

Waste Industrial Carbon Capture Model

Riders

(July 2022)

This document comprises the three (3) following riders, compared against the latest draft of the 'generic' Industrial Carbon Capture Contract published in April 2022:

- *Rider 1: Payment Calculations*
- *Rider 2: Initial Carbon Reference Price Review*
- *Rider 3: R1 Energy Efficiency Threshold*

Note: This document is intended to be read alongside the full form Waste ICC Contract once published and, until such time, alongside the other provisions of the 'generic' ICC Contract.

The draft provisions contained herein do not constitute definitive drafting of the Waste ICC Contract's terms. A number of the provisions and terms which require particular consideration and development have been square bracketed (with footnotes) and other consequential amendments to the 'generic' ICC Contract will be required to reflect the position set out in this rider. BEIS reserves the right to review and amend these square bracketed provisions, and all other provisions to be set out in the Waste ICC Contract.

This draft rider does not indicate any willingness or agreement on the part of BEIS to enter into, or arrange entry into, the Waste ICC Contract. This rider does not constitute an offer and is not capable of acceptance.

Rider 1: Payment Calculations

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Part 4
Payment Calculations^{1, 2}
(Waste ICC Rider)

5. **DEFINITIONS: PART 4**

In this Part 4 (*Payment Calculations*):

"Applicable Emissions Percentage" means the applicable CO₂ emissions percentage calculated in accordance with [●];

"Capex Payment Rate" means the capex payment rate calculated in accordance with the following formula:

$$CPR = \frac{TCP + r}{C}$$

where:

<i>CPR</i>	=	Capex Payment Rate (£/tCO ₂)
<i>TCP</i>	=	Total Capex Payment (£)
<i>r</i>	=	Total Return Component (£)
<i>C</i>	=	Metered CO ₂ Output to T&S Estimate (tCO ₂)

"Capture Outage Event" means an event where the Capture Plant is unavailable, curtailed or derated;

"Capture Outage Relief Event" means a Capture Outage Event which occurs as a direct result of a T&S Outage Event except to the extent that:

¹ Note to Reader: The [approach to the sale of negative CO₂ emissions/the creation of carbon market units associated with negative CO₂ emissions](#) will initially be restricted under the Waste ICC Contract. However, BEIS is considering whether this restriction could be reviewed, for example, periodically or if a regulated market for negative CO₂ emissions is implemented in the UK, with the conditions applying to the lifting of such restriction (including any LCCC right to claw back a percentage of negative emissions revenue) to be considered further and set out in the final form Waste ICC Contract [is currently being considered and developed by BEIS and, as such, has not been reflected in this rider. An update will be provided at a later stage.](#)

² Note to Reader: ~~Subject to further review by BEIS in relation to the~~The forfeiture and reconciliation of FAs and FA volume assurance ~~provisions have been deleted from the Waste ICC Contract on the basis that Eligible Waste Technologies are not currently subject to carbon pricing and the position relating to any future allocation of Free Allowances is unknown.~~ Please refer to the [discussion on pages 20 to 30 of the April Update Document](#) [Waste Business Model issued alongside this rider for more information on this policy position, noting that this position is subject to further review by BEIS.](#)

³ Note to Reader: [This will be equal to the percentage of CO₂ emissions that would have been subject to the surrendering obligation under the FTS if the capture plant were running unabated \(or the percentage of CO₂ emissions subject to any other form of carbon pricing measure\).](#) BEIS is still developing the methodology for this calculation.

- (a) the T&S Outage Event arises out of or in connection with any act, omission, breach or default of the Emitter or its Representatives (including any breach by the Emitter or its Representatives of an Industry Document); or
- (b) prior to or following the occurrence of the T&S Outage Event, the Emitter has notified the Waste ICC Contract Counterparty of the occurrence of a Full Capture Outage Event (which does not occur as a direct result of the T&S Outage Event) pursuant to Condition 22.1(A) (*Notification of Capture Outage Events*), and such event is continuing;

"Capture Outage Relief Notice" has the meaning given to that term in Condition 6.3 (*Capture Outage Relief Events*);

"Capture Outage Relief Response Notice" has the meaning given to that term in Condition 6.5 (*Capture Outage Relief Events*);

"Capture Outage Relief Supporting Information" has the meaning given to that term in Condition 6.5(b) (*Capture Outage Relief Events*);

"Carbon~~Market~~ Reference Price" has the meaning given to that term in Condition ~~6.10~~6.8 (*Reference Price calculation*);

"Carbon~~Market~~ Reference Price Review" means a review of the effective carbon price in the UK carried out by the Waste ICC Contract Counterparty pursuant to Annex 6 (*Carbon ~~Market~~ Reference Price Review*);

"~~CMRP~~CRP Fallback Settlement Unit" has the meaning given to that term in Condition ~~6.10~~6.11(b) (*Reference Price calculation*);

"Deemed CO₂ Storage Rate " means the CO₂ storage rate (*expressed as a percentage (%)*) for the Installation for a Settlement Unit, determined pursuant to Condition 6.1 (*Determination of Deemed CO₂ Storage Rate*) or subsequently verified through a CO₂ Capture Test that is undertaken pursuant to Condition 6.2⁴⁴;

"Deemed CO₂ Output to T&S" shall be calculated as follows:⁴⁵

$$DCO_{2\text{out,T\&S},i} = DSR_i \times CO_{2\text{in},i}$$

where:

$DCO_{2\text{out,T\&S},i}$ = Deemed CO₂ Output to T&S (*expressed in tCO₂*) in the relevant Settlement Unit (*i*)

DSR_i = Deemed CO₂ Storage Rate (*expressed as a percentage (%)*) in the relevant Settlement Unit (*i*)

$CO_{2\text{in},i}$ = [Metered CO₂ Input]⁴⁶ (*expressed in tCO₂*) in the relevant Settlement Unit (*i*)

"Further Outage Relief Response Notice" has the meaning given to that term in Condition 6.6(c)(ii) (*Capture Outage Relief Events*);

⁴⁴ Note to Reader: The nature and duration of the verification test to be carried out by the Emitter at the Waste ICC Contract Counterparty's request in order to verify an Achieved CO₂ Capture Rate, an Achieved CO₂ Storage Rate and/or a Deemed CO₂ Storage Rate is to be confirmed. Please see the Testing Requirements schedule in the DPA as an example of a proposed verification test. [The Waste ICC Contract will also include additional measurement, reporting and verification requirements in respect of the relative biogenic and CO₂ captured once those have been developed. Various consequential amendments to the 'generic' ICC Contract may also be required once the 'MRV' requirements have been developed.](#)

⁴⁵ Note to Reader: Subject to further review by BEIS including how the Deemed CO₂ Output to T&S will be calculated if there is no [Metered CO₂ Input] during a T&S Outage.

⁴⁶ Note to Reader: BEIS is considering whether pre-capture plant CO₂ will be metered.

"Incomplete Billing Period" has the meaning given to that term in Condition ~~6.15~~6.16 (*Metered CO₂ Output to T&S Fallback*);

"Incomplete Settlement Unit" has the meaning given to that term in Condition ~~6.15~~6.16 (*Metered CO₂ Output to T&S Fallback*);

"Initial Carbon Reference Price Review" means the initial review of the effective carbon price for CO₂ emissions arising from [Eligible Waste Technologies]⁷ in the UK carried out by the Waste ICC Contract Counterparty pursuant to Annex [6A] (*Initial Carbon Reference Price Review*);

"Maximum CO₂ Output to T&S" means the product of the [CO₂ T&S Flow Rate Estimate] and the total duration (*expressed in tCO₂*) of all half hour-long periods in which the mass quantity of CO₂ entering the T&S Network from the Installation, as measured by the CO₂ Metering Equipment at the CO₂ T&S Network Delivery Point(s), is greater than zero (0), during each [T&S Billing Period];⁶⁸

"Metered CO₂ Output to T&S Cut-Off Time" means, in relation to each Billing Period, 14:00 on the fifth (5th) Business Day following such Billing Period;

"Metered CO₂ Output to T&S Data Recalculation Amount" has the meaning given to that term in Condition ~~6.16~~6.17(b) (*Recalculations of Metered CO₂ Output to T&S*);

"Opex Costs Early Reopener Adjustment" has the meaning given to that term in Condition 8.7 (*Opex Costs Early Reopener Adjustment Calculation*);

"Opex Costs Early Reopener Cap" has the meaning given to that term in the Waste ICC Agreement;

"Opex Costs Early Reopener Materiality Threshold" has the meaning given to that term in the Waste ICC Agreement;

"Opex Costs Early Reopener Non-Compliance Notice" has the meaning given to that term in Condition 8.14 (*Opex Costs Early Reopener Adjustment*);

"Opex Costs Early Reopener Notice" has the meaning given to that term in Condition 8.8 (*Opex Costs Early Reopener Adjustment*);

"Opex Costs Early Reopener Response Notice" has the meaning given to that term in Condition 8.10 (*Opex Costs Early Reopener Adjustment*);

"Opex Costs Early Reopener Supporting Information" has the meaning given to that term in Condition 8.10(c) (*Opex Costs Early Reopener Adjustment*);

"Relief Event Billing Period" has the meaning given to that term in Condition 6.3(a) (*Capture Outage Relief Events*);

"Relief Event Recalculation Amount" has the meaning given to that term in Condition 6.7(b) (*Capture Outage Relief Events*);

"Relief Event Settlement Unit" has the meaning given to that term in Condition 6.3(a) (*Capture Outage Relief Events*);

"Total Opex Costs Early Reopener Adjustment" has the meaning given to that term in Condition 8.7 (*Opex Costs Early Reopener Adjustment Calculation*).

⁷ [Note to Reader: Please refer to the document titled "Cluster Sequencing for Carbon Capture Usage and Storage Deployment: Phase 2 – Background and Guidance for Submissions" for an overview of the eligibility criteria that is applicable to the waste management sector.](#)

⁶⁸ [Note to Reader: This definition is subject to further review as the T&S business model develops.](#)

6. PAYMENT CALCULATIONS

Determination of Deemed CO₂ Storage Rate

6.1 Subject to Condition 6.2, where the Deemed CO₂ Storage Rate is applicable to a Settlement Unit pursuant to the definition of "**Deemed CO₂ Output to T&S**", the Deemed CO₂ Storage Rate shall be equal to:

- (a) where the relevant Settlement Unit falls during the first (1st) Billing Period of the Term:

$$DSR_i = OCPCR \times DFRP$$

DSR_i = Deemed CO₂ Storage Rate (expressed as a percentage (%))

OCPCR = OCP Achieved CO₂ Capture Rate (expressed as a percentage %)

DFRP = Declared CO₂ T&S Flow Rate Percentage (expressed as a percentage %)

- (b) where the relevant Settlement Unit falls on or after the first (1st) day of the second (2nd) Billing Period and there are less than twelve (12) Billing Periods where the Achieved CO₂ Storage Rate is applicable for at least one (1) Settlement Unit within each Billing Period, the Average Achieved CO₂ Storage Rate in respect of the period referred to in limb (B) of the definition of "**Calculation Period**"; or

- (c) where there are equal to or more than twelve (12) Billing Periods where the Achieved CO₂ Storage Rate is applicable for at least one (1) Settlement Unit within each Billing Period, the Average Achieved CO₂ Storage Rate in respect of the period referred to in limb (C) of the definition of "**Calculation Period**".

6.2 If a T&S Outage Event exceeds twelve (12) Billing Periods, the Waste ICC Contract Counterparty may request a CO₂ Capture Test on one (1) occasion in each period of twelve (12) consecutive Billing Periods until the end of the T&S Outage Event in order to verify the Deemed CO₂ Storage Rate, in which case the Deemed CO₂ Storage Rate shall be equal to:

$$DSR_i = ACR \times DFRP$$

DSR_i = Deemed CO₂ Storage Rate (expressed as a percentage (%)) during the relevant Settlement Unit (*i*)²⁹

ACR = Achieved CO₂ Capture Rate during the CO₂ Capture Test (expressed as a percentage %)³⁰

DFRP = Declared CO₂ T&S Flow Rate Percentage (expressed as a percentage %)

²⁹ Note to Reader: The units for DSR may need to be adjusted where a CO₂ Capture Test is carried out over a period of time which is longer or shorter than a Settlement Unit.

³⁰ Note to Reader: The nature and duration of the verification test to be carried out by the Emitter at the Waste ICC Contract Counterparty's request in order to verify the Achieved CO₂ Capture Rate, Achieved CO₂ Storage Rate and/or the Deemed CO₂ Storage Rate is to be confirmed. Please see the Testing Requirements schedule in the DPA as an example of a proposed verification test.

