

**UNDERLYING CLIMATE CHANGE AGREEMENT FOR THE [insert name] SECTOR**

**Agreement dated [insert date]**

**TU Number [insert]**

THIS AGREEMENT is made the        day of

BETWEEN:

- (1) the Environment Agency (“the Administrator”); and
- (2) the operator set out in Schedule 2 (“the Operator”)

IT IS AGREED as follows:

**1. INTERPRETATION**

1.1 In this Agreement, unless the context otherwise requires:

“buyout fee” means the fee calculated in accordance with Rule 7”;

“certification period” means, any of the following periods:

- (a) 1<sup>st</sup> April 2013 to 30<sup>th</sup> June 2015,
- (b) 1<sup>st</sup> July 2015 to 30<sup>th</sup> June 2017,
- (c) 1<sup>st</sup> July 2017 to 30<sup>th</sup> June 2019,
- (d) 1<sup>st</sup> July 2019 to 30<sup>th</sup> June 2021,
- (e) 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2023;

“charges” means charges due to the Administrator under the charging scheme;

“charging scheme” means the Climate Change Agreements Charges Scheme 2012 made by the Administrator or any replacement or revision of that charging scheme;

“decision notice” means a notice served by the Administrator under Rule 4;

“EU ETS” means the European Union Emissions Trading System established under the Emissions Trading Directive 2003/87EC as implemented by the Greenhouse Gas Emissions Trading Scheme Regulations 2005 S.I. 2005/925;

“excluded installation” means an installation within the meaning of Schedule 5 of the Greenhouse Gas Regulations;

“facility” means a facility or facility to which an underlying agreement applies;

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“facility number” means the unique identification number of a facility set out in an umbrella agreement;

“fuel” means one or more sources of energy;

“Greenhouse Gas Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2012 S.I. 2012/xxx<sup>1</sup>;

“guidance” means any guidance published from time to time by the Administrator available via the administrator’s website;

“the Regulations” means the Climate Change Agreements (Appointment of an Administrator) Regulations 2012 S.I. 2012/xxx<sup>2</sup>;

“reconciliation date” means the last working day in the April immediately following the end of a target period;

“Rule or Rules” means the Rules for the Operation of Climate Change Agreements or any of them set out in Schedule 1 to this Agreement;

“Secretary of State” means the Secretary of State for Energy and Climate Change;

“sector” means the sector consisting of facilities which belong to the same sector and subject to the same umbrella agreement;

“sector association” means the sector association set out in Schedule 3;

“sector target” means the target agreed between the Administrator and the sector association as set out in Schedule 5 of an umbrella agreement, as varied from time to time in accordance with the Rules;

“target unit” means a facility or a group of facilities with a target set under an underlying agreement which applies to that facility or group of facilities under common ownership;

“target unit target” means the target set out in Schedule 6 to an underlying agreement”;

“target unit target currency” means one of the following:

- (a) for an absolute carbon target, carbon dioxide emitted during the target period;

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<sup>1</sup> These Regulations will come into force by 31<sup>st</sup> December 2012 and no agreement will be signed before they come into force

<sup>2</sup> The intention is to rename the Regulations that went out to consultation in January 2012

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- (b) for an absolute energy target, energy used during the target period;
- (c) for a relative carbon target, carbon dioxide emitted during the target period per unit of throughput during that period or ratio thereof; or
- (d) for a relative energy target, energy used during the target period or ratio thereof;

“throughput” means the measure of production, or factor related to the production, that has been selected and agreed with the Administrator used to determine the relationship between the amount of energy used by the target unit and the quantity of final products leaving the facility;

“the Tribunal” means the First-tier Tribunal established under the Tribunal Courts and Enforcement Act 2007; and

“variation notice” means a notice served by the Administrator under Rule 11.

- 1.2 Other words and expressions used in this Agreement have the same meaning as they bear in Schedule 6 to the Finance Act 2000 or the Regulations.

## **2. FACILITIES TO WHICH THIS AGREEMENT APPLIES**

This Agreement applies to the facility or facilities set out in Schedule 5 to this Agreement who carry out some or all of the activities set out in Schedule 4 to this Agreement.

## **3. TARGET**

- 3.1 The target for the target unit to which this Agreement applies is set out in Schedule 6 to this Agreement.
- 3.2 The throughput of a facility during a target period shall be calculated by applying the accounting conventions set out in Schedule 6.
- 3.3 Whether the target has been met shall be determined in accordance with Rule 6.
- 3.4 The Secretary of State shall carry out a review of the sector target during 2016 for the target period 1<sup>st</sup> January 2017 to 31<sup>st</sup> December 2018 and for the target period 1<sup>st</sup> January 2019 to 31<sup>st</sup> January 2020. The sector target shall be varied following the review to take account of the review in accordance with the procedure set out in Rule 11.

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**4. THE RULES**

4.1 Schedule 1 to this Agreement which sets out the rules for the operation of Climate Change Agreements shall have effect.

4.2 The Operator agrees to comply with the Rules.

**5. DURATION AND TERMINATION OF THIS AGREEMENT**

5.1 Subject to clause 6.2 below this Agreement shall continue in force from the date on which it is made until 31 March 2023.

5.2 This Agreement may be terminated before 31 March 2023:

5.2.1 At any time by a notice served by the Operator giving at least 20 working days notice served on the Administrator; or

5.2.2 In accordance with the Regulations.

**6. VARIATION OF AGREEMENT**

6.1 The facilities to which this Agreement applies may be varied in the circumstances set out in the Rules and in accordance with the Rules.

6.2 Following a review of the sector targets by the Secretary of State in 2016, the sector targets shall be varied in accordance with Rule 11.

Signed by authority of  
the Environment Agency

Signed on behalf of the  
Operator

.....

.....

.....  
(Name and position)

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**SCHEDULE 1**

**RULES FOR THE OPERATION OF CLIMATE CHANGE AGREEMENTS**

*[see schedule 1 of the umbrella agreement which will be incorporated here]*

**SCHEDULE 2  
THE OPERATOR**

*[insert name]*

Whose address for service of all notices under this Agreement is

By post:

*[insert postal address]*

Electronically:

*[insert electronic address]*

**SCHEDULE 3  
THE SECTOR ASSOCIATION**

*[insert name]*

Whose address for service of all notices under this Agreement is

By post:

*[insert postal address]*

Electronically:

*[insert electronic address]*

**THE UMBRELLA AGREEMENT**

The Agreement dated [ ] made between the Secretary of State and the Sector Association.

**SCHEDULE 4  
ACTIVITIES UNDERTAKEN BY A FACILITY FALLING WITHIN THE  
SECTOR**

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**SCHEDULE 5**

**FACILITIES TO WHICH THIS AGREEMENT APPLIES**

TUID	Unique Facility Number	Site Name & Address	Post Code	EU ETS identification (NAP number)

**SCHEDULE 6**

**FACILITY TARGET**

The throughput of a facility shall be given in the following units:

The reference [energy consumption/ carbon dioxide emissions] are:

The target is an [absolute/relative] target in [energy consumption/ carbon dioxide emissions]:

Facility number	Target period	Target (percentage reduction from reference year)
	1 January 2013 to 31 December 2014	
	1 January 2015 to 31 December 2016	

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	1 January 2017 to 31 December 2018	
	1 January 2019 to 31 December 2020	

**SCHEDULE 7**  
**VALUE OF FINANCIAL PENALTY**