:** Relevant placefor Party A shall be [ ]

Relevant place forParty B shall be [ ]

**ADDITIONAL Provisions Applicable Only To FR CAPACITY Certificates Transactions:**

**This page need ONLY be executed by Parties that checked and completed one of the two boxes on the first page hereof. Those appending this Capacity Appendix to a General Agreement at the time of its execution need only append it to the General Agreement.**

IN WITNESS whereof this Capacity Appendix has been duly executed by the authorized representatives of each Party on the respective dates set out below with effect from the Capacity Appendix Effective Date.

**“Party A” “Party B”**

[\*\*\*] [\*\*\*]

Name: Name:

Title: Title:

**Annex 2 (A)**

**to the**

**FRENCH CAPACITY CERTIFICATES APPENDIX (POWER)**

**CONFIRMATION OF**

**FR CAPACITY CERTIFICATES TRANSACTION**

***(Fixed price )***

between

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as **Seller**

and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as **Buyer**

as Parties to the

EFET General Agreement Concerning the Delivery and Acceptance of Electricity entered into and dated as of \_\_\_\_\_\_\_\_\_\_ , \_\_\_\_\_\_\_

FR Capacity Certificates Transaction concluded on:\_\_\_\_\_\_\_(**Trade Date**)

Name of Broker (if applicable): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Delivery Schedule**

(Delivery Date to each Delivery Point for each Contract Quantity and Compliance Period.)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Delivery Point(s):** | **Compliance Period**  | **Contract Quantity** | **Delivery Date** | **Price per Capacity Certificate**  |
|  | Holding Account number of Buyer: | [\*\*\*] | [\*\*\*] | [\*\*\*] | [\*\*\*] |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |

Reporting of FR Capacity Certificates Transaction to CRE according to Rules: [ ]

This Confirmation confirms the FR Capacity Certificates Transaction entered into pursuant to the EFET General Agreement Concerning the Delivery and Acceptance of Electricity between the Parties (General Agreement) as modified, supplemented and amended by the French Capacity Certificates Appendix between the Parties and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the FR Capacity Certificates Transaction, please contact us immediately.

If the Confirmation that you sent or will send contains additional or deviating terms from those agreed in the FR Capacity Certificates Transaction and/or terms set out in this Confirmation and/or General Agreement, including any provision providing for the deemed acceptance of those terms, then this Confirmation shall serve as an objection to those additional or deviating terms, and such terms shall only become part of FR Capacity Certificates Transaction if we expressly agree to them in writing.

|  |  |
| --- | --- |
| Date:  | Signature: Name: Title: Company:  |

|  |  |
| --- | --- |
| Date:  | Signature: Name: Title: Company:  |