Capture Outage Relief Events

- 6.3 The Emitter shall give the Waste ICC Contract Counterparty a notice promptly following the occurrence of a Capture Outage Relief Event (a "**Capture Outage Relief Notice**"). A Capture Outage Relief Notice shall:
- (a) specify the Settlement Unit(s) in which the Capture Outage Relief Event occurred (a "**Relief Event Settlement Unit**") within the relevant Billing Period(s) (a "**Relief Event Billing Period**");
 - (b) describe the Capture Outage Relief Event (including the impact, if any, of the Capture Outage Relief Event on the Achieved CO₂ Capture Rate, the Achieved CO₂ Storage Rate and/or Metered CO₂ Output to T&S);
 - (c) include evidence relating to the Capture Outage Relief Event from the T&S Operator;
 - (d) include such Supporting Information as the Emitter considers to be relevant to the Capture Outage Relief Event and the impact of the Capture Outage Relief Event on the Achieved CO₂ Capture Rate, the Achieved CO₂ Storage Rate and/or Metered CO₂ Output to T&S; and
 - (e) include details of the steps that the Emitter has taken and/or proposes to take to mitigate the effect of the relevant Capture Outage Relief Event.
- 6.4 Each Capture Outage Relief Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Capture Outage Relief Notice.
- 6.5 The Waste ICC Contract Counterparty shall, no later than ten (10) Business Days after receipt of a Capture Outage Relief Notice, give a notice to the Emitter (a "**Capture Outage Relief Response Notice**"). A Capture Outage Relief Response Notice shall specify whether the Waste ICC Contract Counterparty considers that:
- (a) the Emitter has or has not provided sufficient evidence in relation to the Capture Outage Relief Event to which the Capture Outage Relief Notice relates; or
 - (b) it has not been provided with sufficient Supporting Information to determine whether the Emitter has provided sufficient evidence in relation to the Capture Outage Relief Event to which the Capture Outage Relief Response Notice relates and, if so, details of the additional Supporting Information which the Waste ICC Contract Counterparty requires to determine whether the Emitter has provided sufficient evidence in relation to the Capture Outage Relief Event (the "**Capture Outage Relief Supporting Information**").
- 6.6 If the Waste ICC Contract Counterparty states in the Capture Outage Relief Response Notice that:
- (a) the Emitter has provided sufficient evidence in relation to the Capture Outage Relief Event, then the Capture Outage Relief Event will be deemed to have occurred for the purposes of the Waste ICC Contract;
 - (b) the Emitter has not provided sufficient evidence in relation to the Capture Outage Relief Event, then the Capture Outage Relief Event will be deemed not to have occurred for the purposes of the Waste ICC Contract unless and until a resolution or determination to the contrary is made pursuant to the Expert Determination Procedure; or

- (c) the Emitter has not provided the Waste ICC Contract Counterparty with sufficient Supporting Information to determine whether the Emitter has provided sufficient evidence in relation to the Capture Outage Relief Event then:
 - (i) the Emitter shall provide the Capture Outage Relief Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the Capture Outage Relief Response Notice, or such longer period as is specified by the Waste ICC Contract Counterparty; and
 - (ii) upon receipt of the Capture Outage Relief Supporting Information, the Waste ICC Contract Counterparty shall, as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of such Capture Outage Relief Supporting Information, give a further Capture Outage Relief Response Notice to the Emitter (a "**Further Outage Relief Response Notice**"). A Further Outage Relief Response Notice shall specify whether the Waste ICC Contract Counterparty considers that the Emitter has or has not provided sufficient evidence in relation to the Capture Outage Relief Event.

6.7 If a Capture Outage Relief Event is deemed to have occurred in accordance with Condition 6.6(a) or 6.6(c)(ii), the Metered CO₂ Output to T&S for each applicable Relief Event Settlement Unit shall be equal to the Deemed CO₂ Output to T&S for the purposes of calculating the Opex Payment and/or the Capex Payment (as applicable) in accordance with Condition 8.2 (*Opex Payment Calculation*) and/or Condition 7.2 (*Capex Payment Calculation*) (as applicable):

- (a) the Waste ICC Contract Counterparty shall recalculate the Opex Payment and/or the Capex Payment (as applicable) for such Relief Event Settlement Unit;
- (b) the Waste ICC Contract Counterparty shall calculate any adjustment to the Monthly Opex Payment and the Monthly Capex Payment for such Billing Period ("**Relief Event Recalculation Amount**"); and
- (c) such Relief Event Recalculation Amount shall be included in the Opex Payment Billing Statement and/or the Capex Payment Billing Statement (as applicable) which is next issued by the Waste ICC Contract Counterparty.

Reference Price calculation (on and from the Start Date)

6.8 On and from the Start Date, and until a revised Carbon Reference Price has been determined pursuant to the Initial Carbon Reference Price Review in accordance with Condition 6.9 and Annex [6A] (*Initial Carbon Reference Price Review*)¹¹:

- (a) ~~6.8 The Waste ICC Contract Counterparty shall calculate the~~ Carbon Reference Price, and the Average Monthly Carbon Reference Price (expressed in £/tCO₂) in respect of each Settlement Unit ~~following the Start Date, shall be deemed to be zero (0)¹²; and~~
- (b) Conditions 6.11 to 6.14 will not be applicable.

¹¹ Note to Reader: Please refer to the 'Initial Carbon Reference Price Review' rider issued alongside this rider, which is intended to be triggered if carbon pricing is expanded to cover CO₂ emissions from Eligible Waste Technologies and which sets out the process to determine the 'market-driven' Carbon Reference Price. Once a revised Carbon Reference Price has been determined in accordance with the Initial Carbon Reference Price Review (i.e. it is no longer deemed to be '0'), the 'generic' ICC 'Carbon Market Reference Price Review' will apply going forward.

¹² Note to Reader: On the basis that there is currently no carbon pricing applicable to the emissions arising from Eligible Waste Technologies, the Reference Price under the Waste ICC Contract will be deemed to be '0' until such time as carbon pricing is expanded to apply to such emissions. From a contractual perspective, such reform and the impact on the Reference Price will be dealt with under Annex [6A] (*Initial Carbon Reference Price Review*) – see above Note to Reader.

Reference Price calculation (on and from the Initial Carbon Reference Price Review)

6.9 ~~The Fixed Trajectory~~At any time during the Term, the Carbon Reference Price, ~~which shall be the Average Monthly Carbon Reference Price during the Initial Term, shall be expressed in £/tCO₂ and shall be determined, Condition 5 (Definitions: Part 4) and Conditions 6.11 to 6.14 may be amended, supplemented or replaced~~ in accordance with Annex ~~2 to the Waste ICC Agreement~~[6A] (*Initial Carbon Reference Price Review*).

6.10 For the avoidance of doubt, Conditions 6.11 to 6.14 shall only apply once a revised Carbon Reference Price has been determined in accordance with Annex [6A] (*Initial Carbon Reference Price Review*) and such Conditions have been amended (to the extent necessary) in accordance with Annex [6A] (*Initial Carbon Reference Price Review*).

6.11 ~~6.10~~Subject to Condition 6.10, the Waste ICC Contract Counterparty shall calculate the "Carbon Market Reference Price", which shall be used to calculate the Average Monthly Carbon Market Reference Price ~~which shall be the Reference Price during the Extended Term, and~~ shall be expressed in £/tCO₂, in £/tCO₂ and shall, in respect of each Settlement Unit,~~be calculated~~ as follows:

(a) The Carbon ~~Market~~ Reference Price in relation to Settlement Unit (*i*) shall be calculated in accordance with the following formula:

$$\text{Carbon Reference Price (CRP)} = \left(\frac{\sum_{i=1}^{\theta} (UKCTP_{i,t} \times UKCTV_{i,t})}{\sum_{i=1}^{\theta} (UKCTV_{i,t})} \right)$$

where:

θ = is the number of ~~CMRPCRP~~ Sources

$UKCTP_{i,t}$ = is the UKA Futures December Contract Trading Price in Settlement Unit (*i*) as determined in the auction on the previous ~~CMRPCRP~~ Trading Day conducted by the operator of each ~~CMRPCRP~~ Source (*t*) (£/tCO₂e)

$UKCTV_{i,t}$ = is the UKA Futures December Contract Trading Volume traded on ~~CMRPCRP~~ Sources (*t*) in respect of Settlement Unit (*i*) (£/tCO₂e)

(b) If no Carbon ~~Market~~ Reference Price is capable of being calculated pursuant to Condition ~~6.10~~6.11(a) (whether due to the unavailability of all ~~CMRPCRP~~ Sources pursuant to Condition ~~6.11~~6.12 or otherwise) in respect of any Settlement Unit (a "~~CMRPCRP~~ **Fallback Settlement Unit**"), the Carbon ~~Market~~ Reference Price for such ~~CMRPCRP~~ Fallback Settlement Unit shall be the Carbon ~~Market~~ Reference Price, as calculated in accordance with Condition ~~6.10~~6.11(a) for the Settlement Unit corresponding to the nearest prior corresponding day to the ~~CMRPCRP~~ Fallback Settlement Unit for which a Carbon ~~Market~~ Reference Price has been calculated in accordance with Condition ~~6.10~~6.11(a).

6.12 ~~6.11~~If any ~~CMRPCRP~~ Source is not available to the Waste ICC Contract Counterparty on commercially reasonable terms in relation to any Settlement Unit, such ~~CMRPCRP~~ Source shall be excluded from the calculation of the Carbon ~~Market~~ Reference Price in relation to such Settlement Unit.

6.13 ~~6.12~~The Waste ICC Contract Counterparty shall as soon as reasonably practicable prior to:

- (a) excluding any ~~CMR~~~~CRP~~ Source from the calculation of the Carbon-~~Market~~ Reference Price in relation to any Settlement Unit pursuant to Condition ~~6.11~~~~6.12~~, notify the Emitter of such exclusion; and
- (b) including any ~~CMR~~~~CRP~~ Source in the calculation of the Carbon-~~Market~~ Reference Price in relation to any Settlement Unit which was previously excluded pursuant to Condition ~~6.11~~~~6.12~~, notify the Emitter of such inclusion.

6.14 ~~6.13~~ The "**Average Monthly Carbon-~~Market~~ Reference Price**" shall be expressed in £/tCO₂ and shall, in respect of each Billing Period, be calculated as follows:⁹¹³

$$AMCRP = \frac{\sum CRP_i}{Total_{Settlement\ Units}}$$

~~AMCRP~~ = Average Monthly Carbon-~~Market~~ Reference Price (£/tCO₂)

~~CRP_i~~ = Carbon-~~Market~~ Reference Price in each Settlement Unit (*i*) in the relevant Billing Period (£/tCO₂)

~~Total_{Settlement Units}~~ = the number of Settlement Units in the relevant Billing Period

Amendments

Further amendments to Reference Price calculation (on and from the Initial Carbon Reference Price Review)

6.15 ~~6.14~~ ~~During the Extended Term~~ Once a revised Carbon Reference Price has been determined in accordance with Annex [6A] (*Initial Carbon Reference Price Review*), Condition 5 (*Definitions: Part 4*) and Conditions ~~6.8~~ and ~~6.11~~ to 6.14 (*Reference Price calculation*~~Calculation~~) may be amended, supplemented or replaced in accordance with Annex 6 (*Carbon-~~Market~~ Reference Price Review*).

Metered CO₂ Output to T&S Fallback

6.16 ~~6.15~~ If the Waste ICC Contract Counterparty has not received the Metered CO₂ Output to T&S from [the relevant metering body]⁹¹⁴ for any Settlement Unit (an "**Incomplete Settlement Unit**") which falls within a Billing Period (an "**Incomplete Billing Period**") on or prior to the Metered CO₂ Output to T&S Cut-Off Time, the Incomplete Settlement Unit will not be taken into account by the Waste ICC Contract Counterparty for the purpose of calculating the Monthly Capex Payment and/or Monthly Opex Payment (as applicable) for such Incomplete Billing Period.

Recalculations of Metered CO₂ Output to T&S

6.17 ~~6.16~~ If [the relevant metering body]⁹¹⁵ subsequently notifies the Waste ICC Contract Counterparty of the Metered CO₂ Output to T&S relating to an Incomplete Settlement Unit falling within an Incomplete Billing Period:

- (a) the Waste ICC Contract Counterparty shall recalculate the Monthly Capex Payment and/or Monthly Opex Payment (as applicable) for such Billing Period using such Metered CO₂ Output to T&S;
- (b) the Waste ICC Contract Counterparty shall calculate any adjustment to the Monthly Capex Payment and/or Monthly Opex Payment (as applicable) for such Billing Period ("**Metered CO₂ Output to T&S Data Recalculation Amount**"); and

⁹¹³ Note to Reader: This definition is subject to further review by BEIS.

⁹¹⁴ Note to Reader: The relevant company responsible for providing the relevant CO₂ data will be determined in due course.

⁹¹⁵ Note to Reader: The relevant company responsible for providing the relevant CO₂ data will be determined in due course.

- (c) such Metered CO₂ Output to T&S Data Recalculation Amount shall be included in the Capex Payment Billing Statement and/or Opex Payment Billing Statement (as applicable) which is next issued by the Waste ICC Contract Counterparty.

Recalculations of Expected Annual Capture Factor

~~6.17 If, at any time during a calendar year, the overall CO₂ Capture Factor¹² in respect of the period from 01 January of the relevant calendar year to the date immediately prior to the relevant Settlement Unit is more than [●] percentage points lower than the Expected Annual Capture Factor for [●] or more Billing Periods, the Waste ICC Contract Counterparty shall have the right, but not the obligation, to recalculate the Expected Annual Capture Factor.¹³~~

7. CAPEX PAYMENT

Capex Payment Calculation

- 7.1 The capex payment for each CP Billing Period during the Capex Payment Period (the "**Monthly Capex Payment**") shall be calculated in accordance with the following formula:

$$CP_m = \sum CP_i$$

where:

- CP_m = Monthly Capex Payment (£)
- CP_i = Capex Payment (£) for each Settlement Unit (*i*) in the relevant CP Billing Period calculated in accordance with Condition 7.2

- 7.2 The capex payment for each Settlement Unit (*i*) during the Capex Payment Period ("**Capex Payment**") shall be calculated in accordance with the following formula¹⁴:

$$CP_i = CPR \times CO2_{out,T\&S,i}$$

where

- CP_i = Capex Payment (£) for each Settlement Unit (*i*)
- CPR = Capex Payment Rate (£/tCO₂)
- $CO2_{out,T\&S,i}$ = Metered CO₂ Output to T&S (tCO₂) during the relevant Settlement Unit (*i*)

provided that, to the extent that:

- (a) at any time during any Capex Payment Year (*Cn*):

$$\sum CP_{i,Cn} \geq (TCP + r) \times YCCM_{Cn}$$

¹² Note to Reader: BEIS is considering how the overall CO₂ Capture Factor will be determined. Please refer to the definition of Actual Annual Capture Factor for an example of how the overall CO₂ Capture Factor may be determined.

