



Department for
Business, Energy
& Industrial Strategy

Annexes A-D: Indicative Heads of Terms

To the document entitled
"Carbon Capture Usage and Storage
An update on the business model for
Transport and Storage"



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ANNEX A

CCUS: T&SCo Licence

Indicative Heads of Terms

Note: these draft indicative heads of terms are subject to the "Disclaimer" section at the front of the update document to which they are annexed.

1. INTRODUCTION

1.1 Background

- (a) These indicative heads of terms set out the basis for the provision of a licence (the "**Licence**"), expected to be granted by the economic regulator (the "**Regulator**") to a company licensed to provide transport and storage services ("**T&SCo**") under HMG's CCUS programme (the "**Programme**").
- (b) The contents of these heads of terms are indicative only and do not constitute an offer by HMG or the Regulator and do not create a basis for any form of expectation or reliance. Any economic regulatory regime ("**ERR**") that is developed in the future will be subject to Parliamentary approval and any Licence that is developed in the future will be subject to approval by the Regulator and the development and completion of necessary documentation.

1.2 Rationale

- (a) An ERR is required to provide a framework for users of the transport and storage ("**T&S**") network to pay T&SCo fees which will be regulated by the Regulator, and to set an allowed revenue for T&SCo and minimum standard of service to be provided by T&SCo for the T&S users.
- (b) Under the ERR, there will be mechanisms for the allocation of certain risks between the T&S users and incentives on T&SCo to provide the T&S services.

1.3 Regulatory periods

- (a) The ERR will cover a number of regulatory periods over the term of the Licence. The first regulatory period will commence on the award of the Licence and conclude at the end of a period of time (which may be three years) after commissioning of the T&S network (the "**First Regulatory Period**"). This means that the First Regulatory Period will cover construction phase activities as well as the initial operating period. The second regulatory period will commence after the conclusion of the First Regulatory Period and there will be subsequent regulatory periods at agreed intervals.
- (b) HMG will determine the ERR for the First Regulatory Period, with the Regulator having a more limited role than it will in the second and subsequent regulatory periods. The Regulator will, however still have certain responsibilities during this First Regulatory Period and these are set out in more detail below.

1.4 Regulator's duties and enforcement powers

- (a) The Regulator will have a statutory duty to carry out its functions in a way it considers will further the objectives of the ERR.¹
- (b) The Licence will be supplemented by guidance from the Regulator on how the Regulator intends to approach any issues under the Licence where the Regulator is required to exercise a degree of discretion, including, in particular, the determination of the WACC in the second and subsequent regulatory periods. While it is intended that the guidance can be prepared in draft in advance of the award of the Licence, the guidance can only be issued in final form once the Licence is in place and the Regulator has been given its necessary powers, duties and functions under the relevant legislation.
- (c) The statutory framework, which will provide for the grant of the Licence, will give the Regulator the powers required to enforce the conditions of the Licence, following the approach in other regulated sectors.²

1.5 **Description**

- (a) This document sets out high level indicative terms for each of the following areas covered by conditions of the Licence:
 - (i) construction phase conditions (Section 2);
 - (ii) operational phase conditions (Section 3);
 - (iii) general conditions (Section 4);
 - (iv) onshore transportation services obligations (Section 5);
 - (v) offshore transportation and storage services obligations (Section 6); and
 - (vi) glossary of terms (Section 7).
- (b) The scope of the conditions remains subject to review, in particular in the context of the development of the wider Programme.

1.6 **Initial assumptions**

- (a) These indicative heads of terms are based on the following assumptions in respect of the T&S network:
 - (i) ownership of the T&S network: the "onshore" (i.e. onshore transportation systems) and "offshore" (i.e. offshore transportation systems and offshore storage) elements of the T&S network will be owned by T&SCo. In particular, T&SCo will hold any Crown Estate (including Crown Estate Scotland) lease and licence/permit issued by the OGA (or licensing authority of a devolved administration);
 - (ii) development and operation of the T&S network: T&SCo will be responsible for the development, construction, operation and maintenance of the T&S network, including obtaining all necessary permits and approvals;

¹ The Regulator's duties, objectives and functions are further considered in a Government consultation, the Government response to which is published alongside this document.

² The Regulator's enforcement powers are further considered in a Government consultation, the Government response to which is published alongside this document.

- (iii) expansion of the T&S network: in the future T&SCo may need to expand the T&S network under the terms of the ERR and will provide access to new T&S users under the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011 (as may be amended or supplemented)³ and in accordance with the terms of its Licence;
- (iv) decommissioning: T&SCo will be responsible for the decommissioning and monitoring of:
 - (A) the offshore T&S network in accordance with the Energy Act 2008 (as may be amended or supplemented); and
 - (B) the onshore T&S network in accordance with the relevant decommissioning conditions of any development/planning consent;
- (v) T&S fees: users of the T&S network will pay T&SCo fees for provision of T&S services which will be regulated under the ERR;
- (vi) CO₂ ownership: T&SCo will certify delivery of CO₂ onto the T&S network and will take title to and own the CO₂;
- (vii) government support package ("**GSP**"): T&SCo will benefit from a GSP provided by HMG to cover certain high impact, but low probability, risks beyond those which are manageable by operation of the ERR, which the investors and/or supply chain, including insurers, of T&SCo cannot take, or cannot price at an efficient level which is good value for money for UK taxpayers or consumers; and
- (viii) revenue support agreement ("**RSA**"): in the development of the revenue model for the T&S network, HMG has identified that there may be certain structural revenue risks to T&SCo, where T&SCo's actual revenues may fall short of T&SCo's Allowed Revenue under the ERR. Such revenue risks will be addressed through a number of mitigation measures in the ERR and where the ERR is not sufficient, T&SCo will have access to the RSA as a mechanism which will enable the recovery by T&SCo of its Allowed Revenue in the event of a shortfall..

1.7 Glossary of terms

Defined terms used in this document have the meaning given to them in the glossary of terms at Section 7.

³ Consideration is being given to changes required to the existing third party access rules as a result of the new regulatory regime.

2. CONSTRUCTION PHASE CONDITIONS

The **Construction Phase** is the period from Licence award to the date of completion of construction and commissioning of the T&S Network. The Construction Phase is within the First Regulatory Period⁴.

No.	Item	Condition
2.1	Shadow regulatory asset value build-up: summary	<p>During the Construction Phase, the development costs, valuation of any Re-use Assets and/or construction costs will accrue to a shadow regulatory asset value ("SRAV"), which shall be determined on the basis of the principles set out in condition 2.4 below.</p> <p>SRAV, including Construction WACC calculated in accordance with condition 2.2, will build up on an annual basis for each charging year ending 31 March ("Charging Year") and will be moved on to the RAV in accordance with condition 2.5.</p> <p>Where the Construction Phase includes part of a year, the calculation for that part of a Charging Year shall be apportioned.</p>
2.2	Construction WACC	<p>Construction WACC is an allowance for interest charges on the financing of and other costs of capital in relation to the development and construction of the T&S network.</p> <p>Construction WACC will be calculated as follows:</p> <p>For any Charging Year, Construction WACC = (WACC x SRAV) + Adj</p> <p>Where:</p> <p>WACC = an amount determined in accordance with condition 2.3 (WACC);</p> <p>SRAV = the average of the opening and the closing balance of the SRAV (calculated in accordance with condition 2.4) for that Charging Year; and</p> <p>Adj = an amount calculated by the Regulator in accordance with condition 2.7 (Adjustments).</p>
2.3	WACC (First Regulatory Period)	<p>The average return on capital employed for the First Regulatory Period determined by HMG in dialogue with T&SCo in advance of Licence award.</p>
2.4	SRAV	<p>The development and construction costs reasonably and efficiently incurred by T&SCo as determined by the Regulator, on the basis of the following principles:</p> <ul style="list-style-type: none"> • any expenditure funded by grants from HMG (including through the CIF) would not be added to RAV, but any debt or equity contributed by HMG would be added to RAV; • the value of any Re-use Assets would be assigned and logged on to RAV, in accordance with conditions 3.5 and 4.3;

⁴ Further consideration is being given to specific provisions required to address commissioning, including costs associated with running CO₂ through the system as part of commissioning.

No.	Item	Condition
		<ul style="list-style-type: none"> • an ex-ante economic regulation regime will generally be applied to all facilities comprising the T&S network: in that case, the value of RAV during construction will be based on expected capex; • an ex-post economic regulation regime may be applied to some facilities in certain limited circumstances: in that case, the value of RAV at the end of construction will be determined through an ex post assessment by the Regulator of the economic and efficient expenditure incurred during construction. This will mean that recovery of any expenditure that is considered to be uneconomic or inefficient could be disallowed.
2.5	Post Construction Review	<p>The "Post Construction Review" will take place for a specified period following the T&S network achieving a predetermined level of completion of construction and/or commissioning.</p> <p>At the Post Construction Review there will be a reconciliation of the SRAV for the Construction Phase. At this point, the SRAV, including rolled-up Construction WACC, will be moved to the RAV in accordance with condition 3.5.</p>
2.6	Indexation	There will be provision for indexation of SRAV.
2.7	Adjustments	Pre-defined adjustments, as set out in condition 3.12, may be applied by the Regulator to RAV in very limited circumstances if the conditions for the application of those adjustments are satisfied.

3. OPERATIONAL PHASE CONDITIONS

The **Operational Phase** is the phase from the end of the Construction Phase to the earlier of (a) an agreed expiry date and (b) revocation of the Licence. This means that the Operational Phase will commence during the First Regulatory Period (after the Construction Phase) and continue in the second and subsequent regulatory periods.

