

THE COMMUNITY EMISSIONS TRADING SCHEME (AUCTIONING OF ALLOWANCES) (NO.2) SCHEME 2009

PRIMARY PARTICIPANT APPLICATION FORM

Please ensure you read the 'Guidance Note to Applicants' that accompanies this form.

Auctions are carried out under the powers set out in The Community Emissions Trading Scheme (Allocation of Allowances for Payment) Regulations 2008 S.I. 2008/1825 (as amended by The Community Emissions Trading Scheme (Allocation of Allowances for Payment) (Amendment) Regulations 2008 S.I. 2008/1939) (referred to in this form collectively as "the Regulations").

Ensure that you are aware of the requirements set down in The Community Emissions Trading Scheme (Allocation of Allowances) (No.2) Scheme 2009 made on 14 September 2009 ("the Scheme").

Please read the Application form carefully and ensure that you complete **all** relevant sections.

Note that an Application can only be determined once DECC is satisfied that all the relevant information has been received by it (see in particular, Paragraphs 17, 18 and 19 of the Scheme). Once completed, please send the form by post along with any supporting documents, to DECC at:

DECC
EU ETS auctions
Area 6B
3-8 Whitehall Place
London, SW1A 2AW

Any questions that you may have whilst completing this application form can be addressed to the EU ETS auctioning team at: eu.ets@decc.gsi.gov.uk

SECTION 1 : APPLICANT DETAILS

1. Type of Applicant. Please tick the relevant box below.

UK Limited Company

Non-UK Company

Limited Liability Partnership

Partnership without Limited Liability

Sole Trader

2. Name and address

3. **For corporate bodies/organisations only.** Please describe the organisational structure of the group, if any, to which your organisation belongs. Please attach any further information that you feel may be helpful in a separate document.

4. EU ETS Registry Account Number that you choose to nominate as your holding account.

5. Contact details of a minimum of two authorised representatives who will be responsible for submitting bids in an auction.

Representative 1	Representative 2
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Name: Email Address: Address 1: Address 2: Address 3: Telephone (including extension number) : UK Registry PAR/SAR? YES/NO	Name: Email Address: Address 1: Address 2: Address 3: Telephone (including extension number): UK Registry PAR/SAR? YES/NO
Further Representatives (optional) Details of additional representatives should be submitted on a separate sheet of paper.	

6. For corporate bodies only: please provide the following information:

i) The legal form of your organisation

ii) The Governing Law applicable to your organisation

7. Please indicate your chosen settlement currency by ticking the relevant box:

Payment in Euros

Payment in Sterling

SECTION 2 : ELIGIBILITY CRITERIA FOR SELECTION OF PRIMARY PARTICIPANTS

To be approved as a Primary Participant an account holder must meet the criteria set out in Paragraph 16 the Scheme. Please provide evidence of how you meet each of the criteria in the boxes provided.

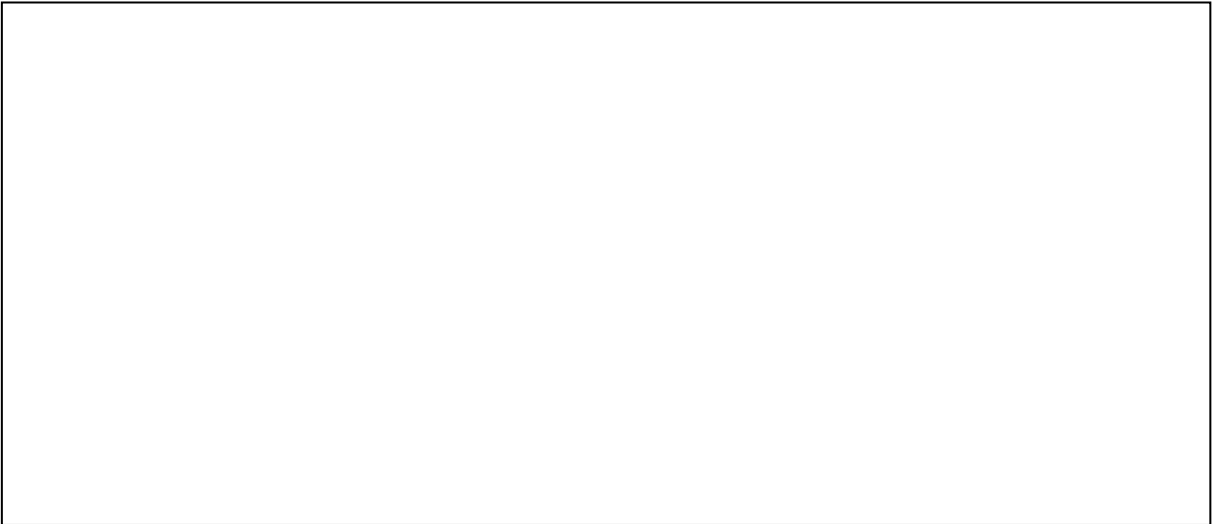
8. Please provide details of your registered office, or your head office if you do not have a registered office, in an EEA state.

