

Annex 9

Greenhouse Gas Removal Credits

1. DEFINITIONS: ANNEX 9

1.1 In this Annex 9 (*Greenhouse Gas Removal Credits*):

**"Acceptable Compliance Scheme"** has the meaning given to that term in paragraph 1.3(a) (*Purpose of the Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Acceptable Voluntary Scheme"** means any Voluntary Scheme identified by the ICC Contract Counterparty in a VSR Outcome Notice and any Additional Acceptable Voluntary Scheme, but excluding any Removed Voluntary Scheme;

**"Acceptable Voluntary Schemes Amendment Notice"** has the meaning given to that term in paragraph 1.8 (*Notification of update to the list of Acceptable Voluntary Schemes*) of Part B (*Voluntary Scheme Review*);

**"Accumulated Compliance GGR Credits"** means the total number of Compliance GGR Credits which the Emitter has not sold, transferred or surrendered<sup>1</sup>:

- (a) for the purposes of paragraphs 1.1(c) and 1.2 (*Security*) of Part G (*Accumulated GGR Credits: Security and Enforcement*) or where the context otherwise requires a monthly assessment, as at the last day of the relevant Month of the relevant GGR Audit Year, as set out in the Monthly Post-Restriction Compliance GGR Data relating to that Month;
- (b) for the purposes of paragraph 1.1(a) (*Security*) of Part G (*Accumulated GGR Credits: Security and Enforcement*) only, as at the last day of the sixth (6th) Month of the relevant GGR Audit Year, as set out in the Monthly Post-Restriction Compliance GGR Data relating to that Month; and
- (c) for all other purposes under the ICC Contract, as at the last day of the relevant GGR Audit Year, as set out in the Compliance GGR Credit Revenue Auditor's Report relating to that GGR Audit Year (unless a resolution or determination is made pursuant to the Dispute Resolution Procedure in respect of the total number of Compliance GGR Credits which the Emitter has not sold, transferred or surrendered, in which case such resolved or determined total number shall apply);

**"Accumulated GGR Credits"** means the Accumulated Compliance GGR Credits and the Accumulated Voluntary GGR Credits;

**"Accumulated GGR Credits Amount"** means the aggregate value of all Accumulated GGR Credits (*expressed in pounds (£)*) which:

- (a) except where paragraph 2.4 (*Contract End GGR Credit Revenue Payment*) of Part E (*GGR Credit Revenue*) applies, have not been sold, transferred or surrendered as at the last day of the relevant assessment period; or
- (b) if paragraph 2.4 (*Contract End GGR Credit Revenue Payment*) of Part E (*GGR Credit Revenue*) applies, have not been sold, transferred or surrendered as at the date on which the ICC Contract expires or terminates,

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<sup>1</sup> Note to Reader: BEIS is considering potential restrictions in relation to the Emitter's ability to create security over GGR Credits in favour of any of its creditors.

and shall be calculated as follows:

$$AGCR = (AVGC \times FP) + (ACGC \times FP)$$

where:

- AGCR* = the Accumulated GGR Credits Amount (£);
- AVGC* = the Accumulated Voluntary GGR Credits;
- ACGC* = the Accumulated Compliance GGR Credits; and
- FP* = if the Fallback Price is calculated:

- (a) on a daily basis, the monthly average of each daily Fallback Price (£/tCO<sub>2</sub>) applicable for the relevant Month of the relevant GGR Audit Year; or
- (b) on a monthly average basis, the Fallback Price (£/tCO<sub>2</sub>) applicable for the relevant Month of the relevant GGR Audit Year.

**"Accumulated GGR Credits Amount Breach Notice"** has the meaning given to that term in paragraph 1.12 (*Accumulated GGR Credits Amount Cap*) of Section 3 of Part F (*Reporting, Audit and Reconciliation*);

**"Accumulated GGR Credits Amount Cap"** means [fifty million] pounds sterling (£[50,000,000]);

**"Accumulated GGR Credits Amount Cap Obligation"** has the meaning given to that term in paragraph 1.11 (*Accumulated GGR Credits Amount Cap*) of Section 3 of Part F (*Reporting, Audit and Reconciliation*);

**"Accumulated GGR Credits Amount Cap Termination Event"** has the meaning given to that term in paragraph 1.16 (*Accumulated GGR Credits Amount Cap*) of Section 3 of Part F (*Reporting, Audit and Reconciliation*);

**"Accumulated GGR Credits Threshold"** means<sup>2</sup>:

- (a) prior to the eight (8<sup>th</sup>) anniversary of the earlier of:
  - (i) the Start Date; and
  - (ii) the last day of the Target Commissioning Window, [five million] pounds sterling (£[5,000,000]); and
- (b) from and including the eighth (8<sup>th</sup>) anniversary of the earlier of:
  - (i) the Start Date; and
  - (ii) the last day of the Target Commissioning Window, [one million] pounds sterling (£[1,000,000]);

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<sup>2</sup> Note to Reader: BEIS is currently considering which (if any) values set out in this Annex will be subject to indexation.

**"Accumulated Voluntary GGR Credits"** means the total number of Voluntary GGR Credits which the Emitter has not sold, transferred or surrendered:

- (a) for the purposes of paragraphs 1.1(c) and 1.2 (*Security*) of Part G (*Accumulated GGR Credits: Security and Enforcement*) or where the context otherwise requires a monthly assessment, as at the last day of the relevant Month of the relevant GGR Audit Year, as set out in the Monthly Post-Restriction Voluntary GGR Data relating to that Month;
- (b) for the purposes of paragraph 1.1(a) (*Security*) of Part G (*Accumulated GGR Credits: Security and Enforcement*) only, as at the last day of the sixth (6th) Month of the relevant GGR Audit Year, as set out in the Monthly Post-Restriction Voluntary GGR Data relating to that Month; and
- (c) for all other purposes under the ICC Contract, as at the last day of the relevant GGR Audit Year, as set out in the Voluntary GGR Credit Revenue Auditor's Report relating to that GGR Audit Year (unless a resolution or determination is made pursuant to the Dispute Resolution Procedure in respect of the total number of Voluntary GGR Credits which the Emitter has not sold, transferred or surrendered, in which case such resolved or determined total number shall apply);

**"Additional Acceptable Voluntary Schemes"** has the meaning given to that term in paragraph 1.8(a) (*Notification of update to list of Acceptable Voluntary Schemes*) of Part B (*Voluntary Scheme Review*);

**"Annual GGR Reporting Deadline"** means, in relation to each GGR Audit Year, the final Business Day of the second (2<sup>nd</sup>) Month falling immediately after the end of such GGR Audit Year;

**"Compliance GGR Confirmation"** has the meaning given to that term in paragraph 1.1(b)(i) (*Annual Voluntary GGR Confirmation and Compliance GGR Confirmation*) of Section 1 of Part F (*Reporting, Audit and Reconciliation*);

**"Compliance GGR Credit"** means a GGR Credit issued, granted, allocated or attributed by any Acceptable Compliance Scheme;

**"Compliance GGR Credit Restriction Auditor's Report"** has the meaning given to that term in paragraph 1.4 (*Annual Voluntary GGR Confirmation and Compliance GGR Confirmation*) of Section 1 of Part F (*Reporting, Audit and Reconciliation*);

**"Compliance GGR Credit Restrictions"** has the meaning given to that term in paragraph 1.2 (*General Restrictions*) of Part A (*General Restrictions*);

**"Compliance GGR Credit Revenue Auditor's Report"** has the meaning given to that term in paragraph 1.5 (*Annual Audit requirements*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"Compliance GGR Credit Sale Revenue"** means the sum (*expressed in pounds (£)*) of each sale price (calculated on a gross basis before tax and any other deductions) of each Compliance GGR Credit sold by the Emitter to any person other than a Linked Entity in the relevant OP Billing Period;<sup>3</sup>

**"Compliance GGR Credit Surrender Revenue"** means the sum (*expressed in pounds (£)*) of the applicable Fallback Price of each Compliance GGR Credit which was surrendered

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<sup>3</sup> Note to Reader: BEIS is currently considering whether any parameters should be included in relation to the price at which GGR Credits are sold. BEIS is also considering other amendments that may be required to this Annex to ensure that any and all revenues are captured in respect of any and all GGR Credits arising in relation to the Capture Plant (whether generated by the Emitter or a third party).

(or otherwise transferred, forfeited or relinquished to cover a compliance obligation) by the Emitter under an Acceptable Compliance Scheme in the relevant OP Billing Period (with such Fallback Price being determined as at the day on which the relevant Compliance GGR Credit was surrendered);

**"Compliance Scheme"** means the UK Emissions Trading Scheme, an alternative UK emissions credit issuing scheme or any other regulatory scheme [which issues, grants, allocates or attributes GGR Credits] and which has been effected by a Competent Authority;

**"Compliance Scheme Participation Notice"** has the meaning given to that term in paragraph 2 (*Notification of Participation in Acceptable Compliance Scheme*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Compliance Scheme Review"** means a review conducted by the ICC Contract Counterparty in accordance with paragraph 1 (*Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Compliance Scheme Review Notice"** has the meaning given to that term in paragraph 1.5 (*Notification of Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Compliance Scheme Review Proposal"** means each of the proposals determined by the ICC Contract Counterparty pursuant to paragraph 1.3 (*Purpose of the Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Contract End GGR Credit Revenue Payment"** has the meaning given to that term in paragraph 2.3 (*Contract End GGR Credit Revenue Payment*) of Part E (*GGR Credit Revenue*);

**"CSR Implementation Date"** has the meaning given to that term in paragraph 1.9(c) (*Notification of outcome of Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"CSR Outcome Notice"** has the meaning given to that term in paragraph 1.9 (*Notification of outcome of Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"CSR Response Deadline"** has the meaning given to that term in paragraph 1.5(b) (*Notification of Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"CSR Response Notice"** has the meaning given to that term in paragraph 1.6 (*Notification of Compliance Scheme Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"CSR Trigger"** has the meaning given to that term in paragraph 1.1 (*Undertaking of the Compliance Scheme Reviews*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Deficient GGR Collateral Amount"** has the meaning given to that term in paragraph 1.6(a)(ii) (*Altering collateral*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"Fallback Price"** means:

- (a) if the VSR Implementation Date is prior to the CSR Implementation Date:
  - (i) in respect of the period prior to the CSR Implementation Date, the fallback price (*expressed in £/tCO<sub>2</sub>*) set out in the VSR Outcome Notice, as such

Fallback Price may be subsequently amended in accordance with paragraph 1.8(b) (*Notification of update to the list of Acceptable Voluntary Schemes*) of Part B (*Voluntary Scheme Review*); and

- (ii) if applicable, on and from the CSR Implementation Date, the fallback price (*expressed in £/tCO<sub>2</sub>*) set out in the CSR Outcome Notice as such Fallback Price is subsequently amended, supplemented or replaced in accordance with the outcome of any Fallback Price Review; or
- (b) if the CSR Implementation Date occurs before any VSR Implementation Date (whether or not a VSR Implementation Date subsequently occurs), the fallback price (*expressed in £/tCO<sub>2</sub>*) set out in the CSR Outcome Notice as such Fallback Price is subsequently amended, supplemented or replaced in accordance with any Fallback Price Review;

**"Fallback Price Dispute"** means a Dispute in relation to the outcome of a Compliance Scheme Review (but only to the extent that it relates to the determination of the Fallback Price) or a Fallback Price Review;

**"Fallback Price Dispute Deadline"** has the meaning given to that term in paragraph 4.3 (*Procedure for raising a Dispute*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Dispute Emitter"** has the meaning given to that term in paragraph 4.3 (*Procedure for raising a Dispute*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Dispute Notice"** has the meaning given to that term in paragraph 4.3 (*Procedure for raising a Dispute*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Dispute Threshold Criterion"** has the meaning given to that term in paragraph 4.1 (*Fallback Price Dispute Threshold Criterion*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Dispute Validity Notice"** has the meaning given to that term in paragraph 4.5 (*Fallback Price Dispute Threshold Criterion*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Expert Appointment Threshold"** has the meaning given to that term in paragraph 4.2 (*Fallback Price Expert Appointment Threshold*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Principles"** has the meaning given to that term in paragraph 1.1 (*Fallback Price Principles*) of Part D (*Fallback Price Principles*);

**"Fallback Price Principles Prioritisation"** means the prioritisation of the Fallback Price Principles set out in paragraph 2 (*Prioritisation of Fallback Price Principles*) of Part D (*Fallback Price Principles*);

**"Fallback Price Principles Request Criterion"** has the meaning given to that term in paragraph 3.3 (*Undertaking of the Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Principles Request Notice"** has the meaning given to that term in paragraph 3.2 (*Undertaking of the Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review"** has the meaning given to that term in paragraph 3.1(a) (*Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review Implementation Date"** has the meaning given to that term in paragraph 3.10(b)(ii) (*Notification of outcome of Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review Notice"** has the meaning given to that term in paragraph 3.6(b) (*Notification of Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review Outcome Notice"** has the meaning given to that term in paragraph 3.10 (*Notification of outcome of Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review Proposal"** has the meaning given to that term in paragraph 3.6(a) (*Notification of Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review Response Deadline"** has the meaning given to that term in paragraph 3.6(b)(ii) (*Notification of Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review Response Notice"** has the meaning given to that term in paragraph 3.7 (*Notification of Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Review Trigger"** has the meaning given to that term in paragraph 3.1 (*Undertaking of the Fallback Price Review*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Fallback Price Source Quality Criteria"** means, in respect of a price source, as at the CSR Response Deadline or at the Fallback Price Review Response Deadline (as applicable):

- (a) the underlying data used to compile or prepare such price source:
  - (i) is subject to procedures to ensure its accuracy and completeness;
  - (ii) is subject to procedures to ensure the retention by the administrator of such price source 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 entities submitting 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 **"Fallback Price Source Quality Criterion"** shall be construed accordingly;

**"Further Accumulated GGR Credits Threshold"** means an amount equal to one hundred and thirty per cent. (130%) of the Accumulated GGR Credits Amount used most recently to calculate the amount of GGR Acceptable Collateral that the Emitter was required to transfer or deliver to the ICC Contract Counterparty, or to procure the transfer or delivery of, in accordance with paragraph 1.1 (*Security*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"Further GGR Credit Revenue Auditor's Report Response Notice"** has the meaning given to that term in paragraph 1.8(c)(ii) (*GGR Credit Revenue Auditor's Report Response Notice*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"GGO Instrument"** means any credit, allowance, unit, certificate or other similar instrument issued, granted, allocated or attributed in respect of an activity at the Capture Plant which results in a reduction, avoidance and/or sequestering of greenhouse gases (as defined by the issuing market in whatever form such market takes);<sup>4</sup>

**"GGO Instrument Restrictions"** has the meaning given to that term in paragraph 1.3 (*General Restrictions*) of Part A (*General Restrictions*);

**"GGR Acceptable Collateral"** means:<sup>5</sup>

- (a) a GGR Letter of Credit;
- (b) a GGR Bond; and/or
- (c) a cash amount (in Sterling) transferred to the credit of a Reserve Account;

**"GGR Audit Year"** means:<sup>6</sup>

- (a) other than in relation to the final GGR Audit Year, a period of one (1) year, with the first such year commencing on the Contract Payment Term Commencement Date and each subsequent such year commencing on each anniversary of the Contract Payment Term Commencement Date; and
- (b) in relation to the final GGR Audit Year, the period commencing on the last anniversary of the Contract Payment Term Commencement Date and ending on the earlier of:
  - (i) the Pre-Start Date Termination Date, the Prolonged FM Termination Date, the T&S Prolonged Unavailability Termination Date, the Default Termination Date, the QCiL Compensation Termination Date or the QCiL Termination Date (as applicable); or
  - (ii) the Expiry Date;

**"GGR Bond"** means a bond issued by a GGR Qualifying Bond Provider substantially in the form set out in Appendix 1 to this Annex 9;

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<sup>4</sup> Note to Reader: the precise scope of a GGO Instrument remains subject to further review and consideration by BEIS. Consequential amendments to this Annex may, therefore, be required.

