



## EUA CONFIRMATION COUNTERPARTY TRADES

**Date:** 01 July 2020

**Buyer:** The private limited liability company **ACT Financial Solutions B.V.** established in Amsterdam, the Netherlands and holding office at Gustav Mahlerlaan 1009, (1082 MK) Amsterdam, registered with the Chamber of Commerce with number 68344864 and with VAT No NL 85 7402778 B01, ("**ACT Financial Solutions**"), and

**Seller:** **Jablonecká energetická a.s.**, established in (the) Czech Republic, VAT No CZ 61539881, whose registered office is at 4191/120 Liberecká, Jablonec nad Nisou 46601 ("**Counterparty**").

ACT Financial Solutions and the Counterparty hereinafter together: the "Parties" and each of them individually a "Party".

**Your contacts are: Tomas Forgac, TForgac@actcommodities.com**

**Ref: European Union Allowance (EUA) SPOT TRANSACTION**

The purpose of this "confirmation" is to confirm the terms and conditions of the EU Emissions Allowance Transaction entered into between ACT Financial Solutions and the Counterparty on the Trade Date specified below (the "**Transaction**"), in accordance with the provisions of Directive 2003/87/EC of 13th October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community (the "**Directive**"), (the "**Confirmation**").

The Parties acknowledge and agree that this Confirmation purports to set forth the concrete terms and conditions of the Transaction entered into between them, and the terms and conditions as specified in Clauses 1 to 3 of this Confirmation apply fully to the relationship between the Parties.

Parties acknowledge and agree that ACT Financial Solutions solely acts as counterparty dealing on own account and that ACT Financial Solutions does not provide any of the investment services as defined in Directive 2014/65/EU (MiFID II). For the avoidance of doubt Parties hereby explicitly acknowledge and agree that ACT Financial Solutions does not provide investment advice or portfolio management services to the Counterparty.

### 1. The terms of the Transaction to which this Confirmation relates are as follows:

Trade Date:	01 July 2020
Trade No.:	TM00197645
Buyer:	ACT Financial Solutions
Seller:	Jablonecká energetická a.s. (" <b>Counterparty</b> ")
Allowance type:	means an "allowance" as defined in the Directive
Allowances:	the Number of Allowances to be delivered by the Seller to the Buyer
Specified Compliance Period:	Phase III (2013 - 2020)
Number of Allowances:	5,000.00
Allowance Purchase Price:	Kč709.206846
Total Purchase Price:	Kč3,546,034.23 (exclusive VAT).
Shipment Out Date:	on or before 09 July 2020
Payment Date:	on or before 08 July 2020

TM00197645

ACT Financial Solutions B.V.

Gustav Mahlerlaan 1009, (1082 MK) Amsterdam, registered with the Chamber of Commerce with number 68344864

Settlement: Parties agree to physical settlement only: on the Delivery Date the Seller shall deliver to the Buyer the Allowances and on the Payment Date the Buyer shall pay to the Seller the Total Purchase Price

Account Details of the Buyer: EU-100-5017134-0-16

Payment details: CZ4801000000359751970287

## 2. Representations

Each party represents to the other party that on the Trade Date, the Delivery Date and the Settlement Date:

- (a) **Power and Capacity.** It has the power and capacity to execute this Transaction, to deliver it and any other documentation relating to this Transaction that is required by this Confirmation to deliver and to perform its obligations under this Transaction and has taken all necessary action (corporate or otherwise), to authorise such execution, delivery and performance and no judicial, bankruptcy or other (civil or administrative) proceedings are pending or are contemplated that would prevent the Party from performing its obligations hereunder;
- (b) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgement of any court of other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting any of its assets;
- (c) **Consents.** all governmental and other licenses, authorisations, permits, consents, contracts and other approvals that are required to have been obtained by it with respect to this Transaction have been obtained and are in full force and effect and all conditions of any such consents have been complied with;
- (d) **Obligations Binding.** Its obligations under this Transaction constitute its legal, valid, binding obligations, enforceable in accordance with their respective terms;
- (e) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into this Transaction and as to whether this Transaction is appropriate or proper for it based upon its own judgement and upon advice from such advisers as it has deemed necessary. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of this Transaction;
- (f) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Transaction. It is also capable of assuming, and assumes, the risks of this Transaction;
- (g) **No Encumbrances.** It shall, if the Seller, deliver to the Buyer the Allowances free and clear of all liens, security interests, claims and encumbrances or any interest in or to them by any person.

Please confirm that the foregoing and the terms and the terms and conditions as comprised in Clause 3 of this Confirmation correctly sets out the terms of our agreement by executing this Confirmation and returning it to us.

We are pleased to have concluded this Transaction with you.

Regards,

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**ACT Financial Solutions BV**

By: Federico Di Credico

Its: Managing Director

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**Jablonecká energetická a.s.**

By: Ján Suchánek

Its: Economics Department Manager

### 3. Further Terms and Conditions of the Transaction

**3.1.** The Counterparty acknowledges and agrees to have obtained adequate and appropriate information prior to and in good time before entering into this Agreement about the dealing on own account relationship with ACT Financial Solutions, about its conflict of interest policy, about the best execution policy, about ACT Financial Solutions as a regulated investment firm, and about the costs and associated charges in connection with the activities of ACT Financial Solutions. The Counterparty acknowledges and agrees that this Agreement is entered into based on the Counterparty being knowledgeable about this information, without exception.

**3.2.** The Counterparty acknowledges and agrees to have been made subject to assessment of appropriateness and to the assessment of the client category to which ACT Financial Solutions has classified the Counterparty and the Counterparty has confirmed to accept the classification as a professional investor, either as a result of application of the technical definition of "professional clients" of MiFID II or as a result of the explicit, well-reasoned and well informed own choice by the Counterparty.

**3.3.** This Agreement is entered into on the Deal Date for indefinite term and will terminate automatically upon full settlement of all obligations of the Parties pursuant to the Transaction.

**3.4.** ACT Financial Solutions rejects the applicability of any and all terms and conditions the Counterparty applies for vendor, purchase order or any other relationship, whether these terms and conditions are contained in written documents exchanged between the Parties or whether they are purported to apply by reference to publicly available communications from the Counterparty (such as, but not limited to, website or deposits with official agencies).

**3.5.** The Parties acknowledge and agree that this Agreement regulates, with exclusion of any other Agreements, the entire terms and conditions of the Transaction for the term as set out in Clause 3.3 hereof.

**3.6.** Notwithstanding any other provision of this Agreement, ACT Financial Solutions shall not have any liability or responsibility (whether in either case, contractual, tortious, express or implied) for any claims and expenses suffered or incurred by the Counterparty arising in connection with the performance of the obligations by ACT Financial Solutions, save where such claims and expenses are suffered or incurred (i) due to gross negligence (*grove nalatigheid*) or willful misconduct (*opzet*) by ACT Financial Solutions or any sub-agent appointed by it, in which case no limitation of liability shall apply or (ii) due to a material breach (*toerekenbare tekortkoming*) of any obligation under this Agreement or negligence (*nalatigheid*) by ACT Financial Solutions or any sub-agent appointed by it, in which case the liability of ACT Financial Solutions shall be limited to an amount equal to EUR 25,000 per event and an amount equal to EUR 100,000 per calendar year.

**3.7.** ACT Financial Solutions and any of its associates may effect transactions in which ACT Financial Solutions or such associate has, directly or indirectly, a material interest or a relationship of any description with another party which may involve a potential conflict with ACT Financial Solutions' duty to the Counterparty. ACT Financial Solutions shall take all reasonable steps designed to avoid conflicts of interest and, when such conflicts of interest cannot be avoided, ACT Financial Solutions shall identify, manage, monitor and, where applicable, disclose those conflicts of interest in order to prevent that such conflicts of interest shall adversely affect the interest of the Counterparty and to ensure that the Counterparty is fairly treated.

**3.8.** Unless required by applicable laws, neither ACT Financial Solutions nor any of its associates is under any duty to account to the Counterparty for any profits, commissions, remuneration or other benefits made or received by ACT Financial Solutions or

any such associate as a result of such transaction or service nor will ACT Financial Solutions' fees be abated.

**3.9.** Notwithstanding the provisions in Clause 3.3, each Party is authorised to terminate the Agreement with immediate effect upon the occurrence of one or more of the following events:

(a) fraud, willful misconduct, bad faith or gross negligence in the performance of the other Party's obligations and duties in relation to the Agreement;

(b) breach of the other Party's obligations and duties under this Agreement which (if capable of being cured) is not cured or remedied within 30 Business Days of written notice of such breach given to the other Party;

(c) breach of the representations and warranties as set forth in Clause 2 which (if capable of being cured) is not cured or remedied within 30 Business Days of written notice of such breach given to the other Party;

(d) material breach by the other Party of laws which (if capable of being cured) is not cured or remedied within 30 Business Days of notice of such breach being given to the other Party; and

(e) the other Party passing a resolution for its winding up or a court of competent jurisdiction making an order for the moratorium, insolvency proceedings, bankruptcy or dissolution or any other comparable proceedings affecting the creditors' rights generally.

**3.10** During the term of this Agreement and after termination of this Agreement any Party shall: (i) keep confidential information confidential; (ii) not disclose confidential information about the other Party to any other person other than with the prior written consent of the other Party; and (iii) not use confidential information for any purpose other than the performance of its obligations under the Transaction.

**3.11** Neither this Agreement, nor any rights or obligations hereunder, may be transferred by any Party without the prior written consent of the other Party hereto and any purported assignment in violation of this Clause shall be void and unenforceable.

**3.12** This Agreement constitutes an inseparable whole. If any provision of this Agreement is held to be invalid or unenforceable, then such provision shall (so far as it is invalid or unenforceable) be given no effect and shall be deemed not to be included in this Agreement but without invalidating any of the remaining provisions of this Agreement. The Parties shall then use all reasonable endeavors to replace the invalid or unenforceable provisions by a valid and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

**3.13** The Counterparty agrees to waive any and all rights to annul this Agreement based on article 6:265 Dutch Civil Code, to exercise rights of suspension based on articles 6:52, 6:262 and 6:263 Dutch Civil Code and to rescind this Agreement based on the provision of article 6:228 Dutch Civil Code.

**3.14** This Agreement and any non-contractual obligations arising out of or in relation to this Agreement are governed by and shall be construed and interpreted in accordance with Dutch law.

**3.15** All disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("Rules") by one or more arbitrators appointed in accordance with the said Rules holding the arbitration proceedings in Paris, France. The Emergency Arbitrator Provisions (as defined in the Rules) shall not apply.

**3.16** Notwithstanding the provision of 3.15, either Party may immediately bring a proceeding seeking preliminary injunctive relief in a court having jurisdiction thereof which shall remain in effect until a final award is made in the arbitration.