



## NORWEGIAN MINISTRY OF CLIMATE AND ENVIRONMENT

### Term Sheet Certified Emission Reduction Purchase

**Date** [insert]

**Parties** **The Norwegian Ministry of Climate and Environment** of Kongensgate 20, NO-0030 Oslo, Norway (**Buyer**) and [Insert Seller's name and incorporation address] (**Seller**) (each of the above Parties being referred to individually as a **Party** and together as the **Parties**)

**CDM Project/  
Programme.** [insert]

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#### Preamble

1. The Clean Development Mechanism (**CDM**) is the mechanism defined as such under article 12 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (**UNFCCC**) as supplemented by the International Rules.
2. Under the Norwegian Carbon Credit Procurement Program, the Buyer has invited proposals for future deliveries of 2016 to 2020 vintage CERs from projects and programmes of activities that are registered under the CDM and has selected the Seller as a counterparty from whom to purchase Certified Emission Reductions (**CERs**) in respect of a project or programme of activities registered under the Clean Development Mechanism (the **Project**) and which qualifies as either a Vulnerable Project or New CDM Project.
3. A **New Project** means a not yet commissioned CDM Project or Programme of Activities (**POA**) or Potential CDM Programme Activity (**CPA**) that as at 1 December 2015 has not yet been commissioned and that does not have any arrangements for the sale of any CERs from that Potential CPA. A **Vulnerable Project** means a Project or POA that (i) has no other revenues than the potential carbon revenues from the sale of the GHG Reductions, or has revenues from other sources than the potential carbon revenues from the sale of the GHG Reductions, but these revenues are insufficient for the continued operations of the Project or POA on a commercially viable basis; (ii) is such that without entering into an ERPA with the Buyer it will not resume its discontinued operations or will have to discontinue its operations, or it faces a serious and imminent threat of having to discontinue its operations due to inadequate revenues from sales of GHG Reductions; (iii) the Contract CERs have never been subject to a sales agreement entered into for the purposes of generating income to the Project or POA or have been subject to an earlier sales agreement, but this Agreement was terminated on or before 1 December 2015 or is subject to an earlier sales agreement, but this Agreement was in the process of being terminated by negotiation before 1 December 2015 and will be terminated before entering into an ERPA with the Buyer; and all the information provided to

the Buyer for the assessment of the vulnerability of the Project or POA is true and accurate in every respect; and (iv) as at 1 December 2015 does not have any arrangement in place for the sale of any CERs from the project including under an existing ERPA.

4. This Term sheet (the **Term Sheet**) expresses both Parties' intention, subject to the completion of all Buyer's Due Diligence as noted in 6 below of the technical, financial, environmental, social and legal aspects of the Project and the Company's capacity to enter into the ERPA (**Due Diligence**), to enter into a Emissions Reduction Purchase Agreement (**ERPA**) on terms to be agreed, but which are reflective of these below.
5. The parties note that the Conference of the Parties to the UNFCCC at its Twenty-first session in Paris from 30 November to 11 December 2015 under the Durban Platform for Enhanced Action adopted Draft Decision -/CP.21 and its Annex (FCCC/CP/2015/L.9/Rev.1). The Annex comprises the Paris Agreement, a new international agreement for the period Post 2020 which supplements the UNFCCC and which now requires ratification before entering into force. The Paris Agreement includes a new mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development for use by Parties on a voluntary basis which may be complimentary to or ultimately replace the CDM.

