

STANDARD TERMS AND CONDITIONS TEMPLATE

V3.6

AFFIDAVIT OF COMPLIANCE

[THE MARKET PARTICIPANT]

1. Definitions

Term	Meaning
AIB Communications Hub or "Hub"	A commercial website operated on behalf of AIB which provides coordination and synchronisation services, distributing messages and acknowledgements between the registries of Hub users. The Hub is defined in detail in Document HubCom;
Association of Issuing Bodies or "AIB"	The international scientific association constituted in accordance with the Belgian law of 25 October 1921 (as amended), under nr. 0.864.645.330, under the name of "Association of Issuing Bodies";
Certificate	A certificate, record or guarantee (in any form including an electronic form) in relation to: (a) attributes of the Input consumed in the production of a quantity of Output, and/or (b) attributes of the method and quality of the production of a quantity of Output;
Certification Scheme	A legislative, administrative and/or contractual framework establishing a system of Certificates;
Competent Body	In relation to the exercise or discharge of any legislative, governmental, regulatory or administrative function with respect to any Domain, the body duly authorised under the laws and regulations of the state (and, as the case may be, region) in which such Domain is situated to exercise or discharge that function, and, in relation to any Guarantee of Origin or Support Certificate the body duly authorised by the State under the relevant Legislative Certification Scheme to issue that Guarantee of Origin;

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Data Log	The Record of Transactions of the AIB Communication Hub (the Transfer Log);
Domain	An area containing Production Devices with respect to which a Hub user is a Competent Body;
Domain Protocol	In connection with a Domain, a document describing the procedures and regulatory provisions regarding GOs [and/or other EECS Certificates according to non-Legislative Certification Schemes] for that Domain;
EECS Rules	The Principles and Rules of Operation of the European Energy Certificate System;
Guarantee of Origin (or "GO")	An electronic document (Certificate) issued by a Competent Body under the laws of a State as a guarantee of the nature and origin of energy for the purpose of providing proof to a final customer that a given share or quantity of energy, as the case may be : (i) was produced from the energy source to which the guarantee relates; (ii) was produced by the specified technology type to which the guarantee relates; and/or (iii) has, or the Production Device(s) which produced it has (or have) other attributes to which the guarantee relates;
HubCom	The document known as "Hub User Compliance Protocol" and subtitled "EECS Rules - Subsidiary Document AIB-PRO-SD03: EECS Registration Databases";
Hub user	A Competent Body or Registry Operator which uses the Hub for Transactions,
Input	An amount of a specific type of energy or material goods consumed by a Production Device using combustion technology in the production of Output;
Integrity	The accuracy and consistency of retained and transmitted data, indicated by an absence of any alteration in data during its retention and its transmission from a Sender to a Receiver. Data integrity is maintained through the use of error checking and validation routines;
Legislative Certification Scheme	A Certification Scheme implemented pursuant to the law of any EU Member State or a State bound to the EU by a Treaty requiring the mutual recognition of GO's;
Output	An amount of energy or material goods yielded by a Production Device and measured by a Measurement Body, being either (i) electricity, (ii) fuel, or (iii) heat;
Participant	A Registrant or Account Holder;

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Production Device	A separately measured device or group of devices that produces an Output;
Registrant	A person in whose name a Production Device is registered from time to time in a Registry for the purposes of the issue of Certificates;
Registration Database (or “Registry”)	A database operated by a Hub user or a Registry Operator on behalf of a Hub user, comprising: <ul style="list-style-type: none">(a) Transferables and Cancellation Accounts and the Certificates in those Accounts;(b) Details of Production Devices and information provided in connection with the registration of Production Devices;(c) Details of Certificates which have been transferred out of that Registry;
Transaction	Any communication made and identified as a transfer between Registries regarding GOs [and/or other EECS Certificates according to non-Legislative Certification Schemes], to which an electronic message refers.

2. Purpose

This document is an affidavit of compliance pursuant to standard terms and conditions (hereinafter called “the affidavit of compliance”) signed by [The Market Participant].

This affidavit of compliance sets out the terms and conditions upon which CNMC is prepared to provide Transaction services regarding GOs to [The Market Participant] via the AIB Communication Hub as contemplated by the rules described in the Domain Protocol and the HubCom Protocol issued by the AIB.