No.	Item	Condition
3.1	Allowed Revenue: summary	<p>Allowed Revenue is the annual amount that T&SCo is entitled to recover, calculated according to the building blocks set out in condition 3.3.</p> <p>Allowed Revenue will be calculated and verified on an annual basis and calibrated periodically (for example, every 5 years) during a price control review.</p> <p>Allowed Revenue and RAV will be indexed.</p>
3.2	Regulatory period	<p>Following the end of the First Regulatory Period, price control will take place periodically (for example, every 5 years) ("Periodic Review").</p> <p>The length of the second (or another subsequent) regulatory period may be adjusted by the Regulator so that the regulatory periods of different T&S networks are synchronized, if it is considered desirable for price controls of different T&S networks to take place at the same time.</p>
3.3	Allowed Revenue calculation	<p>For the Operational Phase, the Allowed Revenue will be calculated as follows:</p> <p>Allowed Revenue_t = RoC_t + Depr_t + Opex_t + Decom_t + Tax_t + Adj_t</p> <p>Where:</p> <p>RoC_t = RAV_t × WACC_i</p> <p>RoC = the return which T&SCo is expected to make during the First Regulatory Period;</p> <p>WACC = an amount calculated in accordance with condition 3.4 (WACC);</p> <p>RAV = an amount calculated in accordance with condition 3.5 (RAV);</p> <p>Depr = an amount calculated in accordance with condition 3.7 (Depreciation);</p> <p>Opex = an amount calculated in accordance with condition 3.8 (Opex);</p> <p>Decom = an amount calculated in accordance with condition 3.9 (Decommissioning);</p>

No.	Item	Condition
		<p>Tax = an amount calculated in accordance with condition 3.11 (Tax);</p> <p>Adj = an amount calculated in accordance with condition 3.12 (Adjustments).</p>
3.4	WACC	<p>In the First Regulatory Period, the WACC is as set out in condition 2.3 (WACC (First Regulatory Period)).</p> <p>In the second and subsequent regulatory periods, the WACC is the regulated average return on capital employed, determined by the Regulator, and adjusted by the Regulator from time to time according to market conditions.</p>
3.5	RAV	<p>RAV is the capital costs reasonably and efficiently incurred by T&SCo, calculated on the basis of the following principles:</p> <ul style="list-style-type: none"> • RAV will be adjusted according to the capex programme; • RAV in relation to any Re-use Assets will be determined according to a methodology to be decided (see condition 4.3); • depreciation would be deducted from the RAV (see below); • expenditure financed by T&S users (e.g. for new pipelines linking to T&S network connection points) would not be added to RAV; and • once construction is complete and the assets are available for use, the SRAV determined in accordance with condition 2.4 will become one of the building blocks of the RAV (see below). <p>The RAV shall be calculated in accordance with the following formula:</p> $RAV_t = RAV_{t-1} + \text{Transferred SRAV}_t + \text{Devex}_t + \text{Capex}_t - \text{Depr}_t - \text{Disposals}_t + \text{Adj}_t$ <p>Where:</p> <p>Transferred SRAV = SRAV which is to be moved to the RAV in accordance with condition 2.5;</p> <p>Devex = development spend;</p> <p>Capex = capital spend;</p> <p>Depr = an amount calculated in accordance with condition 3.6 (Depreciation);</p> <p>Disposals = an amount calculated in accordance with condition 3.9 (Disposals);</p> <p>Adj = an amount calculated in accordance with condition 3.11 (Adjustments).</p> <p>At the Post Construction Review there will be a reconciliation of SRAV for the Construction Phase. At this point, the rolled-up Construction WACC will be included in the SRAV.</p>

No.	Item	Condition
3.6	Depreciation	<p>T&SCo will be paid back a portion of its RAV in each period over the economic life of the asset.</p> <p>The depreciation profile is likely to be fixed by reference to the expected life of the T&S network assets, but could be adjusted according to asset life extension. There may also be adjustments to backload the depreciation profile.</p>
3.7	Opex	<p>The efficient costs incurred by T&SCo, including operating, maintenance and management costs, associated with the operation of T&SCo in the operational phase., as forecast by T&SCo and assessed by the Regulator.</p> <p>For the First Regulatory Period, the Opex will have been agreed with HMG in the initial settlement.</p> <p>The Opex will also include an allowance for:</p> <ul style="list-style-type: none"> • bad debt costs; • hedging costs (such as for financial or energy price risks); • connections allowance (to fund activities to find new users); • private sector insurance costs; • fees for the GSP. <p>The Opex may then also be adjusted for pass-through costs, such as business rates and licence fees, and for any reopener adjustments.</p>
3.8	Decommissioning	<p>Cost incurred in funding the decommissioning and monitoring liability related to the T&S network.</p>
3.9	Disposals	<p>Asset disposals and scrapping will be included within the RAV calculation. Actual sale values will be used to offset the RAV after the sale transaction.</p>
3.10	Tax	<p>An allowance for the expected tax costs of T&SCo.</p>
3.11	Adjustments	<p>Adjustments will be applied to the calculation of Allowed Revenue, including a reconciliation adjustment for actual expenditure and to implement any of the incentivisation mechanisms (if any), including adjustments for:</p> <ul style="list-style-type: none"> • revenue adjustments, made to correct for any under or over recovery of revenue in previous years, and bad debt; • reopeners for events such as change in law or change in scope (see condition 3.13); • incentives, including the availability risk incentive mechanism (see condition 3.12); and • true-ups, corrections and reconciliations. <p>There may be adjustments for other incentive mechanisms, such as a penalty mechanism to incentivise minimal leakage from the transport network. Consideration is also being given to a refinancing gainshare mechanism.</p>

No.	Item	Condition
3.12	Availability	<p>T&SCo will be incentivised to minimise outages and to schedule planned outages in an efficient manner.</p> <p>T&SCo will be responsible for managing outages (regardless of who controls the risk) including payments for repairs using a relatively small ex ante allowance. T&SCo bears the risk that these repairs, whether planned or unplanned, cost more than the ex ante allowance.</p> <p>A reasonable and justified level of planned outages will be accounted for in the setting of availability targets for T&SCo.</p> <p>The availability incentive associated with unplanned outages will use a cap and floor mechanism:</p> <ul style="list-style-type: none"> • T&SCo will benefit from an upside reward if availability exceeds the availability target, up to a cap. • In-year penalty: when availability falls below the set target, penalties will initially reduce allowed revenue for that charging year. • Multi-years penalty: if availability falls below an in-year penalty threshold (e.g. to a level undermining short-term cash flow and financeability), T&SCo will continue to incur penalties, but these could be spread over subsequent charging years. • Penalty floor: if availability falls further below a floor (such that T&SCo's financeability is undermined over the price control period), lower availability will not result in additional penalties. In such circumstances, further actions may be taken by the Regulator, with options ranging from a T&S users' loan (to be repaid in future price control period) to eventually revoking T&SCo's Licence if enforcement processes do not resolve the problem. <p>The maximum target availability is likely to be lower than 100% due to planned outages for maintenance.</p>
3.13	Reopeners	<p>In some limited circumstances the Regulator may vary the initial settlement for the First Regulatory Period for one-off events that lead to material changes in expenditure or output timings, such as change in law or change in scope ("Reopeners"). T&SCo will be expected to efficiently mitigate the impacts of the event.</p>
3.14	Non-regulated revenue	<p>Where T&SCo earns revenue from non-regulated activities (for example, revenues associated with the import of CO₂ from markets outside of the licence area for subsequent storage), the benefit of the profit/revenue from the non-regulated activities may be shared between T&SCo and users.⁵</p>

⁵ The details of this approach are still being developed.

4. GENERAL CONDITIONS

No.	Item	Condition
4.1	Duration	The duration of the ERR will cover the construction, operational, closure, and post-closure (including decommissioning) phases of the T&S network. The Licence shall come into force on the date of Licence award and, unless revoked in accordance with certain limited revocation events (see condition 4.2 (Revocation)), shall continue until terminated by a specified period of notice given by the Regulator to the licensee no earlier than an agreed number of years from the date of Licence award.
4.2	Revocation	The Regulator will have the power to revoke the Licence by notice (which will be shorter in the case of insolvency events) in a number of different circumstances – including where T&SCo has failed to comply with a final order, failed to pay a financial penalty, ceased to carry on its business as a T&S operator, or become affected by an insolvency event, as set out in a schedule to the Licence.
4.3	Re-use	<p>It is recognised that certain oil and gas assets could be purchased and repurposed for T&S purposes (referred to here as the "Re-use Assets"), as a cost-saving mechanism by comparison to building completely new assets.</p> <p>As any Re-use Assets are already constructed, the capex-based methodology for determining RAV described in condition 3.5 would not be appropriate in relation to Re-use Assets. Therefore RAV in relation to the Re-use Assets will be determined using a different methodology⁶.</p>
4.4	T&S network area	The Licence will be granted for the specific T&S network within a specified area and more particularly described in a schedule to the Licence, which will include details such as the location of the T&S network, including the pipelines and storage reservoir.
4.5	Payment of licence fees	T&SCo shall pay a proportion of the costs of the Regulator.
4.6	Obligations as Regards Charging Methodologies	<p>HMG and/or the Regulator shall, in consultation with T&S users and T&SCo, establish a use of system charging methodology (for determining the charges referred to in condition 4.7). A connection/other charging methodology may also be required in accordance with condition 4.8.</p> <p>T&SCo shall administrate the methodologies. T&SCo shall not make any changes to its connection/other charging methodology or its use of system charging methodology unless it has consulted T&S users, considered responses and then submitted a report on that consultation with a copy of the proposed revised charging methodology to the Regulator for approval.</p>

⁶ Consideration is being given to the different options for the treatment of Re-use Assets.

No.	Item	Condition
4.7	Charging of T&S users – General	<p>T&SCo shall prepare a statement of its charges (T&S fees) for using the T&S network and how those charges have been calculated, in accordance with a use of system charging methodology which has been approved by the Regulator.</p> <p>It is expected that no connection charges will be levied on users in the early Operational Phase of the T&S network. Instead, the cost of connections will be included in the use of system charges.</p> <p>There will be two T&S use of system charges, as follows:</p> <ul style="list-style-type: none"> • onshore pipeline use of system charge; and • offshore pipeline and storage use of system charge. <p>Each charge will include three elements: a volumetric charge, a capacity charge, and a residual charge.</p>
4.8	Connection/Other Charges and Charging Methodology	<p>At a later stage, if connection/other charges are levied on users, T&SCo shall prepare a statement of its charges for connection to the T&S network by T&S users of the T&S network, and how those charges have been calculated, in accordance with a connection/other charging methodology which has been approved by the Regulator.</p>
4.9	Conduct of Transportation and Storage Business	<p>T&SCo shall conduct the transportation and storage business in a manner that does not give an unfair commercial advantage to T&SCo, any of its Affiliates or to any T&S users, or discriminates between any T&S users or classes of T&S users.</p>
4.10	Requirement to Enter into Transportation and Storage Arrangements in Conformity with T&S Code	<p>T&SCo shall only enter into CO₂ transportation and storage arrangements which are in conformity with any relevant provisions of the T&S Code.</p>
4.11	Access to the T&S network	<p>T&SCo must offer access to the T&S network in accordance with the T&S Legislation (in particular, the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011, as amended or supplemented)⁷ and the T&S Code.</p>
4.12	System Development Obligations	<p>T&SCo must develop, maintain and operate the T&S network in an efficient, economic and co-ordinated manner, having regard to, among other things, the duty to offer access in accordance with condition 4.11 and facilitate new connections.</p>
4.13	T&S Code	<p>T&SCo shall have in force and maintain a document (the "T&S Code") which will include provisions to facilitate:</p> <ul style="list-style-type: none"> • the efficient and economic operation of the T&S network to which this Licence relates;

⁷ Consideration is being given to changes required to the existing third party access rules as a result of the new regulatory regime

