Master ACCU Transaction Agreement

**[*insert name*] ABN** [⦁]

(**Party A**)

**[*insert name*] ABN** [⦁]

(**Party B**)

**Draft**

**10 November 2023**

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This Master ACCU Transaction Agreement is made on [•] 20[•].

Parties

**Between:**

1. **[*insert name*] ABN** [⦁] of [*insert address*] (**Party A**)
2. **[*insert name***] **ABN** [⦁] of [*insert address*] (**Party B**)

(each a **party** and collectively the **parties**)

Background

1. The parties may from time to time agree to enter into a Transaction to sell and purchase (or grant an option to sell or purchase) ACCUs.
2. The parties agree that each Transaction between them is governed by this Master Agreement.

**The parties agree**

# Definitions and Interpretation

## Definitions Schedule

A term or expression used in this Master Agreement that starts with a capital letter has the meaning given to it in the Definitions Schedule.

## Interpretation

The interpretation clause in the Definitions Schedule sets out rules of interpretation for this Master Agreement.

## Inconsistency

In the event of any inconsistency between the provisions of this Master Agreement and the provisions of a Confirmation, the Confirmation prevails for the purpose of the relevant Transaction.

# ANREU Accounts

## ANREU Account obligations

During the term of a Transaction, each party must ensure that on each Delivery Date:

### it (or an authorised nominee on its behalf) holds and maintains the ANREU Account specified in respect of it in the Elections Schedule or a Confirmation for that Transaction; and

### it has appointed authorised representatives to initiate and approve on its behalf, all dealings in such ANREU Account that are required to be performed in order for the relevant party to perform its obligations under this Agreement with respect to that Transaction.

## Amending ANREU Account details

A party may by notice to the other party amend the details of the ANREU Account specified in respect of it in the Elections Schedule or a Confirmation. Such notice will take effect on the later of five Business Days after the notice is received and the date specified in the notice.

# Term

Subject to the terms of this Master Agreement, this Master Agreement comes into full force and effect on the date of its execution by both of the parties and continues in full force and effect until terminated by the parties in writing. A termination of this Master Agreement takes effect only after:

### both parties have satisfied in full all their respective payment and delivery obligations under all Transactions; and

### neither party has any future payment or delivery obligations, whether absolute or contingent, under this Master Agreement.

# Transactions

### This Master Agreement governs each Transaction entered into between the parties from time to time, unless the parties expressly agree that a Transaction is to be governed by another agreement.

### All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties, and the parties would not otherwise enter into any Transactions.

# Confirmations

## Confirming Transactions

### Party A must send to Party B a Confirmation promptly after the entry by the parties into a Transaction. Each such Confirmation must be:

#### in the case of Transactions other than Option Transactions, substantially in the form set out in Schedule 3 (*Form of Confirmation*); and

#### in the case of Option Transactions, substantially in the form set out in Schedule 4 (*Form of Option Confirmation*).

### Within two Business Days of Party B receiving a Confirmation from Party A (or by 2:00 pm (Sydney time) on the same Business Day that Party B receives a Confirmation from Party A if the relevant Transaction is due to settle before the end of that two Business Day period) Party B must sign and return the Confirmation to Party A. Party B is bound by the terms of the Confirmation (even if Party B does not sign and return it to Party A) unless there is a manifest (or obvious) error in the Confirmation and Party B notifies Party A in writing of the error within two Business Days of receiving the Confirmation (or prior to the time the relevant Transaction settles, whichever occurs first). If following its receipt of such notice Party A agrees there is an error, it must send Party B an amended Confirmation rectifying the error, by which Party B will be bound (even if Party B does not sign and return it to Party A). Party B must then promptly sign and return to Party A the amended Confirmation.

### A Transaction is valid and enforceable against the parties in accordance with the terms they have agreed, even if Party A fails to send Party B a Confirmation of its terms or such Confirmation contains errors. In addition, Party B’s failure to receive, sign or return a Confirmation, acknowledge that a Confirmation is correct, or notify Party A of an error in the relevant Confirmation, does not invalidate or otherwise prejudice the existence of a Transaction.

## Consent to recordings

Each party:

### consents to the recording of telephone conversations between the parties in connection with this Master Agreement or any potential Transaction;

### agrees to obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel; and

### agrees, to the extent permitted by Applicable Law, that recordings may be submitted in evidence in any legal proceedings.

# Deliveries

## Delivery and payment obligations

### Subject to clause 6.1(c) (*Delivery and payment obligations*), on each Delivery Date in relation to a Transaction, the Delivering Party must, subject to any action required by the Receiving Party to Accept Delivery, Deliver the Contracted ACCUs to be Delivered on that Delivery Date to the Receiving Party.

### On each Payment Date in respect of Contracted ACCUs to be Delivered on a Delivery Date in relation to a Transaction, the Receiving Party must pay to the Delivering Party an amount equal to:[[1]](#footnote-1)

#### in respect of a Spot Transaction or Forward Transaction, the Purchase Price; and

#### in respect of an Option Transaction, the Strike Price,

### in each case multiplied by the applicable number of Contracted ACCUs Delivered on or by that Delivery Date.

### If the Retirement Requirements are satisfied in respect of a Transaction, the Contracted ACCUs in respect of such Transaction must be Delivered in accordance with clause 11 (*Retirement*).

### The number of Contracted ACCUs to be Delivered on a Delivery Date in relation to a Spot Transaction or Forward Transaction will be specified in the relevant Confirmation as the “Number of Contracted ACCUs”.

### The number of Contracted ACCUs to be Delivered on a Delivery Date in relation to an Option Transaction will be equal to the number of Options exercised or deemed to be exercised on the relevant Exercise Date.

## Title

### Subject to clause 11 (*Retirement*) where the Retirement Requirements have been satisfied in respect of a Transaction, upon the Delivery of Contracted ACCUs to the Receiving Party’s ANREU Account, all of the Delivering Party’s rights, title and interest in those Contracted ACCUs are transferred to the Receiving Party.[[2]](#footnote-2)

## Further assurance

In relation to each Contracted ACCU to be Delivered on a Delivery Date:

### the Delivering Party must take all necessary steps to Deliver (or procure the Delivery of) the Contracted ACCU on the relevant Delivery Date; and

### the Receiving Party must take all necessary steps to Accept (or procure the Acceptance of) the Delivery of the Contracted ACCU on the relevant Delivery Date,

and each party must also refrain from doing anything that impedes, or could reasonably be expected to impede, Delivery or Acceptance as provided for above.

## Multiple Delivery Dates

If more than one Delivery Date is specified in respect of a Forward or Spot Transaction, that Transaction will be deemed to consist of a number of Transactions; each one corresponding with one of the specified Delivery Dates, and having the Purchase Price and Delivery Quantity specified or otherwise determined as provided in the relevant Confirmation in respect of that Delivery Date. Parties may specify that “Retirement” applies in respect of some or all Delivery Dates.

## Delivery times

### If Contracted ACCUs are Delivered after 4.00pm on a Business Day or at any time on any day other than a Business Day, then those Contracted ACCUs will be deemed to have been Delivered at 9.00am on the next following Business Day.

### If Contracted ACCUs are Delivered before 4.00pm on a Business Day, then those Contracted ACCUs will be deemed to have been delivered on that Business Day.

## Delivery of invoice

### The Delivering Party must no later than one Business Day prior to the Delivery Date for a Transaction, provide to the Receiving Party an invoice which specifies:

#### the Purchase Price or Strike Price, as applicable, in relation to that Transaction; and

#### the total Delivery Quantity of Contracted ACCUs to be Delivered on that Delivery Date.

### If the Delivering Party fails to provide an invoice under paragraph (a) above by the time required under that clause, then the Payment Date for that Transaction will be deemed to be postponed to a date falling three Business Days after the later of:

#### the Delivery Date; and

#### the Receiving Party ‘s receipt of the relevant invoice.

# Delivery and Acceptance failures

## Delivery failure

### If a Delivery Failure occurs in respect of a Transaction, that Delivery Failure will not constitute an Event of Default, a Potential Event of Default or a Termination Event (except as contemplated by clause 13.2(c) (*Events of Default*), and instead:

### the Payment Date in respect of the Contracted ACCUs comprising the ACCU Shortfall resulting from such Delivery Failure will be postponed;

### the Receiving Party may, by written notice to the Delivering Party, require the Delivering Party to remedy the Delivery Failure by the date specified in the notice (**Adjusted Delivery Date**); and

### the following clauses 7.2 (*Failure to Deliver remedied*), 7.4 (*Failure to Deliver not remedied*) and 7.5 (*Payment of Buyer’s Replacement Costs*) will apply.

## Failure to Deliver remedied

If the Delivering Party Delivers Contracted ACCUs comprising an ACCU Shortfall:

### where a notice has been given in accordance with clause 7.1(b)(*Delivery failure*), on or before the Adjusted Delivery Date; or

### where no notice has been given in accordance with clause 7.1(b) (*Delivery failure*), after the Delivery Date,[[3]](#footnote-3)

clause 6.1(b) (*Delivery and payment obligations*) will apply to determine the amount payable on the Payment Date in respect of such Contracted ACCUs as if:

###  such Contracted ACCUs were Delivered on the Delivery Date in accordance with clause 6.1(a) (*Delivery and payment obligations*));

### for the purpose of determining the Payment Date, the date of actual Delivery will be deemed to be the Delivery Date; and

### references in clause 6.1(b) (*Delivery and payment obligations*) to the number of Contracted ACCUs Delivered are to be read as references to such Contracted ACCUs,

### and the Delivering Party will adjust the applicable Invoice accordingly.

## Default interest in respect of remedied Delivery

### The Delivering Party must pay to the Receiving Party on the Payment Date (determined in accordance with clause 7.2(d) (*Failure to Deliver remedied*)) interest at the Default Rate applied to the amount due under clause 7.2 (*Failure to Deliver remedied*), for the period from and including the original Delivery Date to but excluding the date of actual Delivery.

## Failure to Deliver not remedied

If after receiving notice of an Adjusted Delivery Date in accordance with clause 7.1(b) (*Delivery failure*), the Delivering Party does not Deliver the Contracted ACCUs comprising an ACCU Shortfall on or before the Adjusted Delivery Date, the Receiving Party:

### may by written notice to the Delivering Party, terminate the Transaction under which the ACCU Shortfall arose; and

### as soon as reasonably practicable following termination of the relevant Transaction, must provide notice in writing to the Delivering Party of the Buyer’s Replacement Costs, which notice must be accompanied by:

#### a statement showing, in reasonable detail, its calculations (including any quotations, market data or other information used in making such calculations); and

#### an invoice from the Receiving Party to the Delivering Party for the amount of the Buyer’s Replacement Costs.

## Payment of Buyer’s Replacement Costs

On the second Business Day following the date on which the written notice given in accordance with clause 7.4(b) (*Failure to Deliver not remedied*) is effective:

### if the Buyer’s Replacement Costs is a positive number, the Delivering Party must pay to the Receiving Party the Buyer’s Replacement Costs by transfer to the Receiving Party’s bank account specified by the Receiving Party’s in such notice;

### if the Buyer’s Replacement Costs is a negative number, the Receiving Party must pay to the Delivering Party an amount equal to the absolute value of the Buyer’s Replacement Costs by transfer to the Delivering Party’s bank account notified by the Delivering Party to the Receiving Party in writing, unless “One-way RP ETV” applies, in which case no amount will be payable; or

### if the Buyer’s Replacement Costs is zero, no amount will be payable.[[4]](#footnote-4)

## Acceptance failure

### If an Acceptance Failure occurs in respect of a Transaction, that Acceptance Failure will not constitute an Event of Default, a Potential Event of Default or a Termination Event (except as contemplated by clause 13.2(c) (*Settlement Disruption Events*), and instead:

### the Payment Date in respect of the Contracted ACCUs comprising the ACCU Shortfall resulting from such Acceptance Failure will be postponed;

### the Delivering Party may, by written notice to the Receiving Party, require the Receiving Party to remedy the Acceptance Failure by the date specified in the notice (**Adjusted Acceptance Date**); and

### clauses 7.7 (*Failure to Accept remedied*), 7.8 (*Default interest in respect of remedied Acceptance*), 7.9(*Failure to Accept not remedied*) and 7.10 (*Payment of Seller’s Replacement Costs*) will apply.

