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## **REGISTRY: TERMS AND CONDITIONS OF USE for accounts in the Kyoto Protocol Registry (KP Registry)**

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## 1 GENERAL PROVISIONS

The Umweltbundesamt GmbH (Environment Agency Austria Ltd.) acts as national administrator within the meaning of Regulation (EU) No 389/2013<sup>1</sup> (as amended) and has been nominated by the responsible Austrian Federal Ministry as Registry administrator in accordance with the Austrian Act on Emissions Allowance Trading 2011 (as amended), in conjunction with the Registry Ordinance 2012, Federal Legal Gazette II 2012/208 (as amended).

To be able to participate in emissions trading it is necessary to open an account in the Union Registry.

**Note:** the current terms and conditions are only applicable to accounts in the Kyoto Protocol Registry. There exist other terms and conditions referred to accounts in the common Union Registry (download on [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at))

## 2 LEGAL BASIS

All relevant legal provisions applicable at European and national level shall apply to the use of the Registry, in particular the following:

- Commission Delegated Regulation (EU) No 1122/2019 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry
- Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, as amended,
- Commission Regulation (EU) No 421/2014 of the European Parliament and of the Council of 16 April 2014 amending Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions Text with EEA relevance and amending Council Directive 96/61/EC, last amended by Decision No 377/2013/EU of the European Parliament and of the Council of 24 April 2013 derogating temporarily from Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, as amended,
- Austrian Act on Emissions Allowance Trading 2011, Federal Legal Gazette 2011/118 (as amended),
- Environmental Measures Support Act, Federal Legal Gazette 1993/185 (as amended),
- Registry Ordinance 2012 Federal Legal Gazette II 2012/208 (as amended).

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<sup>1</sup> Commission Regulation (EU) No 389/2013 was amended by Art 87 Commission Regulation (EU) No 1122/2019 shall be applicable according to Art 88 Commission Regulation (EU) No 1122/2019 regarding certain measures until 1 January 2026.

### **3 SCOPE**

The national administrator shall be responsible for the administering of accounts in the Austrian part of the Union Registry and the Kyoto Protocol (KP Registry). This includes in particular the opening, verifying and closing of accounts, refusal to open an account or suspension of access, allocation of allowances, changes to the national allocation table etc.

The technical management and maintenance of the Union Registry and the KP Registry (IT infrastructure) shall be exempted from the scope of the terms and conditions set out in this document.

The terms and conditions set out in the following regulate the details applicable to the use of the Registry and shall apply exclusively to the business relationships between the national administrator and its users.

### **4 DEFINITIONS**

The definitions set out in European and national law provisions, in particular Art 3 of Regulation (EU) No 389/2013 (as amended) and Section 3 of the Austrian Act on Emissions Allowance Trading 2011 (as amended), shall apply.

In addition to the above, and pursuant to the terms and conditions set out in this document, the following definitions shall apply:

“Registry” means the Austrian part of the Union Registry, including the KP Registry.

“National administrator”: governmental administrator according to § 43 Austrian Act on Emissions Allowance Trading 2011 (as amended)

“Account holder”: party to the agreement with the Registry that, after having fulfilled all the necessary conditions, is entitled to hold an account in the Registry

“Registry user”: account holder and account representatives

“Authorised representative” means a natural person acting on behalf of an account holder in the Registry.

“Suspension of access” means blocking the access to the Registry or to one’s own account. The account itself shall remain in existence. In principle, suspension of access is only a temporary measure. Once the situation giving rise to the suspension has been resolved the suspension of the relevant account shall be lifted or the account shall be definitely closed.

“Closure of an account” means the definite closure of an account. With the closure of an account the business relationship between the national administrator and the Registry user comes to an end.

## 5 ACCESS TO THE REGISTRY

### 5.1 Authentication in EU Login

As a condition for online access to the Austrian part of the Union Registry, authentication of Registry users in the EU Login is required. Through authentication, Registry users undertake to meet all the technical specifications of EU Login and to follow the rules and procedures for access to the Union Registry as specified therein.