No.	Item	Condition
		<ul style="list-style-type: none"> • the sequestration of CO₂; and • compliance with the T&S Legislation. <p>The T&S Code shall set out, among other things:</p> <ul style="list-style-type: none"> • the terms of transportation arrangements established by T&SCo; • the terms of the storage arrangements established by T&SCo; • the procedure for T&S users to connect to and access the T&S network; • the terms of a Transportation and Storage Agreement to be entered into by each T&S user, setting out any terms specific to that T&S user (such as the transportation and storage capacity allocated to that user); • obligations on T&SCo to operate the T&S network in accordance with all relevant legal and technical requirements relating to the T&S network, including environmental and safety requirements; and • the procedure for any modifications to the T&S Code. <p>Any party wishing to become a T&S user will be required to become bound by the T&S Code by signing an accession agreement and will be required to comply with the terms of the T&S Code.</p> <p>The T&S Code will be developed by T&SCo in consultation with relevant stakeholders, including the Regulator, and shall require the approval of the Regulator.</p>
4.14	Provision of Information to the Regulator	T&SCo shall provide to the Regulator such information and reports as the Regulator may reasonably require or as may be necessary for the purposes of the duties, powers and functions conferred on the Regulator by the T&S Legislation. T&SCo shall also procure from any person who is the ultimate controller of T&SCo an undertaking that the ultimate controller will give to the licensee all such information as may be necessary to enable the licensee to comply with this obligation.
4.15	Long Term Development Statement	If required to by the Regulator, T&SCo, or a panel of representatives from different T&SCos, shall prepare a long term development statement, forecasting how demand for use of the T&S network may change in the future and what can be done to meet that demand.
4.16	Disposal of Assets and Restrictions on Charges over Receivables	T&SCo shall not dispose of or relinquish operational control over any T&S network asset otherwise than in accordance with this condition. T&SCo must also not grant any mortgage, charge, or any other form of security over any receivables otherwise than in accordance with this condition. T&SCo must obtain the consent of the Regulator before taking any such action, and any consent may be subject to conditions.

No.	Item	Condition
4.17	Indebtedness	T&SCo shall obtain the consent of the Regulator where it wishes to grant security, incur indebtedness, grant a guarantee or enter into any other obligation otherwise than (i) on an arm's length basis; (ii) on normal commercial terms; (iii) for a permitted purpose; and (iv) in a manner consistent with the Licence condition which prohibits, without the Regulator's consent, the granting of security over, or disposal of, any asset forming part of T&S network.
4.18	Restriction on Activity and Financial Ring Fencing	Subject to some limited exceptions (for example, where the Regulator has given its consent, or the sale of CO ₂), T&SCo shall not conduct or carry on any activity other than the development and operation of the T&S network (" T&S Business ").
4.19	Availability of Resources	T&SCo shall at all times act in a manner calculated to ensure it has such resources, including (without limitation) management and financial resources, personnel, fixed and moveable assets, rights, licences, consents and facilities, as are necessary to enable T&SCo to properly and efficiently carry out the T&S Business and comply with all terms of the Licence and T&SCo's obligations under the T&S Legislation.
4.20	Undertaking from Ultimate Controller	T&SCo shall procure from any company that is an ultimate controller of T&SCo an undertaking in favour of T&SCo, in a form specified by the Regulator, that the ultimate controller will refrain from any action that would be likely to cause T&SCo to be in breach of the Licence or the T&S Legislation.
4.21	Credit Rating of Licensee	Consideration is being given to the credit rating requirements for T&SCo.
4.22	T&SCo of Last Resort	If there is a "T&SCo of Last Resort" regime to deal with operation of a T&S network where the owner of that T&S network is subject to insolvency, and the regulatory regime allows for another Licence holder to be directed to operate that T&S network, then T&SCo shall comply with any such direction given by the Regulator in accordance with that regime.
4.23	Regulatory accounts	<p>T&SCo must prepare and publish, for a period approved by the Regulator and in accordance with the Companies Act 2006, such accounting and other records as are necessary to ensure that all of the revenues, costs, assets, liabilities, reserves, and provisions of, or reasonably attributable to, each of T&S network activities carried out by T&SCo are separately identifiable as such in those records. For the purposes of this conditions, the separate T&S network activities that much be separately accounted for in these regulatory accounts are:</p> <ul style="list-style-type: none"> • the onshore transport facilities; • the offshore transport facilities and store; • system operation; and • any other business or service carried out by T&SCo as permitted under the Licence (such as the sale of CO₂).

No.	Item	Condition
4.24	Regulatory reporting	<p>T&SCo must comply with the regulatory and revenue reporting obligations which are to be set out in the regulatory and revenue reporting guidance published by the Regulator, providing all required information using the templates included in the guidance, by 31 July of the relevant year to which the information relates.</p> <p>The information provided by T&SCo must be accompanied by a report from an auditor, confirming that the information complies with the requirements of the guidance and the amounts and figures presented are in accordance with the records which have been maintained by T&SCo.</p>

5. ONSHORE TRANSPORTATION SERVICES OBLIGATIONS

No.	Item	Condition
5.1	Obligations relating to onshore transport of CO ₂ and other obligations	T&SCo shall comply with the terms of any other licences, permits and regulations which govern the operation of the onshore transport facilities or any other consents relating to onshore pipelines and associated infrastructure (including, for the avoidance of doubt, the consents of any devolved administration).
5.2	Decommissioning obligations	T&SCo shall decommission the onshore transport facilities in accordance with all regulatory requirements applying to the decommissioning of onshore facilities.

6. OFFSHORE TRANSPORTATION AND STORAGE SERVICES OBLIGATIONS

No.	Item	Condition
6.1	Obligations relating to offshore transportation and storage of CO ₂ and other obligations	T&SCo shall comply with the terms of any other licences and permits which govern the operation of the offshore transportation and storage facilities, such as any Crown Estate lease or licence/permit issued by the OGA, or any other consents relating to offshore transport and storage facilities and associated infrastructure (including, for the avoidance of doubt, the consents of any devolved administration).
6.2	Decommissioning obligations	T&SCo shall decommission the offshore transport and storage facilities in accordance with all regulatory requirements applying to the decommissioning of offshore facilities.

7. GLOSSARY OF TERMS

In this document capitalised terms not otherwise defined shall have the following meaning:

Term	Definition
Adjustments	has the meaning given to it in condition 3.11 of these heads of terms;
Affiliate	in relation to any person means any holding company of such person, any subsidiary of such person or any subsidiary of a holding company of such person in each case within the meaning of section 1159 of the Companies Act 2006;
Allowed Revenue	has the meaning given to it in condition 3.1 of these heads of terms;
Capex	has the meaning given to it in condition 3.5 of these heads of terms;
CCUS	means carbon capture, usage and storage, which is the process of capturing carbon dioxide emissions from large-point sources (such as industrial facilities and power stations), and either transporting it in pipelines or via ships to very deep subsurface rock formations, where it can be safely and permanently stored; or using it, for example in the food and drink sector as a carbonating agent, or in the pharmaceutical industry, as a respiratory stimulant, or in the cement industry;
Charging Year	has the meaning given to it in condition 2.1 of these heads of terms;
CIF	means the CCS Infrastructure Fund, announced by HMG in March 2020;
Construction Phase	has the meaning given to it in condition 2 of these heads of terms;
Construction WACC	has the meaning given to it in condition 2.2 of these heads of terms;
Consumer Prices Index (CPI)	means the general index of consumer prices published by the Office for National Statistics each month in respect of all items or: (a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as the Regulator may after consultation with T&SCo and for the purposes of this condition generally determine to be appropriate in the circumstances; or (b) if there is a material change in the basis of the index, such other index as the Regulator may after consultation with T&SCo and for the purposes of this condition generally determine to be appropriate in the circumstances.
Crown Estate	means the statutory corporation established by the Crown Estate Commissions under the Crown Estate Act 1961;
Decommissioning	has the meaning given to it in condition 3.8 of these heads of terms;
Depreciation	has the meaning given to it in condition 3.6 of these heads of terms;
Devex	has the meaning given to it in condition 3.5 of these heads of terms;
ERR	has the meaning given to it in condition 1.1(b) of these heads of terms;
First Regulatory Period	has the meaning given to it in condition 1.3(a) of these heads of terms;
GSP	has the meaning given to it in condition 1.6(a)(vi) of these heads of terms;
HMG	means Her Majesty's Government;
Licence	has the meaning given to it in condition 1.1(a) of these heads of terms;
OGA	means the Oil and Gas Authority;
Operational Phase	has the meaning given to it in condition 3 of these heads of terms;
Opex	has the meaning given to it in condition 3.7 of these heads of terms;
Periodic Review	has the meaning given to it in condition 3.2 of these heads of terms;
Post Construction Review	has the meaning given to it in condition 2.5 of these heads of terms;
Programme	has the meaning given to it in condition 1.1(a) of these heads of terms;
Re-use Assets	has the meaning given to it in condition 4.3 of these heads of terms;
Regulator	has the meaning given to it in condition 1.1(a) of these heads of terms;
Reopener	has the meaning given to it in condition 3.13 of these heads of terms;
RAV	has the meaning given to it in condition 3.5 of these heads of terms;

RSR	has the meaning given to it in condition 1.6(a)(vii) of these heads of terms;
SRAV	has the meaning given to it in condition 2.1 of these heads of terms;
T&S	has the meaning given to it in condition 1.2(a) of these heads of terms;
T&SCo	has the meaning given to it in condition 1.1(a) of these heads of terms;
T&S Business	has the meaning given to it in condition 4.18 of these heads of terms;
T&S Code	has the meaning given to it in condition 4.13 of these heads of terms; and
T&S Legislation	means all legislation (including primary and secondary legislation) setting out the legal framework for the development and operation of the T&S network and the functions of T&SCo and the Regulator, including (but not limited to) the Energy Act 2008 and the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011 (as amended or supplemented).
Tax	has the meaning given to it in condition 3.10 of these heads of terms;
WACC	has the meaning given to it in conditions 2.3 and 3.4 of these heads of terms.

ANNEX B

CCUS: Revenue Support Agreement for T&SCo

Indicative Heads of Terms

Note: these draft indicative heads of terms are subject to the "Disclaimer" section at the front of the update document to which they are annexed.

1. INTRODUCTION

1.1 Background

- (a) These indicative heads of terms set out the basis upon which a revenue support agreement ("**RSA**") could be provided to a company licensed to provide transport and storage services ("**T&SCo**") as part of HM Government's ("**HMG**") CCUS Programme (the "**Programme**").
- (b) The contents of these heads of terms are indicative only and do not constitute an offer by the RSA Counterparty and do not create a basis for any form of expectation or reliance. Any RSA arrangements that are developed in the future will be subject to approval by Ministers, in consultation with the Regulator, and the development and completion of necessary contractual documentation.