Where Transactions are performed upon the request of [The Market Participant] or involving [The Market Participant], in accordance with this affidavit of compliance, the rules described in the Domain Protocol and all applicable technical requirements, and the Parties involved do not claim in due time that the Transaction was in any way erroneous, [The Market Participant] shall in good faith accept the legal consequences of such Transaction.

3. Compliance with the rules described in the Domain Protocol

Registrants of Production Devices become eligible to receive Guarantee of Origin (GO) Certificates under a specific Legislative Certification Scheme by contractually committing themselves with the Competent Body responsible for the relevant Domain (under CNMC’s Standard Terms and Conditions) to comply with the rules described in the Domain Protocol. The Registrant will also be subject to applicable legislation. In case of conflict between the Domain Protocol and the terms and conditions the former shall prevail.

4. Obligation to inform

[The Market Participant] shall contribute to the implementation of this affidavit of compliance, to the extent that [The Market Participant] shall provide CNMC without delay all necessary information required by the application of this affidavit of compliance. If the operation of a Production Device of [The Market Participant] no longer conforms to the reported information, [The Market Participant] shall inform CNMC immediately about the change.

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5. Information systems

CNMC issues GOs by using an electronic registry (Registration Database).

[The Market Participant] shall arrange, at his own cost, the necessary information technology architecture and interfaces which *[The Market Participant]* needs in order to use the Registration Database. *[The Market Participant]* shall be responsible for sufficient and state of the art methods and technologies that safeguard data security and integrity relating to the use of the Registration Database.

CNMC has the right to change the IT prerequisites for the use of the Registration Database. CNMC shall inform *[The Market Participant]* in writing at least 30 calendar days prior to the implementation of material changes. In urgent cases changes can be made without prior notice. CNMC shall then inform *[The Market Participant]* via website as soon as possible after the change has been made.

CNMC shall inform *[The Market Participant]* in advance of planned unavailability of the Registration Database. *[The Market Participant]* shall be informed of other unavailability preventing the use of the Registration Database as soon as possible.

[The Market Participant] shall respect the technical requirements and rules of conduct described in the Domain Protocol.

CNMC has the right to prevent or restrict the use of the Registration Database service by *[The Market Participant]* if there is misuse of the system or if *[The Market Participant]* has not fulfilled its contractual obligations.

6. Liability

[The Market Participant] shall at all times act in accordance with the applicable legal provisions and the Domain Protocol of the relevant Domain.

A Hub user or Competent Body is not liable for losses incurred by *[The Market Participant]*, except in case of the Hub user's /Competent Body's gross negligence.

If *[The Market Participant]* suffers a loss due to gross negligence by CNMC, *[The Market Participant]* must direct the claim for compensation only against CNMC.

If *[The Market Participant]* suffers a loss due to gross negligence by a Hub user, Competent Body, Market Participant or third party, *[The Market Participant]* must direct the claim for compensation only against the relevant Hub user, Competent Body, Market Participant or third party that has caused the damage.

The AIB, other Hub users or their representatives are not liable for the actions of the negligent Hub user, Competent Body, Market Participant or third party.

[The Market Participant] has a duty to do everything possible to prevent or limit the extent of the damage. If *[The Market Participant]* does not implement adequate measures to prevent or limit the extent of the damage, compensation may be reduced.

Claims against any Hub user for any damage, loss, cost or expense incurred by *[The Market Participant]* in relation to Transactions with GOs shall be limited to five thousand (5000) Euros per year excluding indirect or consequential damage, such as, but not limited to commercial damage, loss of profit, claims of other third parties. Such limitation will however not apply in case of wilful misconduct or intentional damage.

Claims against the AIB for any damage, loss, cost or expense incurred by *[The Market Participant]* and caused by gross negligence by the AIB in relation to Transactions with GOs shall be limited to thousand (1000) Euros per year per Market Participant, excluding indirect or consequential damage, such as, but not limited to commercial damage, loss of profit, claims of other third parties. Such limitation will however not apply in case of wilful misconduct or intentional damage. Any performance that is provided in conformity with the AIB's Service Level Agreement cannot be regarded as gross negligence.