<sup>5</sup> Note to Reader: BEIS is considering whether any cap should be included in respect of the value of the GGR Letter(s) of Credit / GGR Bond(s) that can be issued by a single, acceptable financial institution.

<sup>6</sup> Note to Reader: this definition will be further considered in the Waste ICC context once the full-form Waste ICC Contract is developed and the additional Waste ICC 'Greenhouse Gas Removal' participation and revenues Extension Conditions are finalised.

**"GGR Bond Details Notice"** has the meaning given to that term in paragraph 1.5(a)(ii) (*Transfer and custody of collateral*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"GGR Bond Events"** has the meaning given to that term in paragraph 1.7(b) (*GGR Letter of Credit Events and GGR Bond Events*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"GGR Collateral Amount"** means an amount equal to the amount by which the Accumulated GGR Credits Amount exceeds the Accumulated GGR Credits Threshold;

**"GGR Collateral Correction Notice"** has the meaning given to that term in paragraph 1.6(a) (*Altering collateral*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"GGR Credit"** means any credit, allowance, unit, certificate or other similar instrument issued, granted, allocated or attributed in respect of an activity at the Capture Plant which results in the removal of greenhouse gases (as defined by the issuing market in whatever form such market takes);<sup>7</sup>

**"GGR Credit Recalculation Amount"** has the meaning given to that term in paragraph 1.10(e) (*Recalculations of Monthly GGR Credit Revenue*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"GGR Credit Revenue Auditor's Report Response Notice"** has the meaning given to that term in paragraph 1.7 (*GGR Credit Revenue Auditor's Report Response Notice*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"GGR Credit Revenue Auditor's Report Supporting Information"** has the meaning given to that term in paragraph 1.7(c) (*GGR Credit Revenue Auditor's Report Response Notice*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"GGR Letter of Credit"** means an unconditional, irrevocable standby letter of credit in favour of the ICC Contract Counterparty or its designee denominated in Sterling and in form and content satisfactory to the ICC Contract Counterparty (acting reasonably) which is issued by a GGR Qualifying Issuer and which shall be available for payment at a United Kingdom branch of such GGR Qualifying Issuer;

**"GGR Letter of Credit Details Notice"** has the meaning given to that term in paragraph 1.5(a)(ii) (*Transfer and custody of collateral*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"GGR Letter of Credit Events"** has the meaning given to that term in paragraph 1.7(a)(iv) (*GGR Letter of Credit Events and GGR Bond Events*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"GGR Non-Compliance Notice"** has the meaning given to that term in paragraph 1.8 (*GGR Non-Compliance Notice*) of Section 3 of Part F (*Reporting, Audit and Reconciliation*);

**"GGR Posted Collateral"** means the aggregate amount of all GGR Acceptable Collateral transferred or delivered to the ICC Contract Counterparty or its designee by or on behalf of the Emitter in accordance with Part G (*Accumulated GGR Credits: Security and Enforcement*) from time to time to the extent that the same has not been:

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<sup>7</sup> Note to Reader: the precise scope of a GGR Credit remains subject to further review and consideration by BEIS. Consequential amendments to this Annex may, therefore, be required.



- (a) returned to the Emitter by or on behalf of the ICC Contract Counterparty pursuant to the provisions of paragraph 1.9 (*Return of Collateral*) of Part G (*Accumulated GGR Credits: Security and Enforcement*); or
- (b) subject to a GGR Posted Collateral Demand;

**"GGR Posted Collateral Demand"** has the meaning given to that term in paragraph 1.8(a) (*Making a Posted Collateral Demand*) of Part G (*Accumulated GGR Credits: Security and Enforcement*);

**"GGR Qualifying Bond Provider"** or **"GGR Qualifying Issuer"** means:

- (a) a bank or financial institution having a minimum short-term rating of A-1 with Standard and Poor's, P-1 with Moody's or F1 with Fitch; or
- (b) such other bank or financial institution, having such lower minimum rating as the ICC Contract Counterparty may consent to or specify from time to time;

**"GGR Secured Sums"** means each amount that is payable to the ICC Contract Counterparty under paragraph 2.3 of Part E (*GGR Credit Revenue*);

**"Greenhouse Gas Removal Audit Notice"** has the meaning given to that term in paragraph 1.2 (*Greenhouse Gas Removal Audit Right*) of Section 3 of Part F (*Reporting, Audit and Reconciliation*);

**"Greenhouse Gas Removal Audit Right"** has the meaning given to that term in paragraph 1.1 (*Greenhouse Gas Removal Audit Right*) of Section 3 of Part F (*Reporting, Audit and Reconciliation*);

**"Greenhouse Gas Removal Termination Event"** has the meaning given to that term in paragraph 1.17 (*Greenhouse Gas Removal Termination Event*) of Section 3 of Part F (*Reporting, Audit and Reconciliation*);

**"Insolvency Event"** means the GGR Qualifying Issuer and/or the GGR Qualifying Bond Provider:

- (a) is dissolved (other than pursuant to a solvent consolidation, amalgamation or merger) or becomes insolvent or unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (b) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a solvent consolidation, amalgamation or merger); or
- (c) is subject to any event with respect to it which, pursuant to the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraph (a) or (b) of this definition;

**"Linked Entity"** means the Emitter's subsidiaries, subsidiary undertakings, associated undertakings and any holding company of the Emitter and all other subsidiaries, subsidiary undertakings, associated undertakings and holding companies of any such holding company from time to time;

**"Linked Entity Compliance GGR Credit Revenue"** means in respect of each sale or transfer of a Compliance GGR Credit to a Linked Entity in the relevant OP Billing Period, the higher of:

- (a) the actual sale price (*expressed in pounds (£)*) and calculated on a gross basis before tax and any other deductions) of the Compliance GGR Credit sold or transferred by the Emitter to the relevant Linked Entity; and

(b) the Fallback Price applicable as at the day the Compliance GGR Credit was sold or transferred by the Emitter to the relevant Linked Entity;

**"Monthly Compliance GGR Reporting Deadline"** has the meaning given to that term in paragraph 1.2 (*Monthly Reporting Requirements – Compliance GGR Credits*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"Monthly GGR Credit Revenue"** has the meaning given to that term in paragraph 2.1 (*Monthly GGR Credit Revenue Payment*) of Part E (*GGR Credit Revenue*);

**"Monthly GGR Credit Revenue Payment"** has the meaning given to that term in Condition 1.1 of Part 1 (*Definitions and Interpretation*);

**"Monthly Linked Entity Compliance GGR Credit Revenue"** means the sum (*expressed in pounds (£)*) of the Linked Entity Compliance GGR Credit Revenue in the relevant OP Billing Period;

**"Monthly Post-Restriction Compliance GGR Data"** has the meaning given to that term in paragraph 1.2 (*Monthly Reporting Requirements – Compliance GGR Credits*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"Monthly Post-Restriction Voluntary GGR Data"** has the meaning given to that term in paragraph 1.1 (*Monthly Reporting Requirements – Voluntary GGR Credits*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"Monthly Voluntary GGR Reporting Deadline"** has the meaning given to that term in paragraph 1.1 (*Monthly Reporting Requirements – Voluntary GGR Credits*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"Proposed Fallback Price Expert"** has the meaning given to that term in paragraph 4.5(a) (*Validity of Fallback Price Dispute Notices*) of Part C (*Compliance Scheme Review and Fallback Price Review*);

**"Removed Voluntary Scheme"** means any Voluntary Scheme removed from the list of Acceptable Voluntary Schemes in accordance with paragraphs 1.8(c) and 1.8(d) (*Notification of update to list of Acceptable Voluntary Schemes*) of Part B (*Voluntary Scheme Review*);

**"Restricted Voluntary GGR Surrender"** has the meaning given to that term in paragraph 3.1(b) (*Voluntary Scheme Restrictions*) of Part B (*Voluntary Scheme Review*);

**"Restricted Voluntary GGR Transfer"** has the meaning given to that term in paragraph 3.1(a) (*Voluntary Scheme Restrictions*) of Part B (*Voluntary Scheme Review*);

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

**"Voluntary GGR Confirmation"** has the meaning given to that term in paragraph 1.1(a)(i) (*Annual Voluntary GGR Confirmation and Compliance GGR Confirmation*) of Section 1 of Part F (*Reporting, Audit and Reconciliation*);

**"Voluntary GGR Credit"** means a GGR Credit issued, granted, allocated or attributed by any Voluntary Scheme;

**"Voluntary GGR Credit Restriction Auditor's Report"** has the meaning given to that term in paragraph 1.4 (*Annual Voluntary GGR Confirmation and Compliance GGR Confirmation*) of Section 1 Part F (*Reporting, Audit and Reconciliation*);

**"Voluntary GGR Credit Restrictions"** has the meaning given to that term in paragraph 1.1 (*General Restrictions*) of Part A (*General Restrictions*);

**"Voluntary GGR Credit Revenue Auditor's Report"** has the meaning given to that term in paragraph 1.5 (*Annual Audit requirements*) of Section 2 of Part F (*Reporting, Audit and Reconciliation*);

**"Voluntary GGR Credit Sale Revenue"** means the sum (*expressed in pounds (£)*) of each sale price (calculated on a gross basis before tax and any other deductions) of each Voluntary GGR Credit sold by the Emitter to any person in the relevant OP Billing Period;

**"Voluntary Scheme Participation Notice"** has the meaning given to that term in paragraph 2.1 (*Notification of participation in Acceptable Voluntary Scheme(s)*) of Part B (*Voluntary Scheme Review*);

**"Voluntary Scheme Review"** means a review conducted by the ICC Contract Counterparty in accordance with paragraph 1 (*Voluntary Scheme Review*) of Part B (*Voluntary Scheme Review*);

**"Voluntary Scheme Review Notice"** has the meaning given to that term in paragraph 1.3 (*Notification of Voluntary Scheme Review*) of Part B (*Voluntary Scheme Review*);

**"Voluntary Scheme Review Proposal"** has the meaning given to that term in paragraph 1.2 (*Purpose of Voluntary Scheme Review*) of Part B (*Voluntary Scheme Review*);

**"Voluntary Scheme"** means a scheme, market, organisation or process [which issues, grants, allocates or attributes GGR Credits] and which is voluntary in nature, other than a Compliance Scheme;

**"VSR Implementation Date"** has the meaning given to that term in paragraph 1.7(b) (*Notification of outcome of Voluntary Scheme Review*) of Part B (*Voluntary Scheme Review*);

**"VSR Outcome Notice"** has the meaning given to that term in paragraph 1.7 (*Notification of outcome of Voluntary Scheme Review*) of Part B (*Voluntary Scheme Review*);

**"VSR Response Deadline"** has the meaning given to that term in paragraph 1.3 (*Notification of Voluntary Scheme Review*) of Part B (*Voluntary Scheme Review*); and

**"VSR Response Notice"** has the meaning given to that term in paragraph 1.4 (*Notification of Voluntary Scheme Review*) of Part B (*Voluntary Scheme Review*).

- 1.2 Unless otherwise expressly specified, any reference in this Annex 9 to the expressions:
- (a) **"holding company"** and **"subsidiary"** shall have the meanings respectively ascribed to them by section 1159 of the Companies Act 2006;
  - (b) **"parent undertaking"** and **"subsidiary undertaking"** shall have the meanings respectively ascribed to them by section 1162 of the Companies Act 2006; and
  - (c) **"associated undertaking"** shall have the meaning ascribed to it in Schedule 6 to The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2013 (but for this purpose ignoring paragraph 19(1)(b) of those regulations).
- 1.3 Any reference to a 'sale price' in this Annex 9 shall mean a 'sale price':
- (a) in Sterling; and

- (b) to the extent that any sale is completed in a currency other than Sterling (the "**Other Currency**"), the sale price shall be converted into Sterling using the rate of exchange for the purchase of Sterling with that Other Currency published on <https://www.bankofengland.co.uk/boeapps/database/Rates.asp?Travel=NIXAZx&into=GBP> (Bank of England database: Daily spot exchange rates against Sterling) in respect of the date of the relevant sale.

**PART A  
GENERAL RESTRICTIONS**

**1. GENERAL RESTRICTIONS<sup>8</sup>**

1.1 The Emitter shall not, and shall procure that its Linked Entities and any other third parties shall not, prior to the date on which a Voluntary Scheme Participation Notice is issued in accordance with paragraph 2 (*Notification of Participation in Acceptable Voluntary Scheme(s)*) of Part B (*Voluntary Scheme Review*):

- (a) register or become certified for, or otherwise participate in, any aspects of a Voluntary Scheme which relates to GGR Credits;
- (b) apply for, generate, obtain, acquire, hold or accrue any Voluntary GGR Credits; and/or
- (c) sell, trade, transfer, forfeit or surrender any Voluntary GGR Credits,

(each a "**Voluntary GGR Credit Restriction**" and together the "**Voluntary GGR Credit Restrictions**").