1.2 Rationale

- (a) In the development of the revenue model for the transport and storage ("**T&S**") network, HMG has identified that there may be certain structural revenue risks to T&SCo, where T&SCo's actual revenues may fall short of T&SCo's Allowed Revenue set by the economic regulator ("**Regulator**") under the economic regulatory regime ("**ERR**") or where the first user of the T&S network joins later than expected. HMG has considered how these revenue risks will be mitigated and identified a number of mitigation mechanisms ("**Risk Mitigation Mechanisms**"). If the initial proposals for these RMMs are not sufficient, HMG has identified the RSA as a mechanism which will enable the recovery by T&SCo of:
 - (i) its Allowed Revenue in the event of a shortfall; and/or
 - (ii) operating expenditure and allowed cost of debt where the first user is delayed in joining the network.⁸
- (b) The detailed terms of coverage of the RSA remain under consideration, but these indicative heads of terms set out current HMG thinking on the support which could be provided by the RSA. This will depend upon the terms of the ERR and the target risk profile and credit rating for T&SCo required by the ERR.

1.3 Description

- (a) These indicative heads of terms comprise the following:
 - (i) this Part 1: an introduction to the RSA; and
 - (ii) Part 2: heads of terms for the RSA.

⁸ Note: further detail on the revenue model, risks and mitigation measures is set out in the update document for the business model for T&S published by HMG in January 2022.

- (b) The scope of the areas of specific protection remain subject to review, in particular in the context of the detail of the ERR.

1.4 **Initial assumptions**

- (a) These indicative heads of terms are based on the following assumptions in respect of the T&S network:
- (i) ERR: T&SCo will be granted a licence ("**Licence**") issued by a Regulator under an ERR;
 - (ii) ownership of the T&S network: the "onshore" (i.e. onshore transportation systems) and "offshore" (i.e. offshore transportation systems and offshore storage) elements of the T&S network will be owned by T&SCo. In particular, T&SCo will hold any Crown Estate (or Crown Estate Scotland) lease and licence/permit issued by the OGA (or licensing authority of a devolved administration);
 - (iii) development and operation of the T&S network: T&SCo will be responsible for the development, construction, operation and maintenance of the T&S network, including obtaining all necessary permits and approvals;
 - (iv) expansion of the T&S network: in the future T&SCo will likely need to expand the T&S network under the terms of the ERR and will provide access to new T&S users under the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011 (as may be amended or supplemented) and in accordance with the terms of its Licence;
 - (v) decommissioning: T&SCo will be responsible for the decommissioning and monitoring of:
 - (A) the offshore T&S network in accordance with the Energy Act 2008 (as may be amended or supplemented); and
 - (B) the onshore T&S network in accordance with the relevant decommissioning conditions of any development/planning consent;
 - (vi) T&S fees: users of the T&S network will pay T&SCo fees for provision of T&S services which will be regulated under the ERR;
 - (vii) CO₂ ownership: T&SCo will certify delivery of CO₂ onto the T&S network and will take title to and own the CO₂; and
 - (viii) government support package ("**GSP**"): T&SCo will benefit from a GSP provided by HMG to cover certain high impact, but low probability, risks beyond those which are manageable by operation of the ERR, which the investors and/or supply chain, including insurers, of T&SCo cannot take, or cannot price at an efficient level which is good value for money for UK taxpayers or consumers.

1.5 **Defined terms**

Capitalised terms not otherwise defined in this document, including in section 2.16 (*Definitions*), have the meaning given to them in the Licence heads of terms.

2. REVENUE SUPPORT AGREEMENT

No.	Item	Commercial Terms
2.1	Parties	<p>a) T&SCo; and</p> <p>b) RSA Counterparty,</p> <p>each a "Party" together the "Parties".</p>
2.2	Rationale	The Revenue Support Agreement is intended to provide mitigation against the risk of shortfall in actual revenues earned by T&SCo compared with the Allowed Revenue set by the Regulator under the ERR.
2.3	Term	<p>The term of the Revenue Support Agreement shall commence on and from Licence Award and shall expire on the first to occur of:</p> <p>a) [•];</p> <p>b) revocation of the Licence; and</p> <p>c) Discontinuation.</p>
2.4	Conditions precedent	<p>T&SCo will be required to satisfy certain initial condition precedents specified in the Revenue Support Agreement including, amongst other things:</p> <p>a) evidence that it holds a Licence pursuant to which T&SCo is entitled to receive an Allowed Revenue;</p> <p>b) a capacity legal opinion from its legal advisers;</p> <p>c) evidence of satisfaction of know your customer checks; and</p> <p>d) [others].⁹</p>
2.5	Interim Difference Payment Amount	<p>a) The Interim Difference Payment Amount shall be calculated quarterly by T&SCo as the amount by which the Forecast Allowed Revenue Amount is greater than the Forecast Market Revenue (pro-rated for the relevant quarter).</p> <p>b) Where the Forecast Allowed Revenue Amount is less than the Forecast Market Revenue (pro-rated for the relevant quarter) the Interim Difference Payment Amount is nil.</p> <p>c) The RSA Counterparty shall pay any Interim Difference Payment Amount to T&SCo in arrears in accordance with section 2.9 (<i>Billing and payment</i>).</p>
2.6	Reconciliation	a) After the end of the Charging Year a reconciliation of:

⁹ Note: further conditions precedent to Licence Award, commissioning and operations are under consideration by BEIS.

No.	Item	Commercial Terms
		<ul style="list-style-type: none"> i. the Forecast Allowed Revenue against the Allowed Revenue; and ii. a Forecast Market Revenue against the Market Revenue, <p>shall be performed by T&SCo for the purposes of determining the Difference Payment Amount.</p> <p>b) The Difference Payment Amount shall be calculated as the amount by which the Allowed Revenue Amount is greater than the Market Revenue ("Difference Payment Amount").</p> <p>c) Where the Allowed Revenue Amount is less than the Market Revenue the Difference Payment Amount is nil.</p> <p>d) Where the Difference Payment Amount is:</p> <ul style="list-style-type: none"> i. greater than the Interim Difference Payment Amount, the RSA Counterparty shall pay the difference to T&SCo; or ii. less than the Interim Difference Payment Amount, the difference shall be addressed through reconciliation and/or adjustment regimes in the Licence, <p>(in each case, the "Difference Payment Reconciliation Amount").</p> <p>Consideration is also being given to in-year reconciliation processes.</p>
2.7	Information sharing	<p>a) T&SCo shall be required to provide the Regulator with evidence of and calculations for:</p> <ul style="list-style-type: none"> i. the Interim Difference Payment Amount; ii. the Difference Payment Amount; and iii. the Difference Payment Reconciliation Amount, <p>for assurance by the Regulator before any payment of such amounts by the RSA Counterparty.</p> <p>b) T&SCo shall cooperate with the RSA Counterparty to provide such other information as the RSA Counterparty may reasonably require to evidence the Regulator's assurance of T&SCo's calculation of the Interim Difference Payment Amount, the Difference Payment Amount and Difference Payment Reconciliation Amount.</p>

No.	Item	Commercial Terms
		c) T&SCo shall notify the RSA Counterparty immediately upon any revocation notice being issued by the Regulator under the Licence.
2.8	Revenue support prior to operations	Revenue support will be provided for operating expenditure and allowed cost of debt that T&SCo should have received from the first user where the first user is delayed in joining the network.
2.9	Billing and payment	<p>a) RSA Counterparty's obligation to make payments to the T&SCo only arises once it has itself been funded and its obligation only extends to the funds which have been paid to it (i.e. the RSA Counterparty pays if paid and would not be required to make up any shortfall).</p> <p>b) The RSA Counterparty shall deliver a billing statement to T&SCo in relation to each Billing Period.</p> <p>c) The RSA will specify detailed requirements in relation to the content of each billing statement, which will include, among other things, the amount payable, calculated in accordance with section 2.5 (<i>Interim Difference Payment Amount</i>), section 2.6 (<i>Annual reconciliation</i>) and section 2.8 (<i>Revenue support prior to operations</i>) together with a breakdown of such calculation.</p> <p>d) The RSA Counterparty will be required to pay any amounts calculated pursuant to section 2.5 (<i>Interim Difference Payment Amount</i>), section 2.6 (<i>Annual reconciliation</i>) and section 2.8 (<i>Revenue support prior to operations</i>) to T&SCo in arrears in accordance with a specified payment schedule.</p>
2.10	RSA Counterparty undertakings	The Revenue Support Agreement will include undertakings in respect of the RSA Counterparty's obligation to enforce its rights of recovery to ensure it is in sufficient funds to meet its liabilities to T&SCo.
2.11	Representations, warranties and undertakings	Each of T&SCo and the RSA Counterparty shall make standard representations and warranties.
2.12	Limitation of liability	The RSA Counterparty shall exclude liability for any special, indirect or consequential loss including any such loss which constitutes loss of use, loss of goodwill, loss of profit or loss of revenue, provided that this shall not exclude liability for express payment obligations under the Revenue Support Agreement.
2.13	Payment disruption	The RSA Counterparty shall be relieved from liability to pay T&SCo to the extent that, and for so long as, the RSA Counterparty is suffering a material disruption to those payment systems or financial markets which are required to operate in order for payments to be made pursuant to the Revenue Support Agreement which the RSA Counterparty could not reasonably have

No.	Item	Commercial Terms
		<p>overcome and which are not due to the RSA Counterparty's fault or negligence (a "Payment Disruption Event").</p> <p>Where a Payment Disruption Event occurs, RSA Counterparty shall use reasonable endeavours to overcome any disruption.</p>
2.14	Transfers	<p>a) The Revenue Support Agreement shall benefit and bind Parties, their permitted assignees and respective successors and any reference in the Revenue Support Agreement to any party shall be construed accordingly.</p> <p>b) The Revenue Support Agreement will include restrictions on the assignment and/or transfer by T&SCo of any of its rights or obligations under the Revenue Support Agreement (in whole or in part except) with the prior written consent of the RSA Counterparty (such consent not to be unreasonably withheld or delayed), save that T&SCo will be permitted to create a security assignment in favour of its secured creditors.</p>
2.15	Boilerplate	<p>The Revenue Support Agreement will include "boilerplate provisions" (including, but not limited to, in relation to interpretation, notices, confidentiality, intellectual property, dispute resolution, entire agreement, severability, set-off, third party rights, amendments, counterparts and governing law), which will be broadly based on the equivalent provisions set out in the GSP.</p>
2.16	Definitions	<p>"Allowed Revenue Amount" means the Allowed Revenue which T&SCo is entitled to charge in the current Charging Year (after taking into account any mutualisation/reconciliation and incentives/adjustments under the Licence) determined by the Regulator pursuant to and in accordance with the Licence from time to time.</p> <p>"Billing Period" means each [financial quarter in the relevant Charging Year, provided that where COD starts part way through a financial quarter or the Revenue Support Agreement expires part way through a financial quarter, the number of days in the relevant Billing Period shall be apportioned.]¹⁰</p> <p>"Business Day" means a day (other than a Saturday or a Sunday) on which banks are open for general business in London.</p> <p>"Charging Year" means a period of 12 calendar months starting on 1 April and ending on 31 March provided that:</p> <p>a) where COD starts part way through a Charging Year, the relevant number of calendar months shall be the number of calendar months (or days) during the Charging Year which fall within the period from COD to 31 March in the relevant year; and</p>

¹⁰ Note: the period of the Billing Period remains under consideration by BEIS and its advisers.

