

Amendment Agreement
dated 25th June 2007
to the election sheet of the
EFET GENERAL AGREEMENT
Concerning the Delivery and Acceptance
of Electricity dated 30th April 2003

Between

Société Nationale d'Electricité et de Thermique, SA,
("Endesa France")

("Party A")

And

Endesa Trading S.A.,
Sociedad Unipersonal

("Party B")

1. The Parties agree, that the Election Sheet to above mentioned General Agreement dated 30th April 2003 will be amended with Effective Date on 25th June 2007 as follows:

a) Sections §10.4 §10.5(b) §13, §14 and §23.2 (a) will be totally deleted and replaced by the following new sections:

§10.4 Automatic Termination:

[X] §10.4 shall apply to Party A, with termination effective upon the occurrence of a Material Reason "as of right" described in 10.5.c

[X] §10.4 shall not apply to Party B

§ 10.5(b) Cross Default and Acceleration:

§ 10.5(b)(i) shall not apply to Party A.

§ 10.5(b)(i) shall not apply to Party B.

§ 10.5(b)(ii) shall be deleted and replaced by the following wording that shall apply to Party A and to Party B:

"The Party, any Credit Support Provider of such Party or any applicable Specified Entity of such Party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery



due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Business Days if there is no applicable notice requirement or grace period) in an aggregate amount of not less than the applicable Threshold Amount (as specified below) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf) in an aggregate amount of not less than the applicable Threshold Amount (as specified below).

“Specified Transaction” means: any transaction now existing or hereafter entered into between one Party to this Agreement and the other Party to this Agreement (or any Credit Support Provider of such Party or any applicable Specified Entity of such Party) (a) which is a commodity swap, commodity option, commodity contract for differences, commodity cap transaction, commodity floor transaction, commodity collar transaction or any other financially-settled derivative transaction with a commodity as an underlying asset (b) for the purchase, sale or transfer of any commodity or any physically-settled commodity trading transaction or any other similar transaction (including any option with respect to any of these transactions) (c) which is any combination of these transactions and (d) any other transaction identified as a Specified Transaction in the relevant confirmation. For purposes of this clause, the word “commodity” means any tangible or intangible commodity of any type or description (including, without limitation, electric power, electric power capacity, petroleum, natural gas, natural gas liquids, coal, and by-products thereof).

“Specified Entity” means in relation to Party A for the purpose of this section, NONE and in relation of Party B, NONE

“Threshold Amount” means in relation to this section Euro 100,000.00

§13

Invoicing and Payment

- §13.2 Payment:** initial billing and payment information for each Party is set out in § 23 of this Election Sheet.
- § 13.3 Payment Netting:** ☒ § 13.3 shall apply.
- § 13.5 Interest Rate:** the Interest Rate shall be the one month EURIBOR interest rate for 11:00 a.m. on the Due Date, plus three percent (3%) per annum.
- § 13.6 Disputed Amounts:** ☒ § 13.6 (a) shall apply amended as follows:
- “6. Disputed Amounts:** Without prejudice to § 13.7 hereunder, if a Party, in good faith, disputes the accuracy of an invoice, it shall on or before the Due Date provide a written explanation of the basis for the dispute and shall pay:

A

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The full amount invoiced no later than the Due Date except in case of manifest error. If any amount paid under dispute is finally determined to have not been due, such overpayment shall, at the election of the owed Party, be credited or returned to it within five (5) days of such determination, along with interest accrued at the Interest Rate from, and including, the date such amount was paid, to the other Party, but excluding, the date returned or credited.”

In case of Manifest Error the parties shall resolve it immediately by sending an amended invoice and paying the amount invoiced according to the contract.

Manifest Error: Means obvious inconsistencies between the economic terms orally agreed between the parties and the economic terms stated in the invoice.

[X] §13.6 (b) shall not apply

A new §13.7 shall be added to the Agreement as follows:

“7. **Non compliant Invoices:** In case the invoice does not comply with the European or National legislations, rules, regulations or any other binding order applicable to the Receiving Party, such Party shall inform without delay the Issuing Party of such non compliance and shall not be required to pay the amount in relation to the non compliant invoice until the Issuing Party provides it with a compliant invoice. Upon receipt of the compliant invoice, the Receiving Party shall pay without delay the Issuing Party the amount in relation to the said invoice and no Interest shall be due.”