For authentication by EU Login, Registry users currently need a mobile phone number, to which an electronic PIN code can be sent. This PIN code has to be entered in EU Login for authentication.

In September 2020 a new authentication process was set up. For the “new” authentication by EU login users need a mobile phone with an integrated camera. Users have to scan an automatically produced QR-code. Thereby a certain password is activated which is only valid for a single sign-in and authentication.

Changing this authentication process is necessary for security and technical reasons. Moreover it is planned that the new authentication process shall replace the former common authentication process on 22 September 2021. After 21 September 2021 the new authentication shall be the unique possibility to access to the Union Registry.

Users have to provide the following technical conditions:

- “EU Login Mobile App” shall be downloaded on a smartphone or a tablet. It shall be installed by Google Playstore (Android) or App store (Apple).
- Mobile phones by Huawei, roll out after 16 May 2019, are not appropriate/compatible with “EU Login Mobile”.
- Mobile phones/tablets shall have an integrated and working camera.
- A screen lock shall be activated for security reasons.
- “EU Login Mobile App” can only be installed on one single mobile device (smartphone, tablet) for one single user. It is not possible to use this App on more than one mobile device for one single user.
- After installation: users shall allow all access rights required by “EU Login Mobile App”

Common updates shall be downloaded to guarantee the proper function of the “EU Login Mobile App”.

### 5.2 Other technical preconditions

Registry users have to use the relevant hard- and software tools according to current requirements stated by the European Commission to gain access to the Austrian part of the Union Registry.

In addition IT systems have to be set up that they verify the e-mail address [registerstelle@umweltbundesamt.at](mailto:registerstelle@umweltbundesamt.at) and Registry users shall receive e-mails correctly sent by the national administrator (e.g. adjustment of spamfilters).

### **5.3 Authorised representatives**

The provisions set out in Art 23 et seq of Regulation (EU) No 389/2013 (as amended) shall apply.

Authorised representatives initiate transactions in the Registry or other actions on behalf of the account holder.

Each account holder shall nominate at least two authorised representatives for each account. In addition to these, so-called additional authorised representatives may be nominated for each account which are legitimated and whose approval is required to confirm certain transactions in the Registry. Authorised representatives must be natural persons over 18 years of age. All authorised representatives and additional authorised representatives of a single account must be different persons. But the same person can be an authorised representative or an additional authorised representative on more than one account.

In the case of person holding and former operator holding accounts at least one of the authorised representatives or additional authorised representatives must be a permanent resident of Austria.

When nominating an authorised representative or an additional authorised representative, the account holder shall provide to the national administrator the requested information as required by it, but at a minimum the information set out in Annex VIII to Regulation (EU) No 389/2013 (as amended).

Within 20 working days of the receipt of the complete set of information and after its positive examination, the national administrator shall approve an authorised representative or an additional authorised representative or inform the account holder of its refusal. If necessary, the evaluation process may be extended by 20 additional working days. An objection to a refusal may be raised via the competent authority (the Austrian Federal Ministry of Climate Action, Environment, Energy, Mobility, Innovation and Technology).

An authorised representative or additional authorised representative may not transfer its status as such to another person. An account holder may request the removal of an authorised representative or an additional authorised representative from an account. If an authorised representative has been removed and as a result the minimum number of authorised representatives can not be achieved, the account holder has to nominate a new authorised representative without delay.

The account holder shall be responsible, and liable, for ensuring that only authorised persons have access to the Registry to initiate relevant transactions therein. In the event that any unauthorised persons carry out processes and transactions in the Registry due to the fault of the account holder, the responsibility and liability for these processes or transactions shall also lie exclusively with the account holder.

## 5.4 Opening of accounts

### 5.4.1 General provisions

The opening of any type of account shall be initiated on behalf of the prospective account holder. Each account shall receive an account ID.