No.	Item	Commercial Terms
		<p>b) where the Revenue Support Agreement expires part way through a Charging Year, the relevant number of calendar months shall be the number of calendar months (or days) during the Charging Year which fall within the period from 1 April to the expiry date in the relevant year.</p> <p>"COD" means the Commercial Operation Date.</p> <p>"Difference Payment Amount" means the amount determined pursuant to section 2.6 (<i>Annual reconciliation</i>).</p> <p>"Difference Payment Reconciliation Amount" means the amount determined pursuant to section 2.6 (<i>Annual reconciliation</i>).</p> <p>"Forecast Allowed Revenue Amount" means a forecast of the Allowed Revenue Amount over a Charging Year.</p> <p>"Forecast Market Revenue" means revenue forecast to be earned by T&SCo over a Charging Year.</p> <p>"Interim Difference Payment Amount" means the amount determined pursuant to section 2.5 (<i>Interim Difference Payment Amount</i>).</p> <p>"Market Revenue" means actual revenue earned by T&SCo in the relevant Charging Year.</p>

ANNEX C

CCUS: Government Support Package for T&SCo

Indicative Heads of Terms

Note: these draft indicative heads of terms are subject to the "Disclaimer" section at the front of the update document to which they are annexed.

1. INTRODUCTION

1.1 Background

- (a) These indicative heads of terms set out the basis upon which HM Government ("**HMG**") would consider providing a contingent Government Support Package ("**GSP**") to a company licensed to provide transport and storage services ("**T&SCo**") as part of HMG's CCUS Programme (the "**Programme**").
- (b) The contents of these heads of terms are indicative only and do not constitute an offer by HMG and do not create a basis for any form of expectation or reliance. Any GSP arrangements that are developed in the future will be subject to approval by Ministers, in consultation with the economic regulator ("**Regulator**"), and the development and completion of necessary contractual documentation.

1.2 Rationale

- (a) The GSP has been structured to cover certain high impact, but low probability risks beyond those which are manageable by operation of the Economic Regulatory Regime ("**ERR**") and the Revenue Support Agreement ("**RSA**"), which the investors and/or supply chain, including insurers, of T&SCo cannot take, or cannot price at an efficient level which is good value for money for UK taxpayers, consumers and users.
- (b) The risks to be covered by the GSP and the detailed terms of coverage remain under consideration, but these heads of terms set out current HMG thinking on the support which could be provided by the GSP. This will depend upon the terms of the ERR and RSA and the target risk profile and credit rating for T&SCo required by the ERR and RSA.

1.3 Description

- (a) These indicative heads of terms comprise the following:
 - (i) section 2: general terms and conditions for the GSP;
 - (ii) section 3: heads of terms for the supplemental compensation agreement ("**Supplemental Compensation Agreement**" or "**SCA**"); and
 - (iii) section 4: heads of terms for the discontinuation agreement ("**Discontinuation Agreement**" or "**DA**").
- (b) The scope of the areas of specific protection remains subject to review, in particular in the context of the detail of the ERR and the RSA.

1.4 Initial assumptions

- (a) These indicative heads of terms are based on the following assumptions in respect of the T&S network:

- (i) ERR: T&SCo will be granted a licence ("**Licence**") issued by the Regulator under an ERR;
- (ii) ownership of the T&S network: the "onshore" (i.e. onshore transportation systems) and "offshore" (i.e. offshore transportation systems and offshore storage) elements of the T&S network will be owned by T&SCo. In particular, T&SCo will hold any Crown Estate (or Crown Estate Scotland) lease and licence/permit issued by the OGA (or licensing authority of a devolved administration);
- (iii) development and operation of the T&S network: T&SCo will be responsible for the development, construction, operation and maintenance of the T&S network, including obtaining all necessary permits and approvals;
- (iv) expansion of the T&S network: in the future T&SCo will likely need to expand the T&S network under the terms of the ERR and will provide access to new T&S users under the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011 (as may be amended or supplemented) and in accordance with the terms of its Licence;
- (v) decommissioning: T&SCo will be responsible for the decommissioning and monitoring of:
 - (A) the offshore T&S network in accordance with the Energy Act 2008 (as may be amended or supplemented); and
 - (B) the onshore T&S network in accordance with the relevant decommissioning conditions of any development/planning consent;
- (vi) T&S fees: users of the T&S network will pay T&SCo fees for provision of T&S services which will be regulated under the ERR;
- (vii) CO₂ ownership: T&SCo will certify delivery of CO₂ onto the T&S network and will take title to and own the CO₂; and
- (viii) RSA: in the development of the revenue model for the T&S network, HMG has identified that there may be certain structural revenue risks to T&SCo, where T&SCo's actual revenues may fall short of T&SCo's Allowed Revenue under the ERR. Such revenue risks will be addressed through a number of mitigation measures in the ERR and where the ERR is not sufficient, T&SCo will have access to the RSA as a mechanism which will enable the recovery by T&SCo of its Allowed Revenue in the event of a shortfall.

1.5 **Defined terms**

Capitalised terms not otherwise defined in this document have the meaning given to them in the Licence heads of terms.

2. GENERAL TERMS AND CONDITIONS

No.	Item	Commercial Terms
2.1	Conditions precedent	<p>It is proposed that the GSP will be conditional on certain conditions precedent including:</p> <ul style="list-style-type: none"> a) award of a Licence to T&SCo under the ERR; b) award to T&SCo of any other licences, permits (including the storage permit) or approvals which are required; c) procurement of insurances required to be placed by T&SCo; and d) other conditions precedent as set out in the Liaison Agreement (satisfied on terms acceptable to SoS)).¹¹
2.2	Duration of Support	<p>The term of the GSP shall commence on and from Licence Award and shall expire on the first to occur of:</p> <ul style="list-style-type: none"> a) revocation of the Licence; and b) Discontinuation¹², <p>subject to a review by SoS as to whether the SCA continues to be needed from the end of the period of injection of CO₂ through until the end of post closure monitoring period.</p>
2.3	Mandated requirements	<p><i>[The Licence will set out any mandated requirements for T&SCo.]</i></p>
2.4	Assumptions as to T&SCo's financing structure	<p><i>[Assumptions in relation to the financing structure of T&SCo to be populated in subsequent drafts of the GSP HoTs.]</i></p>
2.5	Overview of Documentation	<p>The GSP will be provided pursuant to the following agreements:</p> <ul style="list-style-type: none"> a) Supplemental Compensation Agreement; and b) Discontinuation Agreement. <p>Draft terms for each of these are set out in section 3 (Supplemental Compensation Agreement) and section 4 (Discontinuation Agreement) of these heads of terms. Details of the contractual terms for these documents will need to be developed in conjunction with the development of the ERR.</p>

¹¹ Note: conditions precedent to be kept under review.

¹² Note: it is assumed that the Licence will continue to regulate T&SCo through the post closure monitoring period.

No.	Item	Commercial Terms
2.6	Definitions	<p>"Agreed Financing Principles" means the approved financing principles set out in Appendix 2;</p> <p>"Approved Discontinuation Plan" has the meaning given to it in section 4.11 (<i>Discontinuation Plan</i>);</p> <p>"Approved Hedging Policy" means the approved hedging policy set out in Appendix 2;</p> <p>"CO₂ Leakage Risk" has the meaning given to it in section 3.2 (<i>CO₂ Leakage Risk</i>);</p> <p>"Discontinuation Consultees" has the meaning given to it in section 4.11 (<i>Discontinuation Plan</i>);</p> <p>"Draft Discontinuation Plan" has the meaning given to it in section 4.11 (<i>Discontinuation Plan</i>);</p> <p>"Equity Compensation" has the meaning given to it in section 4.7 (<i>Equity Compensation</i>);</p> <p>"Failure Event" has the meaning given to it in Appendix 1;</p> <p>"Final Insurance Schedule" has the meaning given to it in section 3.5 (<i>Procurement Obligation at Licence Award</i>);</p> <p>"FOIA" means the Freedom of Information Act 2000 (as amended);</p> <p>"Primary Insurance Provider(s)" has the meaning given to it in section 3.9 (<i>Excess Loss Compensation</i>);</p> <p>"Proposed Insurance Schedule" has the meaning given to it in section 3.4 (<i>Proposed Insurance Schedule</i>);</p> <p>"Remediation Plan" has the meaning given to it in Appendix 1;</p> <p>"Remedy Event" has the meaning given to it in Appendix 1;</p> <p>"Residual Compensation Amount" has the meaning given to it in section 4.7 (<i>Equity Compensation</i>);</p> <p>"Senior Debt Compensation" has the meaning given to it in section 4.6 (<i>Senior Debt Compensation</i>);</p> <p>"Senior Debt Liabilities" has the meaning given to it in section 4.6 (<i>Senior Debt Compensation</i>);</p> <p>"Total Compensation Cap" has the meaning given to it in section 4.5 (<i>Total Compensation Cap</i>); and</p>

No.	Item	Commercial Terms
		"Unavailability Event" has the meaning given to it in section 3.10 (Unavailability Loss Compensation).

3. SUPPLEMENTAL COMPENSATION AGREEMENT (SCA)

No.	Heading	Description
3.1	Parties	a) SoS; and b) T&SCo.
3.2	CO ₂ Leakage Risk	<p>"CO₂ Leakage Risk" means the risk of:</p> <ul style="list-style-type: none"> a) leakage of CO₂ at the Store Complex; and/or b) specified significant irregularities (such as an unforeseen geological event), <p>giving rise to:</p> <ul style="list-style-type: none"> i. a requirement of the OGA or relevant technical regulator that T&SCo take material corrective measures in respect of the Store Complex; and/or ii. prevention or suspension (for the long term or indefinitely) of injection of CO₂ by T&SCo.¹³ <p>"Store Complex" has the meaning given to it by the OGA permit.</p> <p>For the avoidance of doubt CO₂ Leakage Risk will not include mitigating measures which should be addressed by normal planned preventative or reactive maintenance or constraints on the level of CO₂ injection or the capacity of the Store Complex.</p> <p>CO₂ Leakage Risk may be caused either by a single event or may emerge over a longer period of time through monitoring of the store.</p>
3.3	Commercial insurances	<p>T&SCo will be obliged to seek commercial insurances in respect of CO₂ Leakage Risk. The SCA may apply to the extent that:</p> <ul style="list-style-type: none"> a) the financial limits of commercial cover are not sufficient to cover potential losses arising from CO₂ Leakage Risk; and b) commercial cover is unavailable or not available on commercially viable terms (for example if the costs are excessive).
3.4	Proposed Insurance Schedule	<p>SoS with its insurance advisers will set out a proposed insurance schedule, which will be a schedule to the SCA and will include details as to the insurances which are to be procured, by whom, the parties to be insured and the extent of cover (the "Proposed Insurance Schedule").</p>

¹³ Note: evidence to be based on OGA support.