1.2 The Emitter shall not, and shall procure that its Linked Entities and any other third parties shall not, prior to the date on which a Compliance Scheme Participation Notice is issued in accordance with paragraph 2 of Part C (*Compliance Scheme Review and Fallback Price Review*):

- (a) register or become certified for, or otherwise participate in, any aspects of a Compliance Scheme which relates to GGR Credits;
- (b) apply for, generate, obtain, acquire, hold or accrue any Compliance GGR Credits; and/or
- (c) sell, trade, transfer, forfeit or surrender any Compliance GGR Credits,

(each a "**Compliance GGR Credit Restriction**" and together the "**Compliance GGR Credit Restrictions**").

1.3 The Emitter shall not, and shall procure that its Linked Entities and any other third parties shall not at any time:

- (a) register or become certified for, or otherwise participate in, any aspects of a Voluntary Scheme or Compliance Scheme which relates to GGO Instruments;
- (b) apply for, generate, obtain, acquire, hold or accrue any GGO Instruments; and/or
- (c) sell, trade, transfer, forfeit or surrender any GGO Instruments,

(each a "**GGO Instrument Restriction**" and together the "**GGO Instrument Restrictions**").

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<sup>8</sup> Note to Reader: BEIS is considering which other amendments may be required to this Annex to ensure that no emissions credits in respect of the Capture Plant are acquired, sold, transferred etc. in advance of the Voluntary GGR Credit Restrictions or the Compliance GGR Credit Restrictions being lifted.

**PART B  
VOLUNTARY SCHEME REVIEW<sup>9</sup>**

**1. VOLUNTARY SCHEME REVIEW**

***Undertaking of the Voluntary Scheme Review***

1.1 The ICC Contract Counterparty may, in its sole and absolute discretion and at any time, conduct a Voluntary Scheme review to determine whether, and if so how the Voluntary GGR Credit Restrictions shall be lifted (a "**Voluntary Scheme Review**").

***Purpose of the Voluntary Scheme Review***

1.2 If the ICC Contract Counterparty elects to conduct a Voluntary Scheme Review, then the purpose of such Voluntary Scheme Review shall be to determine, in the ICC Contract Counterparty's sole and absolute discretion:

- (a) a list of any Acceptable Voluntary Schemes in which the Emitter shall be entitled to participate (if any) including, if the ICC Contract Counterparty considers it relevant, the basis on which such list was determined;
- (b) any additional conditions that must be complied with by the Emitter in order to be permitted to participate in any Acceptable Voluntary Scheme determined in accordance with paragraph 1.2(a), including, but not limited to any additional conditions relating to:
  - (i) any Voluntary GGR Credit Revenue Auditor's Report which must be provided to the ICC Contract Counterparty in accordance with paragraphs 1.4 and 1.5 of Section 2 of Part F (*Reporting, Audit and Reconciliation*); and
  - (ii) any GGR Acceptable Collateral which must be transferred, delivered, or procured by the Emitter in accordance with Part G (*Accumulated GGR Credits: Security and Enforcement*); and
- (c) if the Voluntary GGR Credit Restrictions are lifted prior to the lifting of the Compliance GGR Credit Restrictions in accordance with this Annex 9, the Fallback Price that shall apply until the CSR Implementation Date,  
  
(a "**Voluntary Scheme Review Proposal**").

***Notification of Voluntary Scheme Review***

1.3 If the ICC Contract Counterparty elects to conduct a Voluntary Scheme Review, the ICC Contract Counterparty shall issue a notice to the Emitter (a "**Voluntary Scheme Review Notice**"). A Voluntary Scheme Review Notice shall specify a deadline by which the Emitter may provide a VSR Response Notice, such deadline to be not less than ten (10) Business Days after the date on which the ICC Contract Counterparty issues the Voluntary Scheme Review Notice (the "**VSR Response Deadline**").

1.4 The Emitter may, as soon as reasonably practicable but no later than the VSR Response Deadline, issue a notice to the ICC Contract Counterparty which:

- (a) shall include all of the Supporting Information which the Emitter considers the ICC Contract Counterparty should take into account of when conducting the Voluntary Scheme Review; and

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<sup>9</sup> Note to Reader: BEIS is considering the ways in which GGO Instruments should be treated during the Term of the ICC Contract and whether any of the mechanisms set out in Parts B to G (inclusive) of this Annex may apply in relation to GGO Instruments.

- (b) may include proposals from the Emitter with respect to the manner in which the Voluntary Scheme Review should be determined by the ICC Contract Counterparty, (the "**VSR Response Notice**").

1.5 When conducting the Voluntary Scheme Review, the ICC Contract Counterparty shall not be obliged to take into account any VSR Response Notice received by the ICC Contract Counterparty.

***Voluntary GGR Credit Restrictions during Voluntary Scheme Review***

1.6 Notwithstanding the issue of a Voluntary Scheme Review Notice by the ICC Contract Counterparty, the Voluntary GGR Credit Restrictions shall remain in effect until any VSR Implementation Date.

***Notification of outcome of Voluntary Scheme Review***

1.7 The ICC Contract Counterparty shall issue a notice to the Emitter (the "**VSR Outcome Notice**") as soon as reasonably practicable following the conclusion of the Voluntary Scheme Review. The VSR Outcome Notice shall:

- (a) set out:
  - (i) the list of Acceptable Voluntary Schemes (if any);
  - (ii) any additional conditions determined in accordance with paragraph 1.2(b); and
  - (iii) if applicable, the Fallback Price; and
- (b) specify the date from which the relevant Voluntary Scheme Review Proposal is to take effect (the "**VSR Implementation Date**").

***Notification of update to the list of Acceptable Voluntary Schemes***

1.8 The ICC Contract Counterparty may, at any time after the issuance of the VSR Outcome Notice, issue a notice to the Emitter (the "**Acceptable Voluntary Schemes Amendment Notice**") which may set out, in the ICC Contract Counterparty's sole and absolute discretion:

- (a) any Voluntary Schemes to be added to the list of Acceptable Voluntary Schemes set out in the VSR Outcome Notice (the "**Additional Acceptable Voluntary Schemes**");
- (b) any additional conditions (including any amendments to the Fallback Price which shall apply unless and until a fallback price is set out by the ICC Contract Counterparty in the VSR Outcome Notice) that must be complied with by the Emitter in order to:
  - (i) continue to participate in any Acceptable Voluntary Scheme set out in the VSR Outcome Notice; and/or
  - (ii) participate in any Additional Acceptable Voluntary Scheme;
- (c) any Voluntary Scheme to be removed from the list of Acceptable Voluntary Schemes such that the relevant Voluntary Scheme no longer constitutes an Acceptable Voluntary Scheme; and
- (d) the date from which the amendments set out in paragraphs 1.8(a), 1.8(b) and 1.8(c) are to take effect, such date being:

- (i) if paragraph 1.8(a) or 1.8(b)(ii) apply, no earlier than the date on which the relevant Additional Acceptable Voluntary Scheme has been established and becomes applicable to GGR Credits;
- (ii) if paragraph 1.8(b)(i) or 1.8(c) apply, no earlier than the date which is six (6) Months after the date on which the ICC Contract Counterparty issues the relevant Acceptable Voluntary Schemes Amendment Notice.

1.9 Paragraph 1.8(c) shall be without prejudice to any right of the Emitter to hold, sell, trade, transfer, forfeit or surrender any Voluntary GGR Credits which relate to a Removed Voluntary Scheme in accordance with this Annex 9 (*Greenhouse Gas Removal Credits*), provided that such Voluntary GGR Credits have been issued on or prior to the relevant date(s) set out by the ICC Contract Counterparty in the relevant Acceptable Voluntary Schemes Amendment Notice pursuant to paragraph 1.8(d)(ii).

## 2. NOTIFICATION OF PARTICIPATION IN ACCEPTABLE VOLUNTARY SCHEME(S)

2.1 The Emitter shall at any time after receipt of:

- (a) the VSR Outcome Notice, notify the ICC Contract Counterparty if it intends to participate in one (1) or more Acceptable Voluntary Schemes and, if so, specify in which one (1) or more Acceptable Voluntary Schemes it intends to participate; and
- (b) an Acceptable Voluntary Schemes Amendment Notice, notify the ICC Contract Counterparty if it intends to participate in one (1) or more Additional Acceptable Voluntary Schemes and, if so, specify in which one (1) or more Additional Acceptable Voluntary Schemes it intends to participate,

(in each case, a "**Voluntary Scheme Participation Notice**").

## 3. VOLUNTARY SCHEME RESTRICTIONS

3.1 The Emitter shall not:

- (a) enter into, facilitate or participate in, whether directly or indirectly, any sale, trade or transfer of Voluntary GGR Credits to any Linked Entity (a "**Restricted Voluntary GGR Transfer**"); or
- (b) forfeit or surrender any Voluntary GGR Credits (a "**Restricted Voluntary GGR Surrender**").

3.2 Paragraph 3.1 shall be without prejudice to any right of the ICC Contract Counterparty to receive any Monthly GGR Credit Revenue Payment attributable to any Restricted Voluntary GGR Transfer, Restricted Voluntary GGR Surrender or their consequences.

3.3 Without prejudice to paragraph 3.1, promptly on becoming aware of any Restricted Voluntary GGR Transfer and/or any Restricted Voluntary GGR Surrender, the Emitter shall inform the ICC Contract Counterparty and provide it with full, written details thereof.

## 4. VOLUNTARY SCHEME REVIEW DISPUTES

4.1 The Emitter acknowledges and agrees that it may not raise any Dispute with respect to the VSR Outcome Notice or with respect to any other determination made by the ICC Contract Counterparty under this Part B (*Voluntary Scheme Review*).



**PART C**  
**COMPLIANCE SCHEME REVIEW AND FALLBACK PRICE REVIEW**

**1. COMPLIANCE SCHEME REVIEW**

***Undertaking of the Compliance Scheme Review***

1.1 Subject to paragraph 1.2, the ICC Contract Counterparty may, in its sole and absolute discretion, conduct a Compliance Scheme Review at any time after:

- (a) the replacement or repeal of, or an amendment to, the UK Emissions Trading Scheme (or the enactment of a new UK emissions credit issuing scheme) has been proposed or effected by the relevant Competent Authority which will result in the relevant emissions credit issuing scheme being applicable to GGR Credits; or
- (b) it determines that a regulatory scheme other than an emissions credit issuing scheme referred to in paragraph 1.1(a) has been proposed or effected by the relevant Competent Authority which will result in the relevant regulatory scheme being applicable to GGR Credits,

(each a "**CSR Trigger**").

1.2 The ICC Contract Counterparty shall be obliged to conduct a Compliance Scheme Review if the Emitter demonstrates to the satisfaction of the ICC Contract Counterparty that it is obliged by any Legislation to participate in a Compliance Scheme.

***Purpose of the Compliance Scheme Review***

1.3 If the ICC Contract Counterparty elects (or is required) to conduct a Compliance Scheme Review, then the purpose of such Compliance Scheme Review shall be to determine:

- (a) any Compliance Scheme in which the Emitter shall be entitled to participate (if any, unless the Emitter has demonstrated to the satisfaction of the ICC Contract Counterparty that it is obliged by any Legislation to participate in a Compliance Scheme, in which case the Emitter shall be allowed by the ICC Contract Counterparty to participate into such Compliance Scheme) (the "**Acceptable Compliance Scheme**");
- (b) the Fallback Price which shall:
  - (i) apply from the CSR Implementation Date; and
  - (ii) comply with the Fallback Price Principles.

In applying the Fallback Price Principles to the determination of the Fallback Price, the ICC Contract Counterparty may (without limitation) take into consideration the following:

- (A) any applicable price sources;
- (B) 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 Fallback Price;
- (C) the methodology for calculating the Fallback Price;
- (D) any consequential changes to Conditions 10, 39.14 and 39.15 and this Annex 9 which are necessary to give effect to any of the foregoing; and

- (E) whether the Carbon Reference Price complies with the Fallback Price Principles, in which case the ICC Contract Counterparty may determine that the Carbon Reference Price shall be the Fallback Price; and
- (c) in the ICC Contract Counterparty's sole and absolute discretion, any conditions that must be complied with by the Emitter in order to be permitted to participate in an Acceptable Compliance Scheme including, but not limited to, any additional conditions relating to:
  - (i) any Compliance GGR Credit Revenue Auditor's Report which is to be provided to the ICC Contract Counterparty in accordance with paragraphs 1.4 and 1.5 of Section 2 of Part F (*Reporting, Audit and Reconciliation*); and
  - (ii) any GGR Acceptable Collateral which must be transferred, delivered or procured, by the Emitter in accordance with Part G (*Accumulated GGR Credits: Security and Enforcement*),

(each a "**Compliance Scheme Review Proposal**").

- 1.4 If the ICC Contract Counterparty considers that it is not possible to determine the Fallback Price in a manner which will be compliant with all of the Fallback Price Principles, the ICC Contract Counterparty shall assess which Fallback Price should be effected in order to comply with the greatest number of Fallback Price Principles. If there are two (2) or more Fallback Prices that comply with the same number of Fallback Price Principles, then the ICC Contract Counterparty shall assess which Fallback Price should be effected in order to comply with the Fallback Price Principles Prioritisation.

#### **Notification of Compliance Scheme Review**

- 1.5 Where the ICC Contract Counterparty elects to conduct a Compliance Scheme Review, the ICC Contract Counterparty shall issue a notice to the Emitter (a "**Compliance Scheme Review Notice**"). A Compliance Scheme Review Notice shall:
- (a) specify the date on which the Compliance Scheme Review shall commence; and
  - (b) specify a deadline by which the Emitter may provide a CSR Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the ICC Contract Counterparty issues the Compliance Scheme Review Notice (the "**CSR Response Deadline**").
- 1.6 The Emitter may, as soon as reasonably practicable but no later than the CSR Response Deadline, issue a notice to the ICC Contract Counterparty which:
- (a) shall include all of the Supporting Information which the Emitter considers the ICC Contract Counterparty should take into account of when conducting the Compliance Scheme Review; and
  - (b) may include proposals from the Emitter with respect to the manner in which the CSR Trigger should be addressed (including any proposals regarding the Fallback Price which the Emitter considers should be effected),
- (the "**CSR Response Notice**").
- 1.7 When conducting the Compliance Scheme Review, the ICC Contract Counterparty shall not be obliged to take into account any CSR Response Notice except where:
- (a) the Supporting Information and the relevant proposals from the Emitter relate to the manner in which the Fallback Price should be determined; and

- (b) the CSR Response Notice in which the information set out in sub-paragraph (a) (above) is included is received prior to the CSR Response Deadline.