¹³ Note to Reader: This Condition is subject to further review by BEIS.

¹⁴ Note to Reader: While the approach to the Capex Payment under the Waste ICC Contract will be consistent with the 'generic' ICC Contract, the capex repayment period for the Waste ICC Contract will be based on a target ten-year repayment period (i.e. rather than a five-year repayment period under the 'generic' ICC Contract). This approach will be reflected in the Yearly Capex Cap Multiplier to be set out in the Waste ICC Front-End Agreement (which, in aggregate over the ten-year repayment period, will need to be equal to 1.0).

where:

$CP_{i,Cn}$ = the Capex Payment (£) for each Settlement Unit (i) for the relevant Capex Payment Year (Cn)

TCP = Total Capex Payment (£)

r = Total Return Component (£)

$YCCM_{Cn}$ = the Yearly Capex Cap Multiplier for the relevant Capex Payment Year (Cn)

then all further CP_i amounts in that Capex Payment Year (Cn) shall be zero (0); ~~and~~

~~(b) — at any time during the Capex Payment Period:~~

where:

~~= the sum of the Capex Payments for each Settlement Unit (i) in the Capex Payment Period~~

~~then all further amounts in the Capex Payment Period shall be zero (0).~~

8. OPEX PAYMENT

Opex Payment Calculation

8.1 The opex payment for each OP Billing Period during the Opex Payment Period (the "**Monthly Opex Payment**") shall be calculated in accordance with the following formula:

$$OP_m = \sum OP_i$$

where:

OP_m = Monthly Opex Payment (£)

OP_i = Opex Payment (£) for each Settlement Unit (i) in the relevant OP Billing Period calculated in accordance with Condition 8.2

8.2 The opex payment for each Settlement Unit (i) during the Opex Payment Period ("**Opex Payment**") shall be calculated in accordance with the following formula:

$$OP_i = CO2_{out_T\&S_i} (S_i - (AMCRP * AEi))$$

where:

OP_i = Opex Payment (£) for each Settlement Unit (i)

$CO2_{out_T\&S_i}$ = Metered CO₂ Output to T&S (tCO₂) during the relevant Settlement Unit (i)

S_i = Strike Price (£/tCO₂) that applies during the relevant Settlement Unit (i)

AMCRP = Average Monthly Carbon Reference Price (£/tCO₂) that applies

during the relevant Settlement Unit (*i*)

= Expected Annual Capture Factor (%) for calendar year (*f*)¹⁴

= Total Annual FA Allocation (tCO₂) for calendar year (*f*)¹⁵

AE_i = the number of Settlement Units in the relevant calendar year (*f*) [Applicable Emissions Percentage for each Settlement Unit (*i*) (expressed as a percentage)]

provided that:¹⁷

~~(a) if at any time during the Initial Term is less than zero (0), then shall be zero (0);~~

~~(b) shall be zero (0) during the Extended Term; and~~

(a) ~~(c)~~ if at any time during any Opex Payment Year (*On*):

$$\sum CO2_{out,T\&S,On} \geq MA \times 1.1$$

where:

$CO2_{out,T\&S,On}$ = the Metered CO₂ Output to T&S (tCO₂) for each Settlement Unit (*i*) in the relevant Opex Payment Year (*On*)

MA = Maximum Annual CO₂ Capture Quantity (tCO₂)

then all further $CO2_{out,T\&S}(S_i - R_{B,i})$ amounts in that Opex Payment Year (*On*) shall be zero (0).¹⁶¹⁸

Strike Price Indexation Adjustment

8.3 The Waste ICC Contract Counterparty shall calculate an indexation adjustment to the Strike Price during the Strike Price Adjustment Calculation Period in each calendar year of the Term (each such adjustment, an "**OP Indexation Adjustment**").

8.4 Each OP Indexation Adjustment shall:

(a) become effective on the first (1st) day of the Summer Season in the calendar year in which the OP Indexation Adjustment is calculated (each such date, an "**OP Indexation Anniversary**"); and

(b) use the CPI for January of the relevant calendar year save where the CPI for January is not published by the first (1st) day of the Summer Season in such calendar year, in which case the Reference CPI shall be used.

¹⁴ Note to Reader: Reconciliation of Expected Annual Capture Factor subject to further review.

¹⁵ Note to Reader: Subject to further review by BEIS in relation to the forfeiture and reconciliation of FAs and FA volume assurance. Please refer to the discussion on pages 20 to 30 of the April Update Document).

¹⁷ Note to Reader: Another distinction with the 'generic' ICC Contract is that if the reference price is greater than the strike price during the Initial Term (which would be possible if/once carbon pricing applies to CO₂ emissions arising from Eligible Waste Technologies), the Opex payment under the Waste ICC Contract will be negative and a corresponding payment may be due by the Emitter to the Waste ICC Contract Counterparty (subject to any Waste ICC Contract Counterparty's set-off rights).

¹⁶¹⁸ Note to Reader: BEIS is considering the interaction of this cap with the Excessive Carbon Creation proposals (please refer to the discussion on page 13 of the April Update Document).

- 8.5 The Strike Price which is to apply with effect from each OP Indexation Anniversary as a result of the OP Indexation Adjustment shall be calculated by the Waste ICC Contract Counterparty in accordance with the following formula:⁴²¹⁹

$$S_i = \left((S_{base} + ADJ_i^{base}) \times \Pi_i \right)$$

S_i = Strike Price (£/tCO₂) that applies during the relevant Settlement Unit (*i*)

S_{base} = Initial Strike Price (£/tCO₂)

ADJ_i^{base} = sum of the Strike Price Adjustments applicable to Settlement Unit (*i*) (other than any adjustment pursuant to Condition 8.3 (*OP Indexation Adjustment*)) occurring immediately prior to the relevant OP Indexation Anniversary, expressed in Base Year Terms

Π_i = Inflation Factor applicable to a Settlement Unit (*i*)

- 8.6 The Waste ICC Contract Counterparty shall notify the Emitter of the revised Strike Price no later than five (5) Business Days after each OP Indexation Anniversary.

Opex Costs Early Reopener Adjustment Calculation

- 8.7 Within twenty (20) Business Days of the first (1st) anniversary of the Start Date, the Emitter shall calculate an adjustment to the Strike Price in respect of each Eligible Opex Cost (the "**Opex Costs Early Reopener Adjustment**") and the aggregate of all such Eligible Opex Costs (the "**Total Opex Costs Early Reopener Adjustment**"). The Opex Costs Early Reopener Adjustment in respect of each Eligible Opex Cost shall be calculated as follows: [●].⁴²²⁰

Opex Costs Early Reopener Adjustment⁴²²¹

- 8.8 Within twenty (20) Business Days of the first (1st) anniversary of the Start Date, the Emitter shall give a notice to the Waste ICC Contract Counterparty (the "**Opex Costs Early Reopener Notice**"). The Opex Costs Early Reopener Notice shall:

- (a) specify which of the Eligible Opex Costs the Emitter considers should be adjusted on the basis that the corresponding actual costs are higher or lower than the estimated costs;
- (b) subject to Condition 8.12, include the Emitter's estimate of the Opex Costs Early Reopener Adjustment in respect of each Eligible Opex Cost calculated in accordance with Condition 8.7 and the Total Opex Costs Early Reopener Adjustment; and
- (c) include such Supporting Information as the Emitter considers to be relevant to each Opex Costs Early Reopener Adjustment and the Total Opex Costs Early Reopener Adjustment.

- 8.9 The Opex Costs Early Reopener Notice shall be accompanied by:

- (a) a Directors' Certificate;

⁴²¹⁹ Note to Reader: OP Indexation Adjustment and Strike Price Adjustment mechanisms to be kept under review.

⁴²²⁰ Note to Reader: Please refer to the scenarios on pages 37 to 39 of the April Update Document in relation to the Opex Costs Early Reopener Adjustments.

⁴²²¹ Note to Reader: Please refer to the discussion on pages 35 to 39 of the April Update Document in relation to the Opex Costs Early Reopener.

- (b) a report from the Emitter's technical adviser; and
- (c) a certificate from an independent Auditor,

in relation to the information contained in, and enclosed with, the Opex Costs Early Reopener Notice.

8.10 The Waste ICC Contract Counterparty shall, no later than ninety (90) Business Days after receipt of the Opex Costs Early Reopener Notice, give a notice to the Emitter (the "**Opex Costs Early Reopener Response Notice**"). The Opex Costs Early Reopener Response Notice shall specify whether the Waste ICC Contract Counterparty:

- (a) agrees with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment as specified in the Opex Costs Early Reopener Notice; or
- (b) does not agree with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment as specified in the Opex Costs Early Reopener Notice, giving reasons; or
- (c) considers that it has not been provided with sufficient Supporting Information to determine whether or not it agrees with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment and if so, shall provide details of any additional or revised Supporting Information which the Waste ICC Contract Counterparty requires to determine whether or not it agrees with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment (the "**Opex Costs Early Reopener Supporting Information**").

8.11 If the Waste ICC Contract Counterparty states in the Opex Costs Early Reopener Response Notice that:

- (a) it agrees with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment as specified in the Opex Costs Early Reopener Notice, the Strike Price shall be adjusted in accordance with the Total Opex Costs Early Reopener Adjustment with effect from the date of the Opex Costs Early Reopener Notice;
- (b) it does not agree with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment as specified in the Opex Costs Early Reopener Notice, the Strike Price shall not be adjusted unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or
- (c) the Emitter has not provided the Waste ICC Contract Counterparty with sufficient Supporting Information to determine whether or not it agrees with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment:
 - (i) the Emitter shall provide the Opex Costs Early Reopener Supporting Information to the Waste ICC Contract Counterparty as soon as reasonably practicable, and in any event no later than twenty (20) Business Days after receipt of the Opex Costs Early Reopener Response Notice, or such longer period as is specified by the Waste ICC Contract Counterparty; and
 - (ii) the Waste ICC Contract Counterparty shall, no later than ninety (90) Business Days after receipt of the Opex Costs Early Reopener Supporting Information, give a further Opex Costs Early Reopener Response Notice to the Emitter (a "**Further Opex Costs Early Reopener Response Notice**"). A Further Opex Costs Early Reopener Response Notice shall specify whether the Waste ICC Contract Counterparty does or does not agree with the Opex

Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment as specified in the Opex Costs Early Reopener Notice.

- 8.12 For the avoidance of doubt:
- (a) there shall be no Total Opex Costs Early Reopener Adjustment where the actual Eligible Opex Costs do not exceed the Opex Costs Early Reopener Materiality Threshold²⁴²²; and
 - (b) in no circumstances shall the Total Opex Costs Early Reopener Adjustment exceed the Opex Costs Early Reopener Cap.²⁴²³
- 8.13 Nothing in Conditions 8.8 to 8.12 (*Opex Costs Early Reopener Adjustment*) shall require the Waste ICC Contract Counterparty to specify in any Opex Costs Early Reopener Response Notice or Further Opex Costs Early Reopener Response Notice that the Waste ICC Contract Counterparty agrees with the Opex Costs Early Reopener Adjustments and the Total Opex Costs Early Reopener Adjustment unless and until the Waste ICC Contract Counterparty is satisfied of the same.

Failure to give an Opex Costs Early Reopener Notice

- 8.14 If the Emitter fails to give an Opex Costs Early Reopener Notice to the Waste ICC Contract Counterparty in accordance with Condition 8.8, the Waste ICC Contract Counterparty shall give a notice to the Emitter (an "**Opex Costs Early Reopener Non-Compliance Notice**"). An Opex Costs Early Reopener Non-Compliance Notice shall:
- (a) notify the Emitter that it has failed to give an Opex Costs Early Reopener Notice to the Waste ICC Contract Counterparty in accordance with Condition 8.8; and
 - (b) specify the date on and from which the Waste ICC Contract Counterparty may suspend payments in accordance with Condition 8.16, being the date which falls twenty (20) Business Days after the date of the Opex Costs Early Reopener Non-Compliance Notice.
- 8.15 If the Emitter gives an Opex Costs Early Reopener Notice to the Waste ICC Contract Counterparty by the date which is twenty (20) Business Days from the date of the Opex Costs Early Reopener Non-Compliance Notice, Conditions 8.10 to 8.13 shall apply.
- 8.16 If Condition 8.14 applies and the Emitter either:
- (a) fails to give an Opex Costs Early Reopener Notice to the Waste ICC Contract Counterparty by the date which is twenty (20) Business Days from the date of the Opex Costs Early Reopener Non-Compliance Notice; or
 - (b) if Condition 8.10(c) applies, fails to provide the required Opex Costs Early Reopener Supporting Information by the date which is twenty (20) Business Days after the date of the Opex Costs Early Reopener Response Notice, or such longer period as is specified by the Waste ICC Contract Counterparty,

the Waste ICC Contract Counterparty may elect to suspend any Payments which would otherwise be payable by the Waste ICC Contract Counterparty to the Emitter in any period during which the Emitter is in breach of such obligations, provided that, prior to effecting any such suspension, the Waste ICC Contract Counterparty shall notify the Emitter of: (i) its intention to suspend such Payments; and (ii) the date from which it proposes to effect such suspension.

²⁴²² Note to Reader: The Opex Costs Early Reopener Materiality Threshold will be set by BEIS on a project-by-project basis and will be set out in the front end agreement.

²⁴²³ Note to Reader: The Opex Costs Early Reopener Cap will be set by BEIS on a project-by-project basis and will be set out in the front end agreement.