No.	Heading	Description
3.5	Procurement Obligation at Licence Award	<p>T&SCo will secure appropriate insurance which is likely to include coverage for costs arising from CO₂ Leakage Risk, including in relation to:</p> <ul style="list-style-type: none"> a) business interruption (including debt service); b) remediation (including damage to the environment); and c) carbon allowances, <p>as set out in the Proposed Insurance Schedule or to the fullest extent reasonably available in the market (whichever is the greater) (the "Final Insurance Schedule").</p> <p>T&SCo shall ensure that insurances are placed and maintained with insurers or underwriters of reputable standing with a minimum rating specified in the SCA.</p> <p>The Regulator will check that T&SCo has sufficiently tested the insurance market and SoS will satisfy itself that T&SCo's insurance procurement obligation has been met and that adequate and suitable quantum and coverage has been sought effectively and obtained.</p>
3.6	Assumptions of Liabilities	<p>T&SCo shall assume those liabilities that it can reasonably meet within its resources or that it has reasonably assessed can be managed using commercial insurance cover. This should be reflected in the design process and other third party arrangements</p>
3.7	Renewal of Insurances	<p>T&SCo undertakes to provide prior notice to the SoS in respect of amendments to or the renewal of any insurance policies.</p> <p>To the extent insurances are amended or renewed in the absence of SoS approval, the SoS shall not be liable to pay any amount of Excess Loss (see section 3.9) or Unavailability Loss (see section 3.10) which would not have been incurred had such amendments to the relevant insurance policies not been made.</p>
3.8	Failure to maintain Insurances	<p>If T&SCo fails to take out or maintain the relevant insurances in accordance with the Final Insurance Schedule, the SoS may either:</p> <ul style="list-style-type: none"> (a) pay any premiums required to keep the insurances in force; or (b) procure the insurances itself, <p>and in each case, T&SCo shall be liable to the SoS in respect of any premiums paid by the SoS.</p>

No.	Heading	Description
3.9	Excess Loss Compensation	<p>If an event leading to claims that exceed the financial limit set out in the Final Insurance Schedule of commercial cover occurs, the SoS will meet the amounts in excess of the financial limit provided the provider(s) of the relevant insurances (the "Primary Insurance Provider(s)") have paid out in respect of such claims up to the financial limit.</p> <p>The settlement of these claims will follow as far as is practical the terms of the Primary Insurance Providers and in accordance with the usual market position in respect of layered insurances.</p>
3.10	Unavailability Loss Compensation	<p><u>Unavailability Event</u></p> <p>The SoS will also provide supplemental compensation protection in the case of unavailability of insurance in respect of CO₂ Leakage Risk covered in the Final Insurance Schedule, where:</p> <p>a)</p> <ul style="list-style-type: none"> i. the relevant insurance for CO₂ Leakage Risk is not available in respect of the project (and comparable activities in the United Kingdom) in the worldwide insurance market with reputable insurers of good standing, or ii. where the premium or deductible in respect of the insurance for CO₂ Leakage Risk is such that the insurance cover is not commercially viable (for example if the costs are excessive), or iii. where there has been a material adverse change in the terms (excluding the premium, sub-limits and policy deductibles) on which insurance in respect of CO₂ Leakage Risk is available, <p>each an "Unavailability Event";¹⁴</p> <p>b) such Unavailability Event has not occurred as a result of any criminal activity, fraud or wilful default by T&SCo; and</p> <p>c) a prudent board of directors of a company providing infrastructure in the UK (but without the overriding statutory rights and duties of T&SCo) would, acting reasonably and in the best interests of their company, cease to operate such business as a result of such Unavailability Event.</p> <p><u>Terms of cover</u></p>

¹⁴ Note: BEIS will require early notification of when any excess loss threshold or Unavailability Event is likely to be triggered.

No.	Heading	Description
		<p>The supplemental compensation for such risks shall replicate the terms of such unavailable insurance immediately prior to the Unavailability Event.</p> <p><u>Exclusions</u></p> <p>If an Unavailability Event has occurred as a result of any criminal activity, fraud or wilful default by a named insured party under the insurances listed in the Final Insurance Schedule, any loss suffered by that party is excluded from T&SCo's entitlement to claim under the SCA in relation to such Unavailability Event.</p> <p><u>Dispute resolution procedure</u></p> <p>Any dispute arising out of or in connection with the application of unavailability loss compensation may be escalated at the request of either party to identified senior management representatives for resolution. If the relevant dispute is not resolved after a period of [●]¹⁵ Business Days, either party may refer the dispute to adjudication in accordance with the identified procedure.</p> <p><u>Defences, exclusions and deductibles</u></p> <p>Where cover is provided, the SoS shall be entitled to raise any defences to any claim which the Primary Insurance Provider(s) would have been entitled to raise had the insurance been available.</p> <p>[Where and to the extent deductibles and exclusions would have applied to such insurance but for its being unavailable, deductibles and exclusions will apply to the supplemental compensation provided by the SoS as set out in the Final Insurance Schedule.]¹⁶</p>
3.11	Subsequent Recovery	<p>If and to the extent claims paid are subsequently recovered from third parties, the SoS will expect these monies to be returned in full to prevent double payment of claims.</p> <p>The SoS will require the same rights of subrogation as the relevant Primary Insurance Provider(s).</p> <p>Contractual arrangements will be put in place with the Primary Insurance Provider(s) and T&SCo governing competing subrogation rights.</p>
3.12	Claims Handling	<p>Claims handling under the SCA is to be consistent insofar as practicable with usual insurance market practices.</p>

¹⁵ Note: as a general comment, time periods remain subject to further consideration by BEIS.

¹⁶ Note: position on deductibles subject to further consideration by BEIS.

No.	Heading	Description
3.13	Non-vitiation	T&SCo shall procure that each insurance includes market standard non-vitiation provisions in form and substance satisfactory to the SoS (acting reasonably).
3.14	Reinstatement cash option	Project insurances to include cash option for non-reinstatement.
3.15	Discontinuation Trigger	<p>The SoS will have a right to Discontinue in specified circumstances - see section 4 (Discontinuation Agreement).</p> <p>Where the SoS exercises its right to Discontinue pursuant to any of the triggers for such right, this will be without prejudice to the SoS's obligation to pay supplemental compensation in respect of third party liabilities and claims arising prior to or on the date on which the SoS elects to Discontinue pursuant to the Discontinuation Agreement (and made and notified to the SoS no later than [•]).</p>
3.16	Utmost Good Faith	T&SCo acknowledges and agrees that it owes a duty of utmost good faith to the SoS.
3.17	SCA Fee	SoS will charge fees for support under the SCA.
3.18	Undertakings	T&SCo will provide certain information and other undertakings to the SoS in support of its obligations to maintain insurances and other obligations under the SCA.
3.19	Assignment and Sub-Contracting	<p>a) The SCA shall benefit and bind Parties, their permitted assignees and respective successors and any reference in the SCA to any party shall be construed accordingly.</p> <p>b) The SCA will include restrictions on the assignment and/or transfer by T&SCo of any of its rights or obligations under the SCA (in whole or in part except) with the prior written consent of the SoS (such consent not to be unreasonably withheld or delayed), save that T&SCo will be permitted to create a security assignment in favour of its secured creditors.</p> <p>c) The SoS may, subject to the conditions to be set out in the SCA, transfer its rights or novate its obligations under the SCA to any Minister of the Crown or any entity directly wholly-owned by a Minister of the Crown.</p>
3.20	Confidentiality	<p>a) The SCA will set out confidentiality provisions which will apply to all Parties in respect of the Project. There will be customary exceptions.</p> <p>b) The SCA sets out that the SoS is, and that T&SCo may become subject to, the requirements of the Freedom of Information Act ("FOIA") and the Environmental Information Regulations and each party shall facilitate compliance by the</p>

No.	Heading	Description
		other party with its information disclosure requirements pursuant to the FOIA and the Environmental Information Regulations.
3.21	Rights of Third Parties	A person who is not a party to the SCA shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
3.22	Governing Law	The SCA shall be governed by and construed in accordance with English law and the courts of England and Wales shall have exclusive jurisdiction.

4. DISCONTINUATION AGREEMENT (DA)

No.	Heading	Description
4.1	Parties	<ul style="list-style-type: none"> a) SoS; and b) T&SCo.
4.2	Discontinuation	<p>The SoS will have the right (but not the obligation) to discontinue the provision of the GSP on or where:</p> <ul style="list-style-type: none"> a) calls (or forecast calls) under the SCA have reached a specified threshold such that ongoing SCA support is not sustainable¹⁷; b) the conditions for supplemental compensation protection in respect of an Unavailability Event have been satisfied; or c) Difference Payment Amounts and unreconciled Interim Difference Payment Amounts (see Heads of Terms for Revenue Support Agreement) exceed a specified threshold¹⁸; or d) at any time during which T&SCo is insolvent.¹⁹
4.3	Consequences of Discontinuation	<p>An election by the SoS to Discontinue will result in:</p> <ul style="list-style-type: none"> a) a calculation of compensation payable in respect of debt/equity investors in T&SCo - see below sections 4.7 and 4.8; b) the Regulator being entitled to revoke the Licence; and c) the [Regulator/SoS] being entitled to institute a statutory transfer scheme in respect of the T&S Network.
4.4	Discontinuation Decision	Discontinuation under these provisions is a right of the SoS and not an obligation.
4.5	Total Compensation Cap	<p>Discontinuation compensation will be capped at the Total Compensation Cap and paid in the following order of priority:</p> <ul style="list-style-type: none"> a) first, to senior debt creditors in respect of the Senior Debt Liabilities – see section 4.7; and b) second, to equity investors in T&SCo – see section 4.8.

¹⁷ Note: threshold for discontinuation with regards to calls (or forecast calls) under the SCA is subject to further consideration by BEIS and its advisers (and may for instance include circumstances where it does not believe asset can be returned to a reasonable and sustainable level of operational readiness and injection can recommence in a timely manner)

¹⁸ Note: threshold for discontinuation with regards to RSA payments is subject to further consideration by BEIS and its advisers.