If office details are the same as in Section 1 tick this box:

Address:
Telephone Number:
Company Registration number (if applicable):
Name of Register established in an EEA state (if non-UK company):

9. Please provide evidence of your ability to meet your financial commitments and current liabilities as they fall due. Please list in the box below what evidence you have provided and include supporting documentation separately to accompany this form.

10. Please provide evidence of internal systems and procedures that you have (or will have in good time before the opening of the bidding window in which you want to act as a primary participant) that will enable you to process requests from account holders to instruct you to act as agent in an auction and to participate effectively in an auction, and in particular to submit bids on behalf of, collect payment from and transfer allowances to indirect bidders for whom you act.



11. Please provide evidence of internal systems and procedures that you have (or will have in good time before the opening of the bidding window in which you want to act as a primary participant) that will enable you to prevent the disclosure of confidential information as defined in the Regulations, (and set out in the Guidance Notes) from the part of your business responsible

(i) for the management of a request from an account holder to act as their agent in an auction, and

(ii) the receipt, preparation, or submission of bids from indirect bidders,

to the part of your business responsible for the preparation or submission of any bid on your own account.



SECTION 3 : FURTHER INFORMATION (OPTIONAL)

12. If you are regulated by the UK's Financial Services Authority (FSA) please provide your FSA registration number.

EU Equivalent Regulated
(Please provide details):

13. Please provide any further information you consider relevant to your application for Primary Participant status (and continue on separate paper to accompany this form if required).

SECTION 4: DUE DILIGENCE

The Money Laundering Regulations 2007 S.I.2007/2157 regulate money laundering or terrorist financing activities in the UK and implement the EU Directive 2005/60/EC. The person conducting an auction must be satisfied that a Primary Participant is not involved in unlawful activities addressed in those Money Laundering Regulations. The following information is required for this purpose, depending on your organisation type to enable the person conducting the auction to apply customer due diligence measures in line with the legislative anti-money laundering and counter-terrorist measures.

Confirm if attached

UK Limited Company

Copy of certificate of incorporation

Evidence of signing authority

Memorandum and articles of association

Non-UK Company

A Legal Opinion letter must be completed by a lawyer (in-house or from a firm that regularly advises the Applicant) and accompany the Application form in order to assist the person conducting the auction to understand the powers and authority available to that body. The Opinion letter should take the form set out in Section 4 of the Guidance Note. *(Please note that any accompanying documents if considered necessary to send must be in English; where translations of the documentation to be submitted are not available in English, notarised translations should be submitted instead)*

Legal Opinion (may be prepared by in-house lawyers).

Evidence of signing authority

Limited Liability Partnership

Copy of certificate of registration

Evidence of signing authority

Copy of Partnership Document

Partnership without Limited Liability

Evidence of signing authority

Copy of Partnership Document

Sole Trader

Evidence of signing authority

Please contact DECC at the address shown at the beginning of this Application form for any further guidance regarding the information to be provided under this section.

SECTION 5: TERMS FOR PRIMARY PARTICIPANTS & DECLARATION STATEMENT

Following successful approval a Primary Participant must act in accordance with the requirements of the Regulations and the terms set out in the Annex of the Scheme. The latter are duplicated below. Please read these carefully and an authorised representative must then confirm that he/she has fully understood them and acknowledge that if approved as a Primary Participant, that the individual or organisation (as appropriate) will adhere to those terms by signing the declaration statement in the box provided at the bottom of this form.

Terms for Primary Participants

Instructions

- 1.** Subject to paragraph 2 of this Annex, a Primary Participant must accept instructions from any account holder who requests that the Primary Participant acts as agent of that account holder to submit a bid in an auction.
- 2.** A Primary Participant may only refuse a request to act as agent of an account holder for the purpose of submission of a bid in an auction if the Primary Participant—
 - (a) suspects money laundering or terrorist financing; or
 - (b) is unable to apply, in respect of the account holder, customer due diligence measures in accordance with the provisions of anti-money laundering and counter-terrorist financing legislation applying to the Primary Participant;
 - (c) is satisfied, after reasonable investigation, and based on objective written evidence, that an account holder is likely to be unable to pay for such allowances as the account holder has indicated that it wishes to acquire.

(2) In this paragraph “customer due diligence measures” has the meaning given to it by regulation 5 of the Money Laundering Regulations 2007^a or, where a Primary Participant is situated in an EEA State other than the United Kingdom, in the equivalent provision of the laws implementing Directive 2005/60/EC^b of the EEA State in which the Primary Participant is situated.

Written agreements with account holders

- 3.** A Primary Participant who accepts instructions from an account holder under paragraph 1 of this Annex must enter into a written agreement with that account holder.
- 4.** An agreement under paragraph 3 of this Annex must not impose any unfair conditions or restrictions on an account holder.
- 5.** On request, a Primary Participant must provide a copy of any agreement made under paragraph 3 of this Annex to the person conducting an auction and to the Treasury.