However, if this paragraph 6 is not applicable or not valid due to applicable legislation, these provisions will be applied insofar allowed by applicable law.

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7. Errors in Issuing

If CNMC or *[The Market Participant]* discovers an error in issuing, cancelling or processing of a GO, the other party shall be informed as soon as possible.

If there is an error in the course of issuing, cancelling or processing of a GO or an error due to any unauthorised access to or malfunction of a Registration Database, CNMC and *[The Market Participant]* shall co-operate and use all reasonable endeavours to ensure that no unjust enrichment occurs as a result of the error. If there is an error, the GOs held in *[The Market Participant]*'s account may be withdrawn or amended by CNMC, in accordance with specific regulation. If not enough GOs have been issued, the Competent Body will issue the GOs as soon as it receives the correct information, if this is possible under national law.

If it transpires that the data in any GO is inaccurate (whether or not through an act or omission of the Registrant of the originating Production Device), CNMC is entitled to – provided that such GOs are, at the time of such withdrawal, in the “Transferable Account” of that Registrant – withdraw those GOs, and other GOs of the same type.

8. Expiry of CNMC’s services relating to GOs

If CNMC’s right to serve as the Competent Body for GOs in accordance with a Legislative Certification Scheme in the related Domain expires CNMC has the right to transfer the affidavit of compliance to a new Competent Body. *[The Market Participant]* has no right to receive any refund of the paid contractual fees (if applicable).

If CNMC no longer acts as Competent Body for a Legislative Certification Scheme *[The Market Participant]* has the right to retrieve its data. *[Note: CNMC may set forth the modalities of this right, such as a certain timeframe after notification, migration services with payment of migration costs ...].*

9. Fees

Eventual fees would be set in Individual regulation.

10. Breach of the affidavit of compliance

If *[The Market Participant]* is in material breach of the affidavit of compliance, including his obligation (if applicable) to pay the fees to CNMC, CNMC is entitled to terminate or suspend the execution of this affidavit of compliance and thus to stop issuing, cancelling or otherwise processing certificates.

11. Force majeure

As defined in Spanish legislation.

12. Amendment of the affidavit of compliance.

If the national or European legislation or the AIB require that the Domain Protocol of Spain be amended, *[The Market Participant]*; agrees to accept all the required changes to this affidavit of compliance in order to make it coherent with the Domain Protocol. *[The Market Participant]* acknowledges and understands that the AIB Communication Hub is used by many Hub users and Market Participants, and that modifications to the Hub or the regulatory environment must be applied by all parties involved.

[Note : CNMC may provide a right of [The Market Participant] to terminate the use of AIB HUB in case of changes which have an impact that is not acceptable for [The Market Participant]; in that case a notice may be provided. National applicable law may contain specific provisions in this respect.

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13. Confidentiality and Intellectual Property

Information of commercial, technical, strategic, financial or otherwise sensitive nature, which is not publicly known and is usually considered as valuable and confidential, whether or not it is explicitly indicated as confidential, shall be treated as confidential information in accordance with legislation.

For the avoidance of doubt, this confidentiality clause does not prevent CNMC to give information to authorities including but not limited to the tax authorities and the police of Spain and the registration's country of [The name of the Market Participant], and Europol.

The software that is used to enable the operation of the Registration Database and the Transactions, together with all included tools, know-how and related intellectual property rights, is and shall remain the exclusive property of CNMC, the AIB or their service providers or licensors. The software code, documentation and in general all related know-how must be considered confidential information, even if not explicitly disclosed as such. [The Market Participant] shall use the services and the related software only for the purposes of this affidavit of compliance and shall not copy, reproduce, reverse engineer, decompile nor alter, adapt or modify any part of the software or related documentation.

14. Assignment and Duration of the affidavit of compliance

The duration of this affidavit of compliance is undefined. [The Market Participant] can terminate this affidavit of compliance with one month's written notice.

15. Dispute resolution

Disputes arising out of this affidavit of compliance shall be settled according to national law, national jurisdiction and national courts of Spain.

Date:

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[The Market Participant]