General provisions for the conclusion of an account contract:

- online request for the opening of an account in the Austrian part of the Union Registry,
- signed contract governing the opening and management of the account (in two counterparts) including the terms and conditions applicable to the use of the Registry,
- submission of documents supporting the request in accordance with the documents and information required under the applicable laws and regulations, and/or any further information and documents as required by the national administrator if applicable (see details e.g. on the website [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at) in the chapters about information regarding opening of an account),
- for further provisions see Points 5.4.2 to 5.4.3.

The national administrator shall only be obliged to open and manage an account for which a request for account opening has been received if a complete set of information as required by law, plus any additional information considered necessary by the national administrator, are submitted that meet the formal requirements and the quality standards as requested.

Unless regulated otherwise under Regulation (EU) No 389/2013 (as amended), proof of identity shall be provided by applying, by analogy, the provisions set out in Section 6 of the Austrian Anti-Moneylaundering Act, Federal Legal Gazette 2016/118 (as amended). In the event that a registered office or a place of residence is outside the EEA, identification has to be provided by the administrative authority of the third country or by a recognised legalisation body.

Account holders shall demonstrably notify the national administrator without delay (no later than within 10 working days) of any changes to the information submitted for the opening of an account, or of any changes regarding the requirements for Registry access. In addition, account holders shall confirm unrequested to the national administrator by 31 December each year that the information for their account remains complete, up-to-date, accurate and true.

Even after the opening of an account the national administrator may request, within a reasonable period of time, information and documents to an extent that is proportionate, especially if required by law (e.g. for meeting the obligation of carrying out a review in accordance with Art. 25 (4) of Regulation (EU) No 389/2013 (as amended)) or if necessary because of changes to the European or national legal framework.

The national administrator shall perform regular reviews to check whether all requirements for account access are complied with (e.g. KYC-check (Pt. 5.6)).

#### **5.4.2 Special provisions for person holding accounts**

The Annexes to Regulation (EU) No 389/2013 (as amended) which are mentioned under this point can be downloaded at [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at).

In addition to the general terms and conditions set out in Pt. 5.4.1, potential holders of person holding and trading accounts have to fulfil the following conditions:

- providing account details for a bank account that is suitable for direct debit transactions if payments are to be made through direct debit,
- providing information as requested by the national administrator including, at a minimum, information set out in Annex IV and Annex VIII to Regulation (EU) No 389/2013 (as amended),
- proof of residence pursuant to Art 18 (2) of Regulation (EU) No 389/2013 (as amended) for at least one authorised representative or additional authorised representative,
- arrival of a onetime administrative charge (1.500 EUR) at the banking account of the national administrator for account openings by applicants from non-EEA-countries.

The account shall be opened within 20 working days of the receipt of a complete set of information and its positive examination.

Account holders shall administer their allowances through their person holding accounts in the Kyoto Protocol Registry.

Apart from the general options available for terminating a contract (Pt. 15), the national administrator may terminate a contract immediately if a situation as described in Art 33 Pt 1, Pt 2 or Pt 3 of Regulation (EU) No 389/2013 (as amended) arises. The general provisions for closing accounts as specified in Regulation (EU) No 389/2013 (as amended) shall apply.

#### **5.4.3 Special provisions for former operator holding accounts**

It is not possible to open a new former operator holding account. Account holders shall only administer their allowances through their former operator holding accounts.

Annex IV and Annex VIII Regulation (VO) 389/2013 apply to former operator holding account holders.

The Annexes to Regulation (EU) No 389/2013 (as amended) which are mentioned under this point can be downloaded at [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at).

In case of a nomination of a new authorised representative or an additional authorised representative the account holder shall report a proof of residence in Austria for at least one authorized representative or one additional authorised representative.

Apart from the general options available for terminating a contract (Pt. 15), the national administrator may terminate a contract immediately if a situation as described in Art 33 Pt 1, Pt 2 or Pt 3 of Regulation (EU) No 389/2013 (as amended) arises. The general provisions for closing accounts as specified in Regulation (EU) No 389/2013 (as amended) shall apply.



