

SAMPLE AMMONIA OFFTAKE AGREEMENT TERM SHEET

1. Seller:	[Seller entity], a [jurisdiction of formation] [type of entity] (the “Seller”).
2. Buyer:	[Offtaker entity], a [jurisdiction of formation] [type of entity] (the “Buyer”).
3. Parties:	Each of Buyer and Seller may be referred to herein individually as a “Party” and collectively as the “Parties”.
4. Facility:	An ammonia production plant comprised of [•] ammonia synthesis loop[s], including facilities for (a) the provision of hydrogen and nitrogen feedstock and utilities, and (b) other infrastructure and equipment (the “Facility”, and the development of the Facility, the “Project”), at a site located at [insert location] owned by [insert site owner].
5. Product:	Ammonia (NH ₃) that meets the Specifications (as defined below) (“Ammonia”).
6. Condition Precedent:	<p>The obligations of the Parties under the Offtake Agreement shall be subject to the satisfaction, or waiver by Seller, of the following conditions (the “Conditions Precedent”): the board of directors of Seller has made a final investment decision to proceed with the Project (including the construction of the Facility), which the Parties acknowledge may be subject to the execution of other agreements related to the Project (collectively, the “Project Agreements”).</p> <p>The date on which all the Conditions Precedent are satisfied and the Offtake Agreement becomes effective shall be the “Effective Date”.</p>
7. Commissioning	The Parties shall negotiate the terms under which the Buyer may take commissioning quantities of the Facility, including terms for quantity, price, and certain specifications.
8. Commercial Operations Date:	The Commercial Operations Date (“ COD ”) shall be the date on which the Facility has been completed and commissioned (as notified by delivery of a notice from Seller to Buyer) and is operating reliably at its nameplate capacity and producing commercial quantities of Ammonia. A narrowing window mechanism will be included in the Offtake Agreement for the purposes of setting the COD.
9. Term:	The term of the Offtake Agreement shall commence on the date of its execution and shall terminate on the last day of the calendar month immediately following the [•] anniversary of the COD (the “ Term ”). The Term shall be automatically extended for successive [•] year periods unless and until terminated by either Party by giving [•] months’ notice (with the earliest that notice may be given being [•] months prior to the end of the initial [•] year Term).
10. Agreement; Sales Quantity Commitment:	Seller and Buyer intend to enter into an Ammonia Offtake Agreement (the “ Offtake Agreement ”) pursuant to which Seller shall produce, Deliver to and sell at the Delivery Point (as defined below) to Buyer, and Buyer shall accept, purchase and pay to Seller, on a firm basis, a quantity of Ammonia equal to [•] metric tonnes (“ MT ”) per Contract Year (the “ Annual Quantity Commitment ”) ratably and