**Carbon Credit Restrictions during Compliance Scheme Review**

- 1.8 Notwithstanding the issue of a Compliance Scheme Review Notice, the Compliance GGR Credit Restrictions shall remain in effect until the first CSR Implementation Date occurs.

**Notification of outcome of Compliance Scheme Review**

- 1.9 The ICC Contract Counterparty shall issue a notice to the Emitter (the "**CSR Outcome Notice**") as soon as reasonably practicable following the conclusion of the Compliance Scheme Review. The CSR Outcome Notice shall:

- (a) set out the outcome of the Compliance Scheme Review (including the Fallback Price);
- (b) if paragraph 1.4 applies:
  - (i) a summary of the reasons for the ICC Contract Counterparty having determined that it is not possible to effect a Fallback Price which complies with all of the Fallback Price Principles; and
  - (ii) the Fallback Price Principles which the ICC Contract Counterparty considers will be complied with by virtue of the Fallback Price being effected; and
- (c) specify the date from which any Compliance Scheme Review Proposals are to take effect which, subject to paragraph 4.9, shall be:
  - (i) in the case of Compliance Scheme Review Proposals relating to a CSR Trigger pursuant to paragraph 1.1(a), no earlier than the date on which the replacement or repeal of, or an amendment to, the UK Emissions Trading Scheme (or the enactment of a new UK emissions credit issuing scheme) has been effected by the relevant Competent Authority and the relevant emissions credit issuing scheme becomes applicable to GGR Credits; or
  - (ii) in the case of Compliance Scheme Review Proposals relating to a CSR Trigger pursuant to paragraph 1.1(b), no earlier than the date on which the enactment of the relevant regulatory scheme has been effected by the relevant Competent Authority resulting in the regulatory scheme being applicable to GGR Credits,

(the "**CSR Implementation Date**").

- 1.10 Paragraph 4 (*Fallback Price Review: Dispute Process*) shall apply to any Dispute relating to this paragraph 1 (*Compliance Scheme Review*).

**2. NOTIFICATION OF PARTICIPATION IN ACCEPTABLE COMPLIANCE SCHEME**

The Emitter shall at any time after receipt of the CSR Outcome Notice, notify the ICC Contract Counterparty if it intends to participate in one (1) or more Acceptable Compliance Schemes and, if so, specify in which one (1) or more Acceptable Compliance Schemes it intends to participate (a "**Compliance Scheme Participation Notice**").

3. **FALLBACK PRICE REVIEW**

***Undertaking of the Fallback Price Review***

3.1 Once an initial Fallback Price has been determined pursuant to a Compliance Scheme Review, the ICC Contract Counterparty:

- (a) may conduct a review of the Fallback Price (a "**Fallback Price Review**") if:
  - (i) it determines that the current Fallback Price contravenes one (1) or more of the Fallback Price Principles which the ICC Contract Counterparty considers would be complied with if an alternative Fallback Price were effected; or
  - (ii) an alternative Fallback Price complies with a greater number of Fallback Price Principles than the current Fallback Price; and
- (b) shall conduct a Fallback Price Review if:
  - (i) the Fallback Price Principles Request Criterion is satisfied; or
  - (ii) the price sources used in the calculation of the Fallback Price either:
    - (A) cease to be available to the ICC Contract Counterparty on commercially reasonable terms; or
    - (B) cease to exist,

(each a "**Fallback Price Review Trigger**").

3.2 If the Emitter considers that:

- (a) the current Fallback Price contravenes one (1) or more of the Fallback Price Principles which would be complied with if an alternative Fallback Price were effected; or
- (b) an alternative Fallback Price complies with a greater number of Fallback Price Principles than the current Fallback Price,

the Emitter may issue a notice to the ICC Contract Counterparty requesting the ICC Contract Counterparty undertake a Fallback Price Review (a "**Fallback Price Principles Request Notice**"). A Fallback Price Principles Request Notice:

- (i) shall specify which of the Fallback Price Principle(s) the Emitter believes the current Fallback Price does not comply with;
- (ii) may include proposals from the Emitter with respect to the manner in which the non-compliance with the Fallback Price Principles should be addressed (including any proposals regarding the Fallback Price which the Emitter considers should be effected); and
- (iii) shall include Supporting Information, in reasonable detail, which the Emitter considers to be relevant to and supportive of the matters referred to in paragraphs 3.2(b)(i) and 3.2(b)(ii).

3.3 For the purposes of paragraph 3.1(b)(i), the "**Fallback Price Principles Request Criterion**" is that thirty per cent. (30%) or more of the ICC Emitters<sup>10</sup> who have issued a

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<sup>10</sup> Note to Reader: the reference to 'ICC Emitters' in this Annex 9 is intended to refer to all 'Generic' ICC Emitters and 'Waste' ICC Emitters who have issued a Compliance Scheme Review Participation Notice. Amendments to this Annex 9 may be necessary once the definition of 'ICC Emitters' under the ICC Contract is finalised.

Compliance Scheme Participation Notice have given the ICC Contract Counterparty a Fallback Price Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the Fallback Price Principles Request Criterion is satisfied during this period, the ICC Contract Counterparty shall calculate the number of ICC Emitters who have given a Fallback Price Principles Request Notice as a percentage of the total number of ICC Emitters who have issued a Compliance Scheme Participation Notice.

- 3.4 The Emitter acknowledges and agrees that its Fallback Price Principles Request Notice shall be invalid and of no effect if the Fallback Price Principles Request Criterion in relation to that Fallback Price Principles Request Notice is not satisfied.
- 3.5 The ICC Contract Counterparty shall notify the Emitter no later than fifteen (15) Business Days after the date on which the ICC Contract Counterparty issues its Fallback Price Principles Request Notice whether or not the Fallback Price Principles Request Criterion has been satisfied.

**Notification of Fallback Price Review**

- 3.6 If the ICC Contract Counterparty is required or elects to conduct a Fallback Price Review pursuant to paragraph 3.1(a) or paragraph 3.1(b), then:
- (a) the purpose of such Fallback Price Review shall be to determine whether:
    - (i) the current Fallback Price contravenes one (1) or more of the Fallback Price Principles which would be complied with by effecting an alternative Fallback Price;
    - (ii) an alternative Fallback Price complies with a greater number of Fallback Price Principles than the current Fallback Price; or
    - (iii) the current Fallback Price should be maintained on the basis that an alternative Fallback Price does not satisfy paragraphs 3.6(a)(i) or 3.6(a)(ii),(each a "**Fallback Price Review Proposal**"); and
  - (b) the ICC Contract Counterparty shall issue a notice to the Emitter (a "**Fallback Price Review Notice**") after the relevant Fallback Price Review Trigger has occurred. A Fallback Price Review Notice shall specify:
    - (i) the date on which the Fallback Price Review shall commence; and
    - (ii) a deadline by which the Emitter may provide a Fallback Price Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the Fallback Price Review Notice is received by the Emitter (the "**Fallback Price Review Response Deadline**").
- 3.7 The Emitter may, as soon as reasonably practicable and in any case not later than the Fallback Price Review Response Deadline, issue a notice to the ICC Contract Counterparty (the "**Fallback Price Review Response Notice**"). A Fallback Price Review Response Notice:
- (a) shall include all of the Supporting Information which the Emitter considers the ICC Contract Counterparty should take into account of in conducting the Fallback Price Review; and
  - (b) may include proposals from the Emitter with respect to the manner in which the Fallback Price Review Trigger should be addressed.

- 3.8 The ICC Contract Counterparty shall not be obliged to take into account any Fallback Price Response Notice received by the ICC Contract Counterparty after the Fallback Price Review Response Deadline.

***Fallback Price effective during the Fallback Price Review***

- 3.9 The current Fallback Price shall remain in effect until the Fallback Price Review Implementation Date.

***Notification of outcome of Fallback Price Review***

- 3.10 The ICC Contract Counterparty shall issue a notice to the Emitter which sets out the outcome of the Fallback Price Review (the "**Fallback Price Review Outcome Notice**") as soon as reasonably practicable following the conclusion of the Fallback Price Review. The Fallback Price Review Outcome Notice shall:

- (a) include a determination from the ICC Contract Counterparty as to whether an alternative Fallback Price is required based on the outcome of the Fallback Price Review; and
- (b) if an alternative Fallback Price is required, include:
  - (i) the Fallback Price that shall be applicable from the Fallback Price Review Implementation Date; and
  - (ii) the date upon which such alternative Fallback Price is to take effect such date being, subject to paragraph 4.9, no earlier than twenty (20) Business Days after the date on which the Fallback Price Review Outcome Notice is issued (or such other earlier date as may be agreed by the Parties) (the "**Fallback Price Review Implementation Date**").

***Fallback Price Review: Disputes***

- 3.11 Paragraph 4 (*Fallback Price Review: Dispute Process*) shall apply to any Dispute relating to this paragraph 3 (*Fallback Price Review*).

- 3.12 Subject to paragraph 4.10, the Fallback Price set out in the Fallback Price Review Outcome Notice shall take effect on the Fallback Price Review Implementation Date.

**4. Fallback Price Review: Dispute Process**

***Fallback Price Dispute Threshold Criterion***

- 4.1 For the purposes of this paragraph 4 (*Fallback Price Review: Dispute Process*), the "**Fallback Price Dispute Threshold Criterion**" is that thirty per cent. (30%) or more of the ICC Emitters who have issued a Compliance Scheme Participation Notice have given the ICC Contract Counterparty a Fallback Price Dispute Notice prior to the Fallback Price Dispute Deadline. For the purposes of determining whether the Fallback Price Dispute Threshold Criterion is satisfied, the ICC Contract Counterparty shall calculate the number of ICC Emitters who have given a Fallback Price Dispute Notice as a percentage of the total number of ICC Emitters who have issued a Compliance Scheme Participation Notice.

***Fallback Price Expert Appointment Threshold***

- 4.2 For the purposes of paragraphs 4.8(e)(i) and 4.8(e)(ii), the "**Fallback Price Expert Appointment Threshold**" is that thirty per cent. (30%) or more of the ICC Emitters who have issued a Compliance Scheme Participation Notice have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed Fallback Price Expert. For the purposes of determining whether the Fallback Price Expert Appointment Threshold

is met, the ICC Contract Counterparty shall calculate the number of ICC Emitters who have consented or have been deemed to have consented to the Proposed Fallback Price Expert as a percentage of the total number of ICC Emitters who have issued a Compliance Scheme Participation Notice.

**Procedure for raising a Dispute**

4.3 The Emitter may, not later than twenty (20) Business Days after receipt of:

- (a) a CSR Outcome Notice; or
  - (b) a Fallback Price Review Outcome Notice,
- (the "**Fallback Price Dispute Deadline**"),

issue a notice to the ICC Contract Counterparty that it wishes to raise a Dispute in relation to the outcome of such Compliance Scheme Review or Fallback Price Review (as applicable) (a "**Fallback Price Dispute Notice**" and any such Emitter, a "**Fallback Price Dispute Emitter**"). Each Fallback Price Dispute Notice shall comply with the requirements of a Dispute Notice as specified in Conditions 44.3(A) to 44.3(H) (*Outline of Dispute Resolution Procedure*) (inclusive).

**Validity of Fallback Price Dispute Notices**

4.4 The Emitter acknowledges and agrees that all Fallback Price Dispute Notices shall be invalid and of no effect if the Fallback Price Dispute Threshold Criterion in respect of the relevant Fallback Price Dispute is not satisfied.

4.5 The ICC Contract Counterparty shall notify the Emitter no later than twenty (20) Business Days after the date on which the Fallback Price Dispute Threshold Criterion has been satisfied (irrespective of whether or not the Emitter is a Fallback Price Dispute Emitter) (a "**Fallback Price Dispute Validity Notice**"). A Fallback Price Dispute Validity Notice shall:

- (a) include a proposal as to the identity, and terms of reference, of an Expert to determine the Fallback Price Dispute (the "**Proposed Fallback Price Expert**") and details of the relevant expertise that the ICC Contract Counterparty considers qualifies the Proposed Fallback Price Expert to determine such Fallback Price Dispute, being a person fulfilling the requirements of Condition 46.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents the Proposed Fallback Price Expert from determining the Fallback Price Dispute;
- (b) comply with the requirements of an Expert Determination Notice as specified in Condition 46.1 (*Expert Determination Procedure*); and
- (c) comply with the requirements of a Consolidation Request as specified in Condition 48.2 (*Consolidation of Connected Disputes*).

**Permitted bases of Dispute: Compliance Scheme Review**

4.6 For the purposes of paragraph 4.3, the Emitter acknowledges and agrees that:

- (a) it may only raise a Dispute with respect to the outcome of the Compliance Scheme Review or the Fallback Price Review (as applicable) if:
  - (i) only to the extent that it relates to the determination of the Fallback Price, the Emitter considers that a CSR Trigger or a Fallback Price Review Trigger (as applicable) has not occurred;

- (ii) only to the extent that it relates to the determination of the Fallback Price, it believes that the ICC Contract Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Emitter requested the ICC Contract Counterparty take into account when undertaking the Compliance Scheme Review or the Fallback Price Review (as set out in its CSR Response Notice or its Fallback Price Review Response Notice (as applicable));
  - (iii) the ICC Contract Counterparty has proposed a Fallback Price (or a revised Fallback Price) and the Emitter considers that such Fallback Price contravenes one (1) or more of the Fallback Principles; or
  - (iv) the ICC Contract Counterparty has proposed a Fallback Price on the basis contemplated by paragraph 1.4 and the Emitter considers that either:
    - (A) the Fallback Price contravenes one (1) of the Fallback Price Principles which the ICC Contract Counterparty considers would be complied with if an alternative Fallback Price were effected; or
    - (B) an alternative Fallback Price complies with a greater number of Fallback Price Principles than the Fallback Price contained within the Compliance Scheme Review Proposals,
- (b) and any Fallback Price Dispute Notice which is based upon grounds other than those specified in this paragraph 4.6 shall be invalid and of no effect.