8.17 If the Emitter subsequently complies with its obligation to provide an Opex Costs Early Reopener Notice or the Opex Costs Early Reopener Supporting Information (as applicable), then the Waste ICC Contract Counterparty shall pay any amounts to the Emitter which would have been payable but for the operation of Condition 8.16. The Waste ICC Contract Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 8.17.

9. T&S PAYMENT

T&S Payment Calculation ²²²⁴

9.1 The T&S payment for each T&S Billing Period during the Term (the "**Monthly T&S Payment**") shall be calculated in accordance with the following formula:

$$T\&S_m = \sum T\&S_i$$

where:

$T\&S_m$ = Monthly T&S Payment (£)

$T\&S_i$ = T&S Payment (£) for each Settlement Unit (i) in the relevant T&S Billing Period calculated in accordance with Condition 9.2

9.2 The T&S payment for each Settlement Unit (i) during the Term ("**T&S Payment**") shall be calculated in accordance with the following formula:

$$T\&S_i = T\&S_{RF} + T\&S_{VF} + T\&S_{CF}$$

where:

$T\&S_i$ = T&S Payment (£) for each Settlement Unit (i)

$T\&S_{RF}$ = T&S Residual Fee (£) for each Settlement Unit (i)

$T\&S_{VF}$ = T&S Volumetric Fee (£) for each Settlement Unit (i)

$T\&S_{CF}$ = T&S Capacity Fee (£) for each Settlement Unit (i)

provided that if there is a T&S Commissioning Delay Event then:

- (a) the T&S Capacity Fee, the T&S Volumetric Fee and the T&S Residual Fee shall not be payable by the Waste ICC Contract Counterparty to the Emitter, until the T&S Commissioning Delay Event has ceased and the T&S Network is commissioned; and
- (b) the T&S Capacity Fee, the T&S Volumetric Fee and the T&S Residual Fee shall be deemed to be zero (0) during any period in which there is a T&S Commissioning Delay Event.

²²²⁴ Note to Reader: This Condition is subject to further development as the T&S business model is developed.

Rider 2: Initial Carbon Reference Price Review

Note: This document is intended to be read alongside the full form Waste ICC Contract once published and, until such time, alongside the other provisions of the 'generic' ICC Contract.

The draft provisions contained herein do not constitute definitive drafting of the Waste ICC Contract's terms. A number of the provisions and terms which require particular consideration and development have been square bracketed (with footnotes) and other consequential amendments to the 'generic' ICC Contract will be required to reflect the position set out in this rider. BEIS reserves the right to review and amend these square bracketed provisions, and all other provisions to be set out in the Waste ICC Contract.

This draft rider does not indicate any willingness or agreement on the part of BEIS to enter into, or arrange entry into, the Waste ICC Contract. This rider does not constitute an offer and is not capable of acceptance.

Initial CRP Review Procedure

(Waste ICC Rider)

INITIAL CARBON MARKET REFERENCE PRICE REVIEW¹

**Part 1
Introduction**

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

"Qualifying Change in Law" means:

- (a) a Discriminatory Change in Law;
- (b) a Specific Change in Law; or
- (c) an Other Change in Law,

which, in each case, is not a Foreseeable Change in Law, and provided always that :

- (i) no decision by any Subsidy Control Competent Authority in respect of the application of the Subsidy Control Rules to the Waste ICC Contract or CCUS Programme Waste ICC Contracts (including the annulment, invalidation, suspension, revocation, modification or replacement of any prior decision pursuant to such rules) ; or
- (ii) no Initial CRP Principles Review Trigger which occurs.

shall constitute a Qualifying Change in Law;

¹ The 'Initial CRP Review Procedure' set out in this Annex is intended to be triggered if carbon pricing is expanded to cover CO₂ emissions for Eligible Waste Technologies. This is to ensure that there is a process governing how the Market Reference Price will be calculated once such a reform has occurred (at which point the CRP will change from zero to the relevant market price). In addition to this 'Initial CRP Review Procedure', which will only apply once (if it does apply), the intent is that the normal 'Carbon Reference Price Review' process set out in the 'generic' ICC Contract will then apply to any further changes to the CRP price source(s) once a market-driven CRP has been determined under this Annex [6A].

Annex [6A]

1. **DEFINITIONS: ANNEX [6A]**

1.1 In this Annex [6A] (~~Initial Carbon Market~~ *Reference Price Review*):

"10-TD Sample Period" means a period of ten (10) consecutive EMRPCR Trading Days;

"10-TD UKA Trade Number Percentage" means, in respect of a price source, the number of UKA Futures December Contracts in respect of UK Allowances conducted on or reported by such price source in a 10-TD Sample Period expressed as a percentage of the total number of UKA Futures December Contracts in respect of UK Allowances conducted on or reported by all of the Calculation EMRPCR Sources during such 10-TD Sample Period and, where such price source conducts or reports UKA Futures December Contracts less frequently than every EMRPCR Trading Day, the number of UKA Futures December Contracts attributable to each EMRPCR Trading Day shall be the number of UKA Futures December Contracts conducted or reported on each EMRPCR Source Live Day allocated equally to each EMRPCR Trading Day from and including each EMRPCR Source Live Day to and excluding the next occurring EMRPCR Source Live Day;

"10-TD UKA Volume Percentage" means, in respect of a price source, the number of UK Allowances traded pursuant to UKA Futures December Contracts conducted on or reported by such price source in a 10-TD Sample Period expressed as a percentage of the number of UK Allowances traded pursuant to UKA Futures December Contracts conducted on or reported by all of the Calculation EMRPCR Sources during such 10-TD Sample Period and, where such price source conducts or reports UKA Futures December Contracts less frequently than every EMRPCR Trading Day, the number of UK Allowances traded pursuant to UKA Futures December Contracts attributable to each EMRPCR Trading Day shall be the number of UK Allowances traded pursuant to UKA Futures December Contracts conducted or reported on each EMRPCR Source Live Day allocated equally to each EMRPCR Trading Day from and including each EMRPCR Source Live Day to and excluding the next occurring EMRPCR Source Live Day;

"Calculation EMRPCR Source" means a price source which is determined pursuant to ~~a-EMRCP~~the Initial CRP Principles Review to have met the ~~EMRCP~~Initial CRP Quality Criteria;

"~~Carbon-Market~~ Reference Price" has the meaning given to that term in Condition ~~6.106.8~~ (*Reference Price Calculation*), subject to the application of this Annex [6A] (*Initial Carbon Reference Price Review*);

"CRP Source Live Day" means, in respect of a price source, a day where UKA Futures December Contracts are conducted or reported;

"CRP Sources" means the UKA Futures Indices to be used in the calculation of the Carbon Reference Price, being the Initial CRP Index or such other replacement or supplementary UKA Futures Indices which are required to be so used as a result of the operation of the provisions of Part A (*Initial CRP Review Procedures*), and **"CRP Source"** shall be construed accordingly

"CRP Trading Day" means any day on which trading on the market from which the CRP Sources are derived ordinarily takes place;

"ICE Futures Europe Index" means the UKA Futures Index reported by ICE Futures Europe;

"~~EMRCP~~Initial CRP Dispute" means a Dispute in relation to the outcome of ~~a-EMRCP~~the Initial CRP Principles Review;

"GMRP Initial CRP Dispute Emitter" has the meaning given to that term in paragraph 2.1 (*Procedure for raising a Dispute*) of Part A (GMRP Initial CRP Review Procedures);

"GMRP Initial CRP Dispute Notice" has the meaning given to that term in paragraph 2.1 (*Procedure for raising a Dispute*) of Part A (GMRP Initial CRP Review Procedures);

"GMRP Initial CRP Dispute Threshold Criterion" has the meaning given to that term in paragraph 2.10 (GMRP Initial CRP Dispute Threshold Criterion) of Part A (GMRP Initial CRP Review Procedures);

"GMRP Initial CRP Dispute Validity Notice" has the meaning given to that term in paragraph 2.3 (GMRP Initial CRP Dispute Threshold Criterion) of Part A (GMRP Initial CRP Review Procedures);

"GMRP Initial CRP Expert Appointment Threshold" has the meaning given to that term in paragraph 2.7 (GMRP Initial CRP Expert Appointment Threshold) of Part A (GMRP Initial CRP Review Procedures);

"GMRP Initial CRP Inclusion Criteria" in respect of a price source, means that:

- (a) the 10-TD UKA Trade Number Percentage in respect of such price source in each 10-TD Sample Period during the GMRP Initial CRP Review Calculation Period is at least five per cent. (5%);
- (b) the 10-TD UKA Volume Percentage in respect of such price source in each 10-TD Sample Period during the GMRP Initial CRP Review Calculation Period is at least five per cent. (5%);
- (c) such price source has at all times during the GMRP Initial CRP Review Calculation Period, no fewer than ten (10) market participants which, it is evidenced to the Waste ICC Contract Counterparty:
 - (i) are each party to one (1) or more UKA Futures December Contract and for each of such market participants at least one reported trade of a UKA Futures December Contract is used to derive the UKA Futures December Contract Trading Price; and
 - (ii) comply with one (1) or more of the following criteria:
 - (A) for price sources that are based on brokered trades, the market participants are listed in a maintained list of counterparties which have been approved by one (1) or more brokers to trade the products relevant to such price sources;
 - (B) for price sources that are based on a commodity exchange, the market participants have established arrangements with that exchange for the provision of initial and variation margins;
 - (C) for price sources where trades are enacted through a software platform, the market participants have established links with the platform;
 - (D) for price sources that provide pricing information on a subscription basis, the market participants have a subscription to that price source; or (where none of the above can be evidenced);
 - (E) the market participants have incurred a material cost to trade using the price source; and

(d) such price source reports prices of UKA Futures December Contracts at least once per Settlement Unit during the CMRP Initial CRP Review Calculation Period,

and "**CMRP Initial CRP Inclusion Criterion**" shall be construed accordingly;

"**CMRP Initial CRP Index**" means the ICE Futures Europe Index;

"**Initial CRP Mechanism Amendment**" has the meaning given to that term in paragraph ~~1.6~~1.3 (*Purpose of ~~Carbon~~Reference Price Principles Review*) of Part A (CMRP Initial CRP Review Procedures);

"**CMRP Initial CRP Principles**" has the meaning given to that term in paragraph 1 (CMRP Initial CRP Principles) of Part B (CMRP Initial CRP Principles);

"**CMRP Initial CRP Principles Prioritisation**" means the prioritisation of the CMRP Initial CRP Principles provided for in paragraph 2 (*Prioritisation of CMRP Initial CRP Principles*) of Part B (CMRP Initial CRP Principles);

~~"**CMRP Principles Request Criterion**" has the meaning given to that term in paragraph 1.3 (Requirement to undertake CMRP Principles Reviews) of Part A (CMRP Review Procedures);~~

~~"**CMRP Principles Request Notice**" has the meaning given to that term in paragraph 1.2 (Requirement to undertake CMRP Principles Reviews) of Part A (CMRP Review Procedures);~~

~~"**CMRP Principles Request Validity Notice**" has the meaning given to that term in paragraph 1.5 (Validity of CMRP Principles Request Notices) of Part A (CMRP Review Procedures);~~

"**CMRP Initial CRP Principles Review**" means a review conducted by the Waste ICC Contract Counterparty pursuant to, and within the parameters specified in, paragraph 1 (CMRP Initial CRP Principles Review) of Part A (CMRP Initial CRP Review Procedures);

"**CMRP Initial CRP Principles Review Implementation Date**" has the meaning given to that term in paragraph ~~1.12~~1.9(b) (*Notification of outcome of CMRP Initial CRP Principles Review*) of Part A (CMRP Initial CRP Review Procedures);

~~"**CMRP Principles Review Notice**" has the meaning given to that term in paragraph 1.8 (Notification of CMRP Principles Review) of Part A (CMRP Review Procedures);~~

"**CMRP Initial CRP Principles Review Outcome Notice**" has the meaning given to that term in paragraph ~~1.12~~1.9 (*Notification of outcome of CMRP Initial CRP Principles Review*) of Part A (CMRP Initial CRP Review Procedures);

"**CMRP Initial CRP Principles Review Proposals**" has the meaning given to that term in paragraph ~~1.12~~1.9(a) (*Notification of outcome of CMRP Initial CRP Principles Review*) of Part A (CMRP Initial CRP Review Procedures);

"**CMRP Initial CRP Principles Review Response Deadline**" has the meaning given to that term in paragraph ~~1.8~~1.5(b) (*Notification of CMRP Initial CRP Principles Review*) of Part A (CMRP Initial CRP Review Procedures);

"**CMRP Initial CRP Principles Review Response Notice**" has the meaning given to that term in paragraph ~~1.9~~1.6 (*Notification of CMRP Initial CRP Principles Review*) of Part A (CMRP Initial CRP Review Procedures);

"~~CMRP~~Initial CRP Principles Review Trigger" has the meaning given to that term in paragraph 1.1 (*Requirement to undertake ~~CMRP~~Initial CRP Principles Reviews*) of Part A (*~~CMRP~~Initial CRP Review Procedures*);

"~~CMRP~~Initial CRP Quality Criteria" in respect of a price source, means the Waste ICC Contract Counterparty having determined that, as at the ~~CMRP~~Initial CRP Principles Review Response Deadline:

- (a) the underlying data used to compile or prepare such price source:
 - (i) is subject to reasonable procedures to ensure its accuracy and completeness;
 - (ii) is subject to reasonable procedures to ensure its retention by the administrator for a period of at least two (2) years such that it is capable of audit; and
 - (iii) consists only of verifiable transaction data and does not include data which is the product of a subjective judgement;
- (b) the methodology used by the administrator to prepare and compile such price source:
 - (i) is appropriately documented;
 - (ii) is not subject to subjective judgement; and
 - (iii) may only be changed in accordance with documented change control procedures which provide adequate protection against conflicts of interest which exist or are reasonably likely to arise in connection with such methodology; and
- (c) the administrator of such price source and the submitters to such price source have effective organisational and administrative arrangements in place to identify and manage conflicts of interest and to protect commercial confidentiality,

and **"~~CMRP~~Initial CRP Quality Criterion"** shall be construed accordingly;