	equally divided on a quarterly basis, but subject to the schedule of Deliveries set forth in the Annual Schedule (as defined below) (the “ Quarterly Quantity Commitment ”).
11. Product Price:	[]
12. Delivery:	<p>Ammonia shall be delivered (“Delivered”) clear for export onboard a vessel (“FOB”) (Incoterms® 2020) at the ammonia vessel loading dock at the Facility (the “Delivery Point”).</p> <p>Procedures for nominating quantities of Ammonia to be Delivered via vessel will be addressed in exhibits to the Offtake Agreement.</p>
13. Annual Scheduling:	By September 30 of each Contract Year, Buyer shall provide to Seller an indicative schedule for the Receipt by Seller from Buyer of the annual schedule of vessels to arrive at the Facility (the “ Annual Schedule ”). The Annual Schedule shall indicate the quantities of Ammonia expected to be Delivered to each vessel, per Contract Quarter and for the Contract Year (with the intent of the Parties being that the vessel Deliveries will be approximately ratable throughout the Contract Year). Within thirty (30) days of receipt of the same, the Parties shall discuss and finalize in writing the Annual Schedule.
14. Failure to Take:	<p>There shall be a “Buyer Shortfall Quantity” in any Contract Quarter in which Buyer has accepted less than the applicable Quarterly Quantity Commitment, <i>minus</i> quantities not taken by Buyer due to or corresponding to permitted excuses set forth in the Offtake Agreement for Buyer’s obligation to take delivery of Ammonia.</p> <p>For any Contract Quarter in which there is a Buyer Shortfall Quantity, Buyer shall pay to Seller an amount equal to the sum of (a) the amount of the Buyer Shortfall Quantity that Seller was able to sell to third parties, <i>multiplied by</i> the positive amount, if any, by which the applicable Product Price exceeds the price received by Seller from third parties for such quantities, <i>plus</i> (b) the amount of the Buyer Shortfall Quantity that Seller was not able to sell to third parties, <i>multiplied by</i> the Product Price;</p>
15. Failure to Deliver:	<p>There shall be a “Seller Shortfall Quantity” in any Contract Quarter in which the quantity of Ammonia made available for Delivery is less than the Quarterly Quantity Commitment, <i>minus</i> quantities not made available for Delivery by Seller due to or corresponding to permitted excuses set forth in the Offtake Agreement for Seller’s obligation to make Ammonia available for Delivery.</p> <p>For any Contract Quarter in which there is Seller Shortfall Quantity, Seller shall pay to Buyer an amount equal to the sum of (a) the amount of the Seller Shortfall Quantity that Buyer was able to purchase from third parties, <i>multiplied by</i> the positive amount, if any, by which the price paid by Buyer exceeds the applicable Product Price, <i>plus</i>, (b) the amount of the Seller Shortfall Quantity that Seller was not able to sell to third parties, <i>multiplied by</i>, the Product Price.</p>
16. Testing:	Seller shall be responsible for sampling and testing all Ammonia to be Delivered to each vessel. However, the Parties shall develop further principles and procedures

	on measuring and/or determining the quantity and quality of Ammonia Delivered consistent with accepted internationally recognized industry standards.
17. Ammonia Specification; Low Carbon Certification:	<p>The “Specifications” of the Ammonia shall be as follows:</p> <p>Ammonia: \geq [99.5]% by weight</p> <p>Water: Minimum [0.2]% by weight Maximum [0.5]% by weight</p> <p>Oil: Maximum [10] PPM by weight</p> <p>Iron: Maximum [1] PPM by weight</p> <p>Temperature: Maximum [-24] degrees Fahrenheit</p> <p>[Carbon Intensity: Maximum [•] gCO₂e/MJ]</p>
18. Off-Spec Ammonia:	<p>The Offtake Agreement shall contain provisions addressing the Delivery of Ammonia that fails to meet the Specifications set forth above (the “Off-Spec Ammonia”) and the obligations of the Parties with respect to the same. The quality and quantity of Ammonia Delivered by Seller and received by Buyer pursuant to the Offtake Agreement should be inspected according to procedures and principles referred to in <u>Section 16</u>. If the Parties become aware that Off-Spec Ammonia has been Delivered, Buyer shall use commercially reasonable efforts to accept such Off-Spec Ammonia. If such Off-Spec Ammonia cannot be accepted by Buyer using commercially reasonable efforts, Buyer may reject such Off-Spec Ammonia, in which case an equivalent volume of compliant Ammonia shall be Delivered by Seller, using all reasonable endeavors, as soon as practicable following Buyer’s date of rejection of the initial Delivery. If such Off-Spec Ammonia is accepted by Buyer, then Buyer will be deemed to have waived all claims and losses with respect to such Off-Spec Ammonia.</p>
19. Environmental Attributes:	<p>The Parties recognize that the production of Ammonia at the Facility may result in opportunities to create marketable environmental attributes including, but not limited to, emissions reductions credits under federal, state or provincial regulatory programs, voluntary carbon offset credits, and greenhouse gas accounting benefits (collectively, the “Environmental Attributes”). The allocation of rights to such Environmental Attributes shall be negotiated and agreed among the Parties in the Offtake Agreement.</p>
20. Shutdowns:	<p>A “Seller Shutdown” means a shutdown or other outage of the Facility.</p> <p>The Offtake Agreement shall contain terms and conditions that limit the amount of relief available to Seller for Seller Shutdowns. Seller’s relief for Scheduled Seller Shutdowns shall reflect the planned turnaround schedule for the Facility.</p> <p>Seller shall be relieved of its obligations to Deliver Ammonia in accordance with the terms and conditions set forth in the Offtake Agreement during any Seller Shutdown and re-start period.</p>