**Resolution of valid Fallback Price Disputes**

4.7 If:

- (a) the Fallback Price Dispute Threshold Criterion is satisfied in respect of any Fallback Price Dispute; and
- (b) the relevant Fallback Price Dispute complies with paragraph 4.6,

then such Fallback Price Dispute shall be finally resolved in accordance with paragraph 4.8.

4.8 If paragraph 4.7 applies to any Fallback Price Dispute:

- (a) Condition 42 (*Resolution by Senior Representatives*) shall not apply to such Fallback Price Dispute;
- (b) no agreement between the Emitter and the ICC Contract Counterparty to settle the relevant Fallback Price Dispute shall be valid and binding unless and until such resolution is agreed with [all ICC Emitters]<sup>11</sup>;
- (c) the Arbitration Procedure shall not apply to such Fallback Price Dispute;
- (d) the Emitter agrees not to raise any objection to the consolidation of such Fallback Price Dispute in accordance with Condition 48 (*Consolidation of Connected Disputes*);
- (e) the Expert Determination Procedure shall apply to such Fallback Price Dispute on the basis that:
  - (i) if the Fallback Price Expert Appointment Threshold is met, the ICC Contract Counterparty shall be deemed to have satisfied the requirements of, and to have given an Expert Determination Notice pursuant to, Condition 46.1

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<sup>11</sup> Note to Reader: BEIS is considering how the outcome of a Fallback Price Dispute would be implemented on the basis that certain ICC Emitters would not have the ability to generate GGR Credits.



(*Expert Determination Procedure*) and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed Fallback Price Expert;

- (ii) if the Fallback Price Expert Appointment Threshold is not met:
  - (A) the 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 Fallback Price Dispute, in which case paragraphs 4.5(a) and 4.8(e)(i), and this paragraph 4.8(e)(ii)(A)(1), shall apply to such proposed Expert as if that Expert were a Proposed Fallback Price Expert; or
    - (2) request the LCIA to nominate an Expert for the purposes of determining the Fallback Price Dispute in accordance with Condition 46.4 (*Expert Determination Procedure*); and
  - (B) the terms of reference of the Proposed Fallback Price Expert (or any Expert nominated by the LCIA pursuant to paragraph 4.8(e)(ii)(A)(2)) shall be determined by the ICC Contract Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any ICC Emitter in relation to the Fallback Price), and shall be binding on the Parties, provided that such terms of reference are sufficiently broad to enable the Expert to determine the Fallback Price Dispute;
- (iii) if the ICC Contract Counterparty and the 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 4.8(e)(i) or having been nominated by the LCIA pursuant to paragraph 4.8(e)(ii)(A)(2), such terms shall be determined by the ICC Contract Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any ICC Emitter in relation to the Fallback Price), and shall be binding on the Parties, provided that the terms of appointment comply with the requirements of paragraph 4.8(e)(iii) and Conditions 46.5(B) and 46.5(C) (*Expert Determination Procedure*);
- (iv) [Condition 46.5 (*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 ICC Emitter or the ICC Contract Counterparty; or
  - (B) the ICC Contract Counterparty to the Expert in consequence of, or in respect of, their appointment as the Expert to any ICC Emitter (including the Emitter);]
- (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the Fallback Price Dispute, to afford the Emitter an opportunity to make submissions in respect of the Fallback Price Dispute irrespective of whether or not the Emitter is a Fallback Price Dispute Emitter;
- (vi) if the circumstances described in Condition 46.8 (*Expert Determination Procedure*) arise, paragraphs 4.5(a), 4.8(e)(i) and 4.8(e)(ii) shall apply, with the necessary modifications, to the appointment of a replacement Expert;

- (vii) for the purposes of Condition 46.12 (*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 ICC Contract Counterparty among each of the Fallback Price 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 Fallback Price Dispute Emitters; and (ii) permitted to allocate their fees and the costs and expenses of the ICC Contract Counterparty in such manner as the Expert determines is fair and equitable if the Expert makes a determination in favour of the Fallback Price 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 ICC Contracts;
- (f) the Emitter acknowledges and agrees that the determination of the Expert in any Fallback Price Dispute shall be applied to all CCUS Programme ICC Contracts, irrespective of whether or not the Emitter was a party to the Fallback Price Dispute giving rise to that determination;
- (g) if the Fallback Price Dispute falls within paragraph 4.6(a)(iii) or 4.6(a)(iv)(A), the Expert shall be instructed to determine whether the Fallback Price contravenes the Fallback Price Principles (or such of the Fallback Price Principles as were specified by the ICC Contract Counterparty as being complied with by the proposed implementation of the Fallback Price) and, if the Expert finds in favour of the Emitter, to include within their determination: (i) the Fallback Price which will comply with all of the Fallback Price Principles; or (ii) if the Expert considers that it is not possible to effect any Fallback Price in a manner which will comply with all of the Fallback Price Principles, the Fallback Price which will comply with the greatest number of Fallback Price Principles;
- (h) if the Fallback Price Dispute falls within paragraph 4.6(a)(iv)(B), the Expert shall be instructed to determine whether the Fallback Price proposed by the Emitter would comply with a greater number of Fallback Price Principles than the Fallback Price contained within the Compliance Scheme Review Proposals or the Fallback Price Review Outcome Notice (as applicable) and, if the Expert finds in favour of the Emitter, to stipulate the Fallback Price which will comply with the greatest number of Fallback Price Principles; and
- (i) notwithstanding paragraphs 4.8(g) and 4.8(h), the Expert shall not be permitted to include within their determination any alternative Fallback Price to those contained within the Compliance Scheme Review Proposals or the Fallback Price Review Outcome Notice (as applicable) unless such proposals or notice contravene one (1) or more principles and the Expert has determined that there is a Fallback Price which will comply with a greater number of Fallback Price Principles than the Fallback Price contained within the Compliance Scheme Review Proposals or the Fallback Price Review Outcome Notice (as applicable) and, as such, the Expert's role shall not extend to an assessment of whether the Fallback Price represents an optimal solution in the context of the parameters contemplated by the Fallback Price Principles.

***Provisions applying pending resolution of a Fallback Price Dispute***

- 4.9 If there is a valid Fallback Price Dispute requiring resolution in accordance with the provisions of paragraphs 4.2 to 4.8 then, pending resolution of such Fallback Price Dispute, paragraph 4.10 shall apply.
- 4.10 If there is a valid Fallback Price Dispute relating to:

- (a) the Compliance Scheme Review:
  - (i) the relevant CSR Outcome Notice shall be deemed to be valid and effective and the Compliance Scheme Review Proposals shall apply with effect from the CSR Implementation Date; and
  - (ii) if the Expert finds in favour of the Emitter, the Compliance Scheme Review Proposals provided for in the determination of such Expert shall be implemented on a date falling no earlier than twenty (20) Business Days after the date on which the Expert has made their determination; or
- (b) a Fallback Price Review:
  - (i) the relevant Fallback Price Review Outcome Notice shall be deemed to be valid and effective and the Fallback Price Review Proposals shall apply with effect from the Fallback Price Review Implementation Date; and
  - (ii) if the Expert finds in favour of the Emitter, the Fallback Price Review Proposals provided for in the determination of such Expert shall be implemented on a date falling no earlier than twenty (20) Business Days after the date on which the Expert has made their determination.

**PART D  
FALLBACK PRICE PRINCIPLES**

**1. FALLBACK PRICE PRINCIPLES**

1.1 The following are the "**Fallback Price Principles**":

- (a) Save in respect of a CSR Trigger or a Fallback Price Review Trigger that has led to the introduction of separate:
  - (i) emissions credit issuing schemes; or
  - (ii) regulatory markets,within the separate constituent countries of the United Kingdom, the calculation of the Fallback Price shall:
  - (A) be the same for all CCUS Programme ICC Contracts; and
  - (B) reflect the value of one (1) metric tonne of carbon dioxide equivalent ( $CO_2e$ ) removal (as defined by the issuing market in whatever form such market takes).
- (b) The Fallback Price shall be calculated using a price source which reflects a volume of trades that represents a diverse range of market participants when compared with other available price sources (if any).
- (c) The Fallback Price shall be calculated so as not to unduly dilute, disrupt or otherwise distort components of the UK Emissions Trading Scheme (or any other emissions credit issuing scheme or regulatory market which allows the Emitter to monetise GGR Credits) that would, absent the existence of CCUS Programme ICC Contracts, contribute to the operational behaviour of participants in, and the pricing of allowances under, such scheme.
- (d) The Fallback Price shall be calculated using price sources which are available to the ICC Contract Counterparty on commercially reasonable terms.
- (e) The Fallback Price calculation is to utilise price sources which satisfy the Fallback Price Source Quality Criteria.

**2. FALLBACK PRICE PRINCIPLES PRIORITISATION**

If:

- (a) the application of any combination of the Fallback Price Principles gives rise to a conflict between one (1) or more of the Fallback Price Principles; or
- (b) it is not possible for a methodology for calculating the Fallback Price to satisfy all of the Fallback Price Principles,

then, as between the relevant Fallback Price Principle(s), the Fallback Price Principle first appearing in the list in paragraph 1.1 (*Fallback Price Principles*) shall be afforded priority as against the other relevant Fallback Price Principle(s).

**PART E**

**GGR CREDIT REVENUE**

1. **APPLICATION**

1.1 This Part E sets out the basis upon which the Monthly GGR Credit Revenue shall be calculated for the purposes of the Monthly GGR Credit Revenue Payment which is to be effected in accordance with Condition 10 of Part 4 (*Payment Calculations*).

2. **GGR CREDIT REVENUE**

**Monthly GGR Credit Revenue Payment**

2.1 In relation to each OP Billing Period, the "**Monthly GGR Credit Revenue**" shall mean an amount (*expressed in pounds (£)*) equal to the sum of:

- (a) the Voluntary GGR Credit Sale Revenue;
- (b) the Compliance GGR Credit Sale Revenue;
- (c) the Compliance GGR Credit Surrender Revenue; and
- (d) the Monthly Linked Entity Compliance GGR Credit Revenue.

2.2 The Monthly GGR Credit Revenue Payment shall be effected in accordance with Condition 10 of Part 4 (*Payment Calculations*).

**Contract End GGR Credit Revenue Payment**

2.3 The "**Contract End GGR Credit Revenue Payment**" shall be the sum of:

- (a) the Monthly GGR Credit Revenue Payment in relation to the OP Billing Period ending in the last Month of the final GGR Audit Year; and
- (a) ninety per cent (90%) of the Accumulated GGR Credits Amount.

2.4 The Contract End GGR Credit Revenue Payment shall be effected in accordance with Conditions 39.14 and 39.15 of Part 9 (*Termination*).

PART F

REPORTING, AUDIT AND RECONCILIATION

Section 1 – Restriction Period: Annual Audit Requirements

1. RESTRICTION PERIOD: ANNUAL AUDIT REQUIREMENTS<sup>12</sup>

**Annual Voluntary GGR Confirmation and Compliance GGR Confirmation**

1.1 With effect from the Start Date:

(a) until a Voluntary Scheme Participation Notice is issued in accordance with paragraph 2 of Part B (*Voluntary Scheme Review*), the Emitter shall, in respect of each GGR Audit Year and by no later than the Annual GGR Reporting Deadline, submit to the ICC Contract Counterparty, in form and content satisfactory to the ICC Contract Counterparty (acting reasonably):

(i) a Directors' Certificate certifying that the Emitter has complied with each Voluntary GGR Credit Restriction and GGO Instrument Restriction (the "**Voluntary GGR Confirmation**"); and

(ii) Supporting Information relevant to the content of the Voluntary GGR Confirmation; and

(b) until a Compliance Scheme Participation Notice is issued in accordance with paragraph 2 of Part C (*Compliance Scheme Review and Fallback Price Review*), the Emitter shall, in respect of each GGR Audit Year and by no later than the Annual GGR Reporting Deadline, submit to the ICC Contract Counterparty, in form and content satisfactory to the ICC Contract Counterparty (acting reasonably):

(i) a Directors' Certificate certifying that the Emitter has complied with each Compliance GGR Credit Restriction and GGO Instrument Restriction (the "**Compliance GGR Confirmation**"); and

(ii) Supporting Information relevant to the content of the Compliance GGR Confirmation.

1.2 Each Voluntary GGR Confirmation and Compliance GGR Confirmation shall be accompanied by a Voluntary GGR Credit Restriction Auditor's Report or a Compliance GGR Credit Restriction Auditor's Report (as applicable).

1.3 If the ICC Contract Counterparty considers that it has not been provided with sufficient Supporting Information in form and content satisfactory to it, in order to determine whether the Emitter has complied with each Voluntary GGR Credit Restriction and/or Compliance GGR Credit Restriction (as applicable), the ICC Contract Counterparty may request further Supporting Information from the Emitter, such Supporting Information to be provided as soon as reasonably practicable and in any event no later than ten (10) Business Days after the additional Supporting Information is requested, or such longer period as is specified by the ICC Contract Counterparty.

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<sup>12</sup> Note to Reader: BEIS is currently considering the mechanism which shall apply during the restriction period in relation to Emitters (other than Waste ICC Emitters) that have limited / no prospect of generating GGR Credits.

- 1.4 Each Voluntary GGR Credit Restriction Auditor's Report and/or Compliance GGR Credit Restriction Auditor's Report shall:
- (a) be prepared:
    - (i) by an independent Auditor in accordance with appropriate accounting standards (or any alternative agreed upon procedures that are agreed to by the ICC Contract Counterparty, acting reasonably); and
    - (ii) at the Emitter's own cost and expense;
  - (b) be addressed to both the Emitter and the ICC Contract Counterparty; and
  - (c) confirm that, on the basis of:
    - (i) the examination of the Emitter's books and accounts; and
    - (ii) information available in the public domain,there is no evidence that:
    - (A) in the case of the Voluntary GGR Credit Restriction Auditor's Report, the Emitter has not complied with each Voluntary GGR Credit Restriction and GGO Instrument Restriction; and
    - (B) in the case of the Voluntary GGR Credit Restriction Auditor's Report, the Emitter has not complied with each Compliance GGR Credit Restriction and GGO Instrument Restriction,
- (a **"Voluntary GGR Credit Restriction Auditor's Report"** or a **"Compliance GGR Credit Restriction Auditor's Report"** (as applicable)).
- 1.5 The Emitter may submit a Voluntary GGR Credit Restriction Auditor's Report and a Compliance GGR Credit Restriction Auditor's Report together in the form of one (1) report.