§ 14

VAT and Taxes

1. **VAT:** All amounts referred to in this General Agreement are exclusive of VAT. The VAT treatment of the supply of electricity under an Individual Contract shall be determined pursuant to the VAT laws of the jurisdiction where a taxable transaction for VAT purposes is deemed to take place. If VAT is payable on any such amounts, the Buyer shall pay to the Seller an amount equal to the VAT at the rate applicable from time to time; provided that such amount shall only be required to be paid once the Seller provides the Buyer with a valid VAT invoice (applicable in the jurisdiction of supply) in relation to that amount.

Where in accordance with EU and/or national legislation any supplies under an Individual Contract may be Zero-Rated and/or subject to the reverse charge in accordance with Articles 38, 39 or 195 of Council Directive 2006/112/EC, the following shall apply:

- (a) the Buyer and the Seller hereby covenant that they will do all such proper acts, deeds and things as are necessary (which may include and shall not be limited to providing to the Seller all such proper, true and accurate documentation or assistance as may reasonably be required by the relevant taxing authority) to ensure that such supply is Zero-Rated or subject to the reverse charge for the purposes of such legislation;

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- (b) in the event that the Buyer or the Seller fails to comply with such obligation, the non-complying party shall indemnify the other party in respect of any and all VAT, penalties and interest incurred by the other party as a result of the non-complying party's failure to comply with the above covenant; and
- (c) in the absence of the Buyer providing any documentation as referred to in (a) above the Seller reserves the right to charge local VAT.

2. Other Taxes: All amounts referred to in this General Agreement are exclusive of "Other Taxes". In the case of Other Taxes, if the cost of an Other Tax is charged or passed on by the Seller to the Buyer, the Buyer shall pay this amount of Other Tax to the Seller; provided that such amount of Other Tax is identified separately on the invoice issued by the Seller and confirmation is received by the Buyer, where applicable, that such amount of Other Tax has been duly paid or accounted for to the relevant Tax authority, as appropriate.

Where in accordance with EU and/or national legislation there is an exemption or other relief, as applicable, from Other Taxes in respect of any supplies under an Individual Contract, the following shall apply:

- (a) the Buyer and the Seller hereby covenant that they will do all such proper acts, deeds and things as are necessary (which may include and shall not be limited to providing to the Seller all such proper, true and accurate documentation or assistance as may reasonably be required by the relevant taxing authority) to ensure that such supply is exempt from Other Taxes for the purposes of such legislation;
- (b) in the event that the Buyer or the Seller fails to comply with such obligation, the non-complying party shall indemnify the other party in respect of any and all Other Taxes, penalties and interest incurred by the other party as a result of the non-complying party's failure to comply with the above covenant; and
- (c) in the absence of the Buyer providing any documentation as referred to in (a) above the Seller reserves the right to charge Other Taxes.

3. Seller's and Buyer's Tax Obligation: The Seller shall pay or cause to be paid all Tax on or with respect to electricity delivered pursuant to an Individual Contract arising before the transfer of risk and title at the Delivery Point. The Buyer shall pay or cause to be paid all Tax on or with respect to the electricity delivered pursuant to an Individual Contract arising after the transfer of risk and title at the Delivery Point. Subject to §14.2 the Parties shall pay all Tax arising at the transfer of risk and title at the Delivery Point in accordance with applicable local laws. In the event that the Seller is required by law to pay any Tax which is properly for the account of the Buyer, the Buyer shall promptly indemnify or reimburse the Seller in respect of such Tax. In the event that the Buyer is required by law to pay any Tax which is properly for the account of the Seller, the Buyer may deduct the amount of any such Tax from the sums due to the Seller under the Agreement and the Seller shall promptly indemnify or reimburse the Buyer in respect of any such Tax not so deducted.

4. New Taxes: If any New Tax is applicable to an Individual Contract, and the Buyer is, by the use of reasonable endeavours, able to obtain any available exemption or relief therefrom or is contractually able to pass the same through to or be reimbursed in respect thereof by, a third party, the Buyer shall pay or cause to be paid, or reimburse the Seller if the Seller has paid, such New Tax, and the Buyer shall indemnify, defend and hold harmless the Seller from and against any claims for such New Tax.



5. **Termination for New Tax:** Unless otherwise specified in the Election Sheet or in the terms of an Individual Contract the provisions of this § 14.8 shall only apply in respect of an Individual Contract if the period from the date on which the Parties concluded such Individual Contract pursuant to § 3.1 (**Conclusion of Individual Contracts**) to the end of the Total Supply Period exceeds two years.