<p>21. Title and Risk of Loss Transfer:</p>	<p>Title and risk of loss of Ammonia (including claims caused by any such loss) shall pass from Seller to Buyer at the Delivery Point, except to the extent any loss of Ammonia (or claim) (a) at or downstream of the Delivery Point is caused by gross negligence or willful misconduct of Seller or (b) upstream of the Delivery Point is caused by the gross negligence or willful misconduct of Buyer.</p>
<p>22. Taxes:</p>	<p>Seller shall pay all taxes on or with respect to all Ammonia prior to Delivery and Buyer shall pay all taxes on or with respect to all Ammonia at and after Delivery, including any sales and use taxes assessed with respect to the sale and Delivery of Ammonia under the Offtake Agreement.</p>
<p>23. Events of Default; Termination Events:</p>	<p>The events of default that would, subject to notice requirements and cure periods to be agreed upon in the Offtake Agreement or set forth in any direct agreement with entities providing financing for the Project, give rise to a right of termination and damages will include, among others (the “Events of Default”):</p> <ul style="list-style-type: none"> (a) a failure to make a payment required under the Offtake Agreement; (b) a failure to provide minimum levels of Ammonia under the Offtake Agreement, subject to customary exceptions. (c) a bankruptcy or insolvency of a Party or a Party’s ultimate parent company or any person or entity providing credit support for such Party’s obligations under the Offtake Agreement; and (d) violation of certain fundamental representations, warranties and covenants. <p>Other events giving rise to a right of termination of the Offtake Agreement (but without constituting an Event of Default) shall include: (i) mutual consent of the Parties; (ii) extended third party (including government) injunction against the transactions to be carried out pursuant to the Offtake Agreement; (iii) extended Force Majeure at the Facility; and (iv) COD not occurring by a longstop date to be negotiated by the Parties.</p>
<p>24. Termination:</p>	<p>Either Party (the “Non-Defaulting Party”) may, by written notice to other Party (the “Defaulting Party”) where the Defaulting Party causes an Event of Default, (a) suspend Deliveries under the Offtake Agreement and (b) terminate the Offtake Agreement if the Defaulting Party has not cured such Event of Default within sixty (60) days of receipt of such notice.</p> <p>The termination remedies of the Parties for Events of Default set forth in the Offtake Agreement are their sole remedies for Events of Default but shall be without prejudice to amounts then accrued and owing at the time of termination.</p>
<p>25. Change in Law:</p>	<p>A change in any applicable law that requires Seller (a) to incur capital expenditure to modify the Facility, or (b) to change the manner, methods and/or means of operation such to cause an increase in Seller’s costs and expense in operation of the Facility, shall be borne by Seller for the first \$[•]/MT, and thereafter borne equally by Seller (on one hand) and Buyer and all other long-term offtakers (on the other hand).</p>