¹⁹ Note: further discontinuation triggers that may be required remain under review by BEIS.

No.	Heading	Description
		<p>The "Total Compensation Cap" will be a contractually certain amount which (subject to final modelling) is anticipated to be equal to the sum of the RAV assigned by the Regulator at the date of Discontinuation, plus any hedging breakage costs permitted under the Approved Hedging Policy.</p> <p>If a Discontinuation occurs during a period while a Failure Event has occurred and has not been Remedied or reduced to a Remedy Event, then any project spend incurred during that period shall be deducted from the Total Compensation Cap. Once the Failure Event is Remedied or reduced to a Remedy Event, this deduction shall cease to apply.</p>
4.6	Senior Debt Compensation	<p>The SoS will deposit the "Senior Debt Compensation" into a specified account.</p> <p>Senior Debt Compensation will be the lower of the Total Compensation Cap and Senior Debt Liabilities.</p> <p>"Senior Debt Liabilities" shall mean an amount equal to:</p> <ul style="list-style-type: none"> a) outstanding principal, interests, costs, expenses and liabilities in respect of senior debt financing entered into in accordance with the Agreed Financing Principles (including hedging breakage costs in respect of hedging arrangements which have been entered into in accordance with the Approved Hedging Policy) as at the date of Discontinuation; less b) any claims in respect of contingent funding liabilities, hedging breakage gains and any other amounts received by senior creditors as the result of any other enforcement action as at the date of Discontinuation.²⁰ <p>A provision for tax gross-up will apply to Senior Debt Compensation.</p> <p>The SoS may (at its option) elect to pay the Senior Debt Compensation in instalments sized by reference to the debt repayment profile or as may be otherwise agreed between the SoS and the Security Trustee.²¹</p>
4.7	Equity Compensation	<p>If T&SCo is not insolvent, the SoS will deposit the "Equity Compensation" into a specified account, being the lower of:</p> <ul style="list-style-type: none"> a) the "Residual Compensation Amount" which shall mean a sum equal to the Total Compensation Cap less Senior Debt Compensation; and

²⁰ Note: Senior Debt Liabilities definition remains subject to T&SCo financial structure being developed.

²¹ Note: subject to further consideration by BEIS.

No.	Heading	Description
		<p>b) an amount proposed to be the residual value of equity pursuant to the RAV²² (ie after deduction of the Senior Debt Compensation), up to the date of Discontinuation.</p> <p>Where and to the extent any breakage costs arise in connection with an unapproved hedging strategy these will be a matter for equity to meet from within the Equity Compensation.</p> <p>If T&SCo is insolvent at the time of discontinuation, Equity Compensation will be determined by a licensed practitioner and shall be the market value of equity in T&SCo based on the assumption that, at the date of Discontinuation:</p> <p>a) T&SCo remains insolvent, taking into account the circumstances giving rise to the entry of T&SCo into insolvency;</p> <p>b) the equity in T&SCo is transferred or T&SCo's assets and business are transferred, in either case under a statutory transfer scheme or under a transfer by agreement; and</p> <p>c) any transfer of equity in or assets of T&SCo is to a willing transferee;</p> <p>and which amount shall not result in greater compensation for equity than would have been the case in the event of a discontinuation outside of insolvency.</p> <p>The SoS will have the right to set off any outstanding claims against T&SCo against the payment of Equity Compensation subject as provided in section 4.11 (<i>Reimbursement of Discontinuation Payment</i>).</p> <p>Equity Compensation may be reduced or forfeited where gross negligence or wilful misconduct is proven on the part of T&SCo.²³</p>
4.8	Timing of Compensation	<p>Senior Debt Compensation and Equity Compensation will be paid within [●] Business Days of agreement or determination of the completion of applicable calculation procedures.</p> <p>The calculation procedures include:</p> <p>a) determination of the Total Compensation Cap, Senior Debt Compensation and Equity Compensation; and</p> <p>b) if at the time of discontinuation T&SCo is insolvent, appointment of the licensed practitioner and the</p>

²² Note: consideration is being given to windfall gains.

²³ Note: The definitions of gross-negligence and wilful misconduct will be developed but could include for instance, prosecution for safety breach, or a failure by T&SCo to undertake in a timely fashion an action ordered by a regulator (eg OGA or OOPRED), that led to a Leakage of CO₂ giving rise to discontinuation.

No.	Heading	Description
		determination of the Equity Compensation which applies in that context.
4.9	Fee for Compensation	It is currently proposed that there will be no charge to T&SCo or the equity recipients and providers of senior debt for the provision of compensation on discontinuation.
4.10	Reimbursement of Discontinuation Payment	<p>The SoS will have a right of reimbursement from T&SCo for amounts paid out under the Discontinuation Agreement on the basis that such right:</p> <ul style="list-style-type: none"> a) will rank behind senior debt but ahead of subordinated debt/equity (other than amounts recovered as part of the discontinuation payment itself); and b) will be backed by security over those of T&SCo's assets which have not transferred to a replacement T&SCo (if there is one). <p>If following payment of both the Senior Debt Compensation and the Equity Compensation there is still a secured senior debt shortfall, the SoS's security over any amounts recoverable by T&SCo is subordinated to the secured senior funder recovery of that shortfall.</p> <p>The amounts representing the payment of Senior Debt Compensation and Equity Compensation shall be excluded from the SoS's right of reimbursement.</p>
4.11	Discontinuation Plan	Immediately following the issuance by the SoS of a Discontinuation Notice, T&SCo shall be required to carry out immediate make-safe activities implemented by T&SCo pursuant to a plan agreed with the SoS to the extent not covered by the decommissioning plan (" Approved Discontinuation Plan ").
4.12	'Make Safe' Obligations and Equity Compensation Retention	<p>Following Discontinuation and until the completion of the Approved Discontinuation Plan, the SoS shall be entitled to withhold from the Equity Compensation to be paid in accordance with section 4.8, an amount equal to the greater of:</p> <ul style="list-style-type: none"> a) [●] per cent of the Equity Compensation; and b) £[●] (indexed),²⁴ <p>such portion of Equity Compensation retained to be released as follows:</p> <ul style="list-style-type: none"> c) the first [●] per cent in accordance with the staged release detailed in the Approved Discontinuation Plan; and

²⁴ Note: the amounts withheld for the Approved Discontinuation Plan remain subject to further consideration by BEIS and its advisers.

No.	Heading	Description
		d) the second [●] per cent within [●] Business Days of completion of the obligations under the Approved Discontinuation Plan.
4.13	Fault and Remedy regime	<p>The Remedy Events are defined to capture T&SCo's failures which take the T&S Network outside the basis for the SoS's offer of the GSP. They are therefore defined by reference to events which, of themselves or subject to having the requisite Material Adverse Effect, represent a shift outside the basis for that offer – see definition of Remedy Events outlined in Appendix 1.</p> <p>Upon the occurrence of a Remedy Event there will be a restriction on Distributions until the Remedy Event (and associated Failure Event) is Remedied (as defined in paragraph 4 of Appendix 1).</p> <p>Following the occurrence of a Remedy Event, T&SCo will have the opportunity to remedy the Remedy Event or agree a Remediation Plan (as defined in paragraph 3 of Appendix 1) with the SoS, in each case within a prescribed period. It should be noted in particular that where remediation of a Remedy Event is not reasonably practicable, the Remediation Plan will only require mitigation of the Remedy Event, rather than remediation (see paragraph 3 of Appendix 1).</p> <p>If a Failure Event (as defined in paragraph 2 of Appendix 1) arises, then this has the following consequences:</p> <ul style="list-style-type: none"> a) escalation of the fee and additional deductibles under the Supplement Compensation Agreement; and/or b) a reduction in the Total Compensation Cap under the Discontinuation Agreement.
4.14	Assignment and Sub-Contracting	<ul style="list-style-type: none"> a) The Discontinuation Agreement shall benefit and bind the parties, their permitted assignees and respective successors and any reference in the Discontinuation Agreement to any party shall be construed accordingly. b) The Discontinuation Agreement will include restrictions on the assignment and/or transfer by T&SCo of any of its rights or obligations under the Discontinuation Agreement (in whole or in part except) with the prior written consent of the SoS (such consent not to be unreasonably withheld or delayed), save that T&SCo will be permitted to create a security assignment in favour of its secured creditors. c) The SoS may, subject to the conditions to be set out in the Discontinuation Agreement, transfer its rights or novate its obligations under the Discontinuation Agreement to any Minister of the Crown or any entity directly wholly-owned by a Minister of the Crown.

No.	Heading	Description
4.15	Confidentiality	<p>The Discontinuation Agreement will set out confidentiality provisions which will apply to all Parties in respect of the Project. There will be customary exceptions.</p> <p>The Discontinuation Agreement sets out that the SoS is, and that T&SCo may become subject to, the requirements of the FOIA and the Environmental Information Regulations and each party shall facilitate compliance by the other party with its information disclosure requirements pursuant to the FOIA and the Environmental Information Regulations.</p>
4.16	Rights of Third Parties	A person who is not a party to the Discontinuation Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
4.17	Governing Law	The Discontinuation Agreement shall be governed by and construed in accordance with English law and the courts of England and Wales shall have exclusive jurisdiction.
4.18	Appendices	Appendices 1 and 2 will form schedules to the Discontinuation Agreement.

Appendix 1 (Discontinuation Agreement): Fault and Remedy regime

	Item	Commercial Terms
1.	Remedy Event	<p>a) breach of an obligation of T&SCo under the Liaison Agreement which has or is reasonably likely to have a Material Adverse Effect;</p> <p>b) breach of an obligation of T&SCo under the Support Documents which has or is reasonably likely to have a Material Adverse Effect;</p> <p>c) [others].²⁵</p> <p>"Material Adverse Effect" means a material adverse effect on:</p> <p>a) any right or liability (whether actual, potential or contingent) of the SoS; or</p> <p>b) the ability of the SoS to perform its obligations,</p> <p>in each case under or in relation to the Support Documents or at Law; or</p> <p>c) the effect of materially increasing the likelihood of a call on any element of the Support Documents.</p>
2.	Failure Event	<p>A "Failure Event" only arises where T&SCo has not remedied a Remedy Event T&SCo fails:</p> <p>a) to put forward or to agree a Remediation Plan (see paragraph 3 below), in each case within a prescribed period; or</p> <p>b) to comply in any material respect with the agreed Remediation Plan.</p>
3.	Remediation Plan	<p>"Remediation Plan" means a programme for remedying or mitigating the Remedy Event (as applicable) within a prescribed period which is acceptable to the SoS, acting reasonably.</p> <p>For the purposes of agreeing the Remediation Plan, the SoS and T&SCo shall have due regard to the following considerations:</p> <p>a) the extent to which the event or circumstance giving rise to the Remedy Event is reasonably capable of being remedied;</p> <p>b) the extent to which the event or circumstance giving rise to the Remedy Event is reasonably capable of being mitigated; and</p>

²⁵

Note: Remedy Events subject to further consideration by BEIS.