Where the provisions of this § 14.8 apply in respect of an Individual Contract and:

- (a) a New Tax is imposed on a Party (the "Taxed Party") in respect of the Contract Quantity; and
- (b) having used reasonable endeavours to do so, the Taxed Party is unable contractually to pass on the cost of the New Tax to the other Party or a third party; and
- (c) the total amount of the New Tax that would be payable in respect of the balance of the total amount of Natural Gas to be delivered during the remainder of the Total Supply Period (the "**Remaining Contract Quantity**"), unless otherwise specified in the Election Sheet, shall exceed five percent (5%) of the product of the Remaining Contract Quantity and the Contract Price then, the Taxed Party shall be entitled to terminate the Individual Contract subject to the following conditions:
 - (d) the Taxed Party must give the other Party (the "Non-Taxed Party") at least five (5) Business Days' prior written notice (the "**Negotiation Period**") of its intent to terminate the Individual Contract (and which notice shall be given no later than 180 Days after the later of the enactment or the effective date of the relevant New Tax), and prior to the proposed termination the Taxed Party and the Non-Taxed Party shall attempt to reach an agreement as to the sharing of the New Tax;
 - (e) if such agreement is not reached, the Non-Taxed Party shall have the right, but not the obligation, upon written notice to the Taxed Party within the Negotiation Period, to pay the New Tax for any continuous period it so elects on a calendar month to calendar month basis, and in such case the Taxed Party shall not have the right during such continuous period to terminate the Individual Contract on the basis of the New Tax;
 - (f) should the Non-Taxed Party elect to pay the New Tax on a calendar month to calendar month basis, the Non-Taxed Party may elect to cease the payment of the New Tax upon giving five (5) Business Days' prior written notice to the Taxed Party of its election to cease payment of such New Tax, in which case the Non-Taxed Party shall indemnify the Taxed Party for the New Tax and related interest and penalties that may be incurred by the Taxed Party in respect of the period during which the Non-Taxed Party had elected to pay the New Tax and the Taxed Party shall again be subject to the provisions of this § 14.8 as if the New Tax had an effective date as of the date on which the Non-Taxed Party ceased payment of such New Tax;
 - (g) if agreement as to sharing a New Tax is not reached and the Non-Taxed Party does not elect to pay the New Tax for any period of time within the Negotiation Period, the Individual Contract affected shall be terminated on the expiry of the Negotiation Period;
 - (h) upon termination of the Individual Contract, the provisions of § 11 (**Calculation of the Termination Amount**) relating to the calculation and payment of the Termination Amount shall apply but only in respect of the Individual Contract(s) so terminated, and for these purposes:
 - (i) the Non-Taxed Party shall be understood to be the Terminating Party for the calculation of the Termination Amount; and
 - (ii) the effect (if any) of the relevant New Tax on the calculation of the Termination Amount (or any Settlement Amount) shall be expressly excluded.

6. **Withholding Tax:**



- (a) **Payments Free and Clear:** All payments under an Individual Contract shall be made without any withholding of or deduction for or on account of any Tax unless such withholding or deduction is required by law. If a Party is so required to withhold or deduct Tax from a payment to be made by it, then that Party ("**Paying Party**") shall notify the other Party ("**Receiving Party**") immediately of such requirement and pay to the appropriate authorities all amounts withheld or deducted by it. If a receipt or other evidence can be issued evidencing the payment to the authorities, the Paying Party shall deliver such evidence (or a certified copy thereof) to the Receiving Party.
- (b) **Grossing-Up:** The Paying Party shall increase the amount of any payment which is required to be made subject to a withholding or deduction to the extent necessary to ensure that, after the making of the required withholding or deduction, the Receiving Party receives the same amount it would have received had no such withholding or deduction been made or required to be made, except that no increase shall be made in respect of any Tax:
- (i) which is only imposed as a result of a connection between the Receiving Party and the jurisdiction of the authority imposing the Tax (including, without limitation, a connection arising from the Receiving Party having or having had a permanent establishment or other fixed place of business in that jurisdiction, or having been present or engaged in business in that jurisdiction) other than the mere execution or delivery of this General Agreement, any Confirmation or any Credit Support Document; or
 - (ii) which could have been avoided if the Receiving Party had delivered to the Paying Party or to the appropriate authority as reasonably requested by the Paying Party, any declaration, certificate, or other documents specified in the Election Sheet in a form reasonably satisfactory to the Paying Party; or
 - (iii) which is only imposed as a result of any Tax representation made by the Receiving Party in the Election Sheet for the purposes of this § 14.9, failing or ceasing to be true and accurate provided that this paragraph (iii) shall not apply (and the Paying Party shall be obliged to increase the amount of any payment pursuant to this § 14.9(b)) if such representation has failed or ceased to be true and accurate by reason of:
 - (aa) any change in, or in the application or interpretation, of any relevant law, enactment, directive, or published practice of any relevant Tax authority being a change occurring on or after the date on which the relevant Individual Contract is entered; or
 - (bb) any action taken by a Tax authority, or brought in a court of competent jurisdiction, on or after the date on which the relevant Individual Contract is entered into.