"~~CMRP~~Initial CRP Review Calculation Period" means in respect of ~~each~~the ~~CMRP~~Initial CRP Principles Review, the twelve (12) Month period ending on (and including) the day immediately prior to the ~~CMRP~~Initial CRP Principles Review Response Deadline;

~~"**CMRP Source Live Day**" means, in respect of a price source, a day where UKA Futures December Contracts are conducted or reported;~~

~~"**CMRP Sources**" means the UKA Futures Indices to be used in calculation of the Carbon Market Reference Price, being the Initial ~~CMRP~~Initial CRP Index or such other replacement or supplementary UKA Futures Indices which are required to be so used as a result of the operation of the provisions of Part A (*~~CMRP~~Initial CRP Review Procedures*), and "**CMRP Source**" shall be construed accordingly;~~

~~"**CMRP Trading Day**" means any day on which trading on the market from which the ~~CMRP~~Initial CRP Sources are derived ordinarily takes place;~~

~~"**ICE Futures Europe Index**" means the UKA Futures Index reported by ICE Futures Europe;~~

~~"**Initial ~~CMRP~~Initial CRP Index**" means the ICE Futures Europe Index;~~

"**Proposed CMRP Initial CRP Expert**" has the meaning given to that term in paragraph 2.3(a) (Validity of [CMRP Initial CRP Dispute Notices](#)) of Part A ([CMRP Initial CRP Review Procedures](#));

"**UK Allowance**" means an allowance created under the UK Emissions Trading Scheme;

"**UK Emissions Trading Registry**" means the registry established pursuant to the UK Emissions Trading Scheme;

"**UK Emissions Trading Scheme**" means the emissions trading scheme in the UK established pursuant to The Greenhouse Gas Emissions Trading Scheme ([Amendment](#)) Order 2020;

"**UKA Futures December Contract**" means a December contract with the soonest contract delivery date relating to the transfer of a fixed number of UK Allowances for the relevant year (in which the Carbon-~~Market~~ Reference Price is calculated) between two or more accounts established under the UK Emissions Trading Registry;

"**UKA Futures December Contract Trading Price**" means the Exchange Delivery Settlement Price (EDSP) (*expressed in £/ tCO₂e*) for a UKA Futures December Contract as reflected in a UKA Futures Index or UKA Futures Indices (as the context requires); [and](#)

~~"**UKA Futures December Contract Trading Volume**" means the quantity of UK Allowances (*expressed in tCO₂*) traded for delivery in a Settlement Unit via the auction occurring on the previous CMRP Trading Day (or, in respect of the last Settlement Unit of any day which is also the first (1st) Settlement Unit of a CMRP Trading Day, occurring on such CMRP Trading Day) and conducted by the operator of the relevant CMRP Source; and~~

"**UKA Futures Index**" means an index of UKA Futures December Contract Trading Prices or another source of UKA Futures December Contract Trading Prices and "**UKA Futures Indices**" shall be construed accordingly.

Part A
CMRP Initial CRP Review Procedures

1. ~~CMRP~~ INITIAL CRP PRINCIPLES REVIEW

~~Requirement to undertake CMRP~~ Undertaking of the Initial CRP Principles Reviews ~~Review~~

1.1 The Waste ICC Contract Counterparty²:

~~(a) shall~~ may conduct ~~a CMRP~~ an Initial CRP Principles Review if:

- ~~(a)~~ (i) ~~the requirement for the CMRP Sources to publish a UKA Futures December Contract Trading Price is materially amended, repealed or replaced;~~
- ~~(ii)~~ (ii) ~~the replacement or repeal of, or an amendment to,~~ the UK Emissions Trading Scheme (or the enactment of a new UK emissions trading scheme) has been proposed or effected by the relevant Competent Authority²;
- ~~(iii)~~ (iii) ~~the number of UK Allowances traded pursuant to UKA Futures December Contracts reflected in the CMRP Sources is nil in any 10 TD Sample Period;~~
- ~~(iv)~~ (iv) ~~the CMRP Sources cease to be available to the Waste ICC Contract Counterparty on commercially reasonable terms; or~~ which will result in the relevant emissions trading scheme being applicable to CO₂ emissions arising from [Eligible Waste Technologies]; or
- ~~(v)~~ (v) ~~the CMRP Principles Request Criterion is met; and~~
- ~~(b)~~ (b) ~~may conduct a CMRP Principles Review if~~ it determines that ~~the~~ a Carbon Market Reference Price of zero (0) does not reflect the ~~market price for the trading of UK Allowances~~ that applies to CO₂ emissions arising from [Eligible Waste Technologies] (in whatever form such price applies).

~~(each, a~~ an **"CMRP Initial CRP Principles Review Trigger"**)~~.~~

1.2 ~~If the Emitter considers~~ The Parties acknowledge and agree ~~that the calculation of the Carbon Market Reference Price does not comply with all of the CMRP Principles, the Emitter may give a notice to the Waste ICC Contract Counterparty requesting the Waste ICC Contract Counterparty to undertake a CMRP Principles Review (a~~ **"CMRP Principles Request Notice"**)~~.~~ A CMRP Principles Request Notice:

- ~~(a) shall specify which of the CMRP Principles the Emitter believes the calculation of the Carbon Market Reference Price does not comply with;~~
- ~~(b) may include proposals from the Emitter with respect to the manner in which the non-compliance with the CMRP Principles should be addressed (including any proposals regarding CMRP Mechanism Amendments which the Emitter considers should be effected); and~~
- ~~(c) shall include Supporting Information, in reasonable detail, which the Emitter considers to be relevant to and supportive of the matters in paragraphs (a) and (b).~~

² Note to Reader: 'Eligible Waste Technologies' will be defined by reference to those technologies meeting the eligibility criteria set out in the document titled 'Cluster Sequencing for Carbon Capture Usage and Storage Deployment: Phase-2 - Background and Guidance for Submissions' for the waste management sector for those emitters holding ICC contracts.

~~1.3 For the purposes of paragraph 1.1(a)(v), the "CMRP Principles Request Criterion" is that thirty per cent. (30%) or more of Waste ICC Emitters (which are subject to the Reference Price), by mass quantity or number, have given the Waste ICC Contract Counterparty a CMRP Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the CMRP Principles Request Criterion is met, the Waste ICC Contract Counterparty shall calculate:~~

- ~~(a) the number of Waste ICC Emitters which have given a CMRP Principles Request Notice as a percentage of the total number of Waste ICC Emitters; and a revised Carbon Reference Price may only be determined pursuant to the Initial CRP Principles Review process set out in this Annex [6A] (Initial Carbon Reference Price Review) on one (1) occasion during the Term; and~~
- ~~(b) the mass quantity attributable to CCUS Programme Waste ICC Contracts to which Waste ICC Emitters (which are subject to the Reference Price) which have given a CMRP Principles Request Notice are party as a percentage of the total mass quantity attributable to CCUS Programme Waste ICC Contracts (and, for this purpose, "mass quantity" shall be calculated by the Waste ICC Contract Counterparty using the Metered CO₂ Output to T&S Estimate in each relevant CCUS Programme Waste ICC Contract); if a revised Carbon Reference Price has been determined in accordance with this Annex [6A] (Initial Carbon Reference Price Review), the Carbon Reference Price and the Average Monthly Carbon Reference Price (and any consequential changes to Condition 5 (Definitions: Part 4) and Conditions 6.11 to 6.14 (Reference Price calculation)) shall only be amended, supplemented or replaced in accordance with Annex 6 (Carbon Reference Price Review).~~

~~Validity of CMRP Principles Request Notices~~

~~1.4 The Emitter acknowledges and agrees that all CMRP Principles Request Notices shall be invalid and of no effect if the CMRP Principles Request Criterion is not met.~~

~~1.5 The Waste ICC Contract Counterparty shall notify the Emitter no later than ten (10) Business Days after the CMRP Principles Request Criterion has been met (a "CMRP Principles Request Validity Notice").~~

~~Purpose of Initial Reference Price Principles Review~~

~~1.3 1.6 If the Waste ICC Contract Counterparty is required or elects to undertake a CMRP conduct an Initial CRP Principles Review pursuant to paragraph 1.1, then the purpose of such CMRP Initial CRP Principles Review shall be to assess the extent changes to which:~~

- ~~(a) the calculation of the Carbon Market Reference Price in accordance with Condition 6.9 Conditions 5 (Definitions: Part 4) and 6.11 to 6.14 (Reference Price calculation) is compliant with the CMRP Principles and, if the calculation of the and this Annex [6A] (Initial Carbon Market Reference Price in accordance with Condition 6.9 (Reference Price calculation) is not compliant with the CMRP Principles, the changes to Condition 6.9 (Reference Price calculation) Review³ which the Waste ICC Contract Counterparty considers to be necessary to ensure compliance that the Carbon Reference Price is compliant with all of the CMRP Initial CRP Principles; and~~
- ~~(b) any, which may include consideration of the following would ensure compliance with all of the CMRP Principles:~~

³ Note to Reader: Without prejudice to any future reform to the ETS that may be implemented or other form of carbon pricing that may be introduced, this paragraph 1.3 anticipates that amendments to the current payment provisions may be required to align with how the market price of CO₂ emissions arising from Eligible Waste Technologies should be calculated at the relevant time, which may include amendments to the definition of 'Applicable Emissions' to be reflective of the % of emissions that are subject to surrendering obligations under the UK ETS (or subject to any other form of carbon pricing measure).

- (a) ~~(i) an amendment or supplement to, or replacement or removal of, the CMRP any applicable CRP~~ Sources;
- (b) ~~(ii) the application of any weighting (whether by volume or number of trades) with respect to any price sources to be used in the calculation of the Carbon Market Reference Price; or~~
- (c) ~~(iii) a change to the day-ahead methodology for calculating the Carbon Market Reference Price; and~~
- (d) ~~including~~ any consequential changes to [Condition 5 \(Definitions: Part 4\)](#), [Condition 6.106.8 \(Reference Price calculation\)](#) and this Annex [\[6A\] \(Initial Carbon Market Reference Price Review\)](#) which are necessary to give effect to any of the foregoing,

(each such change, or any combination of such changes, ~~an~~ **"CMRP Initial CRP Mechanism Amendment"**).

1.4 ~~1.7~~ If the Waste ICC Contract Counterparty considers that it is not possible to effect any ~~CMRP Initial CRP~~ Mechanism Amendment in a manner which will be compliant with all of the ~~CMRP Initial CRP~~ Principles, the Waste ICC Contract Counterparty shall assess which ~~CMRP Initial CRP~~ Mechanism Amendment should be effected in order to comply with the greatest number of ~~CMRP Initial CRP~~ Principles in accordance with the ~~CMRP Initial CRP~~ Principles Prioritisation.

Notification of ~~CMRP Initial CRP~~ Principles Review

1.5 ~~1.8~~ If the Waste ICC Contract Counterparty ~~is required or~~ elects to ~~undertake a~~ ~~CMRP~~ [conduct an Initial CRP](#) Principles Review pursuant to paragraph 1.1, the Waste ICC Contract Counterparty shall give a notice to the Emitter (~~an~~ **"CMRP Initial CRP Principles Review Notice"**) ~~and, if the Waste ICC Contract Counterparty has been required to undertake a CMRP Principles Review pursuant to paragraph 1.1(a)(iii), the Waste ICC Contract Counterparty shall give the CMRP Principles Review Notice no later than five (5) Business Days after such CMRP CRP Principles Review Trigger has occurred. A~~ ~~CMRP An Initial CRP~~ Principles Review Notice shall:

- (a) specify the ~~CMRP Initial CRP~~ Principles Review Trigger which has occurred; and
- (b) specify a deadline by which the Emitter may provide ~~a~~ ~~CMRP~~ [an Initial CRP](#) Principles Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the ~~CMRP Initial CRP~~ Principles Review Notice is received by the Emitter (the **"CMRP Initial CRP Principles Review Response Deadline"**).

1.6 ~~1.9~~ The Emitter may, as soon as reasonably practicable and not later than the ~~CMRP Initial CRP~~ Principles Review Response Deadline, give a notice to the Waste ICC Contract Counterparty (the **"CMRP Initial CRP Principles Review Response Notice"**). ~~A~~ ~~CMRP An Initial CRP~~ Principles Review Response Notice:

- (a) shall include all of the Supporting Information which the Emitter wishes the Waste ICC Contract Counterparty to take account of in ~~undertaking~~ [conducting](#) the ~~CMRP Initial CRP~~ Principles Review; and
- (b) may include proposals from the Emitter with respect to the manner in which the ~~MRP Initial CRP~~ Principles Review Trigger should be addressed (including any proposals regarding ~~CMRP Initial CRP~~ Mechanism Amendments which the Emitter considers should be effected).

1.7 ~~1.10~~ The Waste ICC Contract Counterparty may disregard any ~~CMRP~~Initial CRP Principles Review Response Notice received by the Waste ICC Contract Counterparty after the ~~CMRP~~Initial CRP Principles Review Response Deadline.

~~CMRP Sources~~Carbon Reference Price during ~~CMRP~~Initial CRP Principles Review

1.8 ~~1.11~~ From the date on which the ~~CMRP~~Initial CRP Principles Review Notice is given, the ~~CMRP Sources~~Carbon Reference Price and the Average Monthly Carbon Reference Price applicable prior to the commencement of the ~~relevant CMRP~~Initial CRP Principles Review shall remain unamended pending the outcome of ~~a CMRP~~the Initial CRP Principles Review.