	Item	Commercial Terms
		c) any alternative steps which may be appropriate having regard to the risks of the SoS under the GSP.
4.	Remedied	<p>A Remedy Event (and the associated Failure Event, if applicable) shall be treated as "Remedied" if:</p> <p>a) T&SCo remedies the Remedy Event;</p> <p>b) T&SCo completes the relevant Remediation Plan; or</p> <p>c) the SoS waives the Remedy Event.</p>
5.	Reduction of Failure Event to Remedy Event	<p>If a Failure Event has arisen but:</p> <p>a) where a Remediation Plan has not previously been agreed, the SoS and T&SCo have subsequently agreed a Remediation Plan and the SoS is satisfied (acting reasonably) that T&SCo is making substantial progress in carrying out the Remediation Plan; or</p> <p>b) where a Remediation Plan has previously been agreed but T&SCo has failed to comply in any material respect with the agreed Remediation Plan, the SoS is subsequently satisfied (acting reasonably) that T&SCo has resumed making substantial progress in carrying out the Remediation Plan,</p> <p>the Failure Event will be reduced to a Remedy Event (noting that the restriction on Distributions will then continue until the Remedy Event is Remedied).</p>

Appendix 2 (Discontinuation Agreement): Approved Hedging Policy and Agreed Financing Principles

Part 1: Approved Hedging Policy

[Approved policy for hedging that will count toward Senior Debt Liabilities for purposes of the Senior Debt Compensation calculation to be included following further consideration by BEIS and its advisers.]

Part 2: Agreed Financing Principles

[Agreed parameters for financing that will count toward Senior Debt Liabilities for purposes of the Senior Debt Compensation calculation to be included following further consideration by BEIS and its advisers.]

ANNEX D

CCUS: Liaison Agreement

Indicative Heads of Terms

Note: these draft indicative heads of terms are subject to the "Disclaimer" section at the front of the update document to which they are annexed.

1. INTRODUCTION

1.1 Background

These indicative heads of terms set out the proposed terms of a liaison agreement ("**Liaison Agreement**" or "**LA**") to be entered into between HM Government ("**HMG**") and a company licensed to provide transport and storage services ("**T&SCo**") as part of HMG's CCUS Programme (the "**Programme**").

1.2 Description

The key elements of the Liaison Agreement are, amongst other things:

- (a) setting out the relationship between HMG and T&SCo, including in relation to proposed changes to the Project Documents or variations to the T&S Network (section 2.4 to section 2.5)
- (b) detailing the information and reporting requirements of T&SCo (section 2.7).

1.3 Initial assumptions

See initial assumptions set out in section 1.4 of the indicative heads of terms for the GSP.

2. LIAISON AGREEMENT

No	Heading	Description
2.1	Parties	(a) SoS; and (b) T&SCo.
2.2	Conditions Precedent	(a) Detailed conditions precedent to the effectiveness of the Liaison Agreement will be specified in the full form documentation. Such conditions precedent are expected to track the conditions precedent to the award of the Licence by the Regulator (" Licence Award "). (b) T&SCo shall notify the SoS when it is satisfied that the conditions precedent have been satisfied in a form and substance satisfactory to it. (c) Following receipt of T&SCo's notice pursuant to paragraph (b) above, if the SoS is of the view that the conditions precedent have been satisfied (acting reasonably), it shall give notice to T&SCo, that the conditions precedent have been satisfied.
2.3	Term	(a) Subject to section 2.2 (Conditions Precedent), the LA will commence on the date of Licence Award and continue until the expiry of the GSP (the " Term "). (b) In the event of a transfer of T&SCo pursuant to the terms of the Licence, legislation or otherwise in accordance with law, the Liaison Agreement will provide that all of the Project Documents and Support Documents will be transferred at the same time, in order to ensure that the integrity of the contractual structure agreed at Licence Award is maintained.
2.4	Changes to Project Documents	T&SCo shall not without the prior written consent of the SoS: (a) enter into, vary, amend, replace, supplement or terminate all or any part of any Project Document ²⁶ which would be reasonably likely to have a Material Adverse Effect; or (b) notwithstanding limb (a) above, enter into a Project Document where the proposed counterparty does not have the legal capacity, financial resources or technical competence to perform the rights of the counterparty under the replacement Project Document.
2.5	Variations to T&S Network	[T&SCo shall not without the prior written consent of the SoS, make any variation to the Approved T&S Network

²⁶ Note: this will include any Project Documents existing at the date of the Liaison Agreement and those entered into after the date of the Liaison Agreement where such documents meet certain criteria (to be confirmed).

No	Heading	Description
		<p>("Variation")²⁷ that will itself, or when combined with all other related or consequential Variations:</p> <ul style="list-style-type: none"> (a) increase capex and/or opex by specified amounts; or (b) be reasonably likely to delay planned commencement of operations by more than a specified period; or (c) have a Material Adverse Effect; or (d) have the effect of materially increasing the likelihood of a call on the Support Documents; or (e) <i>others</i>]
2.6	Representatives and personnel	Roles of the representatives of the Parties to the Liaison Agreement are to be developed, including delegated authority. In particular the T&SCo representative shall have the authority to respond directly to information requests received under section 2.7.
2.7	Reporting and information requirements	<p>(a) T&SCo shall prepare and circulate a report on a quarterly basis on any issues which may have a material impact on the Project (the "Project Update Report"), including:</p> <ul style="list-style-type: none"> (i) [any change in the terms or availability of the Insurances, and details of any claims made under the Insurances (and in respect of claims made (but not settled) over a certain de minimis threshold, the status of those claims); (ii) any proposed Variations; (iii) reasonable details of the performance of each of the Project Documents and the Support Documents, including any material breaches of the Project Documents or the Support Documents which have been made by any party thereto since the last meeting; (iv) an update on the financing plan, including any proposed or contemplated equity or debt issuance (with the dates, amounts and principal terms of such issuances); (v) details of any Remedy Event and Failure Event (as defined in the Discontinuation Agreement); (vi) details of any event of default or potential event of default or breach of cover ratios under the Finance Documents;

²⁷ Note: the variation process and the trigger for when SoS consent is required remains subject to further consideration by BEIS and its advisers.

No	Heading	Description
		<ul style="list-style-type: none"> (vii) details of plans for new users to connect to the network; (viii) any new significant risks or material changes to the remaining significant risks (as updated) identified in the Project Risk Register; and (ix) <i>others to be confirmed</i>].²⁸ <p>(b) The SoS (acting reasonably) may from time to time request T&SCo to include additional information in the Project Update Report and/or the Monthly Report. T&SCo will provide an index of such additional information.</p> <p>(c) The T&SCo representative shall address information requests under limb (b) above and shall:</p> <ul style="list-style-type: none"> (i) respond to SoS acknowledging such request promptly and in any event within [●] Business Days; and (ii) provide the information requested to SoS where possible (acting reasonably) within [●] Business Days.
2.8	Dispute Resolution Procedure	<p>Any dispute arising out of or in connection with the Liaison Agreement shall be resolved in accordance with the Dispute Resolution Procedure.</p> <p>The Dispute Resolution Procedure remains under consideration depending on the type of dispute but is expected to involve an escalation process to senior management of both Parties with alternative dispute resolution prior to any final determination by court.</p>
2.9	Limits of Liability	<p>There will be provisions relating to:</p> <ul style="list-style-type: none"> (a) exclusion of liability for consequential/indirect losses; and (b) remedies for breach under the Liaison Agreement or Support Documents.
2.10	Assignment and Sub-Contracting	<ul style="list-style-type: none"> (a) The Liaison Agreement will include restrictions on assignment, transfers and sub-contracting the benefit or burden of any right or obligation under the Support Documents in whole or in part except with the prior written consent of the other relevant parties (such consent not to be unreasonably withheld or delayed). (b) The SoS may, subject to the conditions to be set out in the Liaison Agreement, transfer its rights or novate its obligations under the Liaison Agreement to any Minister

No	Heading	Description
		of the Crown or any entity directly wholly-owned by a Minister of the Crown.
2.11	Confidentiality	<p>(a) The Liaison Agreement will set out confidentiality provisions which will apply to all Parties in respect of the Project. There will be customary exceptions.</p> <p>(b) The Liaison Agreement sets out that the SoS is, and that T&SCo may become subject to, the requirements of the FOIA and the Environmental Information Regulations and each Party shall facilitate compliance by the other Party with its information disclosure requirements pursuant to the FOIA and the Environmental Information Regulations.</p>
2.12	Rights of Third Parties	A person who is not a party to the Liaison Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
2.13	Governing Law	The Liaison Agreement shall be governed by and construed in accordance with English law and the courts of England and Wales shall have exclusive jurisdiction.
2.14	Definitions	<p>"Approved T&S Network" means those parts of the T&S Network shown in, and expressly approved under, the [T&SCo Development Plan];²⁹</p> <p>"Environmental Information Regulations" means the Environmental Information Regulations 2004 (as amended);</p> <p>"Discontinuation Agreement" means the agreement between SoS and T&SCo. setting out the discontinuation events, the consequences of discontinuation and how discontinuation compensation is to be calculated;</p> <p>"Failure Event" has the meaning given to that term in the GSP heads of terms;</p> <p>"Finance Documents" means [<i>the contractual documents put in place to provide finance to T&SCo</i>];</p> <p>"GSP" means the Government Support Package;</p> <p>"FOIA" means the Freedom of Information Act 2000 (as amended);</p> <p>"Law" means [<i>scope to be confirmed</i>];</p> <p>"Material Adverse Effect" means a material adverse effect on:</p> <p>(a) any right or liability (whether actual, potential or contingent) of the SoS; or</p> <p>(b) the ability of the SoS to perform its obligations,</p>

²⁹ Extent to which the T&S Network is "Approved" will be dependent on the extent of detail shown in the T&S Co Development Plan.

No	Heading	Description
		<p>in each case under or in relation to the Support Documents or at Law; or</p> <p>(c) the effect of materially increasing the likelihood of a call on any element of the Support Documents;</p> <p>"Project Documents" means [<i>scope to be confirmed</i>];</p> <p>"Remedy Event" has the meaning given to that term in the GSP heads of terms;</p> <p>"RSA" means the Revenue Support Agreement;</p> <p>"Support Documents" means the GSP, RSA and any [CIF funding agreement]; and</p> <p>"T&SCo Development Plan" [means the plan setting out the scope of the T&S Network as agreed between T&SCo and the SoS]³⁰.</p>

³⁰

Note: definition of T&SCo Development Plan subject to further consideration by BEIS and its advisers.