

UNDERLYING CLIMATE CHANGE AGREEMENT FOR THE [Semiconductor] SECTOR

THIS AGREEMENT is made the [8] day of [June 2007]

BETWEEN :

- (1) the Secretary of State for the Secretary of State for the Environment, Food and Rural Affairs"); and
- (2) [IQE Europe Limited] ("the operator").
Company number : 02107558

1. RECITALS

1.1 Section 30 of, and Schedule 6 to, the Finance Act 2000 makes provision for a new tax known as the climate change levy. The levy will be charged on the supply of taxable commodities. Paragraph 42(1)(c) of Schedule 6 provides that the amount payable by way of levy on the supply of taxable commodities shall be 20% of the full rate, if the supply is a reduced-rate supply.

1.2 Paragraphs 44 to 52 of Schedule 6 set out the circumstances in which a supply is a reduced-rate supply. To be a reduced-rate supply a supply has to be supplied to a facility which is certified by the Secretary of State as being covered by a climate change agreement.

1.3 Paragraph 46(b) of Schedule 6 provides that a climate change agreement may consist of a combination of agreements that falls within paragraph 48 of that Schedule. Paragraph 48 provides that the combination is a combination of an umbrella agreement and an underlying agreement.

1.4 This agreement is an underlying agreement entered into for the purposes of the umbrella agreement. It is not intended to give rise to contractual obligations between the parties.

1.5 The operator is a representative (as defined in paragraph 47(2) of Schedule 6) of each facility to which this agreement applies.

2. INTERPRETATION AND NOTICES

2.1 For the purpose of this agreement –

“acceptable currency” means a currency described in paragraph 5 of Schedule 2 to the umbrella agreement and references to an absolute target, a relative target, a carbon target or an energy target shall be construed in accordance with that paragraph;

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“energy plan” has the meaning given by paragraph 1.1 of Schedule 3;

“facility” shall be construed in accordance with paragraph 50 of Schedule 6 to the Finance Act 2000;

“facility number”, in relation to a facility, means the number of that facility specified in Part 1 of Schedule 1 to the umbrella agreement;

“fuel” means coal, coke, gas oil, heavy fuel oil, petrol, liquid petroleum gas, jet kerosene, ethane, naphtha, refinery gas, petroleum coke, natural gas and electricity;

“notice” includes any document whether in paper or electronic form;

“sector association” means [NMI Semiconductor] sector association;

“sector target” has the same meaning as in the umbrella agreement;

“served” includes copied;

“target period” has the same meaning as in the umbrella agreement;

“termination notice” means a notice served by the Secretary of State on the operator under clause 9.3 or paragraph 3.13 or 4.13 of Schedule 5 to terminate this agreement;

“target unit” means a facility or a group of facilities with a target in this agreement which only applies to that facility or that group;

“umbrella agreement” means the agreement entered into between the Secretary of State and the sector association for the purposes of the reduced rate of climate change levy;

“underlying agreement” means an agreement applying to one or more facilities identified in Part 1 of Schedule 1 to the umbrella agreement which is expressed to be entered into for the purpose of the umbrella agreement;

“working day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day falling on a bank holiday in any part of the United Kingdom; and

“variation certificate” means a variation certificate under paragraph 45 of Schedule 6 to the Finance Act 2000.

2.2 Any notice served under this agreement shall be in writing.

2.3 A notice served on the operator may be served by sending it by post to
[Mr Steve Morgan
Facilities Manager
IQE Europe
Pascal Close
Cypress Drive
St. Mellons
Cardiff CF3 0EG
United Kingdom]
or electronically to [SMorgan@IQEP.com].

2.4 A notice served on the Secretary of State may be served by sending it
by post to [The Climate Change Agreements Team
Sustainable Energy Policy Division
DEFRA
Ashdown House
123 Victoria St
London SW1E 6DE]

or electronically to [levy.agreements@defra.gsi.gov.uk].

2.5 A notice served on the sector association may be served by sending it by post to
[Derek Boyd
NMI
Geddes House
Kirkton North
Livingston
EH54 6GU]
or electronically to [derek.boyd@nmi.org.uk].

3. FACILITIES TO WHICH THIS AGREEMENT APPLIES

3.1 This agreement applies to the facilities identified in Schedule 1, being facilities to which the umbrella agreement applies.

4. TARGETS

4.1 The targets and tolerance bands (if any) for the facilities to which this agreement applies are set out in paragraph 1.1 of Schedule 2. Paragraphs 1.2 to 1.5 of that Schedule provide for adjustments to take account of product mix and/or output and emissions trading. The rules for determining whether or not a target is met are set out in the remaining provisions of that Schedule.

4.2 Where the sector targets in the umbrella agreement are varied following a review under clause 5.3 of that agreement, the targets set by this agreement shall, where appropriate, be varied to take account of the variation of the sector targets in accordance with the procedure set out in paragraph 5 of Schedule 5.

5. QUALITATIVE REQUIREMENTS

5.1 For the purpose of clause 7 of the umbrella agreement, the qualitative requirements for the facilities to which this agreement applies are set out in Schedule 3.

6. OBLIGATIONS OF OPERATOR

6.1 The operator shall serve a notice on the Secretary of State (copied to the sector association) immediately it has reason to believe that a facility listed in Schedule 1 might not be eligible for inclusion in this agreement.