## Failure to Accept remedied

If the Receiving Party Accepts Contracted ACCUs comprising an ACCU Shortfall:

### where a notice has been given in accordance with clause 7.6(b) (*Acceptance failure*), on or before the Adjusted Acceptance Date; or

### where no notice has been given in accordance with clause 7.6(b) (*Acceptance failure*), after the Delivery Date,

clause 6.1(b) (*Delivery and payment obligations*) will apply to determine the amount payable on the Payment Date in respect of such Contracted ACCUs as if:

### such Contracted ACCUs were Delivered on the Delivery Date in accordance with clause 6.1(a) (*Delivery and payment obligations*);

### for the purpose of determining the Payment Date, the date of actual Delivery is deemed to be the Delivery Date; and

### references in clause 6.1(b) (*Delivery and payment obligations*) to the number of Contracted ACCUs Delivered are to be read as references to such Contracted ACCUs,

#### and the Delivering Party will adjust the applicable Invoice accordingly.

## Default interest in respect of remedied Acceptance

### The Receiving Party must pay to the Delivering Party on the Payment Date (determined in accordance with clause 7.7(d) (*Failure to Accept remedied*)) interest at the Default Rate applied to the amount due under clause 7.7 (*Failure to Accept remedied*)) for the period from and including the original Delivery Date to but excluding the date of actual Delivery.

## Failure to Accept not remedied

If after receiving notice of an Adjusted Acceptance Date in accordance with clause 7.6(b) (*Acceptance failure*), the Receiving Party does not Accept the Contracted ACCUs comprising an ACCU Shortfall on or before the Adjusted Acceptance Date, the Delivering Party:

### may by written notice to the Receiving Party, terminate the Transaction under which the ACCU Shortfall arose; and

### as soon as reasonably practicable following termination of the relevant Transaction, provide notice in writing to the Receiving Party of the Seller’s Replacement Costs, which notice must be accompanied by:

#### a statement showing, in reasonable detail, its calculations (including any quotations, market data or other information used in making such calculations); and

#### an invoice from the Delivering Party to the Receiving Party for the amount of the Seller’s Replacement Costs.

## Payment of Seller’s Replacement Costs

On the second Business Day following the date on which the written notice given in accordance with clause 7.9(b)(*Failure to Accept not remedied*) is effective:

### if the Seller’s Replacement Costs is a positive number, the Receiving Party must pay to the Delivering Party the Seller’s Replacement Costs by transfer to the Delivering Party’s bank account specified by the Delivering Party in such notice;

### if the Seller’s Replacement Costs is a negative number, the Delivering Party must pay to the Receiving Party an amount equal to the absolute value of the Seller’s Replacement Costs by transfer to the Receiving Party’s bank account notified by the Receiving Party to the Delivering Party in writing, unless “One-way DP ETV” applies, in which case no amount will be payable; or

### if the Seller’s Replacement Costs is zero, no amount will be payable.

# Payments and invoicing

## Method of payment

All payments made under this Master Agreement must be made:

### by crediting the account specified for receiving such payment in the relevant Confirmation or otherwise pursuant to this Master Agreement, by no later than the date on which such payment is due for payment for value on that date in the place of such account, in freely transferable funds and in the manner customary for payments in the required currency; and

### without any deduction or withholding (except to the extent required under Applicable Laws).

## Bank fees and charges

All fees and charges imposed or otherwise levied in respect of the account specified for receiving such payment are:

### where the payee’s bank imposes or levies the relevant fees and charges, the responsibility of the payee; and

### where the payer’s bank imposes or levies the relevant fees and charges, the responsibility of the payer.

## Supporting documentation

Each party must, with respect to each invoice that it has issued to the other party under this Master Agreement, provide to the other party any documentation or other information specified for the purpose of this clause in the Elections Schedule, or in the Confirmation for a particular Transaction, to enable the other party to verify the accuracy of the invoice.

## Disputed invoice

If a party believes that an invoice received by it under this Master Agreement is incorrect, it may notify the other party in writing and must provide reasons for its belief. If the other party disagrees with the reasons provided by the recipient of the invoice:

### the parties must in good faith attempt to resolve the dispute and the other party must provide such evidence as may be reasonably necessary to verify the accuracy of the disputed invoice;

### where only part of an invoice is disputed, the recipient of the invoice must pay the undisputed amount by the due date for payment of the invoice; and

### the other obligations of each party under this Master Agreement are not affected.

## Defaulted payments

If a party fails to pay to the other party any amount due under this Master Agreement by the due date for payment, it must pay interest on the overdue amount to the other party on demand in the same currency as the overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment at the Default Rate, calculated on the basis of the actual number of days elapsed.

## Conditions precedent to payments or deliveries

### Each obligation of each party to make a payment or Delivery in respect of a Transaction, or to Accept a Delivery in respect of a Transaction, is subject to:

#### the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing; and

#### the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated; and

#### such other condition precedent specified in the Elections Schedule to be a condition precedent for the purpose of this clause 8.6 (*Conditions precedent to payments or deliveries*).

### The conditions precedent in clause 8.6(a) (*Conditions precedent to payments or deliveries*) do not apply in respect to a party’s obligation to pay a Termination Payment under this Master Agreement.

## Netting of payments

### If on any date amounts would otherwise be due and payable on the same day in respect of two or more Transactions by each party to the other, then, on such date, each party’s obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by which the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

## Netting of deliveries

### If the parties elect to apply this clause in the Elections Schedule, on any day ACCUs having the same Agreed Characteristics would otherwise be Deliverable (otherwise than by Retirement) in respect of any two or more Transactions under this Master Agreement by each party to the other and between the same pair of ANREU Accounts of the parties, then, on that date, each party’s obligation to make Delivery of the ACCUs will be:

### automatically satisfied and discharged; and

### if the aggregate amount of ACCUs that would otherwise have been Deliverable by one party exceeds the aggregate amount of ACCUs that would otherwise have been Deliverable by the other party, replaced by an obligation upon the party by which the larger aggregate amount would have been Deliverable to Deliver to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

# Option Transactions

## Application of clause

This clause 9 applies to all Transactions that are Option Transactions.

## Premium

In respect of an Option Transaction, the Option Buyer must pay the relevant Premium to the Option Seller in respect of that Option Transaction on the relevant Premium Payment Date.

## Exercise

### Subject to clause 9.4 (*Multiple Exercise*), except where “Automatic Exercise” is specified in the relevant Confirmation to apply to an Option Transaction, the Option Buyer may exercise all (and not some only) of the Options comprising the Option Transaction, only by giving a Notice of Exercise to the Option Seller within the Exercise Period for the relevant Option Transaction.

### A Notice of Exercise is effective immediately upon the exercise of such Option Transaction pursuant to clause 9.3(a) (*Exercise*) and is irrevocable once effective.

### If “Automatic Exercise” is specified in the relevant Confirmation to apply to an Option Transaction then, unless the parties otherwise agree at or prior to the Expiration Time in respect of the Option Transaction, each Option comprising the Option Transaction will be deemed to have been exercised at the applicable Expiration Time if:

#### in the case of a Call Option, the Reference Price for the Option Transaction as at the applicable Expiration Time is greater than the Strike Price for the Option Transaction by at least the Automatic Exercise Percentage for the Option Transaction, as specified in the relevant Confirmation; and

#### in the case of a Put Option, the Strike Price for the Option Transaction is greater than the Reference Price for the Option Transaction as at the applicable Expiration Time by at least the Automatic Exercise Percentage for the Option Transaction, as specified in the relevant Confirmation.

### Where an Option Transaction is not exercised or deemed to be exercised at or prior to the Expiration Time on the relevant Expiration Date, it will expire unexercised except that any outstanding Premium will remain payable by the relevant Option Buyer.

## Multiple Exercise

### If in respect of an Option Transaction:

### “Automatic Exercise” is not specified to apply in the relevant Confirmation; and

### the following are specified to apply in the relevant Confirmation:

#### “Multiple Exercise”; and

#### “American” or “Bermudan”,

### the rights under the Option Transaction may be exercised in accordance with the following provisions of this clause 9 (*Option Transactions*).

## Full or Partial Exercise

### The Option Buyer may exercise its rights in respect of all or fewer than all of the unexercised Options on one or more Business Days in the Exercise Period.

### The Option Buyer must specify in the Notice of Exercise the number of Options being exercised on the relevant Exercise Date.

## Application of an Integral Multiple.

Subject to clause 9.8 (*Exercise of Remaining Options*), if an amount is specified as the “Integral Multiple” in a Confirmation for an Option Transaction:

### the number of exercised Options must be equal to, or be an integral multiple of, the number so specified; and

### an attempt to exercise a number of Options not equal to, or not an integral multiple of, the number so specified will be deemed to be an exercise of a number of Options equal to the next lowest integral multiple of the Integral Multiple (and the number of Options exceeding that number will be deemed to remain unexercised).

## Maximum Number of Options and Minimum Number of Options.

Subject to clause 9.8 (*Exercise of Remaining Options*), if a Maximum Number of Options and/or a Minimum Number of Options is specified, the Option Buyer may not exercise rights in respect of fewer than the Minimum Number of Options or more than the Maximum Number of Options. An attempt to exercise on any occasion:

### more than the Maximum Number of Options will be deemed to be an exercise of the Maximum Number of Options (and the number of Options exceeding the Maximum Number of Options will be deemed to remain unexercised); and

### fewer than the Minimum Number of Options will be ineffective.

## Exercise of Remaining Options

### On any Business Day in the Exercise Period other than the Expiration Date, the Option Buyer may exercise any number of Options that does not exceed the Maximum Number of Options (including a number of Options which is fewer than the Minimum Number of Options) if the exercise relates to all the Options remaining unexercised.

### On the Expiration Date, the Option Buyer may exercise any number of Options remaining unexercised, regardless of whether this is fewer than the Minimum Number of Options or more than the Maximum Number of Options.

## Rights under Options

### In respect of each Put Option, the Option Seller grants the Option Buyer the right on the exercise or deemed exercise of the Options comprising the Put Option to require the Option Seller to purchase (and take Delivery on the relevant Delivery Date) by payment of the amount determined under clause 6.1(b)(ii) (*Delivery and payment obligations*) on the relevant Payment Date, the number of Contracted ACCUs equal to the number of such Options that the Option Buyer has exercised (or is deemed to have exercised).

### In respect of each Call Option, the Option Seller grants the Option Buyer the right on the exercise or deemed exercise of the Options comprising the Call Option, to require the Option Seller to sell (and Deliver on the relevant Delivery Date) in return for payment of the amount determined under clause 6.1(b)(ii) (*Delivery and payment obligations*) on the relevant Payment Date) the number of Contracted ACCUs equal to the number of such Options that the Option Buyer has exercised (or is deemed to have exercised).

## Number of Options

The number of Options comprised in the relevant Option Transaction will be specified in the relevant Confirmation as the “Number of Options”.

# Representations and warranties and undertakings

## Mutual representations and warranties

Each party represents and warrants to the other party as at the date of this Master Agreement and on each Trade Date and each Delivery Date:

### it is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, in good standing);

### it has the power to execute this Master Agreement and any other documentation relating to this Master Agreement to which it is a party, to deliver this Master Agreement and any other documentation relating to this Master Agreement that it is required by this Master Agreement to deliver, and to perform its obligations under this Master Agreement, and has taken, or obtained, as the case may be, all approvals, consents, resolutions or other action that are legally required in the relevant jurisdictions to authorise such execution, delivery and performance;

### the execution, delivery and performance of this Master Agreement does not violate or conflict with any law or statute applicable to it, including without limitation any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets, or any contractual restriction binding on or affecting it or any of its assets;

### its obligations under this Master Agreement constitute legal, valid and binding obligations, enforceable in accordance with its terms, subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors’ rights generally and to equitable principles of general application;

### all Authorisations that are required to enable it to fulfil any of its obligations under this Master Agreement have been (or will be, when required) obtained and are (or will be, once received) in full force and effect, and all conditions of any approvals have been (or will be, once received) complied with;

### it has entered into this Master Agreement as principal (and not as agent or in any other capacity, fiduciary or otherwise);

### the other party is not acting as a fiduciary or an advisor for it, nor has the other party given to it any advice, representation, assurance or guarantee as to the expected performance, benefit or result of this Master Agreement;

### it is not relying upon any representations except those expressly set forth in this Master Agreement;

### it has entered into this Master Agreement after a full opportunity to review its terms, has a full understanding of those terms and of their risks, and is capable of assuming those risks;

### it has consulted with its own legal, regulatory, tax, business, investments, financial and accounting advisors to the extent that it has deemed necessary, and it has made its own investment and trading decisions based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the other party or any of its agents;

### there are no claims, actions, proceedings or investigations pending or, so far as it is aware, threatened against it before any competent authority which may materially and adversely affect its financial condition or its ability to perform its obligations under this Master Agreement;

### no Event of Default or Potential Event of Default, has occurred with respect to it and no such event would occur as a result of its entering into or performing its obligations under this Master Agreement;

### it does not enjoy any right of immunity from set-off, suit, execution, attachment or other legal process with respect to its assets or its obligations under this Master Agreement;

### it has at all times fully complied with the Australian Scheme Rules to the extent necessary to permit each Delivery by it or Acceptance by it, as applicable, contemplated by the relevant Transaction and this Master Agreement; and

### each other representation and warranty specified to be made by it in the Elections Schedule for the purpose of this clause 10 (*Representations and warranties and undertakings*).