Notification of outcome of ~~CMRP~~Initial CRP Principles Review

1.9 ~~1.12~~ The Waste ICC Contract Counterparty shall give a notice to the Emitter of the outcome of ~~a CMRP~~the Initial CRP Principles Review (an **"~~CMRP~~Initial CRP Principles Review Outcome Notice"**) as soon as reasonably practicable following the conclusion of ~~a CMRP~~the Initial CRP Principles Review. ~~A CMRP~~An Initial CRP Principles Review Outcome Notice shall:

- (a) set out the outcome of the ~~CMRP~~Initial CRP Principles Review (including the details of any ~~CMRP~~Initial CRP Mechanism Amendments which the Waste ICC Contract Counterparty proposes to effect) (the **"~~CMRP~~Initial CRP Principles Review Proposals"**) and, if paragraph ~~1.7~~1.4 applies:
 - (i) a summary of the reasons for the Waste ICC Contract Counterparty having determined that it is not possible to effect any ~~CMRP~~Initial CRP Mechanism Amendment in a manner which complies with all of the ~~CMRP~~Initial CRP Principles; and
 - (ii) the ~~CMRP~~Initial CRP Principles which the Waste ICC Contract Counterparty considers will be complied with by virtue of the ~~CMRP~~Initial CRP Mechanism Amendments being effected; and
- (b) specify the date from which any ~~CMRP~~Initial CRP Mechanism Amendments are to take effect, such date being:
 - (i) no earlier than three (3) Months after the date on which the ~~CMRP~~Initial CRP Principles Review Outcome Notice is given (or such other earlier date as may be agreed by the Parties); and
 - (ii) in the case of ~~CMRP~~Initial CRP Mechanism Amendments relating to ~~a CMRP~~An Initial CRP Principles Review Trigger pursuant to paragraph 1.1(a)(ii), not before ~~such the date on which the~~ replacement or repeal of, or an amendment to, the UK Emissions Trading Scheme ~~occurs~~(or the enactment of a new UK emissions trading scheme) has been effected by the relevant Competent Authority and the relevant emissions trading scheme becomes applicable to CO₂ emissions arising from [Eligible Waste Technologies],

(the **"~~CMRP~~Initial CRP Principles Review Implementation Date"**).

~~CMRP~~Initial CRP Principles Review: Disputes

1.10 ~~1.13~~ Paragraph 2 (~~CMRP~~Initial CRP Reviews: Dispute Process) shall apply to any Dispute relating to this paragraph 1 (~~CMRP~~Initial CRP Principles Reviews).

1.11 ~~1.14~~ Subject to paragraph 2.9, the ~~CMRP~~Initial CRP Mechanism Amendments set out in the ~~CMRP~~Initial CRP Principles Review Outcome Notice shall take effect on the ~~CMRP~~Initial CRP Principles Review Implementation Date.

2. ~~EMRP~~Initial CRP REVIEWS: DISPUTE PROCESS

Procedure for raising a Dispute

- 2.1 The Emitter may, no later than twenty (20) Business Days after receipt of ~~a~~an ~~EMRP~~Initial CRP Principles Review Outcome Notice, give a notice to the Waste ICC Contract Counterparty that it wishes to raise a Dispute in relation to the outcome of such ~~EMRP~~Initial CRP Principles Review (~~an~~ **"~~EMRP~~Initial CRP Dispute Notice"** and any such Emitter, ~~an~~ **"~~EMRP~~Initial CRP Dispute Emitter"**). Each ~~EMRP~~Initial CRP Dispute Notice shall comply with the requirements of a Dispute Notice as specified in Conditions 41.3(A) to 41.3(H) (*Outline of Dispute Resolution Procedure*) (inclusive).

Validity of ~~EMRP~~Initial CRP Dispute Notices

- 2.2 The Emitter acknowledges and agrees that all ~~EMRP~~Initial CRP Dispute Notices shall be invalid and of no effect if the ~~EMRP~~Initial CRP Dispute Threshold Criterion in respect of the relevant ~~EMRP~~Initial CRP Dispute is not met.
- 2.3 The Waste ICC Contract Counterparty shall notify the Emitter no later than twenty (20) Business Days after the ~~EMRP~~Initial CRP Dispute Threshold Criterion has been met (irrespective of whether or not the Emitter is ~~a~~an ~~EMRP~~Initial CRP Dispute Emitter) (~~an~~ **"~~EMRP~~Initial CRP Dispute Validity Notice"**). ~~A~~A ~~EMRP~~Initial CRP Dispute Validity Notice shall:
- (a) include a proposal as to the identity, and terms of reference, of an Expert to determine the ~~EMRP~~Initial CRP Dispute (the **"Proposed ~~EMRP~~Initial CRP Expert"**) and details of the relevant expertise that the Waste ICC Contract Counterparty considers qualifies the Proposed ~~EMRP~~Initial CRP Expert to determine such ~~EMRP~~Initial CRP Dispute (being a person fulfilling the requirements of Condition 43.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents the Proposed ~~EMRP~~Initial CRP Expert from determining the ~~EMRP~~Initial CRP Dispute);
 - (b) comply with the requirements of an Expert Determination Notice as specified in Condition 43.1 (*Expert Determination Procedure*); and
 - (c) comply with the requirements of a Consolidation Request as specified in Condition 45.2 (*Consolidation of Connected Disputes*).

Permitted bases of Dispute: ~~EMRP~~Initial CRP Principles Review

- 2.4 For the purposes of paragraph 2.1, the Emitter acknowledges and agrees that it may only raise a Dispute with respect to the outcome of ~~any~~the ~~EMRP~~Initial CRP Principles Review if:
- (a) the Waste ICC Contract Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Emitter requested the Waste ICC Contract Counterparty to take account of in undertaking the ~~EMRP~~Initial CRP Principles Review (as set out in its ~~EMRP~~Initial CRP Principles Review Response Notice);
 - (b) the Waste ICC Contract Counterparty has proposed to effect ~~a~~an ~~EMRP~~Initial CRP Mechanism Amendment which was stated in the ~~EMRP~~Initial CRP Principles Review Outcome Notice to be compliant with all of the ~~EMRP~~Initial CRP Principles and the Emitter considers that such ~~EMRP~~Initial CRP Mechanism Amendment contravenes one (1) or more of the ~~EMRP~~Initial CRP Principles; or

- (c) the Waste ICC Contract Counterparty has proposed to effect ~~a~~ [EMRPan Initial CRP Mechanism Amendment](#) on the basis contemplated by paragraph ~~1-7~~[1.4](#) and the Emitter considers that either:
- (i) one (1) or more of the proposed [EMRPInitial CRP](#) Mechanism Amendments contravenes one (1) of the [EMRPInitial CRP](#) Principles which the Waste ICC Contract Counterparty considers would be complied with by virtue of such [EMRPInitial CRP](#) Mechanism Amendment being effected; or
 - (ii) an alternative [EMRPInitial CRP](#) Mechanism Amendment complies with a greater number of [EMRPInitial CRP](#) Principles (in accordance with the [EMRPInitial CRP](#) Principles Prioritisation) than the [EMRPInitial CRP](#) Mechanism Amendments contained within the [EMRPInitial CRP](#) Principles Review Proposals,

and any [EMRPInitial CRP](#) Dispute Notice which is based upon grounds other than those specified in this paragraph 2.4 shall be invalid and of no effect.

Resolution of valid [EMRPInitial CRP](#) Disputes

2.5 If:

- (a) the [EMRPInitial CRP](#) Dispute Threshold Criterion is met in respect of any [EMRPInitial CRP](#) Dispute; and
- (b) the relevant [EMRPInitial CRP](#) Dispute complies with paragraph 2.4,

then such [EMRPInitial CRP](#) Dispute shall be finally resolved in accordance with paragraph 2.6.

2.6 If paragraph 2.5 applies to any [EMRPInitial CRP](#) Dispute:

- (a) Condition 42 (*Resolution by Senior Representatives*) shall not apply to such [EMRPInitial CRP](#) Dispute;
- (b) no agreement between the Emitter and the Waste ICC Contract Counterparty to settle the relevant [EMRPInitial CRP](#) Dispute shall be valid and binding unless such resolution is agreed with all Waste ICC Emitters;
- (c) the Arbitration Procedure shall not apply to such [EMRPInitial CRP](#) Dispute;
- (d) the Emitter agrees not to raise any objection to the consolidation of such [EMRPInitial CRP](#) Dispute in accordance with Condition 45 (*Consolidation of Connected Disputes*);
- (e) the Expert Determination Procedure shall apply to such [EMRPInitial CRP](#) Dispute on the basis that:
 - (i) (if the [EMRPInitial CRP](#) Expert Appointment Threshold is met) the Waste ICC Contract Counterparty shall be deemed to have satisfied the requirements of, and to have given an Expert Determination Notice pursuant to, Condition 43.1 (*Expert Determination Procedure*) and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed [EMRPInitial CRP](#) Expert;
 - (ii) (if the [EMRPInitial CRP](#) Expert Appointment Threshold is not met):
 - (A) the Waste ICC Contract Counterparty may, within ten (10) Business Days, either:

- (1) make an alternative proposal as to the identity of an Expert to determine the CMRP Initial CRP Dispute, in which case paragraphs 2.3(a) and 2.6(e)(i), and this paragraph 2.6(e)(ii)(A)(1), shall apply to such proposed Expert as if that Expert were a Proposed CMRP Initial CRP Expert; or
 - (2) request the LCIA to nominate an Expert for the purposes of determining the CMRP Initial CRP Dispute in accordance with Condition 43.4 (*Expert Determination Procedure*); and
- (B) the terms of reference of the Proposed CMRP Initial CRP Expert (or any Expert nominated by the LCIA pursuant to paragraph 2.6(E)(ii)(Aa)(2)) shall be determined by the Waste ICC Contract Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any Waste ICC Emitter), and shall be binding on the Parties, provided that such terms of reference are sufficiently broad to enable the Expert to determine the CMRP Initial CRP Dispute;
- (iii) if the Waste ICC Contract Counterparty and the Waste ICC Emitters fail to agree on the terms of appointment of the Expert within ten (10) Business Days of the identity of the Expert having been agreed (or deemed to have been agreed) pursuant to paragraph 2.6(e)(i) or having been nominated by the LCIA pursuant to paragraph 2.6(e)(ii)(Aa)(2), such terms shall be determined by the Waste ICC Contract Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any Waste ICC Emitter), and shall be binding on the Parties, provided that the terms of appointment comply with the requirements of paragraph 2.6(e)(iii) and Conditions 43.5(B) and 43.5(C) (*Expert Determination Procedure*);
 - (iv) Condition 43.5 (*Expert Determination Procedure*) shall be deemed to have been modified such that the Parties shall use reasonable endeavours to procure that the terms of appointment of the Expert prohibit the Expert from disclosing any Supporting Information disclosed or delivered by:
 - (A) the Emitter to the Expert in consequence of, or in respect of, their appointment as the Expert to any other Waste ICC Emitter or the Waste ICC Contract Counterparty; or
 - (B) the Waste ICC Contract Counterparty in consequence of, or in respect of, their appointment as the Expert to any Waste ICC Emitter (including the Emitter);
 - (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the CMRP Initial CRP Dispute, to afford the Emitter an opportunity to make submissions in respect of the CMRP Initial CRP Dispute irrespective of whether or not the Emitter is a CMRP Initial CRP Dispute Emitter;
 - (vi) if the circumstances described in Condition 43.8 (*Expert Determination Procedure*) arise, paragraphs 2.3(a), 2.6(e)(i) and 2.6(e)(ii) shall apply, with the necessary modifications, to the appointment of a replacement Expert;
 - (vii) for the purposes of Condition 43.12 (*Expert Determination Procedure*), the Expert shall be: (i) required to include in their determination provision for the allocation of their fees and the costs and expenses of the Waste ICC Contract Counterparty among each of the CMRP Initial CRP Dispute Emitters

in such manner as the Expert, in their absolute discretion, determines is fair and equitable if the Expert makes a determination against the [EMRPInitial CRP](#) Dispute Emitters; and (ii) permitted to allocate their fees and the costs and expenses of the Waste ICC Contract Counterparty in such manner as the Expert determines is fair and equitable if the Expert makes a determination in favour of the [EMRPInitial CRP](#) Dispute Emitters; and

- (viii) the Expert shall, notwithstanding any other provision of the Expert Determination Procedure, be instructed to reach a determination which is to be applied to all CCUS Programme Waste ICC Contracts;
- (f) the Emitter acknowledges and agrees that the determination of the Expert in any [EMRPInitial CRP](#) Dispute shall be applied to all CCUS Programme Waste ICC Contracts, irrespective of whether the Emitter was a party to the [EMRPInitial CRP](#) Dispute giving rise to that determination;
- (g) if the [EMRPInitial CRP](#) Dispute falls within paragraph 2.4(a), 2.4(b) or 2.4(c)(i), the Expert shall be instructed to determine whether the [EMRPInitial CRP](#) Mechanism Amendments contravene the [EMRPInitial CRP](#) Principles (or such of the [EMRPInitial CRP](#) Principles as were specified by the Waste ICC Contract Counterparty as being complied with by virtue of the proposed implementation of the [EMRPInitial CRP](#) Mechanism Amendments) and, if the Expert finds in favour of the Emitter, to include within their determination: (i) a [EMRPan Initial CRP](#) Mechanism Amendment which will comply with all of the [EMRPInitial CRP](#) Principles; or (ii) (if the Expert considers that it is not possible to effect any [EMRPInitial CRP](#) Mechanism Amendment in a manner which will be compliant with all of the [EMRPInitial CRP](#) Principles) the [EMRPInitial CRP](#) Mechanism Amendment which will comply with the greatest number of [EMRPInitial CRP](#) Principles in accordance with the [EMRPInitial CRP](#) Principles Prioritisation;
- (h) if the [EMRPInitial CRP](#) Dispute falls within paragraph 2.4(c)(ii), the Expert shall be instructed to determine whether the [EMRPInitial CRP](#) Mechanism Amendments proposed by the Emitter would result in compliance with a greater number of [EMRPInitial CRP](#) Principles (in accordance with the [EMRPInitial CRP](#) Principles Prioritisation) than the [EMRPInitial CRP](#) Mechanism Amendments contained within the [EMRPInitial CRP](#) Principles Review Proposals and, if the Expert finds in favour of the Emitter, to stipulate the [EMRPInitial CRP](#) Mechanism Amendments which will comply with the greatest number of [EMRPInitial CRP](#) Principles in accordance with the [EMRPInitial CRP](#) Principles Prioritisation; and
- (i) notwithstanding paragraphs (f) and (g), the Expert shall not be permitted to include within their determination any alternative [EMRPInitial CRP](#) Mechanism Amendments to those contained within the [EMRPInitial CRP](#) Principles Review Proposals unless such proposals contravene one (1) or more principles and the Expert has determined that there is a [EMRPan Initial CRP](#) Mechanism Amendment which will comply with a greater number of [EMRPInitial CRP](#) Principles (in accordance with the [EMRPInitial CRP](#) Principles Prioritisation) than the [EMRPInitial CRP](#) Principles Review Proposals and, as such, the Expert's role shall not extend to an assessment of whether the [EMRPInitial CRP](#) Principles Review Proposals represent an optimal solution in the context of the parameters contemplated by the [EMRPInitial CRP](#) Principles.