"Other Tax" means any energy Tax or excise duty but not including Taxes targeted at end users

"Zero-Rated" means, in respect of a supply a tax exempt export or tax-free export under applicable VAT Rules and "Zero-Rating" shall be construed accordingly.

§23 Miscellaneous

§ 23.2 Notices, Invoices and Payments:

- (a) **TO PARTY A:** **Société Nationale d'Electricité et de Thermique, SA, ("Endesa France")**



Notices & Correspondence

Address: 2, rue Jacques Daguerre
92565 Rueil Malmaison
France
Telephone No: +33 1 47 52 39 54
Fax No: +33 1 47 52 39 29
Attention: Jeronimo Ybarra: Markets Director
Invoices
Fax No: +33 1 47 52 39 29
Attention: Pascaline Dollet: Administrative,
Back office & Fuel manager
Payments
Bank account details: FR76 3000 7999 9904 1615 0600088
Bank Address: (IBAN):NATEXIS Banques
Populaires,
5, place de la Défense
92090 Paris la Défense Cedex 26

Bank Identifier Code (BIC) : CCBPFRPPPAR

(a) **TO PARTY B:**

Endesa Trading SA, Sociedad Unipersonal

Notices & Correspondence

Address: Ribera del Loira 60, 28042, Madrid
Telephone No: +34 91 213 4867
Fax No: +34 91 213 1918
Attention: Carlos Estrada-Head of Backoffice
Invoices
Fax No: +34 91 213 1918
Attention: Tomás Coronado
Monica Vazquez

Payments

Bank account details: Banco Santander Central Hispano
Plaza Canalejas 1
Bank Address: Madrid 28014
Acc. N° 0049 1500.08.2110142799
SWIFT CODE: BSCHESMM

b) The following provisions will be included additionally as:

"Part II : Additional Provisions to the General Agreement":



1.- In Annex 1 to the General Agreement (Defined Terms) term “*Tangible Net Worth*” shall be amended by inserting the word “*not*” between words “*but*” and “*limited to, goodwill*” in the last line of the sentence to read:

“Tangible Net Worth means the sum of all paid up shareholder cash contributions to the share capital account or any other capital account of the Relevant Entity ascribed for such purposes of the Relevant Entity and any accumulated earnings less any accumulated retained losses and intangible assets including, but not limited to, goodwill.”

2.- New §§ 10.3(g) is added at the end of § 10.3(f):

“(g) Set-off.

(i) Upon the occurrence or designation of an Early Termination Date on account of an Event of Default with respect to a Party hereto (“Y”), any amount payable to Y by the other Party (“X”) or any Specified Entity of X under this Agreement or any Specified Transaction with Y, or in respect of any other matured, liquidated or terminated payment obligation related to any Specified Transaction will, at the option of X or any Specified Entity of X (and without prior notice to Y), be reduced by its setoff and recoupment against any amount(s) payable by Y to X or any Specified Entity of X under this Agreement or any Specified Transaction of Y (and any such amount(s) payable by Y will be discharged promptly and in all respects to the extent it is so set off). X or a Specified Entity of X, as appropriate, will give notice to Y after any setoff and recoupment is effected under this paragraph.

(ii) For purposes of the foregoing, X and any Specified Entity of X shall be entitled a) to convert any obligation denominated in one currency into the currency in which the other is denominated at such rates of exchange as it deems appropriate in good faith and in a commercially reasonable manner, b) to convert any obligation to deliver non-cash property into an obligation to deliver cash in an amount determined by it as it deems appropriate in good faith and in a commercially reasonable manner, and amounts may be set off and recouped irrespective of the currency, place of payment or booking office of any obligation to or from Y.