## Delivering Party representations and warranties

The Delivering Party represents and warrants to the Receiving Party in respect of each Contracted ACCU to be Delivered by the Delivering Party under this Master Agreement as at the time of its Delivery:

### each such Contracted ACCU:

#### is owned solely by the Delivering Party with full legal and beneficial title and the right to sell such Contracted ACCU to the Receiving Party;

#### is free and clear of any claim, lien or Security Interest of any kind;

#### has been issued during each applicable Vintage (if any) specified in the relevant Confirmation;

#### has been sourced from the Project or Project Type (as applicable), if any, specified in the relevant Confirmation;[[5]](#footnote-5)

#### has the Agreed Characteristics described in the relevant Confirmation;

#### has not been previously Retired or otherwise cancelled; and

#### where an Excluded Project is specified in the relevant Confirmation, has not been sourced from that Excluded Project; and

### each other representation and warranty specified to be made by the Delivering Party in the Elections Schedule for the purpose of this clause 10.2(b) (*Delivering Party representations and warranties*).

## No representation

Unless specified otherwise in a Confirmation, the Delivering Party does not make any representation or warranty, whether express or implied, that any Contracted ACCUs that it Delivers under this Master Agreement may be disclosed, accounted for, reported or otherwise used in relation to any national or international climate-related regulations, systems, standards, frameworks or targets.

## Undertakings

Each party agrees to comply with each undertaking specified in the Elections Schedule to apply to it (if any) for the purpose of this clause 10.4 (*Undertakings*).

# Retirement

## Delivery of a Retirement Instruction

The Receiving Party may give a Retirement Instruction to the Delivering Party in respect of:

### some or all of the Contracted ACCUs for a particular Delivery Date; and

### in respect of a Spot Transaction or a Forward Transaction, one or more Delivery Dates.

No Retirement Instruction will be effective unless the Retirement Instruction is received by the Delivering Party on or prior to the Retirement Cut-off Time. Any Retirement Instruction given by the Receiving Party will be irrevocable once the confirmation from the Delivering Party specified in clause 11.2(a) (*Receipt of a Retirement Instruction*) is effective.

## Receipt of a Retirement Instruction

If the Delivering Party receives a Retirement Instruction in relation to a Transaction:

### it must confirm in writing the receipt of that Retirement Instruction no later than the earlier of:

#### three Business Days following the date on which that Retirement Instruction is effective, and

#### the Delivery Date specified in that Retirement Instruction,

#### provided that a failure by the Delivering Party to provide such a confirmation will not affect the validity of the Retirement Instruction;

### with effect from the Delivery Date, the Delivering Party is taken to hold the Contracted ACCUs forming the relevant number of Contracted ACCUs to be Retired in accordance with the Retirement Instruction for the benefit of the Receiving Party, and to its order, in accordance with the Australian Scheme Rules (to the extent applicable) in respect of Retirement; and

### by no later than the Retirement Date, the Delivering Party must:

#### notify the Clean Energy Regulator of any information specified by the Receiving Party in the Retirement Instruction; and

#### instruct the Clean Energy Regulator to, and make reasonable efforts to ensure that the Clean Energy Regulator does, in accordance with the relevant Australian Scheme Rules:

##### irrevocably Retire the Contracted ACCUs comprising the relevant number of Contracted ACCUs to be Retired in accordance with the Retirement procedures specified by the Australian Scheme Rules; and

##### record the Contracted ACCUs comprising the relevant number of Contracted ACCUs to be Retired as Retired or otherwise cancelled in the name of the Receiving Party in the ANREU.

## Title to Retired ACCUs

Upon a Contracted ACCU being Retired by the Clean Energy Regulator in the name of the Receiving Party in accordance with the Australian Scheme Rules, as contemplated by clause 11.2(c)(ii) (*Receipt of a Retirement Instruction*) above, the parties acknowledge and agree that:

### all legal and beneficial title held by either party in that Contracted ACCU will be extinguished; and

### no further transfer of that Contracted ACCU may be made by either party and that Contracted ACCU will become non-transferable,

### in each case, in accordance with the Australian Scheme Rules.

## Receiving Party’s obligations in respect of Retired ACCUs

Once a Contracted ACCU has been Retired, the Receiving Party must comply with the restrictions specified (if any) in respect of that Contracted ACCU in the Elections Schedule.

## Cancellation Prior to Retirement

The cancellation by the Australian Scheme Rules of any Contracted ACCU from, and including, the Delivery Date but prior to the Retirement of the Contracted ACCU will discharge the Delivering Party of its obligation to the Receiving Party to Retire the relevant Contracted ACCU subject to any claims of the Receiving Party against the Delivering Party.

## Retirement Representations and Warranties

### If the Retirement Requirements have been satisfied in respect of a Transaction, the Delivering Party represents and warrants to the Receiving Party on the Delivery Date specified in the relevant Retirement Instruction each representation and warranty specified to be made by it (if any) in the Elections Schedule for the purpose of this clause 11.

## No Delivering Party liability

The Delivering Party will have no liability for any actions, delays, omissions, negligence or errors of or by the ANREU or the Clean Energy Regulator in connection with the Retirement of any Contracted ACCUs.

# Taxes and Duties

## Responsibility for Taxes and fees

Subject to clause 12.2 (*GST*), the Receiving Party must pay any transfer fees imposed by the Australian Scheme Rules in respect of the Delivery of Contracted ACCUs to the Receiving Party, including stamp duty, and if the Delivering Party is required by the Australian Scheme Rules to pay any transfer fee or other similar expense associated with the Delivery of Contracted ACCUs to the Delivering Party, the Receiving Party must reimburse, and indemnify the Delivering Party for, such expense on demand.

## GST

### Words defined in the GST Law have the same meaning in this clause 12.2 (*GST*) unless the context makes it clear that a different meaning is intended.

### All amounts or values of consideration provided for in this Master Agreement, including in respect of a Transaction under any Confirmation are GST exclusive.

### The recipient of a taxable supply must, subject to the issue of a valid tax invoice by the party making such supply (**Supplier**) to the recipient, pay to the Supplier (in addition to all other amounts payable under this Master Agreement, including in respect of a Transaction under any Confirmation) an additional amount (**Additional Amount**) on account of any GST payable on the taxable supply calculated by the Supplier in accordance with the GST Law at the same time the GST exclusive consideration is provided for such supply.

### Whenever an adjustment event occurs in relation to any taxable supply to which clause 12.2(c) (*GST*) applies:

#### the supplier must determine the amount of the GST component of the consideration payable; and

#### if the GST component of that consideration differs from the amount previously paid:

##### the Supplier must, within 10 Business Days of becoming aware of the adjustment event, issue the recipient an adjustment note; and

##### the amount of the difference must be paid by, refunded to, or credited to, the recipient as applicable within 10 Business Days of receipt of the adjustment note provided by the Supplier,

##### in each case in accordance with the requirements of the GST law.

### The supplier must issue a tax invoice to the recipient of a supply to which clause 12.2(c) (*GST*) applies on or before the due date for payment of the underlying supply.

### If one of the parties is entitled to be reimbursed or indemnified for a loss, cost, expense or outgoing incurred in connection with this Master Agreement:

#### the amount of the reimbursement or indemnity payment must first be reduced by an amount equal to any input tax credit to which the party being reimbursed or indemnified (or its representative member) is entitled in relation to that loss, cost, expense or outgoing; and

#### if the amount of the payment is consideration or part consideration for a taxable supply, it must then be increased on account of GST in accordance with clause 12.2(c) (*GST*).

## Duty

The Receiving Party must pay all Duty which may be payable on, or in connection with, this Master Agreement, and any instrument executed under, or in connection with, or any transaction evidenced by, this Master Agreement.

## Withholding tax

### All payments under this Master Agreement and each Transaction must be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by law.

### If a party (**Payor**) is required to make any deduction or withholding for or on account of any Tax from a payment to be made by it to the other party (**Payee**) in accordance with this Master Agreement, then:

#### the Payor will notify the Payee of such requirement;

#### the Payor must make the deduction or withholding, pay the amount deducted or withheld as required by law to the relevant authority, and give to the Payee the relevant documentation evidencing payment of the amount deducted or withheld; and

#### the Payor must pay an additional amount to the Payee which will result in the Payee receiving the full amount it would have received had no such deduction or withholding been made or required to be made.

### Clause 12.4(b)(iii) (*Withholding tax*) shall not apply if the deduction or withholding arises as a result of:

#### the failure of the Payee to provide details of its name, address, Australian Business Number, Tax File Number, similar details or proof of any other applicable exemption from relevant Taxes or to comply with any necessary procedural formalities;

#### under or in connection with FATCA; or

#### the Payee Tax Representation (if any) in respect of the Payee not being accurate or true.

### In this clause 12.4 (*Withholding tax*), FATCA means the Foreign Account Tax Compliance Act provisions, sections 1471 through 1474 of the United States Internal Revenue Code (including any regulations or official interpretations issued, agreements entered into or non-US laws enacted with respect to those provisions).

# Early termination events

## Events of Default

Unless caused by a Settlement Disruption Event, a Termination Event or an Abandonment of Scheme, the occurrence at any time of any of the following events with respect to a party, or any Credit Support Provider of such party, constitutes an Event of Default with respect to such party (the **Defaulting Party**):

### failure by the party to make when due any payment required under this Master Agreement if the failure is not remedied within one Business Day after notice of the failure is given to the party

### failure by the party or any Credit Support Provider of the party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if the failure is continuing after any applicable grace period has elapsed;

### the expiration or termination of a Credit Support Document in respect of a party, or a failure of such Credit Support Document (or of any security interest granted by such party or a Credit Support Provider of such party to the other party under such Credit Support Document), to remain in full force and effect (in each case other than in accordance with its terms, and until satisfaction of all obligations of such party under each Transaction to which the Credit Support Document relates) without the prior consent of the other party;

### the party or its Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, this Master Agreement or any Credit Support Document to which it is a party (or such action is taken by any person or entity appointed or empowered to act on its behalf);

### a representation made or repeated or deemed to be made or repeated in this Master Agreement or in any Credit Support Document by the party or its Credit Support Provider proves to be false or misleading in any material respect when made or repeated;

### failure by the party to comply with or perform any agreement or obligation under this Master Agreement (other than obligations constituting a separate Event of Default under this clause 13.1 (*Events of Default*)), and the failure (if capable of remedy) is not remedied within 30 days after written notice of the failure is given to the party;

### a party disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, this Master Agreement, any Confirmation executed and delivered by that party or any Transaction evidenced by such a Confirmation (or such action is taken by any person or entity appointed or empowered to operate or act on its behalf);

### any Financial Indebtedness of a party:

#### is not paid when due; or

#### is declared to be, or otherwise becomes, due and payable prior to its specified maturity (or any creditor of the party is entitled to declare it due and payable prior to its specified maturity) as a result of a default, event of default or other similar condition or event (however described),

provided that no Event of Default will occur under this clause 13.1(h)(i) or (ii) (*Events of Default*), if the aggregate amount of Financial Indebtedness falling within the applicable paragraphs either alone or in aggregate is less than the Threshold Amount (or its equivalent in any other currency or currencies);

### the occurrence of an Insolvency Event in relation to the party or its Credit Support Provider; or

### the occurrence of any other event specified in the Elections Schedule to be an Event of Default with respect to a party for the purpose of this clause 13.1 (*Events of Default*).

## Settlement Disruption Events

### If a Settlement Disruption Event has occurred and is continuing with respect to a Transaction and a party (the **SD** **Affected Party**), either party may (and any SD Affected Party in respect of the Settlement Disruption Event must) notify the other party in writing of the occurrence of the Settlement Disruption Event and the SD Affected Transactions, giving reasonable details of the Settlement Disruption Event and a non-binding estimate of the extent and the expected duration of the effect of the Settlement Disruption Event on the party.

### Where a notice is given in accordance with clause 13.2(a) (*Settlement Disruption Events*), each payment or delivery which would otherwise be required to be made under the SD Affected Transactions specified in such notice will be deferred to, and will not be due until:

#### the Business Day following the Settlement Disruption Longstop Date; or

#### if earlier, the date on which the event or circumstance constituting or giving rise to that Settlement Disruption Event ceases to exist, or if such date is not a Business Day, the next following day that is a Business Day, which date will be deemed to be the Delivery Date.