[EMRPInitial CRP](#) Expert Appointment Threshold

- 2.7 For the purposes of paragraphs 2.6(e)(i) and 2.6(e)(ii), the "**[EMRPInitial CRP](#) Expert Appointment Threshold**" is that [thirty] per cent. ([30]%) or more of Waste ICC Emitters, by mass quantity or number, have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed [EMRPInitial CRP](#) Expert. For the

purposes of determining whether the [EMRP Initial CRP](#) Expert Appointment Threshold is met, the Waste ICC Contract Counterparty shall calculate:

- (a) the number of Waste ICC Emitters which have consented or have been deemed to have consented to the Proposed [EMRP Initial CRP](#) Expert as a percentage of the total number of Waste ICC Emitters; and
- (b) the mass quantity attributable to CCUS Programme Waste ICC Contracts to which Waste ICC Emitters which have consented or have been deemed to have consented to the Proposed [EMRP Initial CRP](#) Expert are party as a percentage of the total mass quantity attributable to CCUS Programme Waste ICC Contracts (and, for this purpose, "**mass quantity**" shall be calculated by the Waste ICC Contract Counterparty using the Metered CO₂ Output to T&S Estimate in each relevant CCUS Programme Waste ICC Contract).

Provisions applying pending resolution of ~~a-EMRP~~[an Initial CRP](#) Dispute

- 2.8 If there is a valid [EMRP Initial CRP](#) Dispute requiring resolution in accordance with the provisions of paragraphs 2.5 to 2.7 then, pending resolution of such [EMRP Initial CRP](#) Dispute, paragraph 2.9 shall apply.
- 2.9 If there is a valid [EMRP Initial CRP](#) Dispute relating to ~~a-EMRP~~[the Initial CRP](#) Principles Review:
 - (a) the relevant [EMRP Initial CRP](#) Principles Review Outcome Notice shall be deemed to be valid and effective and the [EMRP Initial CRP](#) Principles Review Proposals shall apply with effect from the [EMRP Initial CRP](#) Principles Review Implementation Date; and
 - (b) if the Expert finds in favour of the Emitter, the [EMRP Initial CRP](#) Mechanism Amendments provided for in the determination of such Expert shall be implemented on a date falling no earlier than three (3) Months after the date on which the Expert has made their determination.

[EMRP Initial CRP](#) Dispute Threshold Criterion

- 2.10 For the purposes of this paragraph 2 ([EMRP Initial CRP](#) Reviews: Dispute Process), the "**[EMRP Initial CRP](#) Dispute Threshold Criterion**" is that [thirty] per cent. ([30]%) or more of Waste ICC Emitters, by mass quantity or number, have given the Waste ICC Contract Counterparty ~~a-EMRP~~[an Initial CRP](#) Dispute Notice in respect of any given [EMRP Initial CRP](#) Dispute prior to the date specified in paragraph 2.1. For the purposes of determining whether the [EMRP Initial CRP](#) Dispute Threshold Criterion is met, the Waste ICC Contract Counterparty shall calculate:
 - (a) the number of Waste ICC Emitters which have given ~~a-EMRP~~[an Initial CRP](#) Dispute Notice as a percentage of the total number of Waste ICC Emitters; and
 - (b) the mass quantity attributable to CCUS Programme Waste ICC Contracts to which Waste ICC Emitters which have given ~~a-EMRP~~[an Initial CRP](#) Dispute Notice are party as a percentage of the total mass quantity attributable to CCUS Programme Waste ICC Contracts (and, for this purpose, "**mass quantity**" shall be calculated by the Waste ICC Contract Counterparty using the Metered CO₂ Output to T&S Estimate in each relevant CCUS Programme Waste ICC Contract).

Part B
~~EMRP~~Initial CRP Principles

1. **~~EMRP~~INITIAL CRP PRINCIPLES**

The following are the "~~EMRP~~Initial CRP Principles":

- (a) Save in respect of ~~a~~ ~~EMRP~~an Initial CRP Principles Review Trigger ~~pursuant to paragraph 1.1(a)(ii) of Part A where the replacement or repeal of the UK Emissions Trading Scheme that~~ has led to the introduction of separate emissions trading, carbon pricing (in whatever form such price applies) or similar schemes within the separate constituent countries of the United Kingdom, the calculation of the Carbon-~~Market~~ Reference Price shall:
- (i) be the same for all CCUS Programme Waste ICC Contracts; and
 - (ii) reflect the ~~market~~ price ~~for the sale of UK Allowances that applies to CO₂ emissions arising from [Eligible Waste Technologies] (in whatever form such price applies).~~
- (b) The Carbon-~~Market~~ Reference Price shall be calculated using prices in respect of contracts as far in advance of the sale of UK Allowances pursuant to such contracts as possible, provided that, for this purpose, the Carbon ~~Market~~-Reference Price calculation shall not include prices that are quoted further in advance than UKA Futures December Contracts.
- (c) The Carbon-~~Market~~ Reference Price shall be calculated so as to reflect a reasonable volume of trades from a reasonable number and diverse range of market participants.
- (d) The Carbon-~~Market~~ Reference Price shall be calculated so as not to unduly dampen, dilute, disrupt or otherwise distort components of the UK Emissions Trading Scheme (or any other emissions trading scheme in respect of CO₂ emissions arising from [Eligible Waste Technologies]) that would, absent the existence of CCUS Programme Waste ICC Contracts, contribute to the operational behaviour of participants in, and the pricing of ~~UK Allowances~~allowances under, such scheme.
- (e) The Carbon ~~Market~~-Reference Price shall be calculated using price sources which are available to the Waste ICC Contract Counterparty on commercially reasonable terms.
- (f) The Carbon ~~Market~~-Reference Price calculation is to utilise price sources which satisfy the ~~EMRP~~Initial CRP Quality Criteria.
- (g) ~~The~~Subject to paragraph (h) below, the Carbon ~~Market~~-Reference Price calculation is to utilise price sources which satisfy the ~~EMRP~~Initial CRP Inclusion Criteria.
- (h) If the Waste ICC Contract Counterparty considers (acting reasonably) that the CRP Sources cannot satisfy the Initial CRP Inclusion Criteria by reason of the nature of the applicable Initial CRP Principles Review Trigger (including where the relevant price source was not available during the Initial CRP Review Calculation Period or the CRP Sources do not reflect the price that applies to CO₂ emissions arising from [Eligible Waste Technologies]):
- (i) the Initial CRP Inclusion Criteria shall be amended (including to apply on a forward-looking basis) so that the calculation of the Carbon Reference Price

utilises price sources that are reasonably likely to satisfy the Initial CRP Inclusion Criteria (as amended);

(ii) the CRP Sources shall be amended so that they reflect the price that applies to CO₂ emissions arising from [Eligible Waste Technologies]; and/or

(iii) the Waste ICC Contract Counterparty may propose any other amendments to this Annex [6A] (Initial Carbon Reference Price Review) so that the CRP Sources satisfy the Initial CRP Inclusion Criteria.

2. **INITIAL CRP PRINCIPLES PRIORITISATION-~~OF CMRP PRINCIPLES~~**

If:

(a) the application of any combination of the ~~CMRP~~Initial CRP Principles gives rise to a conflict; or

(b) it is not possible for a methodology for calculating the Carbon ~~Market~~-Reference Price to satisfy all of the ~~CMRP~~Initial CRP Principles,

the ~~CMRP~~Initial CRP Principle first appearing in the list in paragraph 1 (~~CMRP~~Initial CRP Principles) shall be afforded priority.

Rider 3: R1 Energy Efficiency Threshold

Note: This document is intended to be read alongside the full form Waste ICC Contract once published and, until such time, alongside the other provisions of the 'generic' ICC Contract.

The draft provisions contained herein do not constitute definitive drafting of the Waste ICC Contract's terms. A number of the provisions and terms which require particular consideration and development have been square bracketed (with footnotes) and other consequential amendments to the 'generic' ICC Contract will be required to reflect the position set out in this rider. BEIS reserves the right to review and amend these square bracketed provisions, and all other provisions to be set out in the Waste ICC Contract.

This draft rider does not indicate any willingness or agreement on the part of BEIS to enter into, or arrange entry into, the Waste ICC Contract. This rider does not constitute an offer and is not capable of acceptance.

R1 Energy Efficiency Threshold
(Waste ICC Rider)

Definitions

"R1 Energy Efficiency Threshold"¹ means a confirmation from the relevant Competent Authority that the Industrial Installation has satisfied the applicable energy efficiency rating using the formulae and methodology set out in Annex 2 of the Waste Framework Directive, provided that:

- (a) any amendment or replacement (whether as a result of a Change in Law or otherwise); and/or
- (b) any change in the relevant Competent Authority's interpretation or application,

of such energy efficiency rating, formulae or methodology after the Agreement Date shall be of no effect for the purposes of determining the Emitter's satisfaction of the R1 Energy Efficiency Threshold under the Waste ICC Contract.

"Waste Framework Directive" means the '*Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives*' (in effect as at the Agreement Date).

¹ Note to Reader: As set out in more detail in the document "*Cluster Sequencing for Carbon Capture Usage and Storage Deployment: Phase-2 – Background and Guidance for Submissions*", the R1 Energy Efficiency Threshold requirements will only apply to EfW facilities and gasification to energy (electricity and/or heat) ATT/ACT facilities. On that basis, the Front-End Agreement will clarify whether or not these provisions apply to a specific Emitter depending on the type of technology used by that Emitter.

**Part 2—
Term**

Extension

2.2 At any time during the relevant Extension Delivery Window, the Emitter may (but shall not be obliged to) deliver to the Waste ICC Contract Counterparty a Directors' Certificate (the "**Extension Request Certificate**") certifying that :

(a) the Installation remains connected to a T&S Network in accordance with the T&S Operator's compliance requirements [as set out in the T&S Connection Agreement]⁴² (the "**T&S Extension Condition**") ; and

(b) the Emitter continues to satisfy the R1 Energy Efficiency Threshold (as confirmed by the relevant Competent Authority) (the "**R1 Energy Efficiency Threshold Extension Condition**").

together with relevant Supporting Information in a form and content reasonably satisfactory to the Waste ICC Contract Counterparty.

2.3 The Waste ICC Contract Counterparty shall, no earlier than the relevant Extension Delivery Date and no later than the date which falls [thirty (30)]⁴³ Business Days after the relevant Extension Delivery Date, give a notice to the Emitter (an "**Extension Response Notice**"). An Extension Response Notice:

(a) shall specify whether:

(i) the Average Annual Carbon ~~Market~~ Reference Price has exceeded the Average Annual Aggregate Opex and T&S Value [plus any revenue from the sale of negative emissions credits]⁴⁴ in the Contract Payment Term Year immediately preceding the relevant Extension Delivery Date;

(ii) the Average Achieved CO₂ Capture Rate for the five (5) immediately preceding full Contract Payment Term Years is equal to or greater than the Extension Required CO₂ Capture Rate; and

(iii) the Metered CO₂ Output to T&S for the five (5) immediately preceding full Contract Payment Term Years is equal to or greater than ninety per cent. (90%) of the Metered CO₂ Output to T&S Estimate;

(each an "**Extension Condition**" and together with the T&S Extension Condition and the R1 Energy Efficiency Threshold Extension Condition, the "**Extension Conditions**"); and

(b) shall specify whether the Waste ICC Contract Counterparty considers that:

(i) the Extension Conditions have been fulfilled;

(ii) the Extension Conditions have not been fulfilled; or

(iii) it has not been provided with sufficient Supporting Information to determine whether the Extension Conditions have been fulfilled and, if so, details of the additional Supporting Information which the Waste ICC Contract Counterparty requires to determine whether the Extension Conditions have been fulfilled (the "**Requested Extension Supporting Information**").

⁴² Note to Reader: This Condition is subject to further review as the T&S business model develops.

⁴³ Note to Reader: This period may be extended depending on the way in which negative emissions credit revenue is factored into the calculation of the Average Annual Aggregate Opex and T&S Value.

⁴⁴ Note to Reader: BEIS is considering how negative emissions credit revenue will be factored into these calculations.