## **5.5 Refusal to open an account**

The national administrator may refuse to open an account

- if the information and documents provided are incomplete, out of date or otherwise inaccurate or false;
- if the prospective account holder, or, if it is a legal person, any of the directors, is under investigation or has been convicted in the preceding five years for fraud involving allowances or Kyoto units, money laundering, terrorist financing or other serious crimes for which the account may be an instrument;
- if the national administrator has reasonable grounds to believe that the accounts may be used for fraud involving allowances or Kyoto units, money laundering, terrorist financing or other serious crimes;
- for reasons set out in national law;
- if the national administrator required the prepaying of Registry fees for person holding accounts and they were not paid.

## **5.6 Know your customer checks (KYC-checks)**

The national administrator examines correctness and currency of all information and data which registry users submit to the national administrator.

Data contain personal data as well. Therefore the national administrator shall be obliged to fulfil the provisions of the General Data Protection Regulation (EU) 2018/679 and the Austrian Federal Data Protection Act 2018 (as amended) (see Pt 11).

The national administrator shall carry out KYC-checks when an account shall be opened or changed or according to Art 25 Regulation (EU) 389/2013 (as amended).

## **6 REGISTRY USERS' OBLIGATIONS TO COOPERATE**

Registry users shall comply with the following regulations:

1. Registry users shall submit a complete set of data, information, documents and evidence as requested by the national administrator, in the desired quality, within a reasonable period of time to be specified by the national administrator.
2. Registry users shall review their submitted data in the Registry for accuracy of content and completeness and, if appropriate, correct them on their own initiative, provided such autocorrection is possible. Otherwise the Registry user shall notify the national administrator of any corrections that need to be made.
3. Registry users are obliged to hold carefully and keep safe their personal access data and related information (e.g. secret question – answer to secret question).
4. Registry users shall notify the national administrator immediately of any changes concerning nominated authorised representatives.
5. Registry users shall inform the national administrator without delay if they acquire knowledge of any suspicious transactions in the Registry.

6. Registry users are responsible for informing other Registry users about the closure of their account.
7. Registry users have to accept interruptions of Registry services for maintenance purposes.
8. Registry users shall view actively and regularly, at a minimum once a week, the Registry's website at [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at) in order to be up to date with important information on a regular basis.
9. Registry users shall provide technical infrastructure according to Pt 5.1 and 5.2.

Failure to comply with the above obligations to cooperate may result in a suspension of the account with subsequent closure and termination of contract according to Art 33 and Art 34 (2) Regulation (EU) No 389/2013 (as amended).

## **7 TRAINING**

In the event that Registry Users cannot fulfil their obligations because their knowledge about the Emissions Trading Registry is not sufficient, the national administrator may request that employees of the account holders with relevant skills attend training sessions.

## **8 HANDLING TECHNICAL DISRUPTIONS**

The technical parameters for the operation and functioning of the Registry as defined in Chapter V of Regulation (EU) No 389/2013 (as amended) shall apply.

Upon receipt of relevant information from the European Commission, the national administrator shall inform its users of any foreseeable measures which are necessary for the operational functioning of the Registry (e.g. Registry maintenance by the European Commission) and lead to temporary service disruptions.

If unexpected technical problems should occur when using the Registry, the national administrator and the Registry users shall inform each other without delay.

Thereupon, measures foreseen by the European Commission and its subcontractors in such cases shall be taken immediately so as to restore the smooth functioning of Registry operations as soon as possible.

If toward the end of the annual compliance cycle a Registry user temporarily has no internet access to the Registry, although he holds open accounts, the national administrator may carry out transactions upon request and on behalf of the relevant Registry user, provided that access to the account has not been suspended. This kind of procedure is solely limited to transactions required for surrender of allowances.

## 9 AUSTRIAN REGISTRY SERVICEDESK

The national administrator has set up a servicedesk which shall be available as a first contact point for Registry users and their queries from Monday to Friday from 09.00 until 16.00 CET, except on 24.12., 31.12. and national holidays. The servicedesk is according to the “helpdesk” set by Art 92 (1) Regulation (EU) 389/2013 (as amended).