### If a Settlement Disruption Event is continuing on the first Business Day following the Settlement Disruption Longstop Date, an Illegality will be deemed to have occurred on such Business Day[[6]](#footnote-6). For these purposes, all SD Affected Transactions will be Affected Transactions and both parties will be Affected Parties. If an Early Termination Date results from that Termination Event, for the purposes of determining any amount payable under clause 14 (*Early termination*) in respect of that Early Termination Date, the requirement to perform the deferred obligations will be deemed to have resumed on the Early Termination Date.

# Early termination

## Early Termination Date designation

### If an Event of Default or Termination Event has occurred and is continuing:

#### in the case of an Event of Default, the non-Defaulting Party may, in its sole discretion, by not more than 20 days’ notice to the Defaulting Party in respect of all outstanding Transactions; and

#### in the case of a Termination Event, either party (or in the case of a Tax Event, any Affected Party) may, in its sole discretion, by not less than 2 business day’s notice and not more than 20 days’ notice to the other party in respect of some or all of the Affected Transactions,

designate a day no earlier than the day such notice is received or deemed to be received by the receiving party as an early termination date (**Early Termination Date**).

### Upon receipt by a party of a notice designating an Early Termination Date in respect of less than all Affected Transactions under clause 14.1(a)(ii) (*Early Termination Date designation*), such party may, by notice to the designating party, if such notice is effective on or before the day so designated, designate the same day as an Early Termination Date in respect of all other Affected Transactions. An Affected Party will only have the right to designate an Early Termination Date following the occurrence of a Termination Event which affects its ability to comply with a delivery or payment obligation under a Transaction, following the prior designation by the other party of an Early Termination Date under clause 14.1(a)(ii) (*Early Termination Date designation*) in respect of less than all Affected Transactions.

## Determination of the Termination Payment

If notice designating an Early Termination Date is given under clause 14.1 (*Early Termination Date designation*):

### the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing;

### all obligations due on or after the Early Termination Date under all Terminated Transactions are automatically terminated;

### the amount, if any, payable in respect of that Early Termination Date (the **Termination Payment**) will be determined pursuant to clauses 14.2(d) to (f) (*Determination of the Termination Payment)* inclusive;

### if the Early Termination Date results from an Event of Default, the Termination Payment will be an amount equal to the sum of:

#### the Settlement Amount of all Terminated Transactions; and

#### the Unpaid Amounts owed to the non-Defaulting Party less the Unpaid Amounts owed to the Defaulting Party,

determined in each case by the non-Defaulting Party as of the Early Termination Date, or if that would not be commercially reasonable, as of the soonest date following the Early Termination Date that would be commercially reasonable;

### subject to clause 14.2(f) (*Determination of the Termination Payment)*, if the Early Termination Date results from a Termination Event, each party will determine an amount equal to the sum of the Settlement Amount of all Terminated Transactions and the Termination Payment will be an amount equal to the sum of:

#### one half of the difference between the higher amount so determined (by party “**X**”) and the lower amount so determined (by party “**Y**”); and

#### the Unpaid Amounts owing to X less the Unpaid Amounts owing to Y,

#### determined in each case as of the Early Termination Date, or if that would not be commercially reasonable, as of the soonest date following the Early Termination Date that would be commercially reasonable; and

### if an Early Termination Date results from a Termination Event and that Termination Event is an Illegality or a Force Majeure Event, , the Termination Payment will be determined in accordance with clause 14.2(e) (*Determination of the Termination Payment)*, except that, for the purpose of determining a Settlement Amount or Settlement Amounts, the party determining such amounts will:

#### if obtaining quotations, ask each Market-maker (1) not to take account of the current creditworthiness of the determining party or any existing Credit Support Document and (2) to provide mid-market quotations; and

#### in any other case, use mid-market values without regard to the creditworthiness of the determining party.

## Notice of the Termination Payment

### The non-Defaulting Party must give notice (a **Termination Payment Notice**) to the Defaulting Party (or where the relevant Termination Payment is to be calculated as a result of the occurrence of a Termination Event, each party must notify the other party) in writing of the Termination Payment that it has calculated under clauses 14.2(d) to (f) (*Determination of the Termination Payment)* inclusive, including a statement showing reasonable detail of the breakdown of the calculations used to determine such Termination Payment, and whether such Termination Payment is due to or from the Defaulting Party (or where the relevant Termination Payment is to be calculated as a result of the occurrence of a Termination Event, whether the amount is due to or from X or Y).

### If the Termination Payment calculated under clause 14.2(d) (*Determination of the Termination Payment*) is a positive number, the Defaulting Party must pay it to the non-Defaulting Party; if it is a negative number, the non-Defaulting Party must pay the absolute value of the Termination Payment to the Defaulting Party, in each case on the date the relevant Termination Payment Notice is effective.

### If the Termination Payment Amount calculated under clause 14.2(e) or (f) (*Determination of the Termination Payment)* is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of the Termination Payment to Y, in each case within five Business Days after the date on which the relevant Termination Payment Notice is effective.

## Pre-estimate of loss

The parties acknowledge that the loss of a party would be difficult to determine in the event of an Event of Default or Termination Event and that the Termination Payment is the parties’ reasonable pre-estimate and approximation of the loss that would likely result from an Event of Default or Termination Event, as applicable, and the early termination of the Terminated Transactions, and each party waives the right to contest those payments and amounts as a penalty.

## Sole remedy

No other amounts (except for interest for late payment at the Default Rate) are payable by either party in respect of an Event of Default or Termination Event or the early termination of the Terminated Transactions and neither party will be entitled to recover any additional damages as a consequence of the occurrence of an Event of Default, a Termination Event or the termination of the Terminated Transactions.

# Set-Off

Without prejudice to any right of set-off, combination of accounts, lien or other right (whether by operation of law or otherwise) in the event of the occurrence of an Early Termination Date the non-Defaulting Party or (where a Termination Event has occurred and all outstanding Transactions are Affected Transactions) the non-Affected Party (as applicable) will be entitled at its option to set-off any amount payable by it (the **Payer**) to the other party (the **Payee**) under this Master Agreement against any other amounts (**Other Amounts**) payable by the Payee to the Payer (whether or not arising under this Master Agreement, matured or contingent and irrespective of the currency, place of payment or place of booking of the obligation). To the extent that any Other Amounts are so set off, those Other Amounts will be discharged promptly and in all respects. The Payer must give notice to the Payee of any set-off effected under this clause 15(*Set-Off*). If an obligation is unascertained, the Payer may, in good faith, estimate the value of that obligation and set-off in respect of that estimate. The Payer must notify the Payee when the value of such obligation is finally ascertained. In the event an overpayment or underpayment was made by the Payer as a result of such estimate, the overpaid sums must be returned to the Payer, or the underpaid sums must be paid to the Payee, in each case within five Business Days of the relevant notice.

# Hierarchy

### Where an event or circumstance that would otherwise constitute or give rise to a Termination Event or a Settlement Disruption Event also constitutes or gives rise to an Abandonment of Scheme, it is to be treated as an Abandonment of Scheme and not as a Termination Event or a Settlement Disruption Event.

### Subject to paragraph (a) above, where an event or circumstance that would otherwise constitute or give rise to a Settlement Disruption Event, also constitutes or gives rise to an Event of Default, a Potential Event of Default or a Termination Event, except as contemplated by clause 13.2(c) (*Events of Default*) it is to be treated as a Settlement Disruption Event and not as an Event of Default, a Potential Event of Default or a Termination Event.

### Subject to paragraphs (a) and (b) above, an event or circumstance that constitutes or gives rise to an Illegality or a Force Majeure Event will not, for so long as that is the case, constitute or give rise to an Event of Default under clauses 13.1(a), 13.1(b) or 13.1(f) (*Events of Default*)to the extent the event or circumstances relates to a failure to pay, deliver or comply with any other material provision of the Master Agreement or a Credit Support Document, as applicable.

### Subject to paragraphs (a), (b) and (c) above, if an event or circumstance occurs that would otherwise constitute or give rise to an Illegality or a Force Majeure Event also constitutes or gives rise to an Event of Default or any other Termination Event, it will be treated as an Event of Default or such other Termination Event, as applicable, and will not constitute or give rise to an Illegality or a Force Majeure Event.

### Subject to paragraphs (a), (b), (c) and (d) above, if an event or circumstance occurs which would otherwise constitute or give rise to a Force Majeure Event also constitutes or give rise to an Illegality, it is to be treated as an Illegality and not as a Force Majeure Event.

# Abandonment of Scheme

## Change in Australian Scheme Rules

If, at any time the Australian Scheme Rules in effect when a Transaction was entered into are:

### amended, discontinued, repealed or terminated; and

### as a result, it is not possible for a party to perform its Delivery or acceptance obligations in respect of any ACCUs to be Delivered under the Transaction including without limitation because the ACCUs with the Agreed Characteristics:

#### have ceased to exist;

#### are to be revoked and not replaced, and/or

#### there is no available mechanism to Deliver the ACCUs,

(an **Abandonment of Scheme**), either party may, by written notice to the other party, terminate the Transaction affected by the Abandonment of Scheme (which will be an **Abandoned Transaction**), in which case from the date such notice is effective, neither party will have any further payment, Delivery, acceptance or payment obligations under or in respect of the Abandoned Transaction (other than in respect of any payment due by a party under this clause or in connection with Delivery obligations already performed by the other party as at the termination date for the Abandoned Transaction).

## Consequences of terminating Transactions

In the event of the termination of an Abandoned Transaction in accordance with clause 17.1 *Change in Australian Scheme Rules*), the Delivering Party must promptly refund to the Receiving Party any amount that may have been paid by the Receiving Party in respect of the Abandoned Transaction under which the Delivery or acceptance obligations (as applicable) have not yet been performed (including without limitation any Premium paid), together with interest on that amount in the same currency as that amount for the period from (and including) the date that amount was paid to (but excluding) the date of termination of the Abandoned Transaction at the Non-default Rate.

## Consequences of Abandonment of Scheme

This clause 17 (*Abandonment of Scheme*) does not affect the liability of either party to perform any obligations under this Master Agreement which are not affected by an Abandonment of Scheme or the right of either party to seek remedies for breach of this Master Agreement for non-performance of any such obligations.

# Notices

## Notice requirements

All notices and other communications under this Master Agreement must be in writing in the English language and will be taken to be effective if left at, or sent by prepaid registered post, third party courier service or email to, the address or email address specified in the Elections Schedule, or as otherwise notified by a party to the other party from time to time. The parties must inform each other in writing of any changes to their address and/or contact details as they occur.

## When notices are effective

A notice is taken to be received at the following time:

### in the case of notice left at the address (including by third party courier service), on the date it is delivered;

### in the case of prepaid registered post, five (5) Business Days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and

### in the case of email:

#### when the sender receives an automated message confirming delivery;

#### when the sender receives any other proof that the email has been received; or

#### four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first.

If the deemed receipt time is after 5.00pm on a Business Day, then the notice is to be deemed to have been received at 9.00am on the next Business Day.

# Governing law and jurisdiction

## Governing law

This Master Agreement is governed by the laws of the Relevant Jurisdiction.

## Jurisdiction

### The courts having jurisdiction in the Relevant Jurisdiction have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Master Agreement (including a dispute regarding the existence, validity or termination of this Master Agreement).

### Each party to this Master Agreement irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, where that venue falls within clause 19.2(a) (*Jurisdiction*).

### Each party to this Master Agreement irrevocably waives any immunity in respect of its obligations under this Master Agreement that it may acquire from the jurisdiction of any court or any legal process for any reason.

# General

## Waiver

### A provision of or a right created under this Master Agreement (including under any Confirmation) may not be waived or varied except in writing signed by the party to be bound.

### A failure to exercise or delay in exercising a right or remedy provided by this Master Agreement or a Confirmation or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.

### No single or partial exercise of a right or remedy provided by this Master Agreement or a Confirmation or by law prevents further exercise of the right or remedy or the exercise of another right or remedy.

## Entire Agreement

### This Master Agreement and in respect of a particular Transaction, the relevant Confirmation, constitutes the entire agreement of the parties about its subject matter and supersedes all previous written or oral agreements, statements, representations, warranties, understandings, negotiations and arrangements between the parties on or relating to the subject matter of this Master Agreement or in respect of a particular Transaction, the relevant Confirmation.

### The parties acknowledge and agree that by entering into this Master Agreement or in respect of a particular Transaction, the relevant Confirmation, they do not rely on any statement, representation, assurance or warranty of any person (whether a party to this Master Agreement or not and whether made in writing or not), other than as expressly set out in this Master Agreement or in respect of a particular Transaction, the relevant Confirmation.

## Assignment

### Subject to clause 20.3(b) (*Assignment*), neither party may assign its rights or novate its obligations under this Master Agreement, whether in whole or in part, without the prior written consent of the other party.

### A party may assign all or any part of its interest in any Termination Payment payable to it by a Defaulting Party, together with any rights associated with that interest pursuant to clause 14 (Early termination).