6.2 The operator shall, for each facility to which this agreement applies, supply the Secretary of State with the name of a person who can be contacted in respect of the facility together with that person's postal address, telephone number, fax number and e-mail address.

6.3 If there is any change in the information mentioned in clause 6.2, the operator shall serve a notice on the Secretary of State specifying the change.

6.4 The Secretary of State may by notice request the operator to supply him with the following information in relation to any facility to which this agreement applies-

- (a) the reference number of every meter recording units of energy supplied to the facility; and
- (b) for each such meter, whether it is intended to use all of the energy recorded by that meter in that facility,

and the operator shall comply with such a request.

6.5 By the end of January in alternate years commencing with the year 2003, the operator shall supply the sector association with the information specified in Schedule 4 in relation to the most recently completed target period.

6.6 The operator shall comply with a request from the sector association for information under clause 6.10 of the umbrella agreement not more than 5 working days after receipt of the notice served under that clause.

6.7 The operator shall co-operate with any person appointed by the Secretary of State under clause 6.11 of the umbrella agreement to undertake an independent audit of the information provided by the operator to the sector association and, for that purpose, the operator shall keep proper records and make them available for inspection when required by the auditor.

7. CERTIFICATION OF FACILITIES BY SECRETARY OF STATE

7.1 The Secretary of State will certify that a facility to which this agreement applies is covered by a climate change agreement in the circumstances set out in clause 7 of the umbrella agreement.

8. CONFIDENTIALITY

8.1 The Secretary of State shall be entitled to publish, without the operator's consent, the list of the facilities in Schedule 1 and a list of the facilities in that Schedule which are certified under clause 7.1 as being covered by a climate change agreement.

8.2 The Secretary of State shall be entitled to disclose, without the operator's consent, any other information relating to this agreement in the following circumstances -

- (a) where the disclosure is made under and in accordance with the terms of any legislation;
- (b) where the disclosure is made to a relevant authority for the purposes of-
 - (i) the Secretary of State's functions under Schedule 6 to the Finance Act 2000; or
 - (ii) the authority's functions; or
- (c) where the disclosure is made in the course of legal proceedings.

8.3 In clause 8.2(a) "legislation" means primary or secondary legislation and includes legislation of the European Community.

8.4 The Secretary of State shall consult the operator before making any disclosure under paragraph 8.2 where he considers it appropriate in the circumstances to do so.

8.5 Save as provided for in clauses 8.1 and 8.2, the Secretary of State will only disclose information relating to this agreement with the consent of the operator.

8.6 The relevant authorities referred to in clause 8.2(b) are -

- (a) either House of Parliament (including any committee);
- (b) the European Commission;
- (c) the Commissioners of Customs and Excise;
- (d) the relevant environmental regulator for a facility under Part I of the Environmental Protection Act 1990 or regulations made under section

2 of the Pollution Prevention and Control Act 1999 or corresponding legislation for Northern Ireland;

(e) a person appointed by the Secretary of State under clause 6.11 of the umbrella agreement to undertake an audit of information; and

(f) the authorities charged with regulating under the Competition Act 1998.

8.7 The Secretary of State shall take steps to prevent any person, whom he appoints under clause 6.11 of the umbrella agreement to undertake an audit, from disclosing information relating to this agreement and obtained in carrying out the audit to any one other than the Secretary of State, except to the extent needed to carry out the audit.

9. DURATION OF THIS AGREEMENT

9.1 Subject to clause 9.2 and 9.6, this agreement shall continue in force from the date on which it is made until 31 March 2013.

9.2 This agreement may be terminated before 31 March 2013 -

(a) by notice served by the operator on the Secretary of State; or

(b) by a termination notice served by the Secretary of State on the operator in accordance with clause 9.3 or paragraph 3.13 or 4.13 of Schedule 5.

9.3 Where the operator is in breach of clause 6.5 and clause 6.7 of the umbrella agreement applies, the Secretary of State may terminate this agreement by serving a termination notice on the operator.

9.4 A termination notice under paragraph 9.3 shall specify the date on which this agreement ceases to have effect (which shall be at least 10 working days after the date on which the notice is served).

9.5 Where the Secretary of State serves a termination notice under paragraph 9.3, this agreement shall cease to have effect on the date specified in the notice. Where this agreement ceases to have effect in this way, no new certificate will be given under clause 7.1 for any further certification periods and any existing certificates given in respect of such facilities under that clause will be terminated by a variation certificate.

9.6 This agreement shall terminate if the umbrella agreement is terminated.

10. VARIATION OF AGREEMENT

10.1 Subject to clause 10.2 and 10.3, any provision of this agreement may be varied by agreement of the Secretary of State and the operator in accordance with Part 1 of Schedule 5.

10.2 The list of facilities in Schedule 1 and the targets in Schedule 2 and the currency of those targets shall be varied in accordance with Part 2 of Schedule 5 but, save as otherwise expressly provided in this agreement, no variation of the list of facilities, the targets or the currency of the targets shall be made.

10.3 Paragraph 2.11 of Schedule 2 may be varied by a notice served by Secretary of State under paragraph 2.12 of that Schedule.



Signed by authority of

the Secretary of State



A.J. PEARCE
OPERATIONS MANAGER
IQE EUROPE LTD.

Signed on behalf of the

operator