- 2.4 If the Waste ICC Contract Counterparty states in an Extension Response Notice that:
- (a) the Extension Conditions have been fulfilled, then the Extension Conditions will be deemed to have been fulfilled for the purposes of the Waste ICC Contract;
 - (b) the Extension Conditions have not been fulfilled, then the Extension Conditions will be deemed not to have been fulfilled for the purposes of the Waste ICC Contract unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or
 - (c) the Emitter has not provided the Waste ICC Contract Counterparty with sufficient Supporting Information to determine whether the Extension Conditions have been fulfilled:
 - (i) the Emitter shall provide the Requested Extension Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days following receipt of an Extension Response Notice, or such longer period as is specified by the Waste ICC Contract Counterparty in writing; and
 - (ii) upon receipt of the Requested Extension Supporting Information, the Waste ICC Contract Counterparty shall as soon as reasonably practicable, and in any event no later than twenty (20) Business Days after receipt of such Requested Extension Supporting Information, give a further Extension Response Notice to the Emitter (a "**Further Extension Response Notice**"). A Further Extension Response Notice shall specify whether the Waste ICC Contract Counterparty considers that the Extension Conditions have or have not been fulfilled.
- 2.5 If the Waste ICC Contract Counterparty notifies the Emitter under Condition 2.3 or Condition 2.4(C)(ii) (or it is determined in accordance with the Dispute Resolution Procedure) that the Extension Conditions have been fulfilled, the Term shall be extended for an additional one (1) Contract Payment Term Year provided that the Term shall not be extended by more than five (5) Contract Payment Term Years in aggregate.
- 2.6 Nothing in Conditions 2.2 to 2.5 (*Extension*) shall require the Waste ICC Contract Counterparty to specify in any Extension Response Notice or Further Extension Response Notice that the Extension Conditions have been fulfilled, unless and until the Waste ICC Contract Counterparty is satisfied of the same.

Consequences of expiry

- 2.7 Subject to Condition 2.8, if the Emitter fails or is unable to deliver a valid Extension Request Certificate to the Waste ICC Contract Counterparty in accordance with Condition 2.2 and/or the Extension Conditions have been deemed not to have been fulfilled pursuant to Condition 2.3(B) or 2.4(C)(ii): (i) the Waste ICC Contract shall expire automatically on the Expiry Date; and (ii) upon expiry of the Waste ICC Contract:
- (a) no termination payment shall be payable by either Party to the other Party;
 - (b) all rights and obligations of the Parties under the Waste ICC Contract shall end; and
 - (c) neither Party shall be entitled to make any claim against the other Party pursuant to the Waste ICC Contract.

2.8 Expiry of the Waste ICC Contract:

- (a) shall not affect, and shall be without prejudice to, accrued rights and liabilities and rights and liabilities arising as a result of:
 - (i) any antecedent breach of any provision of the Waste ICC Contract; and
 - (ii) any breach of any provisions of the Waste ICC Contract which are expressed to survive expiry pursuant to Condition 38 (*Survival*); and
- (b) shall be subject to Condition 38 (*Survival*).

18. **EMITTER UNDERTAKINGS: GENERAL**

18.1 The Emitter undertakes to the Waste ICC Contract Counterparty as follows:

- (a) *Compliance with Laws and Directives*: The Emitter shall at all times comply with all Laws and Directives to which it may be subject if failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (b) *Required Authorisations*: The Emitter shall: (i) promptly obtain all Required Authorisations; (ii) at all times perform, comply with and satisfy all conditions of, and all obligations and liabilities under, all Required Authorisations; and (iii) do all that is necessary to maintain in full force and effect all Required Authorisations, to the extent, in each case, that failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (c) *Industry Documents*: The Emitter shall at all times comply with all terms of those Industry Documents to which it is a party or by which it is bound if failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (d) *No insolvency action*: The Emitter shall not petition, apply for, institute, support or vote for the administration, winding-up or liquidation of the Waste ICC Contract Counterparty or seek any other relief as against the Waste ICC Contract Counterparty under any administration, insolvency or bankruptcy law or similar law affecting creditors' rights generally.
- (e) *Ownership*: The Emitter shall at all times be the legal and beneficial owner of the Installation, subject only to any third party rights arising by reason of any security interest created or subsisting over or in respect of the Installation.
- (f) *Compliance of technology*: The Emitter shall at all times ensure that the industrial technology deployed by the Installation is the Industrial Installation Technology and the capture technology deployed by the Installation is the Installation Capture Technology, provided that (without prejudice to any other provision of the Waste ICC Contract) this provision shall not prevent the operation of the Industrial Installation in unabated mode.
- (g) *Notification*: The Emitter shall:
 - (i) provide the Waste ICC Contract Counterparty as soon as reasonably practicable with such Information regarding compliance or non-compliance by the Emitter with the undertakings in this Condition 18.1 as the Waste ICC Contract Counterparty may reasonably request; and
 - (ii) give notice to the Waste ICC Contract Counterparty as soon as reasonably practicable upon becoming aware of the occurrence of any Default (together with details of the steps, if any, being taken to remedy it).
- (h) [R1 Energy Efficiency Threshold: The Emitter shall:](#)
 - (i) [as at and from the Start Date:](#)
 - (A) [at all times ensure that it continues to satisfy the R1 Energy Efficiency Threshold; and](#)

- (B) keep the Waste ICC Contract Counterparty informed of any requirements from the relevant Competent Authority for the Emitter to continue to satisfy such R1 Energy Efficiency Threshold;
- (ii) provide evidence that the Emitter is satisfying the R1 Energy Efficiency Threshold certified as being correct and up to date by a director of the Emitter, with such evidence to be provided;
 - (A) prior to the Start Date, in accordance with paragraph 5 of Part B of Annex 1 (Conditions Precedent); and
 - (B) at annual intervals thereafter, within five (5) Business Days of receiving confirmation from the relevant Competent Authority that the Emitter continues to satisfy the R1 Energy Efficiency Threshold; and
- (iii) if the Emitter is notified by the relevant Competent Authority that it no longer satisfies the R1 Energy Efficiency Threshold:
 - (A) notify the Waste ICC Contract Counterparty as soon as reasonably practicable and in any event no later than two (2) Business Days after being notified by the relevant Competent Authority; and
 - (B) provide to the Waste ICC Contract Counterparty a summary of the steps which the Emitter proposes to take in order to satisfy the R1 Energy Efficiency Threshold and keep the Waste ICC Contract Counterparty reasonably informed of such steps taken until the R1 Energy Efficiency Threshold is satisfied again.

Failure to satisfy the R1 Energy Efficiency Threshold

18.3 On and from the Start Date, if the Emitter is notified by the relevant Competent Authority that the Emitter no longer satisfies the R1 Energy Efficiency Threshold, the Waste ICC Contract Counterparty:

- (a) may cease paying any amount(s) which would otherwise be payable by the Waste ICC Contract Counterparty to the Emitter which are attributable to the date from which the Emitter is notified by the relevant Competent Authority that it no longer satisfies the R1 Energy Efficiency Threshold (as notified to the Waste ICC Contract Counterparty in accordance with Condition 18.1(h)(iii)(A));
- (b) shall be entitled to recover from the Emitter any amounts paid by the Waste ICC Contract Counterparty to the Emitter which are attributable to the date from which the Emitter is notified by the relevant Competent Authority that it no longer satisfies the R1 Energy Efficiency Threshold (as notified to the Waste ICC Contract Counterparty in accordance with Condition 18.1(h)(iii)(A)); and
- (c) shall notify the Emitter of any amount not paid as soon as reasonably practicable.

18.4 If the Emitter subsequently provides the Waste ICC Contract Counterparty with confirmation from the relevant Competent Authority that the Emitter is satisfying the R1 Energy Efficiency Threshold, the Waste ICC Contract Counterparty shall then resume any payments that have ceased under Condition 18.3 from the date that the Waste ICC Contract Counterparty receives such confirmation. The Waste ICC Contract Counterparty shall not be liable to subsequently pay any amounts to the Emitter which would have been payable but for the operation of Condition 18.3.

18.5 Any confirmation provided by the Emitter to the Waste ICC Contract Counterparty pursuant to Condition 18.4 shall be accompanied by a Directors' Certificate in respect of

| [such confirmation.](#)

CONDITIONS PRECEDENT

Part B Operational Conditions Precedent⁵

1. WASTE ICC CONTRACT SETTLEMENT SERVICES PROVIDER

Delivery to the Waste ICC Contract Counterparty of written confirmation from the Waste ICC Contract Settlement Services Provider that:

- (a) it has received the Waste ICC Contract Settlement Required Information which is required from the Emitter prior to the Start Date; and
- (b) the Emitter has in place the systems and processes which are necessary for the continued provision of the Waste ICC Contract Settlement Required Information.

2. CO₂ CAPTURE

Delivery to the Waste ICC Contract Counterparty of the following:

- (a) evidence, in form and content satisfactory to the Waste ICC Contract Counterparty (acting reasonably), that the Emitter is complying in full with the CO₂ Metering Obligations at Condition 19.1 (*Undertakings: CO₂ Metering Obligation*);
- (b) evidence, in form and content satisfactory to the Waste ICC Contract Counterparty (acting reasonably), of the CO₂ capture rate that has been Commissioned to demonstrate that the OCP Required CO₂ Capture Rate has been Commissioned;
- (c) evidence, in form and content satisfactory to the Waste ICC Contract Counterparty (acting reasonably), of the CO₂ T&S Flow Rate that has been Commissioned to demonstrate that the CO₂ T&S Flow Rate Estimate has been Commissioned;
- (d) if applicable, evidence, in form and content satisfactory to the Waste ICC Contract Counterparty (acting reasonably), of the CO₂ Usage Flow Rate that has been Commissioned to demonstrate that the CO₂ Usage Flow Rate Estimate has been Commissioned;
- (e) a date and time stamped copy of the schematic diagram, certified as being correct and up to date by a director or company secretary of the Emitter and showing the locations of the CO₂ Metering Equipment (including CO₂ T&S Network Delivery Points and, if applicable, CO₂ Usage Delivery Points) associated with all assets comprised within the Installation (including details of the type of metering and CO₂ Metering Equipment installed in compliance with the CO₂ Metering Obligation); and]
- (f) evidence, in form and content satisfactory to the Waste ICC Contract Counterparty, that the Installation has connected to the T&S Network in accordance with the T&S Operator's compliance requirements ("**T&S Connection Confirmation CP**").⁴⁶⁷

3. [CAPTURE PLANT

Delivery to the Waste ICC Contract Counterparty of the following:

- (a) evidence, in form and content satisfactory to the Waste ICC Contract Counterparty (acting reasonably), that the Emitter is complying in full with the Capture Plant

⁵ [Note to Reader: BEIS is still considering whether 'MRV' specific Operational Conditions Precedent may be required.](#)

⁴⁶ Note to Reader: BEIS is still considering the requirements for non-pipeline transportation solutions.

⁴⁶⁷ ~~Note to Reader: This OCP is subject to further review as the T&S business model develops.~~

⁷ [Note to Reader: This OCP is subject to further review as the T&S business model develops.](#)

Metering Obligations at Condition 19.2 (*Undertakings: Capture Plant Metering Obligation*); and

- (b) a date and time stamped copy of the schematic diagram, certified as being correct and up to date by a director or company secretary of the Emitter and showing the locations of the Capture Plant Metering Equipment (including Capture Plant Delivery Points) associated with all assets comprised within the Installation (including details of the type of metering and Capture Plant Metering Equipment installed in compliance with the Capture Plant Metering Obligation).]⁶⁸

4. **SUBSIDY CONTROL DECLARATION OPERATIONAL CP**

Delivery to the Waste ICC Contract Counterparty of a written confirmation from the Emitter, in form and content satisfactory to the Waste ICC Contract Counterparty (acting reasonably), that either:

- (a) no Subsidy, State aid and/or Union Funding has been received by the Emitter or by any other person in relation to the costs of the Project (excluding the subsidy arising under the Waste ICC Contract [and/or any other Approved Scheme of Funding]²⁹); or
- (b) Subsidy, State aid and/or Union Funding has been received by the Emitter or by any other person in relation to the costs of the Project (excluding the subsidy arising under the Waste ICC Contract [and/or any other Approved Scheme of Funding]³⁰), and that such Subsidy, State aid and/or Union Funding (as applicable) (adjusted for interest in accordance with Condition 25.11 (*Subsidy Interest*)) has been repaid to the granter of the subsidy, aid or funding in full.

5. **R1 ENERGY EFFICIENCY THRESHOLD**

Delivery to the Waste ICC Contract Counterparty of evidence, in form and content satisfactory to the Waste ICC Contract Counterparty (acting reasonably) and certified as being correct and up to date by a director of the Emitter:

- (a) that the Emitter satisfies the R1 Energy Efficiency Threshold (as confirmed by the relevant Competent Authority); and
- (b) provided that the confirmation received by the Competent Authority under (a) is based on design specifications only, that the Industrial Installation has been commissioned in accordance with such design specifications.

⁶⁸ Note to Reader: BEIS is considering whether pre-capture plant CO₂ will be metered.

²⁹ Note to Reader: This definition is expected to be relevant if any funding has been provided to the Emitter and/or its Affiliates under the Industrial Energy Transformation Fund and Industrial Decarbonisation Challenge for development/pre-development expenditure incurred in respect of the Project prior to the Agreement Date, which BEIS has agreed does not have to be repaid. Such funding will be notified to, and verified by, BEIS on a project-by-project basis and set out in the Waste ICC Agreement. BEIS is considering whether to refer to any other scheme(s) of funding.

³⁰ Note to Reader: Please refer to [the above](#) footnote ~~165~~.