Any purported assignment or novation which is not in compliance with this clause 20.3 (*Assignment*) is void.

## Amendment

No amendment to this Master Agreement or any Transaction or Confirmation must be made otherwise than by an instrument in writing executed by the parties.

## Rights are Cumulative

The rights, powers and remedies of each party under this Master Agreement are cumulative and, except where expressly stated to the contrary, not exclusive of and are without prejudice to any other rights, powers or remedies available to it (whether under this Master Agreement or at law).

## Severability

If any one or more of the provisions of this Master Agreement is held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Master Agreement will not in any way be affected or impaired thereby, and the parties must endeavour to replace any invalid, illegal or unenforceable provision with one or more valid, legal and enforceable provisions, the economic effect of which comes as close as reasonably possible to that of the invalid, illegal or unenforceable provision.

## Survival

Termination of this Master Agreement or any Transactions, howsoever caused, is without prejudice to any rights or remedies that may have accrued to a party prior to such termination, and any provisions of this Master Agreement necessary for the exercise of such accrued rights or remedies and any clause of this Master Agreement which is expressly or by implication intended to come into force or continue after such termination, including this clause and all clauses under which indemnities, reimbursement or any other payment obligations arise, survive the termination or expiry of this Master Agreement or such terminated Transactions.

## Counterparts and electronic execution

The parties acknowledge and agree in respect of this Master Agreement that:

### a party may sign this Master Agreement electronically and bind itself to this Master Agreement by executing in that manner;

### a party’s signature (whether affixed to this Master Agreement electronically or in handwriting) may be witnessed remotely in accordance with any Applicable Laws;

### a party whose signature appears in this Master Agreement (whether affixed electronically or in handwriting) acknowledges that it is their signature and that such party affixed (or expressly authorised the affixing of) their signature to this Master Agreement;

### this Master Agreement (including any applicable Confirmation) may be executed in any number of counterparts, each of which:

#### may be executed electronically or in handwriting; and

#### will be deemed an original whether kept in electronic or paper form, and all of which taken together will constitute one and the same document,

and without limiting the foregoing, if the signatures of, or on behalf of, one party are on more than one copy of this Master Agreement (including any applicable Confirmation), this must be taken to be the same as, and have the same effect as, if all of those signatures were on the same counterpart of this Master Agreement and the parties acknowledge that each such copy executed by a company registered under the Corporations Act will have been executed in a manner consistent with section 127 of the Corporations Act; and

### if this Master Agreement is signed electronically, the parties’ intention is to print this Master Agreement out after all parties that have signed electronically have done so, so that where a party prints it out, the first print-out by that party after all signatories who have signed electronically have done so will also be an executed original counterpart of this Master Agreement.

## Costs and Expenses

Except as expressly provided in this Master Agreement, each party must pay its own costs and expenses in respect of the negotiation of this Master Agreement and the documents and transactions it contemplates.

## Further assurances

Except as expressly provided in this Master Agreement, each party must, at its own expense, do all things (including execute all documents) reasonably necessary to give full effect to this Master Agreement and the matters contemplated by it.

###### Definitions Schedule

* 1. Definitions

In this Master Agreement (including each Confirmation) the following words have the following meanings, unless the context otherwise requires:

Abandonment **of Scheme** has the meaning given to that term in clause 17.1 (*Change in Australian Scheme Rules*).

**Abandoned** Transaction has the meaning given to that term in clause 17.1 (*Change in Australian Scheme Rules*).

**Accept** in relation to a Delivery of Contracted ACCUs means the taking by the Receiving Party of all necessary steps required under the Australian Scheme Rules to enable the Delivery of such Contracted ACCUs, and “**Acceptance**” and “**Accepted**” are to be construed accordingly.

Acceptance **Failure** in relation to a Transaction means the occurrence of an ACCU Shortfall in respect of the Transaction as a result of a failure by the Receiving Party to Accept the Delivery of all or part of the Contracted ACCUs for that Transaction other than:

* + - 1. as a result of the Delivering Party’s failure to perform its obligations under this Master Agreement;
			2. following the occurrence of an Event of Default under clause 13.1(i) (*Events of Default*) in respect of the Receiving Party; or
			3. as a result of the occurrence of an Illegality, a Force Majeure Event, a Settlement Disruption Event or an Abandonment of Scheme.

**ACCU** means an Australian carbon credit unit within the meaning of the CFI Act, issued under Division 2 of Part 11 of the CFI Act and transferable under Division 3 of Part 11 of the CFI Act.

**ACCU Shortfall** in respect of a Transaction and a Delivery Date under that Transaction means:

* + - 1. subject to paragraph (b), the Delivery Quantity specified in the relevant Confirmation to be Delivered on that Delivery Date; or
			2. in respect of an Option Transaction, the Delivery Quantity equal to the number of Options exercised or deemed exercised in respect of an Option Transaction on the relevant Exercise Date,

minus the number of ACCUs actually Delivered on that Delivery Date.

**Additional Amount** has the meaning given to that term in clause 12.2(c) (*GST*).

**Adjusted Delivery Date** has the meaning given in clause 7.1(b) (*Delivery failure*).

**Adjusted Acceptance Date** has the meaning given in clause 7.6(b) (*Acceptance failure*).

**Administrator Event** means the suspension of some or all of the processes of the ANREU in accordance with the Australian Scheme Rules by the administrator or operator of the ANREU.

**Affected Party** means the party designated as the” Affected Party” for the purpose of any Termination Event.

**Affected Transactions**means with respect to a Termination Event:

* + - 1. consisting of an Illegality or a Tax Event, all Transactions which are affected by the change of law giving rise to the relevant Termination Event;
			2. consisting of a Force Majeure Event, all Transactions which constitute obligations that an Affected Party is unable to perform due to the occurrence of the Force Majeure Event; or
			3. specified in the Elections Schedule, as specified in the Elections Schedule.

**Agreed Characteristics** in relation to an ACCU and a Transaction means the characteristics described as the “Agreed Characteristics” for that ACCU, as specified in the Confirmation relating to that Transaction.

**ANREU** means the Australian National Registry of Emissions Units that is continued in existence under section 9 of the ANREU Act.

**ANREU Account** in relation to a party and a Transaction means an account in the ANREU which allows that party to hold, Retire and cancel ACCUs, or Deliver or receive Delivery of ACCUs under a Transaction, the details of which are specified in respect of that party in the Elections Schedule, or in respect of a particular Transaction, in the relevant Confirmation (subject to any change made in accordance with clause 2.2 (*Amending ANREU Account details*).

**ANREU Act** means the *Australian National Registry of Emissions Units Act 2011* (Cth).

Applicable **Law** means:

* + - 1. the applicable laws of the jurisdiction relevant to the action referred to; and
			2. any other laws of any other jurisdiction to which a party is subject and/or that apply in the jurisdiction in which the relevant party is incorporated.

**Australian Dollars** or **AUD** means the lawful currency of Australia.

**Australian Scheme Rules** means the CFI Act, the *National Greenhouse and Energy Reporting Act 2007* (Cth) and theANREU Act, and their associated regulations and rules governing ACCUs, and all regulations, orders and other subordinate legislation made pursuant thereto, as amended from time to time.

**Authorisation** means a permit, license, consent, approval, certificate, qualification, registration or other authorisation, or a filing of a notification, report or assessment, in each case, necessary for the effective execution, delivery or performance of this Master Agreement.

**Automatic Exercise Percentage** in respect of an Option Transaction means the percentage agreed as such by the parties and specified in the relevant Confirmation.

**Bank Account** in relation to a party means the bank account specified as such for that party in the Elections Schedule, unless specified otherwise in the relevant Confirmation for a particular Transaction.

**Bermudan Option Potential Exercise Date** means, if “Bermudan” applies to an Option Transaction, each date specified as such in the related Confirmation or, if that date is not a Business Day, the next following Business Day.

**Business Day** means a day on which commercial banks are open for business in Sydney (Australia), unless specified otherwise in the Elections Schedule or in respect of a particular Transaction, in the relevant Confirmation.

**Buyer** in respect of a Transaction means the party agreed as such by the parties, as specified in the relevant Confirmation.

**Buyer’s Replacement Costs** in respect of an ACCU Shortfall under a Transaction means:

* + - 1. the price that the Receiving Party (acting in good faith and in a commercially reasonable manner in order to produce a commercially reasonable result), will (or would) in its determination pay in an arm’s length transaction concluded on the relevant Adjusted Delivery Date to purchase a number of Comparable ACCUs equal to the ACCU Shortfall for Delivery on the first Business Day on which transactions concluded on the Adjusted Delivery Date would be settled in accordance with prevailing market practice; minus
			2. the product of:

#### the Purchase Price for the Transaction or where the Transaction is an Option Transaction, the Strike Price for the Option Transaction; and

#### the ACCU Shortfall; plus

* + - 1. interest at the Default Rate for the period from (and including) the relevant Delivery Date to (but excluding) the date the payment of the Buyer’s Replacement Costs is due under clause 7.5 (*Payment of Buyer’s Replacement Costs*), calculated on the amount determined pursuant to paragraph (a) above, minus the amount determined pursuant to paragraph (b) above; plus
			2. the amount of such reasonable costs and expenses which the Receiving Party incurs in respect of the ACCU Shortfall other than the amount determined pursuant to paragraph (a) above (including, without limitation, broker fees, commissions and legal fees).

**Call Option** means a Transaction giving the relevant Option Buyer on its exercise of the Options comprising the Transaction the right (but not the obligation) to purchase Contracted ACCUs from the Option Seller at a Strike Price per ACCU agreed by the parties, and which is identified in the relevant Confirmation as a Call Option.

**CFI Act** means the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth).

**Clean Energy Regulator** means the Commonwealth entity established by the *Clean Energy Regulator Act 2011* (Cth) (ABN 72 321 984 210).

**Commencement Time** in respect of an Option Transaction means the time agreed as such by the parties, as specified in the relevant Confirmation.

**Comparable ACCUs** in respect an ACCU Shortfall arising under a Transaction means:

* + - 1. subject to paragraph (b) below, an ACCU issued under the Australian Scheme Rules with the Agreed Characteristics specified (if any) for the Transaction; or
			2. if no such Agreed Characteristics are specified for the Transaction, or if fewer ACCUs than the ACCU Shortfall have the Agreed Characteristics and are available for Delivery, an ACCU issued under the Australian Scheme Rules that meets the “Comparable ACCU Specification” for the Transaction, or has such other attributes as the parties agree.

**Confirmation** in respect of a Transaction means the document confirming or evidencing the terms of a Transaction, which must be substantially in the form set out in Schedule 3 (*Form of Confirmation*) or Schedule 4 (*Form of Option Confirmation*), as applicable.

**Contracted ACCU** in relation to a Transaction means the Delivery Quantity of ACCUs that meets the Agreed Characteristics specified in the relevant Confirmation.

**Corporations** **Act** means the *Corporations Act 2001* (Cth) of Australia.

**Credit Support Document** in respect of a party means the agreement or instrument specified as such with respect to that party in the Elections Schedule, or in respect of a particular Transaction, in the relevant Confirmation.

**Credit Support Provider** in respect of a party means the person specified as such with respect to that party in the Elections Schedule, or in respect of a particular Transaction, in the relevant Confirmation.

**Default Rate** means therate most recently published by the Reserve Bank of Australia as its ‘Cash Rate Target’ plus two per cent (2%) per annum, or, should this rate no longer be available, then an equivalent rate as agreed by the parties acting reasonably.

**Defaulting Party** has the meaning given to that term in clause 13.1 (*Events of Default*).

**Deliver** means in relation to a Contracted ACCU:

* + - 1. the transfer of that Contracted ACCU to the Receiving Party’s ANREU Account, in accordance with the Australian Scheme Rules; or
			2. if the Retirement Requirements have been satisfied in respect of the relevant Transaction, the Retirement of Contracted ACCUs under that Transaction in accordance with clause 11,

and “**Deliverable**”, “**Delivered**” and “**Delivery**” are to be construed accordingly.

**Delivering Party** means in respect of:

* + - 1. a Spot Transaction or a Forward Transaction, the party specified as such in the Confirmation;
			2. an Option Transaction which is a Call Option, the Option Seller; or
			3. an Option Transaction which is a Put Option, the Option Buyer.

**Delivery Date** means:

* + - 1. subject to paragraph (b), in relation to a Transaction, the date or dates specified as such in the relevant Confirmation, or if any such date is not a Business Day, the next following Business Day; and
			2. in relation to an Option Transaction:

#### the number of Business Days specified in the relevant Confirmation as the “Delivery Period”; or

#### if no such number is specified, the second Business Day,

in each case, following the relevant Exercise Date (if any).