The national administrator shall inform the users on the modalities of account administration, accept calls on technical problems or suspicious transactions in the Union Registry, inform Registry users of any measures prescribed by the bodies responsible for the Union Registry for problem solving and cancel transactions if required in the case of fraud.

Latest news shall be published at [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at). Moreover registry users shall receive chosen news directly by e-mail.

### **Contact data for the national administrator are as follows:**

Address: Umweltbundesamt GmbH (Environment Agency Austria Ltd.)

Spittelauer Lände 5  
1090 Wien (Vienna)  
Austria

Phone: +43 (1) 31304/4114

Fax: +43 (1) 31304/4115

[registerstelle@umweltbundesamt.at](mailto:registerstelle@umweltbundesamt.at)

## 10 TRANSACTIONS

### 10.1. General provisions

A transaction is the transfer of allowances from one account to another account in the Union Registry. Each transaction with another account shall be carried out by authorised persons nominated by the relevant account holder. The technical specifications for carrying out transactions are in line with Art 23 and 39 of Regulation (EU) No 389/2013 (as amended) and the relevant technical level of implementation achieved by the European Commission and its subcontractors.

Transactions shall be initiated immediately if they are confirmed from Monday to Friday (except on 24.12., 31.12 and on national holidays in Austria) between 10:00 and 16:00 CET.

For all transfers of allowances and Kyoto units a delay of 26 hours between the confirmation of the transfer and the communication of the transfer for the purpose of finalisation shall be applicable. The running of this delay shall be suspended on Saturdays and Sundays (and on 24.12., 31.12. and on national holidays in Austria) between 00:00 and 24:00 CET.

The account holder shall have sole responsibility for transactions.

## **10.2. Formal requirements for cancelling transactions**

The national administrator shall accept requests for the cancellation of transactions only if they are sent by e-mail to [registerstelle@umweltbundesamt.at](mailto:registerstelle@umweltbundesamt.at) or per fax to +43 (1) 31304/4115. The request shall include the note “urgent – cancellation of a transaction” in the subject line. Requests per telephone are void.

The national administrator carries out cancellations only between 10:00 and 16:00 CET. Registry users shall be contactable for re-confirmation and any additional queries under a mobile telephone number provided by them.

Registry users carry the risk of submitting a request for cancellation within the applicable period of time as specified in Art 39 paragraph 4 of Regulation (EU) No 389/2013 (as amended). Such a request shall be submitted no later than 2 hours before the 26-hour delay expires so that the transfer can be cancelled before being communicated for finalisation.

## **11 CONFIDENTIALITY AND DATA PROTECTION**

The national administrator and the Registry user shall use any information as specified in Art 110 of Regulation (EU) No 389/2013 (as amended), as well as any information held in the Registry pertaining to accounts and transactions made, only for purposes of establishing and managing the Registry and to treat this information confidentially, i.e. to ensure that it is not made available to third parties even if the information is not explicitly designated as confidential (e.g. personal access data). This applies particularly to business and company secrets and access data of the national administrator and the registry users.

Exceptions to this rule are:

- data made available to explicitly legitimised legal entities as specified in Art 110 of Regulation (EU) No 389/2013 (as amended),
- information which has to be made available to the public in accordance with certain legal provisions, such as information of the Annexes to Regulation (EU) No 389/2013 (as amended),
- information which may be disclosed in accordance with a specific written agreement with the Registry user.

Furthermore personal data is processed for purposes referring to account management according to Art 107 and 108 (EU) 389/2019 and to the General Data Protection Regulation (EU) 2016/679 and the Austrian Federal Data Protection Act 2018 as amended.

Personal data shall be removed from the records after five years of the closure of an account or after five years of the closure of business relationship with a natural person. Personal data may be retained, with access restricted to the central administrator, for additional five years only for the purposes of investigation, detection, prosecution, tax administration or enforcement, auditing and financial supervision of activities involving allowances, or of money laundering, terrorism financing, other serious crime or market abuse for which the accounts in the Union Registry may be an instrument, or of breaches of Union or national law ensuring the functioning the EU ETS.