(iii) If an obligation is unascertained, X or any Specified Entity of X, as appropriate, may in good faith estimate that obligation and set off and recoup in respect of that estimate, subject to the relevant Party’s accounting to the other(s) when the obligation is ascertained.

(iv) Nothing in this subsection shall be effective to create a charge or other security interest. This subsection shall be without prejudice and in addition to any right of setoff, recoupment, combination of accounts, lien or other right to which any Party or any of its Specified Entities is at any time otherwise entitled (whether by operation of law, contract or otherwise).

(v) Condition Precedent to Payments to the Defaulting Party. All obligations of a Non-defaulting Party (“X”) and any Specified Entity of X under this Agreement, or any Specified Transaction with the other Party (“Y”), or in respect of any other matured, liquidated or terminated payment obligation related to any Specified Transaction with Y, are subject to the condition precedent that Y shall have performed all of its obligations to X and any Specified Entity of X under this Agreement and any Specified Transaction with X, or in respect of any other matured, liquidated or terminated payment obligation related to any Specified Transaction, whether or not contingent and regardless of the currency, place of payment or booking office of the obligation.

(vi) Transfers to Address Reasonable Grounds for Insecurity. If either Party (“C”) has reasonable grounds for insecurity regarding a potential default under this Agreement or any Specified Transaction by the other Party (“D”), then any right of a Specified Entity of C to receive payment from D or any Specified Entity of D may be assigned to C, in which case D hereby consents to any such assignment of the benefit of its obligations and agrees to use its best efforts to obtain any required consents from its relevant Specified Entity to any such assignment of the benefit of that obligation of that Specified Entity of D. C shall give written notice to D and any Specified Entity of D of any assignments of rights to C by Specified Entities of C pursuant to his provision.



“Specified Entity” means in relation to Party A for the purpose of this section, [Affiliates of Party A which now or in the future enters into any Specified Transaction with Party B or any of Party B’s Specified Entities] and in relation of Party B for the purpose of this section, any Affiliate of Party B which now or in the future enters into any Specified Transaction with Party A or any of Party A’s Specified Entities].

3.- Telephonic Recording. Subject to any specific consent required by applicable law, the Parties (i) consent to the recording of all telephone conversations between them in connection with this Agreement or any potential transaction, with or without the use of a warning tone, and (ii) agree to obtain any necessary consent and give any necessary notices of such recordings. The Parties further agree that any such recordings may be submitted in evidence in any proceedings related to this Agreement or any potential transaction under this Agreement.

2. Apart from the above amendments, the contractual obligations as outlined in the General Agreement remain unchanged
3. The Amendment Agreement shall be effective upon its signature and supplements and forms part of the General Agreement. In the event of any inconsistency between the provisions of the Amendment Agreement and the General Agreement, the Amendment Agreement shall prevail.
4. The Amendment Agreement will also apply to each individual transaction between the Parties entered into before the Effective Date of this amendment subject to the EFET election sheet dated 25th April 2003 but which remain either not yet fully or partially performed by one or both Parties.
5. The Amendment Agreement may be executed and delivered in 2 originals, each of which will be deemed to be an original and together will constitute one and the same instrument.

In witness whereof, the Amendment Agreement has been executed by the duly authorized representatives of each party.

“Party A”

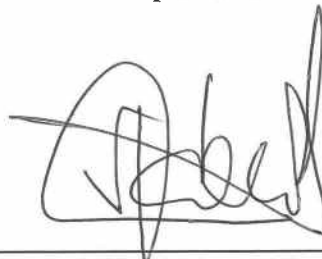
Société Nationale d’Electricité
Et de Thermique, SA,
 (“Endesa France”)



Name: Alberto MARTIN RIVALS
Title: Managing Director

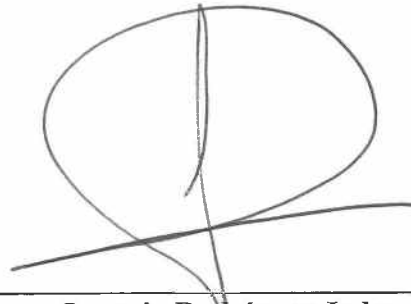
“Party B”

Endesa Trading S.A.
Sociedad Unipersonal



Name: Celia Ordóñez Gómez
Title: Managing Director

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Name: Joaquín Rodríguez Jadraque

Title: Managing Director