**Delivery Failure** in relation to a Transaction means the occurrence of an ACCU Shortfall in respect of the Transaction as a result of a failure by the Delivering Party to Deliver all or part of the Contracted ACCUs for that Transaction on or before the relevant Delivery Date other than:

* + - 1. as a result of the Receiving Party’s failure to perform its obligations under this Master Agreement;
			2. following the occurrence of an Event of Default under clause 11.1(g)(vii) in respect of the Receiving Party; or
			3. as a result of the occurrence of an Illegality, a Force Majeure Event, a Settlement Disruption Event or an Abandonment of Scheme.

**Delivery Quantity** in respect of a Transaction and a Delivery Date means:

* + - 1. subject to paragraph (b), the number of ACCUs specified in the relevant Confirmation to be Delivered on that Delivery Date; and
			2. where the Transaction is an Option Transaction, the number of ACCUs equal to the number of Options exercised or deemed exercised on the relevant Exercise Date.

**Determining Party** means the party determining a Settlement Amount.

**Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of any of them, but excludes any Tax.

**Earliest Exercise Time** in relation to an Option Transaction means the time specified as such in the relevant Confirmation or, if no such time is specified, 09:00am (Sydney time).

**Early Termination Date** has the meaning given to that term in clause 14.1 (*Early Termination Date designation*).

**Elections Schedule** means the schedule of elections set out in Schedule 2.

**Emission Reduction** means, in respect of an ACCU, the removal, reduction, avoidance, sequestration or mitigation of emissions of GHGs measured in tCO2e from the atmosphere which are capable of being represented in a form of unit of measurement pursuant to the Australian Scheme Rules

**Emission Reduction Claim** means any net zero, carbon neutral or other claim made by the Receiving Party or any subsequent transferee to have offset their GHG emissions.

**Environmental Attribute** means, in respect of an ACCU, any rights, interests and benefits arising from, or associated with, the Emission Reduction achieved by the underlying project in respect of which that ACCU has been Issued, including in connection with any sustainable development outcomes or the protection or enhancement of the environment.

**Event of Default** means any of the events of default specified in clause 13.1 (*Events of Default*).

**Excluded Project** in respect of a Transaction means the project agreed as such by the parties, as specified in the relevant Confirmation.

**Exercise Date** means, in respect of each exercise of rights under an Option Transaction, the Business Day during the Exercise Period on which that exercise occurs.

**Exercise Period** in respect of an Option Transaction means:

* + - 1. if “American” applies, all Business Days from, and including, the Trade Date to, and including, the Expiration Date, in each case, between the Earliest Exercise Time and the Latest Exercise Time;
			2. if “Bermudan” applies, each Bermudan Option Potential Exercise Date and the Expiration Date, in each case, between the Earliest Exercise Time and the Latest Exercise Time; and
			3. if “European” applies, the Expiration Date between the Earliest Exercise Time and the Expiration Time.

**Expiration Date** in respect of an Option Transaction means the date agreed as such by the parties for the relevant Put Option or Call Option, as specified in the relevant Confirmation, being the date on which such Option Transaction expires.

**Expiration Time** in respect of an Option Transaction means 4.00pm on the Expiration Date for the Option Transaction, unless specified otherwise in the relevant Confirmation.

**Financial Indebtedness** unless specified otherwise in the Elections Schedule means, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

**Force Majeure Event** meanswith respect to a party (which will be designated as the Affected Party) and a Transaction:

* + - 1. a force majeure or act of state occurs after the date the Transaction is entered into; and
			2. such force majeure or act of state is beyond the control of such party; and

as a result of which:

* + - 1. a party or any Credit Support Provider of such party is prevented from:

#### performing any payment or delivery obligation in respect of the Transaction or under any Credit Support Document relating to such party or Transaction;

#### receiving a payment or delivery in respect of the Transaction; or

#### complying with any other material provision of this agreement relating to the Transaction, or under any Credit Support Document relating to such party or Transaction; or

* + - 1. it becomes impossible or impracticable for such party (or such Credit Support Provider, as applicable) to so perform, receive or comply;

and such party (or such Credit Support Provider, as applicable) could not, after using all reasonable efforts (which will not require such party (or such Credit Support Provider, as applicable) to incur a loss, other than immaterial, incidental expenses), overcome such prevention, impossibility or impracticability.

**Forward Transaction** means a Transaction identified as a “Forward Transaction” in the relevant Confirmation.

**GHG** means carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydrofluorocarbons, perfluorocarbons and nitrogen trifluoride and any other gas designated as a greenhouse gas under the Australian Scheme Rules.

**Government Agency** means a government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

**GST** means a goods and services tax, or a similar value added tax, levied or imposed under the GST Law.

**GST Law** has the meaning given to that term in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Illegality** means,with respect to a party and a Transaction, due to an event or circumstance (other than any action taken by a party or, if applicable, any Credit Support Provider of such party) that occurs after the date the Transaction is entered into, it becomes unlawful under any Applicable Law, or it would be unlawful if the relevant payment or delivery or compliance obligation were due to be performed on that day (other than as a result of a breach by the party of clause 10.1(e) (*Mutual representations and warranties*):

* + - 1. for the party (which will be the Affected Party) to make or receive a payment or delivery in respect of the Transaction, or to comply with any other material provision of this Agreement relating to the Transaction; or
			2. for the party or its Credit Support Provider to make or receive a payment or delivery which such party or Credit Support Provider has under any Credit Support Document relating to such Transaction, or to comply with any other material provision of such Credit Support Document.

**Insolvency Event** unless specified otherwise in the Elections Schedule means the occurrence of any of the following events in respect of a person that is a body corporate:

* + - 1. an application is made to a court for an order, or an order is made, that it be wound up, declared bankrupt or that a provisional liquidator or receiver or receiver and manager be appointed, and the application is not withdrawn, struck out or dismissed within 15 Business Days of it being made;
			2. a liquidator or provisional liquidator is appointed to it;
			3. an administrator is appointed to it under sections 436A, 436B or 436C of the Corporations Act;
			4. a Controller (as defined in section 9 of the Corporations Act) is appointed to it or any of its assets;
			5. a receiver is appointed to it or any of its assets;
			6. it enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors, in each case other than to carry out a reconstruction or amalgamation while solvent;
			7. it proposes a winding-up, dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
			8. it is insolvent as disclosed in its accounts or otherwise, states that it is insolvent, is presumed to be insolvent under an Applicable Law (including under sub-section 459C(2) or section 585 of the Corporations Act) or otherwise is, or states that it is, unable to pay all its debts as and when they become due and payable;
			9. it is taken to have failed to comply with a statutory demand as a result of sub-section 459F(1) of the Corporations Act or any other Applicable Law;
			10. a notice is issued to it under sections 601AA or 601AB of the Corporations Act and not withdrawn or dismissed within 15 Business Days;
			11. a writ of execution is levied against it or a material part of its property which is not dismissed within 15 Business Days being for an amount of in excess of the Threshold Amount; or
			12. anything occurs under the law of any jurisdiction which has a substantially similar effect to any of the events set out in the above paragraphs of this definition.

**Integral Multiple** if “Multiple Exercise” applies to an Option Transaction, means the number specified as such in the relevant Confirmation.

**Latest Exercise Time** in relation to an Option Transaction means the time specified as such in the relevant Confirmation, provided that on the Expiration Date the Latest Exercise Time will be the Expiration Time. If no such time is specified, the Latest Exercise Time will be the Expiration Time.

**Market-maker** means a leading dealer or broker in the ACCU trading market and other commercially reasonable sources of market information.

**Master Agreement** means this agreement and all Confirmations.

**Maximum Number of Options** if “Multiple Exercise” applies to an Option Transaction, means the number specified as such in the relevant Confirmation.

**Minimum Number of Options** if “Multiple Exercise” applies to an Option Transaction, means the number specified as such in the relevant Confirmation.

**Non-default Rate** in relation to an amount due to the Receiving Party under clause 18.2 (*When notices are effective*) as a result of the termination of an Abandoned Transaction, means therate certified by the Receiving Party to be a rate offered to the Receiving Party by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by the Receiving Party for the purpose of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in that relevant market.

**Notice of Exercise** in respect of an Option Transaction means a notice in writing given by the Option Buyer to the other party of its exercise of its rights under the Option Transaction and where the Option Buyer is entitled to exercise its rights in respect of all or fewer than all of the unexercised Options, the number of Options being exercised on the relevant Exercise Date. If “American” applies and the Notice of Exercise is given after the Latest Exercise Time on a Business Day, the Notice of Exercise will be deemed to have been given on the next following Business Day, if any, in the Exercise Period.

**Option** in respect of an Option Transaction means each unit into which that Option Transaction is divided for the purpose of exercise or settlement.

**Option** **Buyer** in respect of an Option Transaction means the party specified as such in the relevant Confirmation.

**Option** **Seller** in respect of an Option Transaction means the party specified as such in the relevant Confirmation.

**Option Transaction** means a Transaction identified as an “Option Transaction” in the relevant Confirmation.

**Other Amount** has the meaning given to that term in clause 15 (*Set-Off*).

**Payee Tax Representation** has the meaning given to that term in the Elections Schedule.

**Payment Date** means, subject to clause 6.6(b) (*Delivery of invoice*), in respect of Contracted ACCUs to be Delivered under a Transaction on a Delivery Date, the Business Day that is the number of Business Days specified in the relevant Confirmation as the “Settlement Period” (or, if no such number is specified, the second Business Day) following the relevant Delivery Date.

**Potential Event of Default** means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

**Premium** in respect of an Option Transaction means the amount agreed as such by the parties, as specified in the relevant Confirmation.

**Premium Payer** in respect of an Option Transaction means the party agreed as such by the parties, as specified in the relevant Confirmation.

**Premium Payment Date** in respect of an Option Transaction means the date agreed as such by the parties, as specified in the relevant Confirmation.

**Project** in respect of a Transaction means the project agreed as such by the parties, as specified in the relevant Confirmation.

**Project Type** in respect of a Transaction means the project type agreed as such by the parties, as specified in the relevant Confirmation, and may include reference to a particular methodology approved by the administrator of the Australian Scheme Rules.

**Purchase Price** in respect of a Transaction other than an Option Transaction means the price (per ACCU) specified as such in the relevant Confirmation or determined pursuant to any methodology specified in the relevant Confirmation.

**Put Option** means a Transaction giving the relevant Option Buyer on its exercise of the Options comprising the Transaction the right (but not the obligation) to sell Contracted ACCUs to the Option Seller at a Strike Price per ACCU agreed by the parties, and which is identified in the relevant Confirmation as a Put Option.

**Receiving Party** means in respect of:

* + - 1. a Spot Transaction or a Forward Transaction, the party specified as such in the Confirmation;
			2. an Option Transaction which is a Call Option, the Option Buyer; or
			3. an Option Transaction which is a Put Option, the Option Seller.

**Reference Price** means, for an Option Transaction, the price or formula agreed as such by the parties, as specified in the relevant Confirmation.

**Relevant Jurisdiction** unless specified otherwise in the Elections Schedule means New South Wales.

**Retire** means, in respect of an ACCU, the cancellation and permanent removal of that ACCU from circulation in the ANREU, effected through the Clean Energy Regulator cancelling the ACCU and removing the entry for the ACCU from the ANREU Account in which there is an entry for that ACCU in accordance with the Australian Scheme Rules, and “**Retirement**” and “**Retired**” will be construed accordingly.

**Retirement Cut-off Time** means, in respect of a Transaction to which “Retirement” is specified to apply in the relevant Confirmation, the time specified as such in the Confirmation or, if no such time is specified, 4pm (Sydney time) in each case:

* + - 1. in respect of a Spot Transaction, on the Trade Date specified in the Confirmation;
			2. in respect of a Forward Transaction, on the Business Day that is the number of Business Days specified in the Confirmation as the “Retirement Cut-off Period” prior to the Delivery Date, or, if no such number is specified, ten Business Days prior to the Delivery Date; or
			3. in respect of an Option Transaction, on the Exercise Date specified in the Confirmation.

**Retirement Date** in relation to a Transaction and a Retirement Instruction in respect of that Transaction means:

* + - 1. the number of Business Days specified in the Confirmation as the “Retirement Period”; or
			2. if no such number is specified, ten Business Days,
			3. in each case, following the Delivery Date specified in that Retirement Instruction.

**Retirement Instruction** means, in respect of a Transaction to which “Retirement” is specified to apply in the relevant Confirmation, an instruction substantially in the form set out in Schedule 5 (*Form of Retirement Instruction*) given by the Receiving Party to the Delivering Party which:

* + - 1. specifies the relevant number of ACCUs to be Retired;
			2. specifies any information required by the Australian Scheme Rules in order for the Contracted ACCUs to be Retired; and
			3. may (but need not) specify information that is capable of being recorded in accordance with the Australian Scheme Rules (to the extent permitted) in respect of Retirement (including, but not limited to, any Emission ReductionClaim to be made by the Receiving Party).