Personal data controlled by national administrators may be retained after the closure of the business relationship until the end of a period corresponding to the maximum prescription period of these offences laid down in the national law of the national administrator.

The national administrator shall report by involving the in-house data protection officer any occurring data breach to the central administrator and the other national administrators and shall inform about executed and proposed measures to solve the breach and limit any negative consequences.

The Union Registry shall not contain sensitive data according to Art 9 and 10 General Data Protection Regulation (EU) 2016/679.

Registry users notice the fact that the national administrator performs its duties according to the principles of a fair and transparent data processing (see Art 13 and 14 GDPR (EU) 2016/679 as amended).

The related data protection information including any rights of data protection subjects is available on the website [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at).

## **12 LIABILITY**

As a rule, the national administrator and its users shall be liable under the general rules for damages. The liability of the national administrator shall be limited to loss or damage which results from a deliberate act or gross negligence.

Under no circumstances shall the national administrator be liable for

- damage caused by way of force majeure and other unjustifiable circumstances;
- damage caused by third parties;
- damage or any other harm suffered by the Registry user as a result of an interruption of the Registry for technical reasons;
- damage or any other harm arising from the IT infrastructure provided by the European Commission;
- damage or any other harm suffered by the Registry user or a third party as a result of a violation or breach of the terms and conditions of Registry use;
- damage or any other harm suffered by the Registry user as a result of a termination of the contractual relationship (Pt. 15);
- damage or any other harm suffered by the Registry user as a result of transactions in the Registry which are not performed by authorised persons;
- damages or any other harm which occur because Registry users do not take care of their personal access data and take care of providing necessary technical infrastructure;
- instructions from European bodies, in particular the European Commission;
- requirements of third parties (e.g. EU Login) in the context of emissions allowance trading that affect Registry users;
- agreements concluded between Registry users;
- requests for cancellations of transactions in case of fraud received after the due date, especially because of non-compliance with the formal requirements specified in Pt. 10.2, or

- for cancellation failures due to unsuccessful attempts of the national administrator to reach the applicant by phone for the purpose of re-confirmation;
- damage or any other harm caused by a failure to inform other account holders of the closure of a specific account;
  - the accuracy of data provided by independent verifiers.

### **13 LEGAL SUCCESSION**

Holders of former operation holding accounts and person holding accounts may not sell or divest of the ownership of their accounts to third parties (Art 25 paragraph 6 of Regulation (EU) No 389/2013 (as amended)).

### **14 SUSPENSION OF ACCESS TO ACCOUNTS**

The national administrator may suspend the access of an authorised representative to any account or verifier in the registry or to processes to which that authorised representative would otherwise have access if the administrator has reasonable grounds to believe that one of the reasons mentioned in Art 34 paragraph 1 to 5 Regulation (EU) No 389/2013 exist.

The national administrator shall reverse the suspension immediately once the situation giving rise to the suspension is resolved.

Suspension of access to accounts may lead to closure of account (Pt 15.2).

### **15 TERMINATION**

#### **15.1. General provisions**

An authorised representative of a person holding account or former operator holding account may request the closure of an account online. Thereupon the account holder has to send a letter, duly signed with the company's signature, requesting the account closure to the national administrator.

If there is a positive balance of allowances on an account which an administrator shall close, the national administrator is entitled to transfer the allowances to a national holding account and delete them. This process shall be started after a period stipulated for 40 days and according to Art 32 (1) of Regulation (EU) No 389/2013 (as amended).

The Registry users accept that this (property) transfer is slightly and proportionate according to Austrian constitutional federal law.

If the process of closure described above is complied with, the contractual relationship shall end automatically by a software generated e-mail without either of the parties having to make a specific declaration.

## 15.2. How to terminate a contract

- Suspension of access to accounts with subsequent closure
- Closure for other reasons
- Termination by Account holder

### 15.2.1 Suspension of access to accounts with subsequent closure

The provisions set out in Chapter 3, Section 3 and 4 of Regulation No 389/2013 (as amended) shall apply.