**Section 2 - Post Restriction Period: Monthly reporting, annual auditing and reconciliation requirements**

**1. POST-RESTRICTION PERIOD: MONTHLY REPORTING, ANNUAL AUDITING AND RECONCILIATION REQUIREMENTS**

***Monthly Reporting Requirements – Voluntary GGR Credits<sup>13</sup>***

1.1 With effect from the date on which a Voluntary Scheme Participation Notice is issued in accordance with paragraph 2 of Part B (*Voluntary Scheme Review*), the Emitter shall, no later than seven (7) Business Days after the end of the relevant OP Billing Period (each a "**Monthly Voluntary GGR Reporting Deadline**"), submit to the ICC Contract Counterparty in relation to that OP Billing Period and in form and content satisfactory to the ICC Contract Counterparty (acting reasonably):

- (a) details of:
  - (i) any Voluntary GGR Credits issued to the Emitter including, for each Voluntary GGR Credit:
    - (A) details of the Acceptable Voluntary Scheme which issued such Voluntary GGR Credit;
    - (B) the date upon which each Voluntary GGR Credit was issued to the Emitter; and
    - (C) the tonnes of greenhouse gas removal and/or the tonnes of carbon dioxide removal to which such Voluntary GGR Credits relate; and
  - (ii) any Voluntary GGR Credit Sale Revenue, including:
    - (A) the total number of Voluntary GGR Credits sold by the Emitter;
    - (B) the sale price of any such Voluntary GGR Credits;
    - (C) the identity of such person or authority to which Voluntary GGR Credits have been sold; and
    - (D) the date(s) on which the Emitter sold such Voluntary GGR Credits;
- (b) the total number of Voluntary GGR Credits which the Emitter has not sold on the last day of the relevant OP Billing Period; and
- (c) Supporting Information relevant to the content of the Monthly Post-Restriction Voluntary GGR Data,  
  
(the "**Monthly Post-Restriction Voluntary GGR Data**").

***Monthly Reporting Requirements – Compliance GGR Credits***

1.2 With effect from the date on which a Compliance Scheme Participation Notice is issued in accordance with paragraph 2 of Part C (*Compliance Scheme Review and Fallback Price Review*), the Emitter shall, by no later than seven (7) Business Days after the end of the relevant OP Billing Period (each a "**Monthly Compliance GGR Reporting Deadline**"),

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<sup>13</sup> Note to Reader: BEIS is currently considering whether any additional monthly reporting requirements will be included under the Waste ICC Contract to assist the Waste ICC Contract Counterparty to assess whether the 'GGR Credits' Extension Conditions have been satisfied.



submit to the ICC Contract Counterparty in relation to that OP Billing Period and in form and content satisfactory to the ICC Contract Counterparty (acting reasonably):

- (a) details of:
  - (i) any Compliance GGR Credits issued to the Emitter including, for each Compliance GGR Credit:
    - (A) details of the Acceptable Compliance Scheme which issued such Compliance GGR Credit;
    - (B) the date upon which each Compliance GGR Credit was issued to the Emitter; and
    - (C) the tonnes of greenhouse gas removal and/or the tonnes of carbon dioxide removal to which such Compliance GGR Credits relate;
  - (ii) any Compliance GGR Credit Sale Revenue, including:
    - (A) the total number of Compliance GGR Credits sold by the Emitter to any person other than a Linked Entity;
    - (B) the sale price of any such Compliance GGR Credits (calculated on a gross basis before tax and any other deductions);
    - (C) the identity of such person to which Compliance GGR Credits have been sold; and
    - (D) the date(s) on which the Emitter sold or transferred such Compliance GGR Credits;
  - (iii) any Monthly Linked Entity Compliance GGR Credit Revenue, including:
    - (A) the total number of Compliance GGR Credits sold or transferred by the Emitter to any Linked Entity; and
    - (B) the sale price of any such Compliance GGR Credits (calculated on a gross basis before tax and any other deductions);
    - (C) the identity of such Linked Entity to which Compliance GGR Credits have been sold or transferred;
    - (D) the date(s) on which the Emitter sold or transferred such Compliance GGR Credits to each such Linked Entity; and
  - (iv) any Compliance GGR Credit Surrender Revenue, including:
    - (A) the total number of Compliance GGR Credits surrendered by the Emitter under any Acceptable Compliance Scheme; and
    - (B) the date(s) on which the Emitter surrendered such Compliance GGR Credits under any Acceptable Compliance Scheme;
- (b) the total number of Compliance GGR Credits which the Emitter has not sold, transferred or surrendered on the last day of the relevant OP Billing Period; and
- (c) such Supporting Information as the Emitter considers to be relevant to the content of the Monthly Post-Restriction Compliance GGR Data,

(the "**Monthly Post-Restriction Compliance GGR Data**").

- 1.3 The Monthly Post-Restriction Voluntary GGR Data and the Monthly Post-Restriction Compliance GGR Data shall be:
- (a) accompanied by a Directors' Certificate certifying such Monthly Post-Restriction Voluntary GGR Data and/or Monthly Post-Restriction Compliance GGR Data (as applicable); and
  - (b) prepared at the cost and expense of the Emitter.

**Annual Audit requirements**

- 1.4 With effect from the date on which:
- (a) a Voluntary Scheme Participation Notice is issued in accordance with paragraph 2 of Part B (*Voluntary Scheme Review*), the Emitter shall, in respect of each GGR Audit Year, submit to the ICC Contract Counterparty no later than the relevant Annual GGR Reporting Deadline a Voluntary GGR Credit Revenue Auditor's Report, in form and content satisfactory to the ICC Contract Counterparty (acting reasonably); and
  - (b) a Compliance Scheme Participation Notice is issued in accordance with paragraph 2 of Part C (*Compliance Scheme Review and Fallback Price Review*), the Emitter shall, in respect of each GGR Audit Year, submit to the ICC Contract Counterparty no later than the relevant Annual GGR Reporting Deadline a Compliance GGR Credit Revenue Auditor's Report, in form and content satisfactory to the ICC Contract Counterparty (acting reasonably).
- 1.5 Each Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report shall:
- (a) be prepared:
    - (i) by an independent Auditor in accordance with accounting standards applicable at the time and the Reasonable and Prudent Standard; and
    - (ii) at the Emitter's own cost and expense;
  - (b) be addressed to both the Emitter and the ICC Contract Counterparty; and
  - (c) confirm in relation to the relevant GGR Audit Year, on the basis of the examination of the Emitter's books and accounts and information available in the public domain:
    - (i) in the case of the Voluntary GGR Credit Revenue Auditor's Report:
      - (A) the amount of:
        - i. Voluntary GGR Credits issued to the Emitter (including the details of the relevant Acceptable Voluntary Scheme which issued such Voluntary GGR Credits), the tonnes of greenhouse gas removal and/or the tonnes of carbon dioxide removal to which such Voluntary GGR Credits relate;
        - ii. Voluntary GGR Credits sold by the Emitter; and
        - iii. Accumulated Voluntary GGR Credits;
      - (B) that the statements and input data included in the Monthly Post-Restriction Voluntary GGR Data, (including any amounts, dates and

formulaic calculations) are accurate in all material respects, including for the purposes of confirming any Monthly GGR Credit Revenue calculated during the relevant GGR Audit Year; and

- (C) that the Monthly Post-Restriction Voluntary GGR Data has been prepared in accordance with the Reasonable and Prudent Standard, including in respect of its logical integrity and arithmetical accuracy; and
- (ii) in the case of the Compliance GGR Credit Revenue Auditor's Report:
    - (A) the amount of:
      - i. Compliance GGR Credits issued to the Emitter (including the details of the relevant Acceptable Compliance Scheme which issued such Compliance GGR Credits), the tonnes of greenhouse gas removal and the tonnes of carbon dioxide removal to which such Compliance GGR Credits relate;
      - ii. Compliance GGR Credits sold by the Emitter (including a breakdown of the Compliance GGR Credits sold to Linked Entities);
      - iii. Compliance GGR Credits surrendered by the Emitter under any Acceptable Compliance Scheme; and
      - iv. Accumulated Compliance GGR Credits;
    - (B) that the statements and input data included in the Monthly Post-Restriction Compliance GGR Data, (including any amounts, dates and formulaic calculation) are accurate in all material respects, including for the purposes of confirming any Monthly GGR Credit Revenue calculated during the relevant GGR Audit Year; and
    - (C) that the Monthly Post-Restriction Compliance GGR Data has been prepared in accordance with the Reasonable and Prudent Standard, including in respect of its logical integrity and arithmetical accuracy,

(a "**Voluntary GGR Credit Revenue Auditor's Report**" or a "**Compliance GGR Credit Revenue Auditor's Report**" (as applicable)).

- 1.6 The Emitter may submit a Voluntary GGR Credit Revenue Auditor's Report and a Compliance GGR Credit Revenue Auditor's Report together in the form of one (1) report.

***GGR Credit Revenue Auditor's Report Response Notice***

- 1.7 The ICC Contract Counterparty shall, no later than forty five (45) Business Days after receipt of a Voluntary GGR Credit Revenue Auditor's Report and/or a Compliance GGR Credit Revenue Auditor's Report (as applicable), issue a notice to the Emitter (a "**GGR Credit Revenue Auditor's Report Response Notice**"). A GGR Credit Revenue Auditor's Report Response Notice shall specify whether the ICC Contract Counterparty:
  - (a) accepts the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable);
  - (b) does not accept the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable), giving reasons; or

- (c) requires the Emitter to provide (or procure that the Auditor provide) additional Supporting Information in relation to the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable) in order for the ICC Contract Counterparty to determine whether or not it accepts the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable) and, if so, details of the additional Supporting Information which the ICC Contract Counterparty requires (the "**GGR Credit Revenue Auditor's Report Supporting Information**").

1.8 If the ICC Contract Counterparty states in a GGR Credit Revenue Auditor's Report Response Notice that:

- (a) it accepts the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable), such report shall apply for the purposes set out in this Annex 9, including in respect of any recalculation in accordance with paragraph 1.10(a) or paragraph 1.10(b) (as applicable);
- (b) it does not accept and disputes the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable):
  - (i) subject to paragraph (ii) below, the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable) provided by the Auditor shall apply for the purposes set out in this Annex 9, including in respect of any recalculation in accordance with paragraph 1.10(a) or paragraph 1.10(b) (as applicable); and
  - (ii) if a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure in respect of a Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable), such Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as amended by such resolution or determination) shall then apply for the purposes set out under this Annex 9, including in respect of any recalculation under paragraph 1.10(c); or
- (c) the Emitter has not provided the ICC Contract Counterparty with sufficient Supporting Information to determine whether or not it accepts the Voluntary GGR Credit Revenue Auditor's Report and/or a Compliance GGR Credit Revenue Auditor's Report (as applicable) then:
  - (i) the Emitter shall provide the GGR Credit Revenue Auditor's Report Supporting Information to the ICC Contract Counterparty as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the GGR Credit Revenue Auditor's Report Response Notice, or such longer period as is specified by the ICC Contract Counterparty; and
  - (ii) the ICC Contract Counterparty shall, no later than thirty (30) Business Days after receipt of the GGR Credit Revenue Auditor's Report Supporting Information, give a further GGR Credit Revenue Auditor's Report Response Notice to the Emitter (a "**Further GGR Credit Revenue Auditor's Report Response Notice**"). A Further GGR Credit Revenue Auditor's Report Response Notice shall specify whether or not it accepts the Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable).

1.9 Nothing in this Section 2 shall require the ICC Contract Counterparty to specify in any GGR Credit Revenue Auditor's Report Response Notice or Further GGR Credit Revenue Auditor's Report Response Notice that the ICC Contract Counterparty accepts the Voluntary GGR

Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable) unless the ICC Contract Counterparty is satisfied of the same.

**Recalculations of Monthly GGR Credit Revenue**

1.10 If:

- (a) the Voluntary GGR Credit Revenue Auditor's Report;
- (b) the Compliance GGR Credit Revenue Auditor's Report; and/or
- (c) the resolution or determination made pursuant to the Dispute Resolution Procedure in respect of any Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable),

confirms that any Monthly GGR Credit Revenue calculated during the GGR Audit Year on the basis of the Monthly Post-Restriction Voluntary GGR Data and/or the Monthly Post-Restriction Compliance GGR Data is not accurate:

- (d) the ICC Contract Counterparty shall recalculate any relevant Monthly GGR Credit Revenue for any relevant OP Billing Period during the GGR Audit Year on the basis of:
  - (i) such Voluntary GGR Credit Revenue Auditor's Report;
  - (ii) such Compliance GGR Credit Revenue Auditor's Report; and/or
  - (iii) the resolution or determination made pursuant to the Dispute Resolution Procedure in respect of any Voluntary GGR Credit Revenue Auditor's Report and/or Compliance GGR Credit Revenue Auditor's Report (as applicable);
- (e) the ICC Contract Counterparty shall calculate any adjustment to any Monthly GGR Credit Revenue Payment (if applicable) for such GGR Audit Year ("**GGR Credit Recalculation Amount**"); and
- (f) such GGR Credit Recalculation Amount shall be included in the Opex Payment Billing Statement which is next issued by the ICC Contract Counterparty.

### Section 3 - General Rights and Obligations

#### 1. GENERAL RIGHTS AND OBLIGATIONS

##### ***Greenhouse Gas Removal Audit Right***

- 1.1 With effect from the Start Date, the Emitter shall grant the ICC Contract Counterparty (and any and all persons nominated by the ICC Contract Counterparty who the ICC Contract Counterparty considers to be suitably qualified, including the Auditors) access in accordance with paragraphs 1.2 to 1.4 (inclusive) to the Emitter's personnel, systems, books, records and any other information as the ICC Contract Counterparty considers reasonably necessary for the ICC Contract Counterparty to assess the Emitter's compliance with this Annex 9 (the "**Greenhouse Gas Removal Audit Right**").
- 1.2 If the ICC Contract Counterparty intends to exercise its Greenhouse Gas Removal Audit Right, it shall give written notice to the Emitter (a "**Greenhouse Gas Removal Audit Notice**"). A Greenhouse Gas Removal Audit Notice shall:
- (a) specify that the ICC Contract Counterparty (or any suitably qualified persons nominated by it under paragraph 1.1) intends to exercise the Greenhouse Gas Removal Audit Right; and
  - (b) specify a date and time during regular office hours by which the Emitter must, in accordance with paragraph 1.3, permit the exercise of the Greenhouse Gas Removal Audit Right.
- 1.3 On receipt of the Greenhouse Gas Removal Audit Notice, the Emitter shall permit the ICC Contract Counterparty to exercise the Greenhouse Gas Removal Audit Right at such time as the ICC Contract Counterparty may nominate provided that it is no earlier than one (1) Business Day after the Emitter's receipt of the Greenhouse Gas Removal Audit Notice.
- 1.4 The Emitter shall cooperate and provide, and shall procure that any Representatives cooperate and provide, all required access, assistance and information to enable the ICC Contract Counterparty to exercise its Greenhouse Gas Removal Audit Right.
- 1.5 If, pursuant to or as a result of the Greenhouse Gas Removal Audit Right, it is agreed or determined that there has been a breach of the Emitter's obligations under the ICC Contract, the Emitter shall indemnify the ICC Contract Counterparty, and keep the ICC Contract Counterparty fully and effectively indemnified, against any and all out-of-pocket costs properly incurred by the ICC Contract Counterparty in exercising that Greenhouse Gas Removal Audit Right.