**Retirement Requirements** means, in respect of a Transaction, “Retirement” is specified to apply in the relevant Confirmation and a Retirement Instruction is effective on or prior to the Retirement Cut-off Time.

**SD Affected Party** has the meaning given in clause 13.2 (*Settlement Disruption Events*).

**SD Affected Transaction** means all Transactions which constitute obligations that an SD Affected Party is unable to perform due to the occurrence of a Settlement Disruption Event**.**

**Security Interest** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person including any “security interest” as defined in sections 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth).

**Seller** in respect of a Transaction means the party agreed as such by the parties, as specified in the relevant Confirmation.

**Seller’s Replacement Costs** in respect of an ACCU Shortfall under a Transaction means:

* + - 1. the product of:

#### the Purchase Price for the Transaction or where the Transaction is an Option Transaction, the Strike Price for the Option Transaction; and

#### the ACCU Shortfall; minus

* + - 1. the price the Delivering Party (acting in a commercially reasonable manner in order to produce a commercially reasonable result) will (or would) in its determination receive in an arm’s length transaction concluded on the relevant Adjusted Delivery Date to sell a number of Comparable ACCUs equal to the ACCU Shortfall to be Delivered on the Adjusted Delivery Date; plus
			2. interest at the Default Rate for the period from (and including) the relevant Delivery Date to (but excluding) the date the payment of the Seller’s Replacement Costs is due under clause 7.10 (*Payment of Seller’s Replacement Costs*), and calculated on the amount (and in the same currency) determined pursuant to paragraph (a) above minus the amount determined pursuant to paragraph (b) above; plus
			3. the amount of such reasonable costs and expenses which the Delivering Party incurs in respect of the ACCU Shortfall other than the amount determined pursuant to paragraph (a) above (including, without limitation, broker fees, commissions and legal fees).

**Settlement Amount** with respect to a Terminated Transaction means an amount that the Determining Party determines to be the total losses and costs of such party that are or would be incurred under the then prevailing circumstances (expressed as a positive number) or gains of such party that are or would be realised under the then prevailing circumstances (expressed as a negative number) in replacing or in providing for such party the economic equivalent of:

* + - 1. the material terms of the Terminated Transaction including the payments and deliveries by the parties that would, but for the occurrence of the relevant Early Termination Date, have been required after that date (assuming satisfaction of any relevant conditions precedent);
			2. the option rights (if any) of the parties in respect of the Terminated Transaction; and
			3. at the election of the Determining Party, but without duplication:

#### its cost of funding (based on the actual costs of such party whether or not greater than market costs); and

#### its losses or costs incurred as a result of it terminating, liquidating, obtaining or re-establishing any related trading position including options (or any gain resulting from any of them).

It does not include any legal fees or out-of-pocket expenses and any Unpaid Amounts owing to a party are to be excluded from such determination. The Determining Party or its agent must determine the Settlement Amount in good faith, using commercially reasonable procedures to determine a commercially reasonable result, and may do so by considering any relevant information including without limitation, quotations (either firm or indicative) of relevant rates or prices from leading Market-makers.

**Settlement Disruption Event** meansthe occurrence at any time of any of the following events with respect to a party and a Transaction:

* + - 1. an event or circumstance beyond the control of a party that the party cannot, using all reasonable efforts, overcome and which makes it impossible or impracticable for the relevant party:

#### if it is the Delivering Party, to Deliver the Contracted ACCUs; or

#### if it is the Receiving Party, to Accept Delivery of the Contracted ACCUs,

in each case in accordance with the relevant Transaction; or

* + - 1. the occurrence of any other event specified in the Elections Schedule to be a Settlement Disruption Event with respect to a party.

For the avoidance of doubt, a Settlement Disruption Event may include a Suspension Event but will not include anything in the following non-exhaustive list:

* + - 1. an event or circumstance constituting an Abandonment of Scheme;
			2. an event or circumstance affecting any banking system that prevents a party from performing, in whole or in part, any of its payment obligations;
			3. the Receiving Party’s inability economically to use or resell any Contracted ACCUs;
			4. the loss or failure of the Delivering Party’s supply of Contracted ACCUs or having insufficient Contracted ACCUs for any reason whatsoever;
			5. the Delivering Party’s ability to sell a Contracted ACCU at a price greater than the Purchase Price for that Contracted ACCU, or the Receiving Party’s ability to buy a Contracted ACCU at a price lower than the Purchase Price for that Contracted ACCU; or
			6. a party not having available the required funds to make a payment.

**Settlement Disruption Longstop Date** in relation to a Settlement Disruption Event, unless specified otherwise in the Elections Schedule or the applicable Confirmation, means the date falling [30] days after the occurrence of the event or circumstance constituting or giving rise to that Settlement Disruption Event.

**Spot Transaction** means a Transaction identified as a “Spot Transaction” in the relevant Confirmation.

**Strike Price** in respect of an Option Transaction means the price specified as such in the relevant Confirmation or determined pursuant to any methodology specified in the relevant Confirmation.

**Supplier** has the meaning given to that term in clause 12.2(c) (*GST*).

**Suspension Event** in relation to a party means the party is unable to perform its Delivery or Acceptance obligations under and in accordance with a Transaction and this Master Agreement as a result of the occurrence of any of the following events:

* + - 1. the occurrence of an Administrator Event; or
			2. the occurrence of any other event or circumstance which causes the continuing functioning of the ANREU to cease or otherwise prevents, interferes with or delays that party’s ability to perform its Delivery or acceptance obligations under and in accordance with a Transaction and this Master Agreement;

and in each case that:

#### is not specific to the party’s ANREU Account, and

#### is not within the control of, or the result of the negligence of, the party and which could not have been avoided by the exercise of reasonable efforts (or acting as a reasonable and prudent person.

**Tax** or **Taxes** means any present or future tax, levy, impost, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Master Agreement other than Duty.

**Tax Event** means, with respect to a party (which will be designated as the Affected Party) and a Transaction, there is a change in law that becomes effective after the date the Transaction is entered into as a result of which a party (which will be designated as the Affected Party) must, or would be required to (except in respect of interest under clauses 8.5 (*Defaulted payments*) or 19.2 (*Jurisdiction*)):

* + - 1. pay an additional amount to the other party under clause 12.4(b) (*Withholding tax*); or
			2. receive a payment from which an amount has been deducted or withheld on account of Tax and no additional amount is required to be paid in respect of such Tax under clause 12.4(b) (*Withholding tax*).

**Terminated Transactions** in respect of an Early Termination Date means:

* + - 1. if resulting from a Termination Event, all Affected Transactions specified in the notice given pursuant to clause 13.2 (*Settlement Disruption Events*); and
			2. if resulting from an Event of Default, all Transactions in effect immediately before that Early Termination Date.

**Termination Event** meansthe occurrence at any time of any of the following events with respect to a party and a Transaction:

* + - 1. a Tax Event;
			2. an Illegality;
			3. a Force Majeure Event; or
			4. any other event specified in the Elections Schedule to be a Termination Event with respect to the party.

**Termination Payment** has the meaning given to that term in clause 14.2 (*Determination of the Termination Payment*).

**Termination Payment** **Notice** has the meaning given to that term in clause 14.3 (*Notice of the Termination Payment*).

**Threshold Amount** has the meaning given to that term in the Elections Schedule.

**Trade Date** in respect of a Transaction meansthe date agreed as such by the parties, as specified in the relevant Confirmation.

**Transaction** means a physically-settled spot, forward or option transaction between the parties in relation to one or more ACCUs, whether or not entered into before, on or after the date of this Master Agreement.

**Unpaid Amounts** owing to any party means, in respect of an Early Termination Date and all Terminated Transactions, the aggregate of:

* + - 1. all amounts that became payable (or that would have become payable in respect of each such Terminated Transaction but for clauses 7 (*Delivery and Acceptance failures*), 8.6 (*Conditions precedent to payments or deliveries*) or 17 (*Abandonment of Scheme)*) to such party on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date; and
			2. in respect of all obligations in respect of each such Terminated Transaction which was (or would have been but for clauses 7 (*Delivery and Acceptance failures*), 8.6 (*Conditions precedent to payments or deliveries*) or 17 (*Abandonment of Scheme*)) required to be settled by Delivery to such party on or prior to such Early Termination Date, and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be settled by Delivery,

in each case together with any amount of interest accrued or other compensation in respect of that obligation or deferred obligation, as the case may be, pursuant to clause 8.5 (*Defaulted payments*), as appropriate. The fair market value of any obligation referred to in paragraph (b) above will be determined as of the originally scheduled date for delivery, in good faith and using commercially reasonable procedures, by reference to quotations of average relevant rates or prices from two or more Market-makers.

**Vintage** in respect of a Transaction means the vintage specified in the relevant Confirmation.

* 1. Interpretation

Unless the contrary intention appears, in this Master Agreement:

* + - 1. references to clauses, Schedules and Appendices are to clauses, schedules and appendices of this Master Agreement, and a reference to this Master Agreement includes any Schedule or Annexure to this Master Agreement;
			2. headings are for convenience only and must not affect the construction of this Master Agreement;
			3. words denoting the singular must include the plural and vice versa;
			4. the words “include” and “including” must be construed without limitation;
			5. the expression “person” includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
			6. a reference to a party is to a party to this Master Agreement and includes that party’s executors, administrators, successors and permitted assigns, including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
			7. a reference to any document (including this Master Agreement) is to that document as varied, novated, ratified or replaced from time to time;
			8. a reference to any statute or to any statutory provision includes any statutory modification or re‑enactment of it or any statutory provision substituted for it, and all ordinances, by‑laws, regulations, rules and statutory instruments (however described) issued under it;
			9. where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
			10. any reference to time is to Sydney local time, unless specified otherwise in the Elections Schedule or in respect of a particular Transaction, in the relevant Confirmation;
			11. unless otherwise specified, where anything is to be done under this Master Agreement on a Business Day, it is to be treated as having been done on the next following Business Day if it is done after 5:00pm on that Business Day;
			12. unless otherwise specified, where a date specified in this Master Agreement to be a Delivery Date, Payment Date or Premium Payment Date would otherwise fall on a day that is not Business Day, then such date will be deemed to be the next following day that is a Business Day; and
			13. references to “law” or “laws” includes common law, principles of equity and legislation (including regulations).

###### Elections Schedule

|  |  |
| --- | --- |
| 1. Party A Bank Account Details
 | Account Name: [*insert*]Account Number: [*insert*]Bank Name: [*insert*]Bank BIC (Swift Code): [*insert*] |
| 1. Party B Bank Account Details
 | Account Name: [*insert*]Account Number: [*insert*]Bank Name: [*insert*]Bank BIC (Swift Code): [insert] |
| 1. Party A ANREU Account Details
 | [*insert*] |
| 1. Party B ANREU Account Details
 | [*insert*] |
| 1. Credit Support Document
 | In relation to Party A means [Not applicable]/[*insert*]In relation to Party B means [Not applicable]/[*insert*] |
| 1. Credit Support Provider
 | In relation to Party A means [Not applicable]/[*insert*]In relation to Party B means [Not applicable]/[*insert*] |
| 1. Business Day means:
 | [Not applicable]/[*insert*] |
| 1. Reference to time is to Sydney local time:
 | [Applicable]/[In this Master Agreement, all references to time are to [*insert*]] |
| 1. Threshold Amount means:
 | [*insert*] |
| 1. The documentation and other information specified for the purpose of clause 8.3 (*Supporting documentation*) of the Master Agreement:
 | [Nil] [*insert*] |
| 1. Other conditions precedent specified for the purpose of clause 8.6 (*Conditions precedent to payments or deliveries*) of the Master Agreement:
 | [Nil] [*insert*] |
| 1. Clause 8.8 (*Netting of deliveries*) of the Master Agreement:
 | [Not applicable]/[Applicable] |
| 1. For the purpose of clause 10.1(o) (*Mutual representations and warranties*) of the Master Agreement, each party makes the following representation and warranty to the other party as at the date of this Master Agreement and the Trade Date for each Transaction:
 | [Not applicable]/[*insert*] |
| 1. For the purpose of clause 10.2(b) (*Delivering Party representations and warranties*) of the Master Agreement, the Delivering Party makes the following representation and warranty to the Receiving Party in respect of each ACCU to be Delivered by the Delivering Party under this Master Agreement as at the time of its Delivery:
 | [Not applicable]/[*insert*] |
| 1. Each of the events specified in this paragraph with respect to a party, or any Credit Support Provider of such party, is an Event of Default for the purpose of clause 13.1 (*Events of Default*) of the Master Agreement:
 | [Not applicable]/[*insert*] |
| 1. For the purpose of 10.4 (*Undertakings*) of the Master Agreement, each party agrees to comply with the following undertakings specified to apply to it (if any):
 | [Not applicable]/[*insert*] |
| 1. Each of the events specified in this paragraph with respect to a party and a Transaction is an Event of Default with respect to such party for the purpose of the Master Agreement:
 | [Not applicable]/[*insert*] |
| 1. Financial Indebtedness:
 | [The definition of Financial Indebtedness in this Master Agreement applies.]/[In this Master Agreement, Financial Indebtedness means [*insert*]] |
| 1. Insolvency Event:
 | [Not applicable]/[In this Master Agreement, Insolvency Event means [*insert*]] |
| 1. Relevant Jurisdiction:
 | [The definition of Relevant Jurisdiction in this Master Agreement applies.]/ [In this Master Agreement, Relevant Jurisdiction means [*insert*]] |
| 1. Each of the events specified in this paragraph with respect to a party and a Transaction is an additional Settlement Disruption Event with respect to such party for the purpose of the Master Agreement:
 | [Not applicable]/[*insert*] |
| 1. Each of the events specified in this paragraph with respect to a party and a Transaction is an additional Termination Event with respect to such party for the purpose of the Master Agreement:
 | [Not applicable]/[*insert*] |
| 1. Settlement Disruption Longstop Date:
 | [The definition of Settlement Disruption Longstop Date in this Master Agreement applies.]/ [In this Master Agreement, Settlement Disruption Longstop Date means [*insert*]] |
| 1. The initial address details for the purpose of clause 18 (*Notices*) of the Master Agreement are as follows:
 | **Party A**Address: [insert]Attention: [insert]Email: [insert]**Party B**Address: [insert]Attention: [insert]Email: [insert] |
| 1. In addition to clause 12.4(c)(i), clause 12.4(b)(iii) shall not apply if the deduction or withholding arises as a result of:
 | [***Parties to insert additional exclusions to the tax gross-up, as agreed***.] |
| 1. The Payee Tax Representation in respect of each party (in its capacity as a Payee) is:
 | [Not applicable in respect of Party A]/[In respect of Party A [*insert*, which Payee Tax Representation is deemed to be repeated by Party A at all times while a Transaction is outstanding][Not applicable in respect of Party B]/[In respect of Party B [*insert*, which Payee Tax Representation is deemed to be repeated by Party B at all times while a Transaction is outstanding] |
| 1. [insert other] [***G+T Note: to be updated once the elections have been settled.***]
 |  |

###### Form of Confirmation

[***G+T Note: Confirmation templates to be updated once the body of the agreement has been settled.***]

From: [●]

Contact: [●]

Email: [●]

Telephone: [●]

Facsimile: [●]

Trade Reference: [●]

CONFIRMATION

This Confirmation evidences the terms of the binding agreement regarding the Transaction described below and entered into under the Master ACCU Transaction Agreement dated [●] between [●] (**Party A**) and [●] (**Party B**) (the **Master Agreement**).

This Confirmation describes the additional terms applicable to this Transaction and supplements the Master Agreement which applies to this Confirmation except as amended below. In the case of any inconsistency or conflict between this Confirmation and the terms of the Master Agreement, the terms of this Confirmation must prevail for the purpose of this Transaction.

|  |  |
| --- | --- |
| Trade Date: | [●] |
| Transaction: | [Spot][Forward] Transaction  |
| Seller: | [●] |
| Buyer:  | [●] |
| Business Day: | [●] |
| Project Type (if applicable): | [●] |
| Project (if applicable): | [●] |
| Excluded Project (if applicable): | [●] |
| Vintage (if applicable): | [●] |
| Agreed Characteristics (if applicable): | [●] |
| [Comparable ACCU Specification: | [●]] |
| Number of Contracted ACCUs: | [●] |
| Delivery Date(s): | [●] |
| Purchase Price  | [●] per ACCU |
| Total Purchase Price: | [●] |
| Settlement Period: | [●] Business Days |
| One-way RP ETV: | [Applicable/Not Applicable][[7]](#footnote-7) |
| One-way DP ETV: | [Applicable/Not Applicable][[8]](#footnote-8) |
| Retirement:  | [Applicable/Not Applicable] |
| [Retirement Cut-Off Period: | [●]] |
| [Retirement Cut-Off Time: | [●]] |
| [Retirement Period: | [●]] |
| [Settlement Disruption Longstop Date: | [●]] |
| ANREU Account:  | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•]  |
| Bank Account:  | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•]  |
| Credit Support Provider: | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•] |
| Credit Support Document:  | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•]  |
| Special Conditions: | [●] |

Please confirm that the foregoing correctly sets forth the terms of our agreement regarding this Transaction by either executing this Confirmation and returning it to us by email, or by sending us an email substantially similar to this Confirmation which sets forth the material terms of the Transaction to which this Confirmation relates and indicates your agreement to these terms as set forth herein.

|  |  |
| --- | --- |
| [●]  | [●] |
| Name:Title:Date: | Name:Title:Date: |

###### Form of Option Confirmation

From: [●]

Contact: [●]

Email: [●]

Telephone: [●]

Facsimile: [●]

Trade Reference: [●]

OPTION CONFIRMATION

This Confirmation evidences the terms of the binding agreement regarding the Option Transaction described below and entered into under the Master A ACCU Transaction Agreement dated [●] between [●] (**Party A**) and [●] (**Party B**) (the **Master Agreement**).

This Confirmation describes the additional terms applicable to this Option Transaction and supplements the Master Agreement which applies to this Confirmation except as amended below. In the case of any inconsistency or conflict between this Confirmation and the terms of the Master Agreement, the terms of this Confirmation must prevail for the purpose of this Option Transaction.

**General**

|  |  |
| --- | --- |
| Trade Date:  | [●] |
| Transaction: | Option Transaction  |
| Project Type (if applicable) | [●] |
| Option Buyer:  | [●] |
| Option Seller:  | [●] |
| Business Day: | [●] |
| Project (if applicable)  | [●] |
| Excluded Project (if applicable) | [●] |
| Vintage (if applicable) | [●] |
| Agreed Characteristics (if applicable): | [●] |
| [Comparable ACCU Specification: | [●]] |
| **Procedures for Exercise** |  |
| Option Style:  | [American][Bermudan][European] |
| Option Type: | [Call Option][Put Option] |
| One-way RP ETV: | [Applicable/Not Applicable][[9]](#footnote-9) |
| One-way DP ETV: | [Applicable/Not Applicable][[10]](#footnote-10) |
| Procedures for Exercise: |  |
| Number of Options | [●] |
| Expiration Date: | [●] |
| [Earliest Exercise Time: | [[●] a.m./p.m. (local time in [●])]] |
| [Latest Exercise Time: | [[●] a.m./p.m. (local time in [●])]] |
| [Expiration Time: | [[●] a.m./p.m. (local time in [●])]] |
| [Bermudan Option Potential Exercise Date: | [ ]] |
| Multiple Exercise: | [Applicable][Not Applicable] |
| [Maximum Number of Options: | [ ] |
| Minimum Number of Options: | [ ] |
| Integral Multiple: | [ ]] |
| Automatic Exercise: | [Applicable] / [Not Applicable] |
| Automatic Exercise Percentage:  | [●] |
| Reference Price: | [●] |
| Strike Price: | [●] per Contracted ACCU |
| Premium: | [●] |
| Premium Payment Date: | [●] |
| **Settlement Terms** |  |
| Environmental Attributes: | [Applicable][Not Applicable] |
| [Settlement Disruption Longstop Date | [●]] |
| Delivery Date(s) | [●] |
| Settlement Period | [●] Business Days |
| ANREU Account  | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•]  |
| Bank Account:  | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•]  |
| Credit Support Provider: | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•] |
| Credit Support Document:  | Party A: As specified in the Master Agreement/[•] Party B: As specified in the Master Agreement/[•]  |
| Special Conditions: | [●] |

Please confirm that the foregoing correctly sets forth the terms of our agreement regarding this Transaction by either executing this Confirmation and returning it to us by email, or by sending us an email substantially similar to this Confirmation which sets forth the material terms of the Transaction to which this Confirmation relates and indicates your agreement to these terms as set forth herein.

|  |  |
| --- | --- |
| [insert**]** | [insert**]** |
| Name:Title:Date: | Name:Title:Date: |

###### Form of Retirement Instruction

Dear [    ],

**Retirement Instruction**

(i) Capitalised terms used in this Retirement Instruction which are not otherwise defined will have the meanings given to them in the document entitled [“Master ACCU Transaction Agreement”] dated [•] between [*insert Party A name*] and [*insert Party B name*].

(ii) We refer to the Transaction between [*insert Party A name*] and [*insert Party B name*], evidenced by a Confirmation dated [*insert date of relevant Confirmation and provide any other relevant details*].

(iii) This instruction constitutes a Retirement Instruction in accordance with clause 11.1 (*Delivery of a Retirement Instruction*) of the Master Agreement.

For the purpose of this Retirement Instruction:

|  |  |  |
| --- | --- | --- |
| 1 | Date of Retirement Instruction: |  |
| 2 | (i) Delivery Date: |  |
|  | (ii) Number of Contracted ACCUs to be Retired: |  |
|  | (iii) Claims and/or other information required by the Australian Scheme Rules: |  |
|  | (iv) [Other:][[11]](#footnote-11) |  |
| [3 | (i) Delivery Date: |  |
|  | (ii) Number of Contracted ACCUs to be Retired: |  |
|  | (iii) Claims and/or other information required by the Australian Scheme Rules: |  |
|  | (iv) [Other:]][[12]](#footnote-12) |  |

Yours faithfully,

………………………………………

For and on behalf of

[*Name of sender*]

Execution page

**Executed as an agreement.**

The parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

|  |  |  |
| --- | --- | --- |
| Signed by **[Party A]** in accordance with section 127 of the *Corporations Act 2001* (Cth) by: |  |  |
| Signature of director |  | Signature of director/secretary |
| Name of director (print) |  | Name of director/secretary (print) |
| Date |  | Date |

|  |  |  |
| --- | --- | --- |
| Signed by **[Party B]** in accordance with section 127 of the *Corporations Act 2001* (Cth) by: |  |  |
| Signature of director |  | Signature of director/secretary |
| Name of director (print) |  | Name of director/secretary (print) |
| Date |  | Date |
|  |  |  |

1. Under the definition of Payment Date, the default position is that the Receiving Party is required to pay 2 Business Days after the Delivery Date. We are seeking feedback on whether there should be greater flexibility to (1) specify a fixed Payment Date and (2) have payment arise before delivery. Subject to further analysis, is your firm in favour of introducing this flexibility? As a related point, is your firm in favour of changing the default number of Business Days from 2 and, if so, to what? [↑](#footnote-ref-1)
2. The risk arising due to cancellation sits with the Receiving Party rather than the Delivering Party. In contrast the equivalent provisions in the VCC Definitions allow this risk to be switched to the Delivering Party if the parties elect to do so (although this election is currently under review given it is so rarely used). [↑](#footnote-ref-2)
3. To be considered what happens if no notice is given by the Buyer because it is out of the money. Does the Transaction remain outstanding, so that Contracted ACCUs are capable of being Delivered after the Delivery Date, in return for payment of the purchase price***?*** [↑](#footnote-ref-3)
4. To be considered what happens commercially if the Buyer does not exercise rights to terminate under clause 7.1 because it is out of the money [↑](#footnote-ref-4)
5. Should the representation in clause 10.2(a)(iv) be amended so that it is not given unless the parties actively elect that it applies? [↑](#footnote-ref-5)
6. Under clause 13.2, if a Settlement Disruption Event is continuing the Settlement Disruption Longstop Date, the transactions affected by the Settlement Disruption Event can be terminated. If no election is made, the default position for the Settlement Disruption Longstop Date is that it falls thirty days following the occurrence of the Settlement Disruption Event. Is your firm happy with the default position? If not, what would you change the default position to be. and should the changed position be different for spot and forward transactions? [↑](#footnote-ref-6)
7. Parties should consider the impact of making this election “Applicable” on netting and regulatory capital treatment. [↑](#footnote-ref-7)
8. Parties should consider the impact of making this election “Applicable” on netting and regulatory capital treatment. [↑](#footnote-ref-8)
9. Parties should consider the impact of making this election “Applicable” on netting and regulatory capital treatment. [↑](#footnote-ref-9)
10. Parties should consider the impact of making this election “Applicable” on netting and regulatory capital treatment. [↑](#footnote-ref-10)
11. To include any other details as required by the relevant Registry. [↑](#footnote-ref-11)
12. To be included if the Retirement Instruction is to be delivered in respect of more than one Delivery Date in respect of a Spot Transaction or a Forward Transaction. To be repeated as required. [↑](#footnote-ref-12)