## General Terms and Conditions

6. **Non Binding.** This term sheet is intended to be legally binding with respect to obligations relating to Exclusivity and Confidentiality, but otherwise this Term Sheet is not intended to create any other binding or enforceable obligations on either party. Nothing in this Term Sheet shall constitute a commitment by Buyer to purchase CERs from the Seller. Buyer will commit to purchasing CERs from the Seller only from the date upon which the Company and Buyer have executed a ERPA and the terms and conditions of such ERPA are satisfied. The Indicative ERPA Terms set out in Schedule 1 are not intended to be complete or all-inclusive of the terms or details of the ERPA to be negotiated and are indicative only.
7. **Non- reliance.** The parties agree that if they fail to reach agreement on a formal, binding ERPA, regardless of the reasons for such failure, none of the Parties, in the reliance on this Term Sheet and/or the negotiations, shall be entitled to any claims for damages or other compensation from the other.
8. **Confidentiality.** The terms of this Term Sheet and a subsequent ERPA for the sale/ procurement of CERs are confidential unless otherwise mutually agreed in writing, or disclosure of the information is required under law, regulation or similar provision. The confidentiality shall survive termination of the Term Sheet. Also the Buyer shall be entitled to disclose this Term Sheet to its external advisers.
9. **Exclusivity.** By countersigning this Term Sheet, the Seller grants the Buyer an exclusive right for a period of 90 (ninety) days (**Exclusivity Period**) to negotiate with the Seller with the aim of executing a mutually acceptable ERPA. During the Exclusivity Period, the Seller or its representatives shall not enter into negotiations for the sales of any CERs generated by the Project or Programme, solicit any buyers of CERs other than the Buyer or encourage other buyers to solicit the Seller. During the Exclusivity Period, the Buyer and the Seller shall negotiate in good faith with the view to concluding an ERPA containing the principles set out in this Term Sheet.
10. **Due Diligence:** The Buyer or its Due Diligence Agent (**Agent**) shall have the right to perform a Due Diligence review of the Project or POA. The Buyer will not execute an ERPA before the Due Diligence has been satisfactorily completed and the Buyer is satisfied with the results of the Due Diligence review of the Project or POA. The Seller shall provide all relevant

information and grant the Buyer and the Agent the right to be provided with all relevant documentation necessary for the Buyer or the Agent to perform an environmental, technical, legal, social and financial Due Diligence review of the Project or POA, including access to the site or sites. The Seller hereby gives its consent to that the Agent may process personal data related to the Seller (including data related to possible shareholdings in overseas subsidiaries and associated companies), as well as entitlement for the Agent to provide access to (disclose) and/or transfer such data to the Buyer and its possible other advisers, as well as to delegate the right to process such data to a third party service provider of Agent's choice (including transfer of this data to any foreign third parties) for the purpose of the Due Diligence review without any right for the Seller to be notified of each disclosure and/or transfer of such data made for such purposes.

## **Termination and Administration**

11. **Term.** This Term Sheet shall terminate on the earlier of: (a) the date of execution of the ERPA; or (b) the end of the Exclusivity Period.
12. **Termination.** Buyer may terminate this Term Sheet at any time, with or without cause, by giving fifteen (15) calendar days prior written notice to the other party.
13. **Survival of Certain Provisions** In the event this Term Sheet terminates for any reason, this Clause 11, and Clause 4, Clause 5, Clause 6, Clause 12, Clause 13 and Clause 15 of this Term Sheet shall survive termination and shall remain in full force and effect.
14. **Anti-Fraud and Anti-Corruption.** Buyer strives to prevent fraud and corruption in its activities and takes serious action in response to allegations of such conduct. In addition to contractual remedies for fraud, corruption and other sanctionable practices, the ERPA will include representations and warranties with respect to anti-fraud and anti-corruption.
15. **Governing Law and Dispute Resolution.** This Term Sheet will be governed by and construed in accordance with the laws of England and Wales. Any dispute arising out of or in connection with this Term Sheet shall first be dealt with through in good faith discussions to resolve any dispute promptly by negotiation between executives authorised to resolve such disputes. If the dispute has not been resolved by negotiation within twenty (20) Business Days it shall be referred to and finally resolved by arbitration under the Rules of Arbitration of the London Court of International Arbitration (the *LCIA Rules*), which rules are deemed to be incorporated by reference into this clause. The place of arbitration shall be London, England and the language of arbitration shall be English. There shall be one arbitrator. appointed by the LCIA.
16. **Counterparts.** This Term Sheet may be executed in counterparts, each of which is an original, but together constitute one and the same Term Sheet..
17. **Third Party Rights.** Any person who is not a party to this Term Sheet has no right under the United Kingdom's Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Term Sheet.
18. **Assignment.** The Company may not assign or delegate any of its rights or obligations hereunder without Buyer's prior written consent. This Term Sheet may not be amended or modified, or any provision hereof waived, except by a written agreement signed by all parties hereto.
19. **Definitions.** For the purposes of this Term Sheet the following definitions apply:

***Certified Emission Reduction or CER means*** a unit Issued pursuant to Article 12 of the Kyoto Protocol and requirements thereunder, as well as the relevant provisions in the modalities and procedures of the Clean Development Mechanism and other relevant International Rules, and is equal to one metric tonne of Carbon Dioxide Equivalent reduced by such a project below the Baseline, calculated in accordance with the International Rules using Global Warming Potentials defined by decision 2/CP.3 or as subsequently revised in accordance with Article 5 of the Kyoto Protocol, and includes all rights to underlying GHG Reductions.

***Clean Development Mechanism or CDM means*** the mechanism defined as such in Article 12 of the Kyoto Protocol as supplemented by the International Rules.

***Kyoto Protocol means*** the optional protocol to the Convention adopted at the Third Conference of the Parties to the Convention in Kyoto, Japan on December 11, 1997 and shall include, upon entry into force, the amendments adopted by Decision 1/CMP.8, Annex 1 (the Doha Amendment).

***International Rules means*** the Convention, Kyoto Protocol, the Marrakesh Accords, any relevant decisions, guidelines, modalities and procedures made pursuant to them (including decisions of the CDM Executive Board) and of successor international agreements or supplementary international agreements regarding Greenhouse Gas emissions including but not limited to the Paris Agreement and which include those rules specifically required to be met for the second commitment period of the Kyoto Protocol and the issuance of CERs and the forwarding of CERs by the CDM Executive Board.

***New Mechanism means*** the mechanism established under Article 6 of the Paris Agreement.

***Paris Agreement means*** the optional agreement adopted at the Twenty-first Conference of the Parties to the Convention in Paris, France on December 12, 2015 contained in the Annex to Draft Decision -/CP.21 (FCCC/CP/2015/L.9/Rev.1), which has yet to enter into force.

***UNFCCC means*** the United Nations Framework Convention on Climate Change adopted in New York on 9 May 1992.

**Execution:**

For the Buyer: \_\_\_\_\_  
(Authorized Persons)

Date: \_\_\_\_\_

For the Seller: \_\_\_\_\_  
(Authorized Person)

Date: \_\_\_\_\_

## Schedule 1: Indicative ERPA Terms

<b>Seller</b>	[ Insert name and address of the prospective ERPA counterparty] (Seller)
<b>Buyer</b>	Norwegian Ministry of Climate and Environment P. O Box 8013 Dep, 0030 Oslo, Norway
<b>Project or PoA</b>	[insert]
<b>Host Country(ies)</b>	[insert]
<b>DOE</b>	[insert]
<b>Transaction</b>	The Seller intends to sell and the Buyer intends to purchase the Contract CERs as specified in this Term Sheet.
<b>Contract CERs</b>	[insert]
<b>Option CERs</b>	<p>The Buyer will have options to purchase additional volume of CERs as specified in the Delivery schedule at the agreed option prices and otherwise on the same terms and conditions as the contract quantity.</p> <p>The option to purchase additional volume for vintages 2015-2020 is to be exercised within 30 days following receipt of each Verification Report for the relevant Verification Period.</p> <p>The option to purchase vintages from years 2021 onwards is to be exercised or waived on or before 15 December 2020.</p> <p>The parties acknowledge:</p> <p>(a) the CDM will continue to operate under Article 12 of the Kyoto Protocol and, upon the entry into force of the Doha Amendment, will assist Annex B Parties to meet their commitments under the second commitment period of the Kyoto Protocol. Continued utilisation of the CDM post- 2020 in a form acceptable to the Buyer will depend upon future decisions made by the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol; and</p> <p>(b) that under Article 6(4) of the yet to enter into force Paris Agreement reference is made to the establishment of a New Mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development for use by Parties on a voluntary basis.</p> <p>To the extent that:</p> <p>(a) the CDM is not continued; or</p> <p>(b) the New Mechanism under the Paris Agreement is developed in such as a way as to supersede, replace, provide an alternative to the CDM or</p>

	<p>developed in such a way as to impact on the ability to sell Option CERs under any ERPA between the Parties,</p> <p>the Buyer and Seller will discuss in good faith alternative arrangements for the sale of CERs including post-2020 Option CERs.</p>																																				
<b>Transfers and Double Counting</b>	To the extent that such future transfer of CERs including post-2020 Option CERs is taken to involve the use of internationally transferred mitigation outcomes towards nationally determined contributions under Article 6 of the Paris Agreement the parties will ensure that the Host Country Government approves such a transfer of CERs (or their equivalent) to the Buyer and that emissions reduced by the CERs are not counted more than once.																																				
<b>Seniority</b>	Seller must deliver contracted CERs to Buyer on a priority basis until the total contract quantity has been reached, at which time the Buyer will exercise or waive an option to purchase additional volumes (if such option agreement has been included in the ERPA) .																																				
<b>Contract Price</b> <b>[Option price 1]</b> <b>[Option price 2]</b>	EUR [insert] per delivered CER [EUR [insert] per delivered CER (2015-2020 vintages)] [EUR [insert] per delivered CER (Post 2020 vintages)]																																				
<b>Payment</b>	The Buyer must pay the Seller within 20 banking days after delivery of Contract CERs and receipt by the Buyer of an invoice																																				
<b>Legal title</b>	<p>Seller represents and warrants to Buyer that it holds full legal and beneficial title to the CERs and GHG Reductions Delivered under this Agreement, and with respect to each Periodic CER Delivery Amount, Seller will convey, and, on each Delivery Date, has conveyed, such CERs and underlying GHG Reductions, free and clear of liens, security interests, Encumbrances and other third party claims;</p> <p>Legal title will transfer to the Buyer upon delivery i.e. when CER are received in the registry account nominated by the Buyer.</p>																																				
<b>Delivery Schedule</b>	<p><b>Contract CERs</b></p> <table border="1"> <thead> <tr> <th>Emission Reduction year</th> <th>Anticipated annual CER volume</th> <th>Option volume</th> <th>Scheduled Delivery Date</th> </tr> </thead> <tbody> <tr> <td>[insert]</td> <td>[insert]</td> <td>[insert]</td> <td>[insert]</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p><b>Option CERs</b></p> <table border="1"> <thead> <tr> <th>Emission Reduction year</th> <th>Anticipated annual CER volume</th> <th>Option volume</th> <th>Scheduled Delivery Date</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Emission Reduction year	Anticipated annual CER volume	Option volume	Scheduled Delivery Date	[insert]	[insert]	[insert]	[insert]													Emission Reduction year	Anticipated annual CER volume	Option volume	Scheduled Delivery Date												
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<b>CDM Costs, fees and taxes</b>	<p>The Seller shall pay all costs, fees, deductions and charges relating to the preparation of the Project Design Document, including the fees charged by the consultant engaged to prepare the Project Design Document; Validation; Registration; Monitoring (including preparation of the Monitoring Plan and Monitoring Reports); Verification and Certification; and Issuance of CERs.</p> <p>Each Party will bear its own costs associated with preparation, negotiation and execution of the ERPA.</p> <p>Taxes shall be paid by the party that is legally required to pay them in the relevant jurisdiction(s). Seller is responsible for the Adaptation Share of Proceeds, and the volume of CERs to be delivered is net of the Adaptation Share of Proceeds.</p>																
<b>CDM roles and approvals</b>	<p>The Seller must add the Buyer as a Project Participant as soon as possible and in no case later than six (6) months after the signing of the ERPA.</p> <p>The Buyer will be Joint Focal Point for communication with the CDM Executive Board in relation to allocation and distribution of Contract CERs until the date the total contract quantity of CERs has been Delivered to the Buyer.</p> <p>Buyer will receive a Host Country legal opinion, to Buyer's satisfaction, confirming the validity and enforceability of the ERPA in the Host Country against Seller.</p>																
<b>Seller's representation</b>	<p>The Seller hereby represents and warrants to the Buyer that it has and will have until issuance full title to all the CERs to be sold to the Buyer under the terms of this Term Sheet, that such CERs are free of any third party's claims and that such CERs have not been sold, transferred, assigned, licensed, disposed of or granted to any third parties, and will not be sold, transferred, assigned, licensed, disposed of or granted to any third parties.</p>																
<b>Entry into force and Validity</b>	<p>This Term Sheet enters into force upon signature by both the Buyer and the Seller and, unless an extension is agreed between the Buyer and the Seller, will be valid until the earlier of (a) the conclusion of an ERPA between the Parties; or (b) expiry of the Exclusivity Period.</p>																
<b>Governing Law</b>	<p>English Law.</p>																