In accordance with Art 34 of Regulation (EU) No 389/2013 (as amended) the national administrator may suspend the access to accounts if it has reasonable grounds to believe that the authorised representative has

- attempted to access accounts or processes for which he is not authorised;
- repeatedly attempted to access an account or a process using an incorrect username and password;
- attempted to compromise the security, the availability, the integrity or the confidentiality of the authentication system or the EUTL, or of the data handled or stored therein.

Furthermore, the national administrator may suspend the access where one of the following conditions is fulfilled:

- the account holder died without a legal successor or ceased to exist as a legal person;
- the account holder did not pay the fees;
- the account holder violated the terms and conditions applicable to the account;
- the account holder did not agree to changes in the terms and conditions applicable to the management of the account;
- the account holder did not notify changes to account information or provide evidence concerning the changes to account information or new account information within 3 months even after the national administrator required the new documents (e.g. in the scope of account reviews);
- the account holder failed to maintain the required minimum number of authorised representatives for the account;
- the account holder failed to maintain compliance with the Member State requirement to have an authorised representative with a permanent residence in Austria;
- the account holder violated the obligations to cooperate as set out under Pt. 6.

The national administrator may suspend the access to a specific account for a maximum period of four weeks if he has reasonable grounds to believe that the account was used or will be used for fraud, money laundering, terrorist financing or other serious crimes, or on the basis of and in accordance with national law provisions that pursue a legitimate objective. The national counterparty may extend the period of suspension. The competent authority referring to money laundering is statuted by the Ministry of the Interior. Any suspects may be reported to A-FIU@bmi.gv.at.

The national administrator shall reverse the suspension immediately once the situation giving rise to the suspension is resolved.

If a Registry user cannot resolve the situation giving rise to the suspension, or rectify a violation that has been committed, after a maximum of three reminders and an additional period of grace of reasonable length granted by the national administrator, the national administrator may, at the earliest possible date pursuant to the regulations, definitely close the account in accordance with Regulation (EU) No 389/2013 (as amended). The contractual relationship between the Registry user and the national administrator shall thus be terminated.

### **15.2.2 Closure for other reasons**

The national administrator may terminate a contract with immediate effect without setting an additional period of grace, and close an account in accordance with the requirements set out in Regulation (EU) No 389/2013 (as amended), if insolvency proceedings have been opened with regard to a Registry user's assets, or bankruptcy proceedings due to a lack of sufficient assets to cover the costs of insolvency proceedings, or if any other state of inability to pay arises on the part of the Registry user. If, in the event of insolvency or bankruptcy, an existing contract is continued under the management of an appointed receiver or insolvency manager, the national administrator may make the provision of further services dependent on the provision of appropriate security or the making of an advance payment.

If the Umweltbundesamt GmbH (Environment Agency Austria Ltd.) no longer acts as the national administrator, the contract shall also end automatically upon expiry of the last working day of the Umweltbundesamt GmbH (Environment Agency Austria Ltd.). In such a case the Umweltbundesamt GmbH (Environment Agency Austria Ltd.) shall inform all Registry users promptly and without delay.

### **15.2.3 Termination by Account holder**

Account holders may terminate the contractual relationship with the national administrator by giving a one month notice in writing at the end of the month without stating any reasons (= ordinary termination). The termination process is a two-step process: at first the account will be suspended by the national administrator after expiration of the cancellation period (step 1). Subsequently the final closure of the account and the final ending of the contractual relationship depends on the fulfilment of all legal obligations (step 2).

In addition to the above, Registry users may exercise the right of extraordinary termination for just cause, in particular in the event of changes made to the terms of use which negatively affect them (see Pt. 18). In this case the termination shall be effective immediately. The account will be suspended without delay (step 1) and the final closure depends here, too on the fulfilment of all legal obligations (step 2).