##### ***Failure to comply with the Greenhouse Gas Removal Audit Right***

- 1.6 If the Emitter fails to comply with its obligation to permit the ICC Contract Counterparty to exercise the Greenhouse Gas Removal Audit Right, the ICC Contract Counterparty may elect to suspend payment of any amount(s) which would otherwise be payable by the ICC Contract Counterparty to the Emitter in any period during which the ICC Contract Counterparty is in non-compliance with such obligation, provided that, prior to effecting such suspension, the ICC Contract Counterparty shall notify the Emitter of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 1.7 If the Emitter subsequently complies with its obligation to permit the ICC Contract Counterparty to exercise the Greenhouse Gas Removal Audit Right, then the ICC Contract Counterparty shall pay any amounts to the Emitter which would have been payable but for the operation of paragraph 1.6. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this paragraph 1.7.

**GGR Non-Compliance Notice**

1.8 If:

- (a) the Emitter fails to submit:
  - (i) a Voluntary GGR Confirmation and a Voluntary GGR Credit Restriction Auditor's Report by the Annual GGR Reporting Deadline in accordance with paragraphs 1.1, 1.2 and 1.4 of Section 1;
  - (ii) a Compliance GGR Confirmation and a Compliance GGR Credit Restriction Auditor's Report by the Annual GGR Reporting Deadline in accordance with paragraphs 1.1, 1.2 and 1.4 of Section 1;
  - (iii) the Monthly Post-Restriction Voluntary GGR Data and a Director's Certificate by the Monthly Voluntary GGR Reporting Deadline in accordance with paragraphs 1.1 and 1.3 of Section 2;
  - (iv) the Monthly Post-Restriction Compliance GGR Data and a Director's Certificate by the Monthly Compliance GGR Reporting Deadline in accordance with paragraphs 1.2 and 1.3 of Section 2;
  - (v) a Voluntary GGR Credit Revenue Auditor's Report by the relevant Annual GGR Reporting Deadline in accordance with paragraphs 1.4 and 1.5 of Section 2;
  - (vi) a Compliance GGR Credit Revenue Auditor's Report by the relevant Annual GGR Reporting Deadline in accordance with paragraphs 1.4 and 1.5 of Section 2; and/or
- (b) the ICC Contract Counterparty notifies the Emitter pursuant to paragraph 1.3 of Section 1 that it requires the Emitter to provide additional Supporting Information and the Emitter fails to provide such Supporting Information in accordance with paragraph 1.3 of Section 1,

then the ICC Contract Counterparty may issue a notice to the Emitter (a "**GGR Non-Compliance Notice**"). A GGR Non-Compliance Notice shall:

- (A) notify the Emitter that the Emitter has failed to comply with any of the requirements set out in paragraph 1.8; and
- (B) as applicable, specify the date on and from which the ICC Contract Counterparty may suspend payments in accordance with paragraph 1.9 being the date which falls thirty (30) Business Days after the date of the GGR Non-Compliance Notice.

1.9 If paragraph 1.8 applies and:

- (a) the Emitter submits the relevant documentation in accordance with the requirements set out in paragraph 1.8 to the ICC Contract Counterparty by the date which is thirty (30) Business Days after the date on which the ICC Contract Counterparty issues the GGR Non-Compliance Notice, then the ICC Contract Counterparty shall not be entitled to suspend payment in accordance with paragraph 1.9(b) below; or
- (b) the Emitter fails to submit the relevant documentation in accordance with the requirements set out in paragraph 1.8 to the ICC Contract Counterparty by the date which is thirty (30) Business Days after the date on which the ICC Contract Counterparty issues the GGR Non-Compliance Notice, then without prejudice to paragraph 1.17 the ICC Contract Counterparty may elect to suspend payment of any amount(s) which would otherwise be payable by the ICC Contract Counterparty to

the Emitter in any period during which the Emitter is in breach of such obligation, provided that, prior to effecting any such suspension, the 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.

- 1.10 If the Emitter subsequently complies with the relevant obligation which has led to the payment suspension under paragraph 1.9(b) above, then the ICC Contract Counterparty shall pay any amounts to the Emitter which would have been payable but for the operation of paragraph 1.9 above. The 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 paragraph 1.10.

**Accumulated GGR Credits Amount Cap**

- 1.11 The Emitter shall at all times ensure that the Accumulated GGR Credits Amount does not exceed the Accumulated GGR Credits Amount Cap (the "**Accumulated GGR Credits Amount Cap Obligation**").
- 1.12 The ICC Contract Counterparty may at any time submit a notice to the Emitter (an "**Accumulated GGR Credits Amount Breach Notice**") if it considers that the Emitter is in breach of paragraph 1.11. An Accumulated GGR Credits Amount Breach Notice shall be accompanied by such Supporting Information as the ICC Contract Counterparty considers necessary to evidence the breach of such obligation.
- 1.13 If the Emitter is in breach of the Accumulated GGR Credits Amount Cap Obligation, the ICC Contract Counterparty may elect to suspend any payments which would otherwise be payable by the ICC Contract Counterparty to the Emitter in any period during which the Emitter is in breach of the Accumulated GGR Credits Amounts Cap Obligation, provided that, prior to effecting any such suspension, the 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.
- 1.14 If the Emitter subsequently complies with such Accumulated GGR Credits Amount Cap Obligation, then the ICC Contract Counterparty shall pay any amounts to the Emitter which would have been payable but for the operation of paragraph 1.13 o. The 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 paragraph 1.14.
- 1.15 If an Accumulated GGR Credits Amount Breach Notice is issued by the ICC Contract Counterparty, then the Emitter shall:
- (a) ensure that, on the last day of the OP Billing Period following the OP Billing Period during which an Accumulated GGR Credits Amount Breach Notice was issued by the ICC Contract Counterparty, the Accumulated GGR Credits Amount no longer exceeds the Accumulated GGR Credits Amount Cap; and
  - (b) prior to the relevant Monthly Compliance GGR Reporting Deadline and/or Monthly Voluntary GGR Reporting Deadline (as applicable), provide evidence to the satisfaction of the ICC Contract Counterparty (in the form of Monthly Post-Restriction Voluntary GGR Data and Monthly Post-Restriction Compliance GGR Data) that the Emitter has complied with paragraph (a) above.
- 1.16 If the Emitter does not comply with its obligations under paragraph 1.15 then an "**Accumulated GGR Credits Amount Cap Termination Event**" will be deemed to have occurred.



**Greenhouse Gas Removal Termination Event**

1.17 If:

- (a) any information provided by the Emitter in accordance with this Annex 9 is misleading, or the Emitter fails to provide any information in accordance with this Annex 9, and the Emitter:
  - (i) knew that such information was, or a failure to provide such information would be, misleading;
  - (ii) acted recklessly in providing or failing to provide such information; or
  - (iii) failed to make all due and careful enquiries when providing such information;
- (b) it is agreed, or determined in accordance with the Dispute Resolution Procedure, that prior to the date on which:
  - (i) a Voluntary Scheme Participation Notice is issued in accordance with paragraph 2 of Part B (*Voluntary Scheme Review*), the Emitter did not comply with a Voluntary GGR Credit Restriction; and/or
  - (ii) a Compliance Scheme Participation Notice is issued in accordance with paragraph 2 of Part C (*Compliance Scheme Review and Fallback Price Review*), the Emitter did not comply with a Compliance GGR Credit Restriction;
- (c) it is agreed, or determined in accordance with the Dispute Resolution Procedure, that the Emitter did not comply with a GGO Instrument Restriction;
- (d) a Restricted Voluntary GGR Transfer and/or a Restricted Voluntary GGR Surrender occurs; and/or
- (e) an Accumulated GGR Credits Amount Cap Termination Event occurs,

then a "**Greenhouse Gas Removal Termination Event**" will be deemed to have occurred.

**PART G**

**ACCUMULATED GGR CREDITS: SECURITY AND ENFORCEMENT**

***Security***

- 1.1 Where the Accumulated GGR Credits Amount exceeds the Accumulated GGR Credits Threshold as at the date on which:
- (a) the Monthly Post-Restriction Voluntary GGR Data and/or Monthly Post-Restriction Compliance GGR Data is provided by the Emitter in respect of the sixth (6th) Month of the relevant GGR Audit Year;
  - (b) the Voluntary GGR Credit Revenue Auditor's Report and/or the Compliance GGR Credit Revenue Auditor's Report is provided by the Auditor (unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure); and /or
  - (c) a written notice is issued by the ICC Contract Counterparty pursuant to paragraph 1.2,
- the Emitter shall, by no later than ten (10) Business Days of the relevant date, transfer or deliver, or procure the transfer or delivery of GGR Acceptable Collateral to the ICC Contract Counterparty in an aggregate amount equal to the GGR Collateral Amount as security for the GGR Secured Sums. The Emitter may provide any GGR Acceptable Collateral in order to comply with this paragraph 1.1.
- 1.2 Subject to paragraph 1.3, and without prejudice to paragraphs 1.1(a) and 1.1(b), if at any time the Accumulated GGR Credits Amount exceeds the Further Accumulated GGR Credits Threshold, the ICC Contract Counterparty may (but shall not be obliged to) in its sole and absolute discretion, give a written notice to the Emitter requiring the Emitter to transfer or deliver, or procure the transfer or delivery of, a GGR Acceptable Collateral in an amount equal to or greater than the amount by which the GGR Posted Collateral is less than the GGR Collateral Amount (a "**Further Accumulated GGR Credit Collateral Notice**").
- 1.3 If, at any time, the amount by which the Accumulated GGR Credits Amount exceeds the Accumulated GGR Credits Amount used most recently to calculate the amount of GGR Acceptable Collateral that the Emitter was required to transfer or deliver to the ICC Contract Counterparty, or to procure the transfer or delivery of, in accordance with paragraph 1.1:
- (a) is less than two million pounds sterling (£2,000,000) then, for the purposes of paragraph 1.2, the Parties acknowledge and agree that the Further Accumulated GGR Credits Threshold will be deemed not to have been exceeded; and
  - (b) is greater than five million pounds sterling (£5,000,000) then, for the purposes of paragraph 1.2, the Parties acknowledge and agree that the Further Accumulated GGR Credits Threshold will be deemed to have been exceeded.

***Provision of Collateral***

- 1.4 All transfers or deliveries of any GGR Acceptable Collateral pursuant to paragraph 1.1 shall be made by or on behalf of the Emitter, the relevant GGR Qualifying Issuer and/or GGR Qualifying Bond Provider (as applicable) and shall be made:
- (a) in the case of cash, by transfer in accordance with the instructions made by or on behalf of the ICC Contract Counterparty, to the credit of the Reserve Account;
  - (b) in the case of a GGR Letter of Credit, by a GGR Qualifying Issuer issuing a GGR Letter of Credit in favour of the ICC Contract Counterparty or its designee. Such issue shall

be deemed effective upon receipt by the ICC Contract Counterparty or its designee from the GGR Qualifying Issuer of the duly executed and issued GGR Letter of Credit;

- (c) in the case of a GGR Bond, by a GGR Qualifying Bond Provider issuing a GGR Bond in favour of the ICC Contract Counterparty or its designee. Such issue shall be deemed effective upon receipt by the ICC Contract Counterparty or its designee from the GGR Qualifying Bond Provider of the duly executed and issued GGR Bond.

**Transfers and custody of collateral**

1.5

- (a) The Emitter shall procure that any GGR Acceptable Collateral (or any renewal or replacement thereof) provided pursuant to paragraph 1.1:
  - (i) shall be valid at least until the date which falls twelve (12) months after the date on which the Emitter transfers or delivers, or procures the transfer or delivery of, GGR Acceptable Collateral in accordance with paragraph 1.1;
  - (ii) shall be accompanied by a notice from the Emitter (a "**GGR Letter of Credit Details Notice**" and/or a "**GGR Bond Details Notice**", as applicable). A GGR Letter of Credit Details Notice and GGR Bond Details Notice shall specify:
    - (A) the identity and credit rating of the GGR Qualifying Issuer or the GGR Qualifying Bond Provider issuing the GGR Letter of Credit or the GGR Bond, respectively;
    - (B) the contact details for the GGR Qualifying Issuer or the GGR Qualifying Bond Provider (or their respective representatives or relationship managers);
    - (C) without prejudice to paragraphs 1.1 and 1.5(a)(i), the period of time during which the GGR Letter of Credit or GGR Bond will remain in effect; and
    - (D) in respect of a GGR Letter of Credit or GGR Bond, the amount of credit to be provided which, when aggregated with any other GGR Acceptable Collateral transferred, delivered or procured pursuant to paragraph 1.1 shall be no less than the GGR Collateral Amount.
- (b) At least twenty (20) Business Days prior to the date of expiry or cancellation of a form of GGR Acceptable Collateral, the Emitter shall renew or procure the renewal of such GGR Acceptable Collateral by transferring or delivering, or by procuring the transfer or delivery of, a GGR Acceptable Collateral in the amount of and in substitution of, and to be effective no later than the date of expiry or cancellation of, the current form of GGR Acceptable Collateral that is expiring or being cancelled. This paragraph 1.5(b) shall only apply to the extent GGR Acceptable Collateral is still required, pursuant to the provisions of this Part G (*Accumulated GGR Credits: Security and Enforcement*), after the date of expiry or cancellation of the current form of GGR Acceptable Collateral.