<p>26. Representations; Warranties; other Covenants:</p>	<p>Offtake Agreement will include customary representations and warranties for agreements of this type and subject to customary qualifications, including: due organization; good standing; power and authority; no conflict with laws and/or existing agreements; required filings; consents and permits; no brokers' fees (except as expressly disclosed); past business practices; outstanding litigation or other legal proceedings; enforceability of the Offtake Agreement; and that the Ammonia Delivered shall be entirely free and clear of any liens whatsoever.</p> <p>Customary additional covenants for agreements of this type, and subject to customary qualifications, including: anti-corruption practices and compliance; maritime terms; insurance; audit rights; sanctions compliance; and covenants related thereto.</p>
<p>27. Indemnity:</p>	<p>Each Party shall indemnify the other Party, its affiliates, officers, employees, directors, agents, shareholders and subcontractors from and against any and all liabilities for damage or injury to persons or property caused by or resulting from the indemnifying Party's negligence, misconduct or breach of any provision of the Offtake Agreement, except to the extent such liabilities are caused by the indemnified Party's gross negligence, willful misconduct or breach of the Offtake Agreement.</p>
<p>28. Force Majeure:</p>	<p>“Force Majeure” events shall include any events or circumstances (or any combination of events and/or circumstances) beyond the reasonable control, directly or indirectly, of the affected Party that prevent performance of the Offtake Agreement, but only to the extent that: (a) such event(s) and/or circumstance(s), despite the exercise by such Party of the standards of a reasonable and prudent person, cannot be prevented, avoided or removed by such Party; (b) such event(s) and/or circumstance(s) cause(s) or result(s) in a failure by such Party to perform its obligations under the Offtake Agreement; (c) such Party has taken all reasonable precautions, exercised due care and used reasonable efforts to avoid the effect(s) of such event(s) and/or circumstance(s) on such Party's ability to perform such obligations and to mitigate the consequences thereof; and (d) such event(s) and/or circumstance(s) is/are not caused by the affected Party's negligence, lack of diligence or willful misconduct.</p>
<p>29. Credit Support:</p>	<p>Credit support for Buyer's offtake obligations may be required depending on Buyer's creditworthiness. Seller may request credit support (which may include, without limitation, one or more of: collateral in the form of cash or an irrevocable letter of credit, a prepayment or a guaranty from an investment-grade parent entity).</p> <p>If credit support is not required, any downgrade in the credit rating of Buyer, any material adverse change in the creditworthiness of Buyer, Buyer's failure to timely perform any obligation, or a merger, combination or change of control of Buyer, shall entitle Seller to require the provision of appropriate credit support by or on behalf of Buyer.</p>
<p>30. Cooperation with Seller's Financing Activities:</p>	<p>Buyer acknowledges that Seller intends to obtain non-recourse project financing to finance the development, construction and operation of the Facility and the Project. Buyer agrees to deliver to Seller such documents and instruments and to take such other actions as are reasonably necessary to accommodate any financing or refinancing of the Facility and the Project and to satisfy the requests of any</p>

	financing parties or any prospective financing party in connection with such financing or refinancing, including providing opinions, financial statements, consents and agreements, estoppel certificates, direct agreements or such other documents as may reasonably be requested.
31. Assignment:	<p>Neither Party shall be permitted to assign the Offtake Agreement without the prior written consent of the other Party, not to be unreasonably withheld, other than to an affiliate of the assigning Party.</p> <p>Seller may, without the need for Buyer’s consent, conditionally assign the Offtake Agreement as security for any indebtedness incurred in connection with the financing of the Project.</p>
32. Confidentiality:	Customary for agreements of this type, with typical exceptions for disclosures (a) in order to comply with law or rules of any stock exchange; (b) to a financing party in connection with the financing of the Project; (c) to a bona fide proposed transferee of the Facility; and (d) of information that is already in the public domain through no fault or impermissible disclosure of any person or Party.
33. Governing Law:	State of New York.
34. Limitation of Liability	The Parties shall agree to a customary consequential damages waiver, with exceptions for the fraud, gross negligence and willful misconduct of the Parties, along with any other exceptions to be negotiated by the Parties in the Offtake Agreement.
35. Dispute Resolution:	Any dispute arising under the Offtake Agreement shall be submitted by either Party to the senior management of both Parties for resolution within thirty (30) days of the submission. If a dispute is not resolved by the senior management in that period then, upon the request of either Party, the dispute will be submitted to the International Chamber of Commerce (“ICC”) to be finally settled by binding arbitration in New York, New York, in accordance with the applicable rules of the ICC by a panel of three (3) arbitrators, with the president nominated by the Party-nominated arbitrators.