## **16 REIMBURSEMENT OF COSTS AND EXPENSES**

The Registry shall charge a reimbursement of costs and expenses in accordance with Art 111 of Regulation (EU) No 389/2013 (as amended). The fees shall be displayed on the website of the Registry at [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at).

Fees are payable annually as a lump-sum payment (time period is 1 January to 31 December).

## **17 TERMS OF PAYMENT AND ACCOUNTING**

Payment of fees (e.g. reimbursements for account administration) shall be made upon receipt of an invoice and shall be only sent to the contracted account holder and not later than the due date as indicated on the invoice or, if no date is specified, within 7 calendar days of the receipt of the invoice. The invoice amount has to be credited, by the due date, to the account specified on the invoice.

Account holders have the right to object to an invoice in writing within 30 days of the receipt of the invoice. After this period, the invoice shall be considered binding.

If payments are to be made through direct debit, each account holder shall specify and make known to the national administrator an account held with a bank within the EEA or in Switzerland which will be used for all payments to be made by the Registry user. A Registry user is liable for ensuring that there are sufficient funds in the account on the due date. Any charges arising in this context will have to be paid by the Registry user.

If payment by direct debit has been arranged and the bank specified by the Account holders refuses to carry out a direct debit transaction for reasons that are beyond the control of the national administrator, the Registry user has to pay all the costs and expenses incurred in this connection such as charges on arrears as well as charges for reminders or collections.

Invoices shall be issued in Euros. Unless explicitly stated, fees do not include VAT. The activities of the national administrator are carried out in the exercise of governmental authority. For this reason, VAT is not applicable.

In the event of a delay the national administrator has the right to charge interest on overdue payment, to be calculated by using the base interest rate of the Austrian National Bank plus an annual rate of 4% or, in the case of commercial transactions, plus an annual rate of 9,2 % (Section 456 of the Austrian Commercial Code).

In principle, no set-off or counterclaim shall be admissible. The national administrators and the Account holders only have a right to set-off where claims which have a legal connection with the debt, or which have been ascertained by a court or recognised by the national administrator are involved. In the event that an Account holder is at risk of being unable to pay, the national administrator has the right to a set-off.

Invoices shall be sent by post or e-mail.

Invoice mistakes have to be corrected by the national administrator.

## **18 AMENDMENTS TO THE TERMS AND CONDITIONS OF USE**

The national administrator reserves the right to change the terms and conditions set out in this document to an extent that is objectively justified, especially if such amendments are required because of amendments to European and national law provisions which form the basis of these terms and conditions.

The national administrator shall inform Registry users of such amendments by e-mail. Apart from the main content, the information shall contain the time of the entry into force of the amendment and a note referring to the extraordinary right to terminate the agreement (Pt. 15).

If no specific date or time is indicated, amendments shall enter into force 14 days after the Registry users have been informed by e-mail.

A notice referring to the terms and conditions as amended shall be made on the website of the national administrator at [www.emissionshandelsregister.at](http://www.emissionshandelsregister.at). Here the full text of the terms and conditions is available for download.

## **19 ADMINISTRATIVE SUPERVISION**

The national administrator and Registry users are obliged to inform the competent authority of any infringements of laws which have to be penalised by the authority.

## **20 CONCLUDING CLAUSES**

All agreements shall be in writing in order to be effective. This also applies to a waiver of this written form requirement. In the case of electronic correspondence, the written form requirement is only fulfilled if an electronic signature is attached to e-mails.

If some of the provisions of these terms of use become ineffective and/or void, this fact shall have no effect on the remainder of the provisions. The parties agree to replace the ineffective/void provision by one which serves the legal, commercial and technical purposes as closely as possible.

The business language and the language of this contract is German or English. This stipulation may be amended by mutual agreement.

All person-related language in this contract refers to both males and females.

This contract shall be governed by Austrian law excluding the principles on conflicts of law. Application of the UN Sales Convention shall be excluded. The court having jurisdiction shall be the competent court at the registered office of the Umweltbundesamt GmbH (Environment Agency Austria Ltd.) in Vienna.