Conduct

- 6.** A Primary Participant must not—
 - (1) impose any charge, fee or levy on or require other payment from an account holder for the purpose of submitting a bid in an auction on behalf of that account holder,
 - (2) impose on an account holder any requirement which has a similar effect, or
 - (3) include in a written agreement under paragraph 3 of this Annex any provision which has a

a S.I2007/2157

b O.J. No. L309, 25.11.2005, p.15.

similar effect.

7. A Primary Participant may require an account holder to make a deposit by way of advance payment for allowances. The amount of the deposit must be calculated on a just and reasonable basis. The method of calculation of such a deposit must be set out in the agreement under paragraph 3 of this Annex. A Primary Participant must repay to an account holder any part of a deposit not used to satisfy payment for allowances as soon as reasonably practicable after the close of the bidding window.

8. Following an auction, where a bid submitted by a Primary Participant on behalf of an indirect bidder is a bid for allowances at the auction clearing price announced under paragraph 18(1), the Primary Participant must determine the number of allowances to be transferred to that indirect bidder by multiplying the number of allowances in the bid by the scaling ratio announced in accordance with paragraph 18(2).

9. On receipt of a notice under paragraph 18(3), a Primary Participant must, as soon as reasonably practicable give notice to an indirect bidder for whom it acts of the number of allowances which it proposes to transfer to the nominated holding account of that indirect bidder following a transfer of allowances to the holding account of the Primary Participant under regulation 6(2).

10. Following an auction and the transfer of allowances into the nominated holding account of a Primary Participant under regulation 6(2)—

- (1) where a bid submitted by a Primary Participant on behalf of an indirect bidder is a bid for allowances at a price above the auction clearing price announced under paragraph 18(1), the Primary Participant must immediately arrange for the transfer of the number of allowances contained in the indirect bidder's bid to the nominated holding account of that indirect bidder;
- (2) where a bid submitted by a Primary Participant on behalf of an indirect bidder is a bid for allowances at the auction clearing price announced under paragraph 18(1) the Primary Participant must immediately arrange for the transfer of the number of allowances determined under paragraph 8 of this Annex to the nominated holding account of that indirect bidder.

11. A Primary Participant must not limit the number of bids which an indirect bidder may submit.

12. A Primary Participant must not prevent or restrict an account holder from engaging any other Primary Participant to submit a bid on behalf of the account holder.

13. A Primary Participant must submit a bid on behalf of an account holder with integrity, reasonable skill, care and diligence.

14. A Primary Participant must pay due regard to the interests of an account holder who requests a Primary Participant to act as its agent in an auction.

15. A Primary Participant must treat account holders fairly and without unlawful discrimination.

16. A Primary Participant must not act in a manner which is prejudicial to—

- (1) the interests of account holders in, or
- (2) the orderly and efficient conduct of, an auction.

17. A Primary Participant must maintain adequate internal systems and procedures to process requests from account holders to instruct the Primary Participant to act as agent in an auction and to be able to participate effectively in an auction and in particular to submit bids on behalf of, collect payment from and transfer allowances to indirect bidders for whom it acts.

Information

18. Where there is any change of circumstances with the effect that information provided to the person conducting an auction under paragraphs 7 or 8 is no longer accurate, the Primary Participant must provide, by notice, updated information to the person conducting an auction as soon as reasonably practicable.

19. A Primary Participant must, for a period of two years from the date of creation of such a record, keep a record of information obtained or created in its role as Primary Participant, including a record of information relating to any bid made on its own account.

20. Where the Treasury or the person conducting an auction requests any information relating to an auction from the Primary Participant, the Primary Participant must comply with that request within the time specified by the Treasury or the person conducting an auction.

21. A Primary Participant must not provide the person conducting an auction or the Treasury with false or misleading information.

22.—(1) A Primary Participant must prevent the disclosure of confidential information (as defined in the Regulations) from Part A of the Primary Participant’s business to Part B of the Primary Participant’s business.

(2) For the purposes of this paragraph “Part A of the Primary Participant’s business” means that part of a Primary Participant’s business responsible for—

- (a) the management of a request from an account holder to act as its agent in an auction and
- (b) the receipt, preparation or submission of bids from indirect bidders.

(3) For the purposes of this paragraph “Part B of the Primary Participant’s business” means that part of a Primary Participant’s business responsible for the preparation or submission of any bid on its own account.

Declaration Statement

I, the undersigned, confirm that the Applicant has:

- legal power and authority to bid on its own account in an auction;
- legal power and authority to bid on behalf of others in an auction;
- read and understood the Regulations and the terms of Scheme and confirm that the Applicant agrees to abide by them if approved as a Primary Participant.

To the best of my knowledge there is no legal, regulatory, contractual or other restriction that will prevent the Applicant from complying with its obligations under Regulations and the Scheme.

Signed.....

Name.....

Job Title.....

Date.....