**Altering collateral**

1.6

- (a) If, at any time, any GGR Acceptable Collateral transferred, delivered or procured pursuant to paragraph 1.1 is not or ceases to be a GGR Acceptable Collateral and/or the GGR Posted Collateral is less than the GGR Collateral Amount required to be transferred, delivered or procured in accordance with this Part G (*Accumulated GGR*

*Credits: Security and Enforcement*), the ICC Contract Counterparty may issue a notice to the Emitter (a "**GGR Collateral Correction Notice**"). A GGR Collateral Correction Notice shall specify:

- (i) the GGR Posted Collateral(s) which is not or has ceased to be a GGR Acceptable Collateral and the reason that prevents such collateral from constituting a GGR Acceptable Collateral; and/or
  - (ii) the amount by which the GGR Posted Collateral is less than the GGR Collateral Amount (a "**Deficient GGR Collateral Amount**").
- (b) No later than five (5) Business Days after receipt of a GGR Collateral Correction Notice, the Emitter shall:
- (i) where paragraph 1.6(a)(i) applies, substitute any of the GGR Posted Collateral with other GGR Acceptable Collateral which shall not in any event be less than the GGR Collateral Amount in aggregate with any other GGR Acceptable Collateral; and
  - (ii) where paragraph 1.6(a)(ii) applies, transfer or deliver, or procure the transfer or delivery of, a GGR Acceptable Collateral in an amount more than or equal to the Deficient GGR Collateral Amount.

**GGR Letter of Credit Events and GGR Bond Events**

1.7

- (a) If, at any time:
- (i) an Insolvency Event occurs in relation to a GGR Qualifying Issuer;
  - (ii) a GGR Letter of Credit ceases to be in full force and effect or a GGR Qualifying Issuer's obligations under a GGR Letter of Credit are or become wholly or partly invalid or unenforceable or a GGR Qualifying Issuer fails to comply promptly with any of its obligations pursuant to a GGR Letter of Credit;
  - (iii) a GGR Letter of Credit will expire and such GGR Letter of Credit has not been replaced by the date which is twenty (20) Business Days prior to the expiry of such GGR Letter of Credit; or
  - (iv) a GGR Qualifying Issuer of a GGR Letter of Credit ceases to be a GGR Qualifying Issuer,
- (together, "**GGR Letter of Credit Events**"), the Emitter shall:
- (A) where a GGR Letter of Credit Event set out in paragraph 1.7(a)(i), 1.7(a)(ii) or 1.7(a)(iv) occurs, give notice to the ICC Contract Counterparty and procure the replacement of such GGR Letter of Credit with a GGR Acceptable Collateral (such that the GGR Posted Collateral is an amount equal to the GGR Collateral Amount) no later than ten (10) Business Days after the date on which the relevant GGR Letter of Credit Event occurs; or
  - (B) where a GGR Letter of Credit Event set out in paragraph 1.7(a)(iii) occurs, extend the term of the then current GGR Letter of Credit (or replace it with another GGR Letter of Credit) in each case with a validity period of not less than twelve (12) months, no later than twenty (20) Business Days prior to the expiry of the then current GGR Letter of Credit.

- (b) If, at any time:
  - (i) an Insolvency Event occurs in relation to a GGR Qualifying Bond Provider;
  - (ii) a GGR Bond ceases to be in full force and effect or the GGR Qualifying Bond Provider's obligations under the GGR Bond are or become wholly or partly invalid or unenforceable or the GGR Qualifying Bond Provider fails to comply promptly with any of its obligations pursuant to the GGR Bond;
  - (iii) a GGR Bond will expire and such GGR Bond has not been replaced by the date which is twenty (20) Business Days prior to the expiry of such GGR Bond; or
  - (iv) a GGR Qualifying Bond Provider ceases to be a GGR Qualifying Bond Provider,  
(together, "**GGR Bond Events**"), the Emitter shall:
    - (A) where a GGR Bond Event set out in paragraph 1.7(b)(i), 1.7(b)(ii) or 1.7(b)(iv) occurs, give notice to the ICC Contract Counterparty and procure the replacement of such GGR Bond with a GGR Acceptable Collateral (such that the GGR Posted Collateral is an amount equal to the GGR Collateral Amount) no later than ten (10) Business Days after the date on which the relevant GGR Bond Event occurs; or
    - (B) where a GGR Bond Event set out in paragraph 1.7(b)(iii) occurs, extend the term of the then current GGR Bond (or replace it with another GGR Bond) in each case with a validity period of not less than twelve (12) months, no later than twenty (20) Business Days prior to the expiry of the then current GGR Bond.
- (c) If the Emitter fails to procure replacement GGR Acceptable Collateral in accordance with paragraph 1.7(a) or 1.7(b), the ICC Contract Counterparty may demand payment pursuant to the GGR Letter of Credit and/or Bond respectively and shall hold any cash paid pursuant to the GGR Letter of Credit and/or GGR Bond in a Reserve Account until such time as the GGR Posted Collateral is substituted or extended in accordance with this paragraph 1.7.

#### ***Making a GGR Posted Collateral Demand***

##### 1.8

- (a) The ICC Contract Counterparty may make a demand under a GGR Letter of Credit and/or GGR Bond procured by the Emitter, or draw down on any cash amount in a Reserve Account (including any interest which has accrued on such cash held in a Reserve Account) (a "**GGR Posted Collateral Demand**") in the following circumstances:
  - (i) the Emitter fails to pay any Contract End GGR Credit Revenue Payment to the ICC Contract Counterparty; or
  - (ii) the Emitter fails to renew or extend, or procure the renewal or extension of, a GGR Letter of Credit or a GGR Bond in accordance with paragraph 1.5(b), 1.6 or 1.7 by the transfer or delivery of substitute GGR Acceptable Collateral.
- (b) If a GGR Posted Collateral Demand has been made in relation to paragraph 1.8(a)(ii) above:
  - (i) the Emitter shall transfer or deliver, or procure the transfer or delivery of, further GGR Acceptable Collateral no later than two (2) Business Days after

such demand in an amount no less than the amount demanded by the ICC Contract Counterparty in such GGR Posted Collateral Demand; and

- (ii) the ICC Contract Counterparty shall return the amount demanded by the ICC Contract Counterparty in such GGR Posted Collateral Demand (including any interest which has accrued on such amount) no later than [ten] ([10]) Business Days after the date on which the Emitter transfers or delivers, or procures the transfer or delivery of, further GGR Acceptable Collateral in accordance with paragraph 1.8(b)(i) above.
- (c) Where the Emitter fails to renew or extend, or procure the renewal or extension of, a GGR Letter of Credit or a GGR Bond in accordance with paragraph 1.5(b), 1.6 or 1.7 by the transfer or delivery of substitute GGR Acceptable Collateral, the ICC Contract Counterparty shall have the right, but not the obligation, to set off the amount secured by such GGR Letter of Credit or GGR Bond against any or all other amounts owing (whether or not matured, contingent or invoiced) by the ICC Contract Counterparty to the Emitter under the ICC Contract. The right of set off shall be without prejudice and in addition to any other right to which the ICC Contract Counterparty is otherwise entitled.

### ***Return of collateral***

#### 1.9

- (a) If:
  - (i) the Emitter has replaced or substituted any GGR Acceptable Collateral in accordance with this Part G (*Accumulated GGR Credits: Security and Enforcement*); and
  - (ii) as a result, the GGR Posted Collateral exceeds the GGR Collateral Amount, then, subject to paragraph 1.8, the ICC Contract Counterparty shall return to the Emitter GGR Acceptable Collateral representing the amount by which the GGR Posted Collateral exceeds the GGR Collateral Amount no later than ten (10) Business Days after the date on which the Emitter replaces or substitutes the relevant GGR Acceptable Collateral in accordance with this Part G (*Accumulated GGR Credits: Security and Enforcement*).
- (b) The ICC Contract Counterparty shall return the GGR Posted Collateral:
  - (i) in the case of cash (together with any interest which has accrued on such cash held in a Reserve Account), by transfer in accordance with the instructions made by or on behalf of the Emitter, to the credit of one (1) or more bank accounts in the United Kingdom specified by the Emitter; and
  - (ii) in the case of a GGR Letter of Credit or GGR Bond, as the case may be, by surrendering, or procuring the surrender of, the relevant GGR Letter of Credit or GGR Bond (or by otherwise cancelling the relevant GGR Letter of Credit or GGR Bond to the satisfaction of the relevant GGR Qualifying Issuer or GGR Qualifying Bond Provider).
- (c) Without prejudice to paragraph 1.8, the ICC Contract Counterparty shall return any GGR Posted Collateral in the manner specified in paragraph 1.9 no later than five (5) Business Days after the date on which the Parties agree, or it is determined pursuant to the Expert Determination Procedure, that all payment obligations under this Annex 9 have been fully and finally discharged.

**Enforcement Mechanism for GGR Provisions**

- 1.10 Where the Emitter has failed to pay any Contract End GGR Credit Revenue Payment to the ICC Contract Counterparty then, at the ICC Contract Counterparty's election, the ICC Contract Counterparty shall:
- (a) be entitled to draw on all or any part of the GGR Acceptable Collateral given by the Emitter in satisfaction of the relevant GGR Secured Sums in accordance with paragraph 1.8; and/or
  - (b) have the right to set off the GGR Collateral Amount against any or all other amounts owing (whether or not matured, contingent or invoiced) by the ICC Contract Counterparty to the Emitter under the ICC Contract. The right of set off shall be without prejudice and in addition to any other right to which the ICC Contract Counterparty is otherwise entitled.

**Remedies in respect of security and enforcement**

- 1.11 The ICC Contract Counterparty's rights and remedies pursuant to this Part G (*Accumulated GGR Credits: Security and Enforcement*) are cumulative and not exclusive of any rights or remedies provided by law.

**Alternative form of collateral**

- 1.12 The Emitter may, at any time, propose that an alternative form of collateral providing an equivalent level of security to any GGR Acceptable Collateral be accepted as a GGR Acceptable Collateral under the ICC Contract. The Emitter's proposal must be in writing and detail the form of collateral proposed and any other information the Emitter considers relevant in order to allow the ICC Contract Counterparty to consider its proposal. The ICC Contract Counterparty may, in its sole discretion, decide whether or not to accept such proposed collateral and may request further information from the Emitter prior to making any decision. Any acceptance of the collateral proposed may be subject to such conditions as the ICC Contract Counterparty shall specify, including amendments to the ICC Contract to take into account the proposed collateral.

APPENDIX 1

FORM OF GGR BOND

Low Carbon Contracts Company Ltd, a company incorporated under the laws of England and Wales whose registered office is 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the "**Beneficiary**")

202[●]

Dear [●]

**Our Performance Bond (Ref [●] )**

1. We, [*the GGR Qualifying Bond Provider*], have been informed that [*the Emitter*] (Company number [●])(the "**Principal**") has entered into an agreement with the Beneficiary dated [●] (the "**Contract**").
2. We are informed that it is a term of the Contract that the Principal obtains a performance bond in this form (the "**Bond**"). Capitalised terms in this Bond shall have the meaning ascribed to them in the Contract unless otherwise defined in this Bond.
3. At the request of the Principal and in consideration of £10.00 (ten pounds), receipt of which is acknowledged, we, [*the GGR Qualifying Bond Provider*], hereby irrevocably and unconditionally undertake, as primary obligor, to pay you the Beneficiary any sum or sums not exceeding in aggregate a maximum amount of £[●] (the "**Guaranteed Amount**") within five (5) days of receipt by us of your demand in writing and your written statement stating:
  - (a) that the Principal is in breach of his obligation(s) under the Contract and confirming the respect in which the Principal is in breach and the amount of the demand,without us being entitled and/or obliged to make any enquiry either of you or the Principal, without the need for you to take legal action against or to obtain the consent of the Principal, notwithstanding any objection by the Principal or any third party, without any further proof or conditions and without any withholding or deduction of any kind whether by way of right of set-off, counterclaim or otherwise.
4. Your written demand or demands shall be conclusive evidence of our liability to pay you and of the amount of the sum or sums which we are liable to pay to you. Our obligation to make payment under this Bond shall be a primary, independent, irrevocable and absolute obligation and we shall not be entitled to delay or withhold payment for any reason. Our obligations under this Bond shall not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate us from our obligations hereunder in whole or in part.
5. This Bond shall become effective no later than the date of this Bond and shall be valid at least until the date which falls twelve (12) Months after the date of this Bond [●] (the "**Expiration Date**") but this will not affect or discharge our obligation to make payment of any demand or demands made in accordance with this Bond which are received on or before the Expiration Date.
6. This Bond shall be returned to us immediately after the later to occur of:
  - (a) the Expiration Date; and



- (b) the final resolution of all demands under this Bond.
- 7. This Bond shall not be abrogated or affected by any other bond, guarantee or indemnity which you may hold in connection with the Contract or by any extensions of time granted under the Contract or other indulgence, waiver or forbearance under the Contract or this Bond or by any variations or alterations to the Contract made, conceded, given or agreed with or without our knowledge or consent.
- 8. Our obligation to make payment under this Bond shall not be affected by any act, omission, matter or thing (including, without limitation, the amalgamation, reconstruction, liquidation, receivership, administration, administrative receivership or dissolution of the Principal) which but for this paragraph might operate to release or otherwise exonerate us from our obligations hereunder in whole or in part, including, without limitation, (and whether or not known to us or to you):
  - (a) the taking, variation, compromise, renewal or release of or release or neglect to perfect or enforce any rights, remedies or securities (including, without limitation, any bond, guarantee or security) against the Principal or any other person; and
  - (b) any legal limitation disability or incapacity relating to the Principal or any other person.
- 9. If at any time one or more of the provisions of this Bond is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Bond.
- 10. This Bond and the benefit conferred to it may be assigned by the Beneficiary without our consent, to any party at any time and references to the Beneficiary shall include its assignees. This Bond and the benefit conferred by it may not be assigned by us. The Beneficiary shall give written notice to us within 14 days of any assignment pursuant to this clause.
- 11. This Bond (and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Bond) shall be governed by and construed according to the laws of England.
- 12. The parties submit to the exclusive jurisdiction of the courts of England as regards any claim or matter arising in relation to this Bond.

Signed as a deed by )  
 )  
duly authorised for and on behalf of  
[GGR Qualifying Bond Provider] )  
  
In the presence of: )  
  
Signature: )  
  
Name:  
  
Address: )  
  
Occupation: