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**FiT CONTRACT FOR DIFFERENCE  
STANDARD TERMS AND CONDITIONS**

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**Version: [·]**

**[Date], 2014**

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## **PRELIMINARY**

- (A) These standard terms and conditions applicable to FiT Contracts for Difference were issued by the Secretary of State on **[date]**, 2014 in accordance with section 11(1) of the EA 2013.
  
- (B) The Conditions as applicable to an Eligible Generator are to be read in conjunction with:
  - (i) the offer to contract made to the Eligible Generator by the CfD Counterparty pursuant to section 14 of the EA 2013 and the acceptance of that offer by such Eligible Generator; and
  
  - (ii) the CfD Agreement entered into between the CfD Counterparty and the Eligible Generator.

**Part 1**  
**Introduction**

**1. DEFINITIONS AND INTERPRETATION**

***Definitions***

1.1 In these Conditions:

“**Acceptable Collateral**” means: (i) a Letter of Credit; and/or (ii) a cash amount in sterling transferred to the credit of a Reserve Account;

“**Actual Balancing System Charge**” has the meaning given to that term in Condition 40.2(E);

“**Actual TLM Charge**” has the meaning given to that term in Condition 41.2(E);

“**Adjusted Output Period**” means a period of reduced or increased generation output by the Facility occurring during the Term as a direct result of a Qualifying Change in Law;

“**Affected Further CP**” has the meaning given to that term in Condition 3.9;

“**Aggregate Difference Amount**” has the meaning given to that term in Condition 20.3(I);

“**Agreement Date**” has the meaning given to that term in the CfD Agreement;

“**Agreement Date Provisions**” means Part 1 (*Introduction*), Part 2 (*Term*), Part 3 (*Conditions Precedent and Milestone Requirements*), Condition 8 (*Application*), Condition 13 (*Strike Price*), Condition 15 (*Application*), Condition 18 (*Strike Price*), Condition 22 (*Default Interest*), Condition 23 (*Set-off*), Condition 24 (*Deductions and withholdings*), Condition 25 (*Payment accounts*), Condition 26 (*Generator representations and warranties*), Condition 27 (*CfD Counterparty representations and warranties*), Condition 28 (*Generator undertakings: General*), Condition 30 (*Generator undertakings: Information provision*), Part 12 (*Termination*), Part 14 (*Dispute Resolution*) to Part 17 (*Miscellaneous*) (inclusive), Schedule 1 (*Conditions Precedent*), Annex 1 (*Calculation of Termination Amount*), Annex 2 (*Change Control Procedure*), Annex 3 (*Form of Direct Agreement*), Annex 7 (*FMS arrangements and RQM Calculation Methodology*) and Annex 8 (*Pro forma notices*);

“**Amendment Notification**” has the meaning given to that term in paragraph 2.1 of Annex 2 (*Change Control Procedure*);

“**Annual Balancing System Charges**” means, in respect of any Balancing System Charges Review Date, the amount (expressed in £/MWh) equal to:

- (A) the total net BSUoS Charges payable by electricity generators in Great Britain in respect of the year immediately preceding such Balancing System Charges Review Date less the total net RCRC Credits receivable by electricity generators in Great Britain in respect of such year; divided by
- (B) the total metered generation (expressed in MWh) of those electricity generators in Great Britain (not being Embedded Generators) in such year;

**“Annual QCPC Report”** has the meaning given to that term in Condition 42.12;

**“Annual TLM Charges”** means, in respect of any calendar year, the TLM Charges for the relevant calendar year expressed as a percentage of the total electricity generation (in MWh) of electricity generators in Great Britain (excluding exemptible Embedded Generators) in such calendar year;

**“AOP Estimate”** means a good faith estimate of an Adjusted Output Period (including a good faith estimate of the date on which such Adjusted Output Period will commence and end);

**“Arbitral Award”** has the meaning given to that term in Condition 54.2;

**“Arbitral Tribunal”** has the meaning given to that term in the LCIA Arbitration Rules;

**“Arbitration Dispute”** means any Dispute other than an Expert Dispute;

**“Arbitration Procedure”** means the rules, obligations and procedures set out in Condition 54 (*Arbitration Procedure*);

**“Arbitrator”** means any person to whom a Dispute is referred in accordance with the Arbitration Procedure;

**“Assumed Load Factor”** means the assumed load factor in respect of the Facility Generation Technology, as published by DECC and used to set the Initial Strike Price, and as specified in the CfD Agreement;

**“Assumed RQM”** has the meaning given to that term in the CfD Agreement (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

**“Authority”** means the Gas and Electricity Markets Authority established pursuant to section 1 of the Utilities Act 2000;

**“Balancing Mechanism”** means the balancing mechanism operated at the Agreement Date by the Transmission System Operator and designed to balance supply and demand for electricity in real time on the national electricity transmission system, and shall include any substitute or equivalent mechanism or arrangements;

**“Balancing System Charges”** means BSUoS Charges net of RCRC Credits;

“**Balancing System Charges Difference**” has the meaning given to that term in Condition 40.2(G);

“**Balancing System Charges Report**” has the meaning given to that term in Condition 40.2;

“**Balancing System Charges Report Year**” has the meaning given to that term in Condition 40.2;

“**Balancing System Charges Review Date**” has the meaning given to that term in Condition 40.2(C);

“**Base Rate**” means the rate of interest published from time to time by the Bank of England as its base rate;

“**Base Year**” has the meaning given to that term in the CfD Agreement;

“**Base Year CPI**” means the value of the CPI for February in the Base Year;

“**Base Year Terms**” means, for any Strike Price Adjustment initially expressed in a price base period (x), with (x) being a calendar year other than the Base Year, the Strike Price in respect of the Base Year ( $ADJ_{base}$ ), calculated in accordance with the following formula:

$$ADJ_{base} = ADJ_x \times \frac{CPI_{base}}{CPI_x}$$

where:

$ADJ_x$  is the Strike Price Adjustment (expressed in £/MWh) in any year (x);

$CPI_{base}$  denotes the Base Year CPI; and

$CPI_x$  denotes the arithmetic mean of the monthly CPI over the year (x);

“**Billing Period**” means the period starting at 00:00 on a day and ending at 00:00 on the following day;

“**Billing Statement**” has the meaning given to that term in Condition 20.1;

“**Billing Statement Dispute Notice**” has the meaning given to that term in Condition 21.3;

“**Black Start**” has the meaning given to that term in the Grid Code;

“**BSC**” means the Balancing and Settlement Code that is provided for in Standard Condition C3 (Balancing and Settlement Code (BSC)) of the Transmission Licence and Standard Condition 20 (Compliance with Core Industry Documents) of the Distribution Licence;

**“BSUoS Charges”** means:

- (A) balancing services use of system charges which, at the Agreement Date, are levied by the GB System Operator pursuant to the CUSC; and
- (B) any new or substitute payments or credits which are in the nature of, or similar to, balancing services use of system charges, whether or not levied by the GB System Operator or pursuant to the CUSC,

in each case, payable or receivable by electricity generators in Great Britain;

**“BSUoS Strike Price Adjustment”** has the meaning given to that term in Condition 40.3;

**“Business Day”** means a day (other than a Saturday or a Sunday) on which banks are open for general business in London;

**“CCP Affected Parties”** means, in respect of a General Amendment, the generators which are party to those FiT Contracts for Difference to which the General Amendment is proposed to be made;

**“CfD Agreement”** means the agreement entered into between the CfD Counterparty and the Eligible Generator pursuant to an offer made by the CfD Counterparty pursuant to section 14 of the EA 2013;

**“CfD Counterparty”** has the meaning given to that term in the CfD Agreement;

**“CfD Counterparty Confidential Information”** means:

- (A) all Information which is confidential or proprietary in nature and which relates (directly or indirectly) to the CfD Counterparty or a Government Entity (including any such Information relating to the policy of Her Majesty’s Government of the United Kingdom with respect to matters pertinent to FiT Contracts for Difference or the Contract for Difference) which the Generator (or its Representatives) receives or has received from the CfD Counterparty (or its Representatives) or from any third party who receives or has received such Information from the CfD Counterparty (or its Representatives) in respect of the Contract for Difference (including all such Information which the Generator prepares which contains or reflects or is generated from such Information);
- (B) without prejudice to the generality of paragraph (A), all Information relating to any QCiL Compensation or QCiL True-Up Compensation, including all Information relating to or arising from negotiations, discussions and correspondence in connection with any such QCiL Compensation or QCiL True-Up Compensation; and
- (C) all Information which relates to or arises from negotiations, discussions and correspondence in connection with the Contract for Difference,

but excluding in each case all Excluded Information;

“**CfD Counterparty GT Notice**” has the meaning given to that term in Condition 37.7;

“**CfD Counterparty GT Response Notice**” has the meaning given to that term in Condition 37.6;

“**CfD Counterparty Permitted Purposes**” means:

- (A) complying with the CfD Counterparty’s responsibilities and obligations, and exercising the CfD Counterparty’s rights, powers and discretions, under or in connection with the Contract for Difference, any other CfD Document or any other FiT Contract for Difference;
- (B) complying with the CfD Counterparty’s responsibilities and obligations under or by virtue of the EA 2013 or any other Law or European Union law, policy or guidance; and
- (C) reporting on the establishment, administration, performance or operation of, or compliance or non-compliance with, the obligations and arrangements contemplated by or provided for in the Contract for Difference and FiT Contracts for Difference;

“**CfD Counterparty QCiL Notice**” has the meaning given to that term in Condition 31.1;

“**CfD Counterparty QCiL True-Up Notice**” has the meaning given to that term in Condition 34.2;

“**CfD Documents**” means the Contract for Difference and each of the agreements entered into between the Parties pursuant to it and “**CfD Document**” shall be construed accordingly;

“**CfD Generators**” means, at the relevant time, all parties (other than the CfD Counterparty) to FiT Contracts for Difference;

“**CfD Settlement Activities**” means:

- (A) the calculation, invoicing, reconciliation and settlement of payments to be made pursuant to the Contract for Difference; and
- (B) the calculation of collateral requirements and the provision of collateral in accordance with Part 13 (*Credit Support*);

“**CfD Settlement Required Information**” means all the Information required by the CfD Counterparty or the CfD Settlement Services Provider on its behalf relating to the Contract for Difference and required by it to carry out the CfD Settlement Activities;

“**CfD Settlement Services Provider**” means any person appointed for the time being and from time to time by the CfD Counterparty to carry out any of the CfD Settlement Activities, or who is designated by the Secretary of State to carry out the CfD Settlement Activities;

**“Change Control Procedure”** means the rules, obligations and procedures set out in Annex 2 (*Change Control Procedure*);

**“Change in Law”** means:

- (A) the coming into effect, amendment, supplement, termination, repeal, replacement or withdrawal of or to: (i) any Law or Directive; (ii) any Industry Document; or (iii) any Required Authorisation; or
- (B) a change in the interpretation or application of any Law, Directive, Industry Document or Required Authorisation by any Competent Authority,

in each case after the Agreement Date and save (in each case) to the extent that the Change in Law:

- (i) arises out of, or in connection with, a breach of or default under or with respect to, that Law, Directive, Industry Document or Required Authorisation by the Generator or any of its Representatives;
- (ii) arises out of, or in connection with, a failure by the Generator or any of its Representatives to act in accordance with a Reasonable and Prudent Standard; or
- (iii) represents no more than a continuous improvement or development of good practice which would be complied with in respect of a generating facility deploying the Facility Generation Technology by a generator acting in accordance with a Reasonable and Prudent Standard;

**“CHPQA”** means the Combined Heat and Power Quality Assurance Standard, as published by DECC (Issue 5, dated November 2013) (as such standard may be amended, supplemented, restated or replaced from time to time) (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

**“CHPQA Certificate”** means a certificate issued in relation to the Facility pursuant to the CHPQA (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

**“CHPQA Guidance Note 44”** means “Guidance Note 44”, as published by DECC at the Agreement Date in relation to the CHPQA (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

**“CHPQA Guidance Note 44 Certificate”** means a certificate issued in relation to the Facility pursuant to CHPQA Guidance Note 44 (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

**“CHPQM Calculation Methodology”** means the methodology for calculating the CHP Qualifying Multiplier as set out in Annex 6 (*CHPQM Calculation Methodology*) (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

“**CHP Qualifying Multiplier**” shall have the meaning given to that term in paragraph 2.1 of Annex 6 (*CHPQM Calculation Methodology*) (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

“**CJA**” means the Criminal Justice Act 1993;

“**Claimant**” has the meaning given to that term in Condition 53.3;

“**Classification Objection**” has the meaning given to that term in paragraph 2.6(B)(ii)(a) of Annex 2 (*Change Control Procedure*);

“**Collateral Amount**” means an amount (expressed in pounds) calculated by the CfD Counterparty in accordance with Condition 49.4;

“**Collateral Correction Notice**” has the meaning given to that term in Condition 50.5;

“**Collateral Posting Date**” means the date by which the Generator is required to transfer or deliver Acceptable Collateral, being no less than ten (10) Business Days after a Collateral Posting Notice is given (or deemed to have been given);

“**Collateral Posting Notice**” has the meaning given to that term in Condition 49.2;

“**Collateral Repayment Date**” means an Initial Collateral Repayment Date or (if applicable) a Replacement Collateral Repayment Date;

“**Commissioned**” means that all of the Commissioning Tests have been successfully completed, followed or passed (as appropriate) in relation to the Facility (or a part of the Facility), and grammatical variations thereof shall be construed accordingly;

“**Commissioning Tests**” means all of the procedures and tests which, in accordance with the Reasonable and Prudent Standard and in compliance with industry guidelines, practices and standards, are:

- (A) relevant to generating facilities which are the same as, or of a similar type to, the Facility (including those which are relevant to the Facility Generation Technology); and
- (B) required to be completed, followed or passed (as appropriate): (i) in order for a generating facility to generate electricity; or (ii) to demonstrate that a generating facility is fit for commercial operation;

“**Compensatory Interest**” means the interest that is due and payable at the Compensatory Interest Rate in accordance with Condition 20.5;

“**Compensatory Interest Amount**” has the meaning given to that term in Condition 20.5;

“**Compensatory Interest Rate**” has the meaning given to that term in Condition 20.5;

**“Competent Authority”** means:

- (A) any national, federal, regional, state, local, European Union or other court, arbitral tribunal, administrative agency or commission or other governmental, administrative or regulatory body, authority, agency or instrumentality;
- (B) any private body to the extent it carries out one or more public functions; or
- (C) any other body which has jurisdiction in respect of the Facility, the Project, the Contract for Difference or any other CfD Document,

and includes the Authority, the Environment Agencies and the Secretary of State but excludes the CfD Counterparty;

**“Conditions”** means these standard terms and conditions issued by the Secretary of State on **[date]** in accordance with section 11(1) of the EA 2013;

**“Conditions Precedent”** means the Initial Conditions Precedent and the Further Conditions Precedent and **“Condition Precedent”** shall be construed accordingly;

**“Confidential Information”** means CfD Counterparty Confidential Information and Generator Confidential Information;

**“Connected Dispute”** has the meaning given to that term in Condition 55.1;

**“Consolidation Notice”** has the meaning given to that term in Condition 55.2;

**“Contract for Difference”** means the CfD Agreement which incorporates these Conditions;

**“Contract Year”** means each twelve (12) month period during the Term which begins on 1 January and ends on the immediately following 31 December, provided that:

- (A) the first Relevant Year shall be the period from and including the Start Date to and including the immediately following 31 December; and
- (B) the final Relevant Year shall be the period from and including 1 January in the last calendar year of the Term and ending on the last day of the Term;

**“Contractor”** means any contractor, sub-contractor, consultant or adviser of or to the Generator but excludes any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO;

**“CPC Compensation Shortfall”** means: (i) a Curtailment Compensation Shortfall; or (ii) a Partial Curtailment Compensation Shortfall;

**“CPC Event”** means: (i) a Curtailment; or (ii) a Partial Curtailment;

**“CPC Event Information Request”** has the meaning given to that term in Condition 42.4;

“**CP Fulfilment Notice**” has the meaning given to that term in Condition 3.13;

“**CP Response Notice**” has the meaning given to that term in Condition 3.11;

“**CPI**” means: (i) the index of consumer price inflation published each month by the Office for National Statistics; (ii) if that index in respect of any month has not been published, such index as the CfD Counterparty may reasonably determine to be appropriate in the circumstances; or (iii) if there is a material change to the basis of that index, such other index as the CfD Counterparty may reasonably determine to be appropriate in the circumstances;

“**C(RTP) Act**” means the Contracts (Rights of Third Parties) Act 1999;

“**Cure Period Payment**” has the meaning given to that term in Condition 49.1;

“**Curtailement**” means the Facility is prevented or otherwise restricted, in respect of any period, from exporting to the national electricity transmission system all (but not a lesser proportion) of the electricity which the Facility is otherwise able to generate by any person who at the time of such prevention or restriction has the power and authority to make decisions to prevent or otherwise restrict the export of electricity from electricity generating plant on the national electricity transmission system in circumstances when the Facility is otherwise available to generate, provided that:

- (A) the Facility shall not be considered to be otherwise available to generate in circumstances where the Facility has been prevented or otherwise restricted from generating due to the exercise of powers by a relevant Competent Authority as a result of any matter relating to non-compliance with any Required Authorisation; and
- (B) notwithstanding paragraph (A), the Facility shall be considered to be otherwise available to generate during the minimum period of time (by reference to a Reasonable and Prudent Standard) the Facility takes to ramp up and down as a consequence of the relevant Curtailement,

and “**Curtailed**” shall be construed accordingly;

“**Curtailement Compensation**” means, in respect of any Curtailement, the amount actually received or receivable by the Generator (or its nominee) in respect of such Curtailement;

“**Curtailement Compensation Excess**” means, in respect of any Curtailement, where the Curtailement Compensation is greater than the Defined Curtailement Compensation in respect of such Curtailement, the amount of the excess;

“**Curtailement Compensation Shortfall**” means, in respect of any Curtailement, where the Curtailement Compensation is less than the Defined Curtailement Compensation in respect of such Curtailement, the amount of the shortfall;

“**CUSC**” means the Connection and Use of System Code that is provided for in Standard Condition C10 (Connection and Use of System Code (CUSC)) of the Transmission Licence;

“**Daily Discount Rate**” means an amount calculated in accordance with Condition 32.25;

“**DECC**” means the Department of Energy and Climate Change;

“**Default**” means:

- (A) a Termination Event; or
- (B) an event or a circumstance which would (with the passage of time, the giving of notice, the making of any determination pursuant to the Contract for Difference or any combination of any of the foregoing) be a Termination Event;

“**Default Interest**” has the meaning given to that term in Condition 22.1;

“**Default Termination Notice**” has the meaning given to that term in Condition 45.4;

“**Deficient Collateral Amount**” has the meaning given to that term in Condition 50.5(B)(ii);

“**Defined Curtailment Compensation**” means, in respect of any Curtailment, the amount calculated as:

- (A) the lost generation revenue to, and efficient additional costs incurred by, the Generator (acting to a Reasonable and Prudent Standard) as a direct result of the Curtailment (including any Difference Amounts that would, but for the Curtailment, have been payable to the Generator pursuant to the Contract for Difference), calculated over the minimum period of time for which the export of electricity from the Facility is Curtailed, which minimum period of time shall include the time the Facility takes to ramp up and down,

less the aggregate of:

- (B) the efficient additional costs saved or avoided by the Generator as a direct result of such Curtailment; and
- (C) any other income or gains received or made by the Generator relating to such Curtailment

plus (to the extent not already included):

- (D) the reasonable costs of meeting any shortfall in the Generator’s Credited Energy Volume as a direct result of such Curtailment,

provided that Defined Curtailment Compensation shall exclude:

- (i) any Imbalance Charges unless and then only to the extent that the Generator has used all reasonable endeavours to meet the shortfall referred to in (D); or
- (ii) any charges or costs incurred by the Generator under any third party power sale, purchase or similar arrangements (whether actual, virtual, derivative or synthetic);

**“Defined Partial Curtailment Compensation”** means, in respect of any Partial Curtailment, the amount calculated as:

- (A) the lost generation revenue to, and efficient additional costs incurred by, the Generator (acting to a Reasonable and Prudent Standard) as a direct result of the Partial Curtailment (including any Difference Amounts that would, but for the Partial Curtailment, have been payable to the Generator pursuant to the Contract for Difference), calculated over the minimum period of time for which the export of electricity from the Facility is Partially Curtailed, which minimum period of time shall include the time the Facility takes to ramp up and down,

less the aggregate of:

- (B) the efficient additional costs saved or avoided by the Generator as a direct result of such Partial Curtailment; and
- (C) any other income or gains received or made by the Generator relating to such Partial Curtailment

plus (to the extent not already included):

- (D) the reasonable costs of meeting any shortfall in the Generator’s Credited Energy Volume as a direct result of such Partial Curtailment,

provided that Defined Partial Curtailment Compensation shall exclude:

- (i) any Imbalance Charges unless and then only to the extent that the Generator has used all reasonable endeavours to meet the shortfall referred to in (D); or
- (ii) any charges or costs incurred by the Generator under any third party power sale, purchase or similar arrangements (whether actual, virtual, derivative or synthetic);

**“Delivery Body”** means the person from time to time responsible pursuant to section 12(1) of the EA 2013 for notifying the CfD Counterparty to offer and enter into FiT Contracts for Difference;

**“Designated Termination Date”** has the meaning given to that term in Condition 45.4(B)(i);

“**Difference**” means, in respect of a Settlement Unit, an amount (expressed in pounds) calculated in accordance with the following formula:

$$\text{Difference} = \text{MIN}(SP_t - MRP_t, SP_t)$$

where:

$SP_t$  is the Strike Price in Settlement Unit (t); and

$MRP_t$  is the Market Reference Price applicable to Settlement Unit (t);

“**Difference Amount**” means:

- (A) the Baseload Difference Amount, as such term is defined in Part 5A (*Payment calculations: Baseload Technologies*) (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) the Intermittent Difference Amount, as such term is defined in Part 5B (*Payment calculations: Intermittent Technologies*) (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

“**Direct Agreement**” means an agreement in substantially the form set out in Annex 3 (*Form of Direct Agreement*);

“**Directive**” means, in relation to any Party, any ordinance, code, decision, directive, order, decree, regulation, determination, award, standard or rule of any Competent Authority:

- (A) which is legally binding upon that Party or with which that Party would ordinarily comply, acting (in the case of the Generator), to the Reasonable and Prudent Standard; and
- (B) in circumstances in which the Generator is seeking to invoke the provisions of Condition 33 (*Qualifying Change in Law: Effective date and payment*) with which the Generator does comply;

“**Directors’ Certificate**” means a certificate in the form set out in Part A of Annex 8 (*Pro forma notices*) signed by two directors of the Generator or one director of the Generator in the presence of a witness who attests the signature, such directors or director (as applicable) having made, and confirmed in the certificate as having made, all due and careful enquiries in relation to the matters set out and enclosed therein;

**“Discriminatory Change in Law”** means a Change in Law the terms of which specifically (and not merely indirectly or consequentially or by virtue of the disproportionate effect of any Change in Law that is of general application) apply to:

- (A) the Project and not to the design, development, construction, conversion, installation, completion, testing, commissioning, operation, maintenance and decommissioning of any other project;
- (B) the Facility and not to any other generating facility; or
- (C) the Generator and not to any other person;

**“Dispute”** means any dispute or claim in any way relating to or arising out of the Contract for Difference or any other CfD Document, whether contractual or non-contractual (and including any dispute or claim regarding: (i) their existence, negotiation, validity or enforceability; (ii) the performance or non-performance of a Party’s obligations pursuant to them; or (iii) breach or termination of any of them), but excluding any Metering Dispute;

**“Dispute Information”** has the meaning given to that term in Condition 51.7;

**“Dispute Notice”** has the meaning given to that term in Condition 51.3;

**“Dispute Resolution Procedure”** means the rules, obligations and procedures set out in Part 14 (*Dispute Resolution*) including the Arbitration Procedure and the Expert Determination Procedure but excluding the provisions of Condition 57 (*Metering Disputes*);

**“Distribution Code”** means the distribution code that a Licensed Distributor is required to prepare or maintain in force in a form approved by the Authority pursuant to Standard Condition 21 (Distribution Code) of a Distribution Licence;

**“Distribution Connection and Use of System Agreement”** means the agreement that a Licensed Distributor is required to prepare or maintain in force in a form approved by the Authority under Standard Condition 22 (Distribution Connection and Use of System Agreement) of a Distribution Licence;

**“Distribution Licence”** means a licence granted or treated as granted pursuant to section 6(1)(c) of the EA 1989;

**“EA 1989”** means the Electricity Act 1989;

**“EA 2013”** means the Energy Act 2013;

**“EA 2013 Regulations”** means any statutory instruments made pursuant to any of Chapters 2, 4 and 5 (including the associated schedules to any of those chapters) of Part 2 of the EA 2013;

**“Effective Projected Generation”** has the meaning given to that term in Condition 32.23;

“**EIR**” means the Environmental Information Regulations 2004;

“**Electrical Schematic Obligation**” has the meaning given to that term in Condition 29.7;

“**Electricity Supplier**” has the meaning given to that term in section 9(10) of the EA 2013;

“**Eligibility Criteria**” means the eligibility criteria set out in the EA 2013 Regulations, in each case as applicable to the Facility, the Generator or the Project in relation to the Contract for Difference;

“**Eligible Generation Technology**” means a Generation Technology which is eligible for a FIT Contract for Difference, as specified in the EA 2013 Regulations (as in effect as at the Agreement Date);

“**Eligible Generator**” has the meaning given to that term in the EA 2013 Regulations;

“**Embedded Generator**” means an exemptable electricity generator whose electricity generating plant is not directly connected to the Transmission System;

“**Emergency Deenergisation Instruction**” has the meaning given to that term in the CUSC;

“**Energy Consultant**” means an internationally recognised, leading firm of energy market consultants (not being an affiliate of either Party or any other CfD Generator) experienced in advising clients in the UK electricity generation sector;

“**Environment Agencies**” means: (i) the Environment Agency in England; (ii) Natural Resources Wales; and (iii) the Scottish Environment Protection Agency;

“**Estimated Facility Generation**” has the meaning given to that term in Condition 32.24 or Annex 1 (*Calculation of Termination Amount*) (as the context requires);

“**Estimated Metered Output**” has the meaning given to that term in:

- (A) Condition 10.3 (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) Condition 17.3 (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

“**Estimated Output Billing Period**” has the meaning given to that term in:

- (A) Condition 10.2 (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or

- (B) Condition 17.2 (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

“**EU IAS Regulation**” means Regulation (EC) No. 1606/2002 of the European Parliament and of the Council;

“**European Union**” means the European Union, established by the Treaty of the European Union signed at Maastricht on 07 February 1992 (as amended, supplemented or replaced by any later treaty);

“**Excluded Change in Law**” means a Change in Law which is not a Qualifying Change in Law;

“**Excluded Information**” means Information:

- (A) in, or which enters, the public domain otherwise than as a consequence of a breach of any provision of the Contract for Difference; or
- (B) properly in the possession of the recipient on a non-confidential basis and not, to the knowledge of the recipient, as a result of a breach by it, its Representatives or any third party of any duty of confidentiality attaching thereto prior to such Information being acquired by or provided to it;

“**Existing Scheme**” means the “Renewables Obligation” scheme established pursuant to section 32 of the EA 1989;

“**Existing Scheme Facility**” means a generation facility which is covered by, accredited pursuant to or benefits from the Existing Scheme;

“**Expected QCiL Effective Date**” means the date on which a Notified Change in Law is expected to be implemented, occur or become effective;

“**Expert**” means any person appointed in accordance with the Expert Determination Procedure to determine an Expert Dispute;

“**Expert Appointment Date**” means the date on which an Expert is appointed to determine an Expert Dispute by means of an appointment letter entered into by such Expert and each of the Parties;

“**Expert Determination Notice**” has the meaning given to that term in Condition 53.1;

“**Expert Determination Procedure**” means the rules, obligations and procedures set out in Condition 53 (*Expert Determination Procedure*);

“**Expert Determination Response Notice**” has the meaning given to that term in Condition 53.3;

“**Expert Dispute**” means a Dispute which is referred for determination in accordance with the Expert Determination Procedure;

**“Expert Referral Date”** has the meaning given to that term in Condition 53.8(A);

**“Facility”** has the meaning given to that term in the CfD Agreement;

**“Facility Generation Technology”** means, in respect of the Facility, the Eligible Generation Technology deployed by the Facility, as specified in the CfD Agreement;

**“Facility Metering Equipment”** means the Metering Equipment measuring the flows of electricity associated with the Facility (and its associated BM Unit or BM Units);

**“Final Installed Capacity”** has the meaning given to that term in Condition 7.1(B);

**“Final Installed Capacity Notice”** has the meaning given to that term in Condition 7.1;

**“Final Installed Capacity Response Notice”** has the meaning given to that term in Condition 7.2;

**“Final Installed Capacity Supporting Information”** has the meaning given to that term in Condition 7.2(B)(ii);

**“First Submission”** has the meaning given to that term in Condition 53.8(B);

**“First Submission Deadline”** has the meaning given to that term in Condition 53.8(B);

**“FiT CfD Application”** means the application by the Generator for the Contract for Difference in respect of the Facility received by the Delivery Body;

**“FiT CfD Application Date”** means the date the FiT CfD Application is received by the Delivery Body;

**“FiT Contract for Difference”** means:

(A) a feed-in tariff with a contract for difference between the CfD Counterparty and an Eligible Generator entered into following the applicable contract allocation or negotiation process established pursuant to or by virtue of the EA 2013; or

(B) an investment contract (as such term is defined in Schedule 2 to the EA 2013);

**“Fitch Ratings”** means Fitch Ratings Limited, an English corporation, and any successor thereto;

**“FM Affected Party”** has the meaning given to that term in Condition 63.1;

**“FMS Procedures”** has the meaning given to that term in Annex 7 (*FMS arrangements and RQM Calculation Methodology*) (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

**“FoIA”** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act, together with (where the context requires) any guidance and codes of practice issued by the Information Commissioner in relation to such legislation;

“**Force Majeure**” means any event or circumstance that is beyond the reasonable control of the FM Affected Party (in the case of the Generator, acting and having acted to a Reasonable and Prudent Standard) which the FM Affected Party could not reasonably have avoided or overcome and which is not due to the FM Affected Party’s fault or negligence (or that of its Representatives), provided always that neither non-availability of funds nor the lack of funds shall ever constitute Force Majeure;

“**Foreseeable Change in Law**”<sup>1</sup> means, in respect of a Change in Law, that the relevant change:

- (A) was published on or after 01 January 2000 but before the Agreement Date:
- (i) in a draft Bill;
  - (ii) in a Bill;
  - (iii) in an Act of Parliament which had been enacted but which had not (in whole or in part) come into effect;
  - (iv) in draft subordinate legislation;
  - (v) in subordinate legislation which had not (as regards that Change in Law) come into effect;
  - (vi) in any European Union law which had not (as regards that Change in Law) come into effect;
  - (vii) in a draft Required Authorisation or Required Authorisation which had been made but which had not (as regards that Change in Law) come into effect;
  - (viii) in a draft Directive or in a Directive which had been made but which had not (as regards that Change in Law) come into effect;
  - (ix) in a draft treaty (as such term is defined in Article 2(1)(a) of the Vienna Convention on the Law of Treaties 1969 (a “**Treaty**”)) in relation to which Her Majesty’s Government of the United Kingdom had made a public statement (from which it had not prior to the Agreement Date publicly resiled) that it would be a signatory; or
  - (x) in a Treaty to which the United Kingdom was a signatory but which had not (as regards that Change in Law) come into effect,

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<sup>1</sup> Note to Generator: Consideration is being given to the application of this definition in the context of sustainability criteria.

but only to the extent that the change has substantially the same effect as that which was published;

- (B) is contemplated in a proposal or option(s) which was (or were) published on or after 01 January 2000 but before the Agreement Date:
- (i) in the Official Journal of the European Union;
  - (ii) in a consultation document of a Competent Authority and which is the stated preferred proposal (or, if only one proposal was made, that proposal) of the Competent Authority (whether or not the Competent Authority is at the Agreement Date consulting (or has completed consulting) or considering (or has considered any) responses to the consultation), unless that proposal has been superseded by another stated preferred proposal or formally withdrawn, or the Competent Authority has formally indicated that it does not intend to proceed with it; or
  - (iii) in a final modification report in respect of a relevant Industry Document,
- but only to the extent that the change has substantially the same effect as that which was contemplated in such publication;
- (C) results from the enactment and implementation of any part of Chapters 2, 4 and 5 (including the associated Schedules to any of those Chapters) of Part 2 of the EA 2013 (or any part thereof);
- (D) occurs as a result of the amendment, supplement, termination, repeal, replacement or withdrawal of all or part of any document which is referred to in any Law, Directive, Industry Document or Required Authorisation in existence at the Agreement Date, provided that:
- (i) a document setting out the nature of such amendment, supplement, termination, repeal, replacement or withdrawal (whether or not in draft) had been published on or before the Agreement Date; and
  - (ii) such amendment, supplement, termination, repeal, replacement or withdrawal has substantially the same effect as that so published;
- (E) constitutes the re-enactment, re-making or similar of (in whole or in part) any Law, Directive, Industry Document or Required Authorisation, provided that the re-enacted, re-made or similar Law, Directive, Industry Document or Required Authorisation, as the case may be, has substantially the same effect as that of which it is a re-enactment, re-making or similar;
- (F) implements or gives effect to (the whole or part of) any European Union law (or draft thereof) or (the whole or part of) any Treaty which has been published on or after 01 January 2000 but before the Agreement Date (and notwithstanding that implementation proposals and/or related sanctions for any part of the United Kingdom have not been published or have not (in whole or in part) come

into effect on the Agreement Date), provided that the implementation proposals and/or related sanctions which come into effect in the United Kingdom (or relevant part thereof) have substantially the same application as the provision in the European Union law (or draft thereof) or Treaty which it implements;

- (G) results from any Required Authorisation or Directive obtained or made pursuant to or for the purposes of another Required Authorisation or Directive which has been made prior to or is in force on the Agreement Date (the “**First Required Authorisation or Directive**”) unless the Generator is obliged to obtain such a Required Authorisation or Directive because of an unforeseeable amendment to the First Required Authorisation or Directive made after the Agreement Date;
- (H) results from any exercise of the Royal Prerogative where such exercise has the same, or substantially the same effect, as that which was proposed on or after 01 January 2000 but before the Agreement Date;
- (I) constitutes a change in the interpretation or application of a Law, Directive, Industry Document or Required Authorisation by any Competent Authority if such interpretation or application is in accordance with a proposal set out in a document (whether or not in draft) which was published on or after 01 January 2000 but before the Agreement Date and the change has substantially the same effect as that which was proposed in the document; or
- (J) results from legal proceedings commenced or threatened against the Facility or the Generator on or prior to the Agreement Date,

provided always that a Change in Law which imposes a requirement that the Facility permanently ceases operation shall not be a Foreseeable Change in Law;

“**FSMA**” means the Financial Services and Markets Act 2000;

“**Fuelling Criteria**” has the meaning given to that term in Annex 7 (*FMS arrangements and RQM Calculation Methodology*) (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

“**Further Condition Precedent Evidence**” has the meaning given to that term in Condition 3.11(B)(ii);

“**Further Conditions Precedent**” means the conditions precedent set out in Part B of Schedule 1 (*Conditions Precedent*) and any additional conditions precedent stated in the CfD Agreement to apply in respect of the Contract for Difference, and “**Further Condition Precedent**” shall be construed accordingly;

“**Further CP Non-Compliance Notice**” has the meaning given to that term in Condition 3.9;

“**Further CP Notice**” has the meaning given to that term in Condition 3.7(B);

“**Further CP Provisions**” means all of the provisions of the Contract for Difference other than the Agreement Date Provisions and the Initial CP Provisions;

**“Further CP Response Notice”** has the meaning given to that term in Condition 3.12(B)(ii);

**“Further Milestone Assessment Response Notice”** has the meaning given to that term in Condition 4.4(B)(ii);

**“GB System Operator”** means the operator of the GB Transmission System;

**“GB Transmission System”** means the system consisting (wholly or mainly) of high voltage electric lines owned by Transmission Licensees within Great Britain that is used for the transmission of electricity from one generating station to a substation or to another generating station or between substations or to or from any interconnector;

**“General Amendment”** means any Proposed Amendment which:

- (A) is a Technical Amendment; and
- (B) the CfD Counterparty proposes be effected in respect of either:
  - (i) all FiT Contracts for Difference to which the CfD Counterparty is a party at the time the Amendment Notification in respect of the Proposed Amendment is given; or
  - (ii) all FiT Contracts for Difference of a particular category to which the CfD Counterparty is a party at the time the Amendment Notification in respect of the Proposed Amendment is given;

**“Generation Licence”** means an electricity generation licence granted or treated as granted pursuant to section 6(1)(a) of the EA 1989 that authorises a person to generate electricity;

**“Generation Tax”** means a tax or a levy, duty or impost in the nature of tax that is charged by Her Majesty’s Government of the United Kingdom (or which Her Majesty’s Government of the United Kingdom has formally required a UK Competent Authority to charge) directly to electricity generators specifically on:

- (A) the generation of electricity from electric generating facilities in Great Britain owned or operated by them; or
- (B) the sale (but not any resale) by electricity generators to the wholesale electricity market in Great Britain (whether pursuant to the BSC, the Balancing Mechanism or otherwise howsoever) of electricity generated by electric generating facilities owned or operated by them;

**“Generation Tax Change in Law”** means:

- (A) the coming into effect, amendment, supplement, termination, repeal, replacement or withdrawal of or to any Generation Tax; or

- (B) a change in the interpretation or application of any Generation Tax by any UK Competent Authority,

in each case after the Agreement Date and which is not a Foreseeable Change in Law, but shall exclude any general taxes, levies, duties or imposts on gross or net Income, Profits or Gains or any indirect taxes, levies, duties or imposts;

**“Generation Tax Effective Date”** means the date on which a Generation Tax Change in Law is implemented, occurs or becomes effective;

**“Generation Tax Liability”** means:

- (A) the liability of the Generator to make actual payments of Generation Tax; and
- (B) the loss to the Generator of, or a reduction to the Generator in the amount of, a right to repayment of Tax to which it would otherwise have been entitled but for such amount being set off against any liability of the Generator to make an actual payment of Generation Tax;

**“Generation Tax Preliminary Matters”** means:

- (A) whether the relevant Generation Tax Change in Law has occurred (and, if so, the applicable Generation Tax Effective Date);
- (B) whether the Generator has incurred or saved, or will incur or save, any Generation Tax Liability as a result of the relevant Generation Tax Change in Law; and
- (C) whether the Market Reference Price has changed or will change by reason of the relevant Generation Tax Change in Law and electricity generators who are not party to FiT Contracts for Difference passing through all or some of the Generation Tax Liability to the wholesale price for electricity that is referable to the Market Reference Price;

**“Generation Tax Report”** means the report of the Energy Consultant referred to in Condition 37.20 and, where the context so requires or admits, includes any similar report of an energy consultant under any other FiT Contract for Difference;

**“Generation Technology”** means a generation technology deployed by a generating facility;

**“Generator”** has the meaning given to that term in the CfD Agreement;

**“Generator Confidential Information”** means:

- (A) all Information which is confidential or proprietary in nature and which relates (directly or indirectly) to the Generator, the Facility or the Project which the CfD Counterparty (or its Representatives) receives or has received from the Generator (or its Representatives) or any third party who receives or has received such Information from the Generator (or its Representatives) in

connection with the Contract for Difference (including all such Information which the CfD Counterparty prepares which contains or reflects or is generated from such Information);

- (B) without prejudice to the generality of paragraph (A), all Information relating to any QCiL Compensation or QCiL True-Up Compensation, including all Information relating to or arising from negotiations, discussions and correspondence in respect of any such QCiL Compensation or QCiL True-Up Compensation; and
- (C) any Information which relates to or arises from negotiations, discussions and correspondence in connection with the Contract for Difference;

**“Generator GT Claim Notice”** has the meaning given to that term in Condition 38.3;

**“Generator GT Notice”** has the meaning given to that term in Condition 37.1;

**“Generator Permitted Purpose”** means:

- (A) complying with the Generator’s responsibilities and obligations, and exercising the Generator’s rights, powers and discretions, under or in connection with the Contract for Difference or any other CfD Document; and
- (B) complying with the Generator’s obligations under or by virtue of the EA 2013 or any other Law or European law, policy or guidance;

**“Generator QCiL Notice”** has the meaning given to that term in Condition 31.5;

**“Generator QCiL Response Notice”** has the meaning given to that term in Condition 31.2;

**“Generator QCiL True-Up Notice”** has the meaning given to that term in Condition 34.6;

**“Generator Repeating Representations”** means each of the representations and warranties set out in Condition 26.1 (other than in Conditions 26.1(G) and 26.1(H));

**“Geological Issue”** means a geological condition or physical constraint affecting the Facility (including the presence of new or unknown fauna or flora, unexploded ordnance, mudstone, archaeological remains, antiquities or hazardous materials);

**“Government Entity”** means:

- (A) any department, non-departmental public body, authority or agency of Her Majesty’s Government of the United Kingdom or the Crown;
- (B) any of Her Majesty’s Secretaries of State and any other Minister of the Crown;
- (C) any body corporate established by statute, some or all of the members of which are appointed by a Secretary of State or Minister of the Crown; and

(D) any other entity or person directly or indirectly wholly owned by, or held on trust for, any of the foregoing;

“**Grid Code**” means the Grid Code that is required to be prepared by the GB System Operator and approved by the Authority pursuant to Standard Condition C14 (Grid Code) of the Transmission Licence and Standard Condition 20 (Compliance with Core Industry Documents) of the Distribution Licence;

“**Group**” means, in respect of any Party, its subsidiaries, subsidiary undertakings, associated undertakings and any holding company of the Party and all other subsidiaries, subsidiary undertakings and associated undertakings of any such holding company from time to time;

“**GT Strike Price Adjustment**” has the meaning given to that term in Condition 38.1;

“**IASB**” means the International Accounting Standards Board;

“**ICE Adjustment Deadline**” has the meaning given to that term in Condition 6.1;

“**ICE Adjustment Notice**” has the meaning given to that term in Condition 6.1;

“**IFRS**” means the body of pronouncements issued or adopted by the European Union and complying with Article 3 of the EU IAS Regulation and associated interpretations issued by the IASB and International Accounting Standards and associated interpretations adopted by the IASB (as amended, supplemented, restated or replaced from time to time);

“**Imbalance Charges**” means costs and charges incurred by or for the account of the Generator pursuant to the Balancing Mechanism by reason of its contracted volumes not matching its metered volumes in relation to electrical output from the Facility, and at the Agreement Date includes the Daily Party Energy Imbalance Cashflows Charge (in each case as determined in accordance with the BSC);

“**Income, Profits or Gains**” includes any income, profits or gains which are deemed to be earned, accrued or received by the Generator for the purposes of any Tax;

“**Indexation Adjustment**” has the meaning given to that term in:

- (A) Condition 13.2 (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) Condition 18.2 (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

“**Indexation Anniversary**” has the meaning given to that term in:

- (A) Condition 13.3 (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) Condition 18.3 (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

“**Indexed Base Year Strike Price**” means an amount (expressed in £/MWh) calculated in accordance with the following formula:

$$SP_{IB} = \Pi_t \times SP_{base}$$

where:

$SP_{IB}$  is the Initial Strike Price indexed to the TLM Charges Review Date;

$\Pi_t$  is the Inflation Factor applying at the TLM Charges Review Date; and

$SP_{base}$  is the Initial Strike Price;

“**Indexed Initial Balancing System Charge**” has the meaning given to that term in Condition 40.2(F);

“**Industry Documents**” means all agreements, codes, standards and instruments regulating the generation, transmission, distribution, supply or trading of electricity in Great Britain, including the Grid Code, the SOTO Code, the BSC, the Code Subsidiary Documents, the CUSC, the Master Registration Agreement, any Distribution Code, any Distribution Connection and Use of System Agreement and any other connection or use of system agreement with a Transmission Licensee or Licensed Distributor and “**Industry Document**” shall be construed accordingly;

“**Inflation Factor**” means:

- (A) in the absence of any re-basing of the CPI which has taken effect prior to the relevant Indexation Anniversary, Balancing System Charges Review Date or TLM Charges Review Date (as the context requires), in respect of each Settlement Unit (t):

$$\Pi_t = \frac{CPI_t}{CPI_{base}}$$

where:

$\Pi_t$  is the Inflation Factor;

$CPI_t$  denotes the Reference CPI applicable to the Settlement Unit (t);  
and

$CPI_{base}$  denotes the Base Year CPI; or

- (B) if the CPI is re-based and such re-basing has taken effect prior to the Indexation Anniversary, Balancing System Charges Review Date or TLM Charges Review Date (as the context requires), in respect of each Settlement Unit (t):

$$\Pi_t = \frac{CPI_t^{new}}{CPI_{base}^{old}} \times \frac{CPI_b^{old}}{CPI_b^{new}}$$

where:

$\Pi_t$  is the Inflation Factor;

$CPI_t^{new}$  is the Reference CPI applicable to Settlement Unit (t), using the new (re-based) index;

$CPI_{base}^{old}$  is the Base Year CPI, using the original index;

$CPI_b^{old}$  is the CPI in the month in which the re-basing has occurred, using the original index; and

$CPI_b^{new}$  is the Reference CPI in the month in which the re-basing has occurred, using the new (re-based) index;

**“Information”** means any information of whatever nature and in whatever form, including written, oral and electronic and in visual or machine-readable form (including CD-ROM, magnetic and digital form) and, in relation to any obligation of any person to provide information pursuant to the Contract for Difference or any other CfD Document, shall be limited to such information that is within the control of that person, and for these purposes information shall be deemed to be within the control of a person if: (i) it is within the possession of such person; (ii) such person has a right to possession of it; or (iii) such person has a right to inspect or take copies of it;

**“Information Commissioner”** has the meaning given to that term in the FoIA;

**“Initial Balancing System Charges”** means the arithmetic mean of the Balancing System Charges payable by electricity generators in Great Britain as at the Agreement Date, as set out in the CfD Agreement;

**“Initial Collateral Repayment Date”** means, in respect of any Collateral Posting Notice, the date falling twelve (12) months after the Collateral Posting Date specified in such notice;

**“Initial Conditions Precedent”** means the conditions precedent set out in Part A of Schedule 1 (*Conditions Precedent*) and **“Initial Condition Precedent”** shall be construed accordingly;

**“Initial CP Provisions”** means Part 4 (*Adjustments to Installed Capacity Estimate*), Part 8 (*Changes in Law*), Part 9 (*Generation Tax*), Part 10 (*Balancing System (BSUoS/RCRC) and TLM*), Part 11 (*Curtailment*), Annex 4 (*BMRP*) and Annex 5 (*IMRP*);

**“Initial Installed Capacity Estimate”** has the meaning given to that term in the CfD Agreement;

**“Initial Milestone Delivery Date”** has the meaning given to that term in the CfD Agreement;

**“Initial Strike Price”** has the meaning given to that term in the CfD Agreement;

**“Initial Target Commissioning Window”** has the meaning given to that term in the CfD Agreement;

**“Initial TLM Charge”** means the assumed profile of the TLM Charges as at the Agreement Date, as set out in the CfD Agreement;

**“Inside Information”** means Generator Confidential Information which is “inside information” within the meaning of section 118C of FSMA or section 56 of the CJA in relation to the Generator or any member of its Group;

**“Installed Capacity”** means the capacity of the Facility (expressed in MW) were it to be operated on a continual basis at the maximum capacity possible without causing damage to it (assuming any source of power used by it to generate electricity was available to it without interruption);

**“Installed Capacity Estimate”** means the Generator’s estimate of the Installed Capacity from time to time, being the Initial Installed Capacity Estimate as may be adjusted pursuant to Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Geological Issue*) and Condition 6 (*Adjustment to Installed Capacity Estimate: Permitted reduction*);

**“Intellectual Property Rights”** means:

- (A) all intellectual property rights, including patents, trade marks, rights in designs, know-how, copyrights and database rights and topography rights (whether or not any of these is registered and including applications for registration of any such thing) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world; and
- (B) all data and Information (whether or not Confidential Information);

**“Law”** means any Act of Parliament, any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, any

enforceable EU right within the meaning of section 2 of the European Communities Act 1972, in each case in the United Kingdom and (to the extent directly binding on and/or enforceable against private persons within the United Kingdom) any obligations arising from a treaty or international convention to which the United Kingdom is a signatory;

“**LCIA**” means the London Court of International Arbitration;

“**LCIA Arbitration Rules**” means the arbitration rules published under that name by the LCIA;

“**Legal Reservations**” means: (i) the principle that equitable remedies may be granted or refused at the discretion of a court; (ii) the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; (iii) the time barring of claims pursuant to applicable limitation laws; (iv) defences of set-off or counterclaim; and (v) similar principles, rights and defences available at law;

“**Lender**” has the meaning given to that term in Condition 73.6;

“**Letter of Credit**” means an unconditional, irrevocable standby letter of credit denominated in sterling in form and content reasonably satisfactory to the CfD Counterparty:

- (A) issued by a Qualifying Issuer and which shall be available for payment at a UK branch of such Qualifying Issuer in favour of the CfD Counterparty or its designee; and
- (B) valid for three (3) or more months as at the date of issue;

“**Letter of Credit Details Notice**” has the meaning given to that term in Condition 50.3(B);

“**Licensed Distributor**” means a person who is authorised pursuant to a Distribution Licence to distribute electricity;

“**Longstop Date**” means the last day of the Longstop Period following the final day of the Target Commissioning Window, as such date may be extended day for day for each day of delay to the Project by reason of:

- (A) Force Majeure affecting the Project; or
- (B) any failure by any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives);

“**Longstop Period**” has the meaning given to that term in the CfD Agreement;

**“Loss Adjusted Metered Output”** means the BM Unit Metered Volume for the Facility in respect of a Settlement Unit as measured by the Facility Metering Equipment, adjusted for: (i) the transmission loss multiplier allocated in accordance with the BSC; or (ii) any new or substituted multiplier or factor which is in the nature of, or similar to, a transmission loss multiplier;

**“Market Reference Price”** means:

- (A) the Baseload Market Reference Price, as such term is defined in Part 5A (*Payment calculations: Baseload Technologies*) (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) the Intermittent Market Reference Price, as such term is defined in Part 5B (*Payment calculations: Intermittent Technologies*) (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

**“Master Registration Agreement”** means the agreement that a Licensed Distributor is required to maintain in force in a form approved by the Authority pursuant to Standard Condition 23 (Master Registration Agreement) of a Distribution Licence;

**“Material Adverse Effect”** means, in respect of any Party, a material adverse effect on the ability of that Party to perform or comply with its obligations under the Contract for Difference or any other CfD Document;

**“Material Amendment”** means any Proposed Amendment which would (taking into account, in the case of a Proposed Amendment providing for more than one amendment, the net aggregate effect of all the Proposed Amendments contained within the relevant Amendment Notification) have an adverse effect on: (i) the revenues and/or costs of the Generator which are not fully compensated; or (ii) the overall balance of risks, benefits and liabilities of the Generator, in each case, pursuant to the Contract for Difference;

**“Material Amendment Agreement”** has the meaning given to that term in paragraph 2.5 of Annex 2 (*Change Control Procedure*);

**“Material Amendment Response Notification”** has the meaning given to that term in paragraph 2.2(B) of Annex 2 (*Change Control Procedure*);

**“Material Generation Technologies”** means a Generation Technology that accounts from time to time for at least one per cent. (1%) of all installed generation capacity (expressed in MW) in the United Kingdom;

**“Maximum Contract Capacity”** means (i) the Installed Capacity Estimate; and (ii) (following agreement or determination of the Final Installed Capacity pursuant to Condition 7 (*Final Installed Capacity; Maximum Contract Capacity*)) the Final Installed Capacity;

**“Metered Output”** has the meaning given to that term in:

- (A) Condition 10.1 (but only if Part 5A (Payment calculations: Baseload Technologies) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) Condition 17.1 (but only if Part 5B (Payment calculations: Intermittent Technologies) is expressed to apply to the Contract for Different in the CfD Agreement);

**“Metering Access Right”** has the meaning given to that term in Condition 29.11;

**“Metering Access Termination Event”** means an event as set out in Condition 29.16;

**“Metering Breach Notice”** has the meaning given to that term in Condition 29.2;

**“Metering Breach Response Notice”** has the meaning given to that term in Condition 29.3;

**“Metering Change”** has the meaning given to that term in Condition 29.7;

**“Metering Compliance Obligation(s)”** has the meaning given to that term in Condition 29.1;

**“Metering Dispute”** has the meaning given to that term in Condition 21.5;

**“Metering Inspection Notice”** has the meaning given to that term in Condition 29.12;

**“Metering Remediation Plan”** means a plan developed by the Generator setting out the appropriate milestones and actions to be taken in order to remedy a breach of its Metering Compliance Obligation which: (i) is consistent with its obligations pursuant to the BSC; and (ii) has been approved, signed and dated by a BSC Company;

**“Milestone Assessment Response Notice”** has the meaning given to that term in Condition 4.3;

**“Milestone Delivery Date”** means the Initial Milestone Delivery Date, as such date may be extended day for day for each day of delay to the Project by reason of:

- (A) Force Majeure affecting the Project; or
- (B) any failure by any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives);

**“Milestone Requirements”** has the meaning given to that term in Condition 4.1(B);

**“Milestone Requirements Notice”** has the meaning given to that term in Condition 4.1;

**“Moody’s”** means Moody’s Investors Service, Inc., a Delaware corporation and any successor thereto;

**“Mutual Appointment Decision”** has the meaning given to that term in Condition 54.4;

**“Net Payable Amount”** means, in respect of a Billing Period, the amount calculated in accordance with Condition 20.6;

**“Non-NPA Payment Cure Period”** has the meaning given to that term in Condition 47.1(B)(ii);

**“Notified Change in Law”** means a Change in Law which constitutes a Qualifying Change in Law and to which a CfD Counterparty QCiL Notice, a Generator QCiL Notice or a Generator QCiL Response Notice relates;

**“NPA Payment Cure Period”** has the meaning given to that term in Condition 47.1(B)(i);

**“OFTO”** means the holder of an offshore transmission licence granted or treated as granted pursuant to section 6(1)(b) of the EA 1989;

**“Other Change in Law”** means a Change in Law made by Her Majesty’s Government of the United Kingdom or which the UK Government has formally required a Competent Authority to make and which in either such case has an undue (being not objectively justifiable) discriminatory effect on the out-of-pocket costs incurred or saved by the Generator or the Project when compared with the out-of-pocket costs incurred or saved as a result of such Change in Law by:

- (A) all generators which operate generating facilities deploying one or more Material Generation Technologies;
- (B) all other generators which operate generating facilities deploying the same Generation Technology as the Facility Generation Technology;
- (C) all generators which operate generating facilities deploying a Generation Technology other than the Facility Generation Technology; or
- (D) all generators which operate generating facilities the generation output of which is not subject to a FiT Contract for Difference,

in each case in the United Kingdom, provided that the fact that a Change in Law has a disproportionate effect shall not, of itself, mean that it is discriminatory;

**“Partial Curtailment”** means the Facility is prevented or otherwise restricted, in respect of any period, from exporting to the national electricity transmission system a proportion (but not all) of the electricity which the Facility is otherwise able to generate by any person who at the time of such prevention or restriction has the power and authority to make decisions to prevent or otherwise restrict the export of electricity from electricity

generating plant on the national electricity transmission system in circumstances when the Facility is otherwise available to generate, provided that:

- (A) the Facility shall not be considered to be otherwise available to generate in circumstances where the Facility has been prevented or otherwise restricted from generating due to the exercise of powers by a relevant Competent Authority as a result of any matter relating to non-compliance with any Required Authorisation; and
- (B) notwithstanding paragraph (A), the Facility shall be considered to be otherwise available to generate during the minimum period of time (by reference to a Reasonable and Prudent Standard) the Facility takes to ramp up and down as a consequence of the relevant Partial Curtailment,

and "**Partially Curtailed**" shall be construed accordingly;

**"Partial Curtailment Compensation"** means, in respect of any Partial Curtailment, the amount actually received or receivable by the Generator (or its nominee) in respect of such Partial Curtailment;

**"Partial Curtailment Compensation Excess"** means, in respect of any Partial Curtailment, where the Partial Curtailment Compensation is greater than the Defined Partial Curtailment Compensation in respect of such Partial Curtailment, the amount of the excess;

**"Partial Curtailment Compensation Shortfall"** means, in respect of any Partial Curtailment, where the Partial Curtailment Compensation is less than the Defined Partial Curtailment Compensation in respect of such Curtailment, the amount of the shortfall;

**"Party"** means a party to the Contract for Difference;

**"Payment Disruption Event"** means a material disruption to those payment systems or to those financial markets which are, in each case, required to operate in order for payments or transfers of money to be made pursuant to the Contract for Difference which the PDE Affected Party could not reasonably have overcome and which is not due to the PDE Affected Party's fault or negligence (or that of its Representatives);

**"Payment Failure"** means a failure by the Generator to pay a Net Payable Amount in accordance with Condition 21.1 (except to the extent that such failure is due to the occurrence of a Payment Disruption Event and the Generator, as the PDE Affected Party, has complied with Condition 62.2 but irrespective of whether or not the Generator has paid any such Net Payable Amount within the applicable NPA Payment Cure Period);

**"PDE Affected Party"** has the meaning given to that term in Condition 62.1;

**"PDE Obligations"** has the meaning given to that term in Condition 62.1;

**“Posted Collateral”** means the aggregate amount of all Acceptable Collateral transferred or delivered by or on behalf of the Generator in accordance with the Contract for Difference from time to time to the extent that the same has not been: (i) returned to the Generator by or on behalf of the CfD Counterparty pursuant to the provisions of Part 13 (*Credit Support*); or (ii) subject to a Posted Collateral Demand;

**“Posted Collateral Demand”** has the meaning given to that term in Condition 50.10;

**“Post-Tax Discount Rate”** means the discount rate published by DECC and set out in the CfD Agreement;

**“Pre-Start Date Termination Date”** has the meaning given to that term in Condition 45.1(D)(ii)(a);

**“Pre-Start Date Termination Notice”** has the meaning given to that term in Condition 45.1;

**“Preliminary Annual QCPC Report”** has the meaning given to that term in Condition 42.1;

**“Proceedings”** means any proceeding, suit or action relating to or arising out of a Dispute, the Contract for Difference or any other CfD Document but excluding any Metering Dispute;

**“Project”** means the design, development, construction, conversion, installation, completion, testing, commissioning, operation, maintenance and decommissioning of the Facility;

**“Project Commitments”** has the meaning given to that term in the CfD Agreement;

**“Proposed Amendment”** has the meaning given to that term in paragraph 2.1(B) of Annex 2 (*Change Control Procedure*);

**“Proposed Amendment Effective Date”** has the meaning given to that term in paragraph 2.1(C) of Annex 2 (*Change Control Procedure*);

**“QCIL Adjusted Revenues Payment”** has the meaning given to that term in Condition 32.1(C);

**“QCIL Capex Payment”** has the meaning given to that term in Condition 32.1(B);

**“QCIL Capital Costs”** means any QCIL Costs classified as capital costs under IFRS, including in particular IAS 16 (Property Plant and Equipment) and IAS 11 (Construction Contracts);

**“QCIL Capital Savings”** means any QCIL Savings classified as capital savings under IFRS, including in particular IAS 16 (Property Plant and Equipment) and IAS 11 (Construction Contracts);

**“QCIL Compensation”** means any of: (i) a QCiL Opex Adjustment; (ii) a QCiL Capex Payment; (iii) a QCiL Adjusted Revenues Payment; (iv) a QCiL Construction Payment; and (v) a QCiL Operations Cessation Payment (and any combination of any of the foregoing);

**“QCIL Compensation Date”** has the meaning given to that term in Condition 33.1;

**“QCIL Construction Event”** means a Qualifying Change in Law which is implemented, occurs or becomes effective after the Agreement Date and before the Start Date and which will permanently prevent the Generator, acting in accordance with a Reasonable and Prudent Standard, from Commissioning the whole of the Facility by virtue of the necessary construction, conversion, installation, testing, completion or commissioning of the Facility becoming illegal;

**“QCIL Construction Event Costs”** means, in relation to a Qualifying Change in Law which constitutes a QCiL Construction Event, all out-of-pocket costs (including QCiL Tax Liabilities) which have been, will or are reasonably likely to be incurred in respect of the Project by the Generator arising directly from such QCiL Construction Event occurring, if and to the extent that such costs constitute:

- (A) development and pre-development costs in respect of the Facility (including: (i) the costs of surveys and environmental impact assessments in respect of the Facility; (ii) costs incurred in satisfying the Eligibility Criteria with respect to the allocation of the Contract for Difference; and (iii) costs incurred in obtaining planning permission for the Facility);
- (B) decommissioning costs in respect of the Facility;
- (C) break costs associated with the Generator's contractual or financing obligations in respect of the Facility; or
- (D) costs which are wholly attributable to the construction, conversion, installation, testing, completion or commissioning of the Facility,

in each case which are irrecoverable and unavoidable (but excluding any other compensation payable by the Generator in connection with such QCiL Construction Event (including any Termination Amount and any costs incurred by the Generator in respect of the agreement or determination of the Termination Amount) and any interest incurred in respect of financing arrangements associated with the Project except where expressly specified in paragraphs (A)-(D));

**“QCIL Construction Event Savings”** means, in relation to a Qualifying Change in Law which constitutes a QCiL Construction Event, all savings which have been, will or are reasonably likely to be made or received in respect of the Project by the Generator (including reliefs from or reductions in a QCiL Tax Liability, insurance proceeds and other compensation) arising directly from such QCiL Construction Event occurring;

**“QCIL Construction Payment”** has the meaning given to that term in Condition 32.1(D);

**“QCiL Costs”** means, in relation to a Qualifying Change in Law, all out-of-pocket costs (including QCiL Tax Liabilities) which have been, will or are reasonably likely to be incurred in respect of the Project by the Generator arising directly as a result or in anticipation of such Qualifying Change in Law being implemented, occurring or becoming effective, but excluding any Termination Amount or any costs incurred in respect of the agreement or determination of the amount of the Termination Amount;

**“QCiL Directors’ Certificate”** means a Directors’ Certificate given to the CfD Counterparty pursuant to Condition 31.4 or Condition 31.6;

**“QCiL Effective Date”** means the date on which a Notified Change in Law has been implemented, has occurred or has become effective;

**“QCiL Mitigation Obligation”** means the obligation of the Generator in Condition 35.3;

**“QCiL Net Capital Costs”** means, if QCiL Capital Costs exceed QCiL Capital Savings in respect of a Qualifying Change in Law, the QCiL Capital Costs less the QCiL Capital Savings;

**“QCiL Net Capital Savings”** means, if QCiL Capital Savings exceed QCiL Capital Costs in respect of a Qualifying Change in Law, the QCiL Capital Savings less the QCiL Capital Costs;

**“QCiL Net Operating Costs”** means, if QCiL Operating Costs exceed QCiL Operating Savings in respect of a Qualifying Change in Law, the QCiL Operating Costs less the QCiL Operating Savings;

**“QCiL Net Operating Savings”** means, if QCiL Operating Savings exceed QCiL Operating Costs in respect of a Qualifying Change in Law, the QCiL Operating Savings less the QCiL Operating Costs;

**“QCiL Notice”** means a CfD Counterparty QCiL Notice or a Generator QCiL Notice;

**“QCiL Operating Costs”** means any QCiL Costs classified as operating costs under IFRS, including in particular IAS 16 (Property Plant and Equipment) and IAS 11 (Construction Contracts);

**“QCiL Operating Savings”** means any QCiL Savings classified as operating savings under IFRS, including in particular IAS 16 (Property Plant and Equipment) and IAS 11 (Construction Contracts);

**“QCiL Operations Cessation Event”** means a Qualifying Change in Law which is implemented, occurs or becomes effective after the Start Date and which will permanently prevent the Generator, acting in accordance with a Reasonable and Prudent Standard, from operating the whole of the Facility by virtue of such operation becoming illegal;

**“QCiL Operations Cessation Event Costs”** means, in relation to a Qualifying Change in Law which constitutes a QCiL Operations Cessation Event, any irrecoverable and unavoidable out-of-pocket costs (including QCiL Tax Liabilities) which have been, will or

are reasonably likely to be incurred in respect of the Project by the Generator arising directly from such QCiL Operations Cessation Event occurring (but excluding any other compensation payable by the Generator in connection with such QCiL Operations Cessation Event (including any Termination Amount and any costs incurred by the Generator in respect of the agreement or determination of the Termination Amount) and any interest incurred in respect of financing arrangements associated with the Project);

**“QCiL Operations Cessation Event Savings”** means, in relation to a Qualifying Change in Law which constitutes a QCiL Operations Cessation Event, all savings which have been, will or are reasonably likely to be made or received in respect of the Project by the Generator (including reliefs from or reductions in a QCiL Tax Liability, insurance proceeds and other compensation) arising directly from such QCiL Operations Cessation Event occurring;

**“QCiL Operations Cessation Payment”** has the meaning given to that term in Condition 32.1(E);

**“QCiL Opex Adjustment”** has the meaning given to that term in Condition 32.1(A);

**“QCiL Response Information”** means, in relation to a Generator QCiL Response Notice, the information specified in Conditions 31.2(B) to 31.2(E) (inclusive);

**“QCiL Savings”** means, in relation to a Qualifying Change in Law, all savings (including reliefs from or reductions in a QCiL Tax Liability, insurance proceeds and other compensation) which have been, will or are reasonably likely to be made or received in respect of the Project by the Generator arising directly as a result or in anticipation of such Qualifying Change in Law being implemented, occurring or becoming effective;

**“QCiL Strike Price Adjustment”** means any QCiL Compensation which has been, or will be, made by way of a Strike Price Adjustment;

**“QCiL Supporting Information”** means:

- (A) in relation to a CfD Counterparty QCiL Notice, the information specified in Conditions 31.1(B) to 31.1(E) (inclusive); and
- (B) in relation to a Generator QCiL Notice, the information specified in Conditions 31.5(B) to 31.5(F) (inclusive);

**“QCiL Tax”** means any Tax other than any tax on gross or net Income, Profits or Gains, save to the extent that the rate at which such Tax is chargeable has been introduced or amended by a Qualifying Change in Law;

**“QCiL Tax Liability”** means:

- (A) a liability of the Generator to make an actual payment of a QCiL Tax to a tax authority; and
- (B) the loss to the Generator of, or a reduction to the Generator in the amount of, a right to repayment of Tax to which it would otherwise be entitled but for such

amount being set off against any liability of the Generator to make an actual payment of QCiL Tax;

**“QCiL Termination Date”** has the meaning given to that term in Condition 45.6(B);

**“QCiL Termination Notice”** has the meaning given to that term in Condition 45.6;

**“QCiL True-Up Compensation”** means the requisite adjustment to the QCiL Compensation which is necessary to reflect the QCiL True-Up Information;

**“QCiL True-Up Information”** has the meaning given to that term in Condition 34.2;

**“QCiL True-Up Meeting”** has the meaning given to that term in Condition 31.8(B)(v);

**“QCiL True-Up Response Notice”** has the meaning given to that term in Condition 34.4;

**“QCiL True-Up Strike Price Adjustment”** means any QCiL True-Up Compensation which has been, or will be, made by way of a Strike Price Adjustment;

**“Qualifying Change in Law”** means: (i) a Discriminatory Change in Law; (ii) a Specific Change in Law; or (iii) an Other Change in Law, which, in each case, is not a Foreseeable Change in Law and, provided that no decision by the European Commission or other Competent Authority in respect of the application of the State Aid Rules to the Contract for Difference or FiT Contracts for Difference (including the annulment, invalidation, suspension, revocation, modification or replacement of any prior decision pursuant to such rules) shall constitute a Qualifying Change in Law;

**“Qualifying CPC Compensation”** means any of the compensation payable in accordance with Conditions 43.1 to 43.4;

**“Qualifying CPC Event”** means: (i) a Qualifying Curtailment; or (ii) a Qualifying Partial Curtailment;

**“Qualifying Curtailment”** means, in relation to any Contract Year, an event or circumstance which satisfies the following conditions:

- (A) a change in the Law is made by the UK Government after the Agreement Date (whether or not in the relevant Contract Year) such that:
  - (i) the national electricity transmission system is no longer planned and developed at least as an economical, efficient and co-ordinated system and in a manner that is not unduly discriminatory (as that term is understood in the context of National Grid Electricity Transmission Plc’s Transmission Licence as at the Agreement Date); or
  - (ii) the Transmission System Operator is no longer under an obligation to operate the national electricity transmission system at least in an economical, efficient, co-ordinated and not unduly discriminatory (as that term is understood in the context of National Grid Electricity

Transmission Plc's Transmission Licence as at the Agreement Date) manner,

where, for the purpose of this definition, "**economical**" and "**efficient**" shall be construed to refer at least to national electricity transmission system costs being minimised on a national or wider basis whilst ensuring security of supply and taking account of the overall physical constraints applicable to the national electricity transmission system and the dynamic characteristics of electricity generating plant;

- (B) the export of electricity from the Facility is Curtailed in such Contract Year, and such Curtailment would not have occurred but for the relevant change in the Law referred to in paragraph (A);
- (C) in such Contract Year either:
  - (i) the Generator is prevented pursuant to the Balancing Mechanism from making a bid in relation to the Facility to the level which would result in it (or its nominee) receiving an amount at least equal to the Defined Curtailment Compensation;
  - (ii) the Generator has made a bid pursuant to the Balancing Mechanism in relation to the Facility but the operation of the bid-offer regime under that mechanism is such that, irrespective of the level of the bid that the Generator has made (provided such bid is greater than or equal to the Defined Curtailment Compensation), if the bid is accepted the Generator (or its nominee) would not receive an amount at least equal to the Defined Curtailment Compensation;
  - (iii) there is no Balancing Mechanism pursuant to which bids may be made; or
  - (iv) the Generator is prevented by law or regulation from making a bid pursuant to the Balancing Mechanism in relation to the Facility to the level which would result in it (or its nominee) receiving an amount at least equal to the Defined Curtailment Compensation,

and the relevant event or circumstance would not have occurred but for the relevant change in the Law referred to in paragraph (A); and

- (D) in such Contract Year the Generator (or its nominee) in relation to the Facility receives less than the Defined Curtailment Compensation in respect of the relevant curtailment, and this would not have occurred but for the relevant change in the Law referred to in paragraph (A),

provided that it shall not be a Qualifying Curtailment if the export of electricity from the Facility is Curtailed:

- (i) as a result of any unplanned Transmission System outage, Black Start or Emergency Deenergisation Instruction;

- (ii) as a result of a breach or default by the Generator or any of its Representatives of the Contract for Difference, any Law or Directive, any Industry Document or any Required Authorisation;
- (iii) as a result of a failure by the Generator or any of its Representatives to act in accordance with a Reasonable and Prudent Standard; or
- (iv) as a result of any matter relating to health, safety, security or environment at or with respect to the Facility (but not as a result of any such matter at or with respect to the national electricity transmission system);

**“Qualifying Issuer”** means: (i) 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 Ratings; or (ii) such other bank or financial institution, having a minimum short term rating, as the CfD Counterparty may approve or specify from time to time;

**“Qualifying Partial Curtailment”** means, in relation to any Contract Year, an event or circumstance which satisfies the following conditions:

- (A) a change in the Law is made by the UK Government after the Agreement Date (whether or not in the relevant Contract Year) such that:
  - (i) the national electricity transmission system is no longer planned and developed at least as an economical, efficient and co-ordinated system and in a manner that is not unduly discriminatory (as that term is understood in the context of National Grid Electricity Transmission Plc’s Transmission Licence as at the Agreement Date); or
  - (ii) the Transmission System Operator is no longer under an obligation to operate the national electricity transmission system at least in an economical, efficient, co-ordinated and not unduly discriminatory (as that term is understood in the context of National Grid Electricity Transmission Plc’s Transmission Licence as at the Agreement Date) manner,

where, for the purpose of this definition, **“economical”** and **“efficient”** shall be construed to refer at least to national electricity transmission system costs being minimised on a national or wider basis whilst ensuring security of supply and taking account of the overall physical constraints applicable to the national electricity transmission system and the dynamic characteristics of electricity generating plant;

- (B) the export of electricity from the Facility is Partially Curtailed in such Contract Year in circumstances where there is no voluntary agreement with the Generator to that effect, and such Partial Curtailment would not have occurred but for the relevant change in the Law referred to in paragraph (A);

- (C) in such Contract Year either:
- (i) the Generator is prevented pursuant to the Balancing Mechanism from making a bid in relation to the Facility to the level which would result in it (or its nominee) receiving an amount at least equal to the Defined Partial Curtailment Compensation;
  - (ii) the Generator has made a bid pursuant to the Balancing Mechanism in relation to the Facility but the operation of the bid-offer regime under that mechanism is such that, irrespective of the level of the bid that the Generator has made (provided such bid is greater than or equal to the Defined Partial Curtailment Compensation), if the bid is accepted the Generator (or its nominee) would not receive an amount at least equal to the Defined Partial Curtailment Compensation;
  - (iii) there is no Balancing Mechanism pursuant to which bids may be made; or
  - (iv) the Generator is prevented by law or regulation from making a bid pursuant to the Balancing Mechanism in relation to the Facility to the level which would result in it (or its nominee) receiving an amount at least equal to the Defined Partial Curtailment Compensation,

and the relevant event or circumstance would not have occurred but for the relevant change in the Law referred to in paragraph (A); and

- (D) in such Contract Year the Generator (or its nominee) in relation to the Facility receives less than the Defined Partial Curtailment Compensation in respect of the relevant curtailment, and this would not have occurred but for the relevant change in the Law referred to in paragraph (A),

provided that it shall not be a Qualifying Partial Curtailment if the export of electricity from the Facility is Partially Curtailed:

- (i) as a result of any unplanned Transmission System outage, Black Start or Emergency Deenergisation Instruction;
- (ii) as a result of a breach or default by the Generator or any of its Representatives of the Contract for Difference, any Law or Directive, any Industry Document or any Required Authorisation;
- (iii) as a result of a failure by the Generator or any of its Representatives to act in accordance with a Reasonable and Prudent Standard; or
- (iv) as a result of any matter relating to health, safety, security or environment at or with respect to the Facility (but not as a result of any such matter at or with respect to the national electricity transmission system);

“**Qualifying Shutdown Event**” means:

- (A) Her Majesty’s Government of the United Kingdom or the Secretary of State or any other Minister of the Crown or any department or authority of Her Majesty’s Government of the United Kingdom (each a Government Authority):
  - (i) applying, implementing or changing the Law which is in force from time to time;
  - (ii) applying or exercising its powers under such Law; or
  - (iii) applying, implementing and/or changing policy or guidance which has effect from time to time;
- (B) the exercise of powers by a UK Competent Authority, where such exercise of powers was required by a direction made under statutory powers by a Government Authority; or
- (C) the exercise of powers by a UK Competent Authority, where the UK Competent Authority has not acted independently of a Government Authority in such exercise of powers, and for this purpose a UK Competent Authority shall be deemed to have acted independently of a Government Authority unless such exercise of powers was procured by the Government Authority,

other than any application, implementation, change, exercise of powers or other action required by, or necessary for compliance with, international or EU policy or guidance (provided such international or EU policy or guidance was not promoted by such Government Authority and, in relation to any international or EU law, policy or guidance proposed after the Agreement Date, such Government Authority has used its reasonable endeavours to prevent the adoption of such international or EU law, policy or guidance (such reasonable endeavours not to include an obligation on any Government Authority to take legal proceedings to challenge such adoption)), and which the Generator is able to demonstrate to the satisfaction of an English court of competent jurisdiction:

- (i) imposes a requirement that permanently prevents the whole of the Facility from operating; or
- (ii) is the refusal or the failure to give approval, for a period in excess of twenty-four (24) months, to a request for consent to any re-start of the whole of the Facility;

(each a “**Shutdown Event**”) unless, in any such case, the Shutdown Event was for reasons:

- (a) relating to or in connection with matters of health, safety, security, environment, transport or damage to property (the “**Relevant Matters**”) affecting (directly or indirectly): (1) the Facility or the generation of electricity therefrom; (2) the Generator; (3) the land on which the Facility is situated; (4) the management of any of (1) to (3); or (5) the generation of electricity using the same Generation Technology as the Facility (whether in the UK or elsewhere), but in this case,

provided the Relevant Matters also relate or apply to one or more of (1) to (4), where at the time of the Shutdown Event it was justifiable in the circumstances as they related or applied to the relevant one(s) of (1) to (5) to prevent the operation, or refuse to consent to any re-start, of the whole of the Facility;

- (b) arising out of, in connection with, or resulting from the negligence, breach or fault of, or a failure to act to a Reasonable and Prudent Standard by, the Generator or any of its Representatives where at the time of the Shutdown Event it was justifiable in the circumstances to prevent the operation, or refuse to consent to any re-start, of the whole of the Facility; or
- (c) relating to any decision by the European Commission or other Competent Authority in respect of the application of the State Aid Rules in the Contract for Difference or FiT Contracts for Difference (including the annulment, invalidation, suspension, revocation, modification, suspension or replacement of any prior decision pursuant to such rules);

**“RCRC Credits”** means:

- (A) Residual Cashflow Reallocation Cashflow; and
- (B) any new or substitute payments or credits which are in the nature of, or similar to, Residual Cashflow Reallocation Cashflow,

in each case, receivable or payable by electricity generators in Great Britain;

**“Reasonable and Prudent Standard”** means the standard of a person seeking in good faith to comply with its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight that would reasonably and ordinarily be expected from a skilled and experienced person complying with all applicable Laws, Directives, Industry Documents and Required Authorisations and engaged in the same type of undertaking under the same or similar circumstances and conditions;

**“Reconciliation Amount”** has the meaning given to that term in Condition 20.4;

**“Reconciliation Billing Period”** has the meaning given to that term in Condition 20.5;

**“Reference CPI”** means the most recently published CPI;

**“Relevant Geological Issue”** means a Geological Issue:

- (A) of which no generator acting to a Reasonable and Prudent Standard and having made all due and careful enquiries would have been aware, and of which the Generator was not aware, at the FiT CfD Application Date; and
- (B) which renders the development, completion, construction, conversion, installation or commissioning of the Facility to meet the Installed Capacity Estimate uneconomic;

**“Renewable Qualifying Multiplier”** has the meaning given to that term in paragraph 1.1 of Part B of Annex 7 (*FMS arrangements and RQM Calculation Methodology*);

**“Replacement Collateral Notice”** has the meaning given to that term in Condition 49.3;

**“Replacement Collateral Repayment Date”** means, in circumstances in which any Payment Failure occurs after the date of a Collateral Posting Notice but before the Initial Collateral Repayment Date specified in such notice, the date falling twelve (12) months after the last day of the NPA Payment Cure Period applicable to the Net Payable Amount to which such Payment Failure relates;

**“Representatives”** means:

- (A) in respect of the CfD Counterparty:
  - (i) its directors, officers, employees, agents, consultants and advisers; and
  - (ii) the CfD Settlement Services Provider and its directors, officers, employees, agents, consultants and advisers;
- (B) in respect of the Generator:
  - (i) its directors, officers or employees;
  - (ii) any of its Contractors, agents, consultants and advisers which are or have been engaged in connection with the Project, the Contract for Difference or any other CfD Document; and
  - (iii) the directors, officers, employees, agents, consultants and advisers of any of its Contractors which are or have been engaged in connection with the Project, the Contract for Difference or any other CfD Document;
- (C) in respect of any Government Entity, its directors, officials, officers, employees, agents, consultants and advisers; or
- (D) in respect of any other body corporate, its directors, officers, employees, agents, consultants and advisers;

**“Request for Information”** means:

- (A) a request for information (as such term is defined in section 8 of the FoIA); or
- (B) a request that environmental information (as such term is defined in the EIR) be made available pursuant to the EIR;

**“Requested Milestone Supporting Information”** has the meaning given to that term in Condition 4.3(B)(ii);

**“Required Authorisation”** means, in relation to the Generator, each authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption,

order confirmation, permission or other approval of or from any Competent Authority required to enable the Generator:

- (A) to perform and comply with its obligations under the Contract for Difference and the other CfD Documents; and
- (B) (other than for the purposes of Condition 26.1(E) and 28.1(B)) to design, develop, construct, convert, install, complete, test, commission, operate, maintain and decommission the Facility;

**“Reserve Account”** means a bank account in the United Kingdom specified by the CfD Counterparty in a Collateral Posting Notice and to which Acceptable Collateral (in the form of cash) is to be transferred;

**“Resolution Period”** has the meaning given to that term in Condition 52.1(A);

**“Respondent”** has the meaning given to that term in Condition 53.3;

**“Response Submission”** has the meaning given to that term in Condition 53.8(C);

**“Revised ICE”** has the meaning given to that term in Condition 6.1(B)(ii);

**“RGI-Adjusted Installed Capacity Estimate”** has the meaning given to that term in Condition 5.1(B)(ii);

**“RGI Deadline”** has the meaning given to that term in Condition 5.1;

**“RGI Notice”** has the meaning given to that term in Condition 5.1;

**“RGI Response Notice”** has the meaning given to that term in Condition 5.3;

**“RGI Supporting Information”** has the meaning given to that term in Condition 5.3(B)(iii);

**“RQM Adjustment Amount”** means an amount (expressed in pounds) calculated by the CfD Counterparty in accordance with Condition 11.3 (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

**“RQM Calculation Month”** has the meaning given to that term in Annex 7 (*FMS arrangements and RQM Calculation Methodology*);

**“RQM Calculation Methodology”** means the methodology for calculating the Renewable Qualifying Multiplier as set out in Part B of Annex 7 (*FMS arrangements and RQM Calculation Methodology*) (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

**“Season”** means a period of six consecutive months commencing on either 01 April or 01 October;

“**Second CPP Notice**” has the meaning given to that term in Condition 49.1;

“**Secretary of State**” means the Secretary of State for Energy and Climate Change;

“**Section C (system operator standard conditions) Direction**” means a direction issued by the Authority or the Secretary of State, where appropriate, in accordance with Standard Condition A2 (Application of Section C) of the Transmission Licence;

“**Senior Representative**” means one or more senior employees or officers selected by a Party to represent it in relation to Condition 52 (*Resolution by Senior Representatives*);

“**Senior Representatives Settlement**” has the meaning given to that term in Condition 52.1(A);

“**Service Agent**” has the meaning given to that term in the CfD Agreement (but only if Condition 81 (*Agent for service of process*) is expressed to apply to the Contract for Difference in the CfD Agreement);

“**Service Document**” means a claim form, application notice, order, judgment or other document relating to any Proceedings;

“**Settlement Unit**” has the meaning given to that term in the CfD Agreement;

“**SOTO Code**” means the System Operator – Transmission Owner Code required to be in place pursuant to Standard Condition B12 (System Operator – Transmission Owner Code) of the Transmission Licence;

“**Specific Change in Law**” means a Change in Law the terms of which specifically (and not merely indirectly or consequentially or by virtue of the disproportionate effect of any Change in Law that is of general application) apply to:

- (A) generating facilities which deploy the same Generation Technology as the Facility Generation Technology, or the generation from, or generation-related processes carried out at, such generating facilities, and not to other generating facilities, or the generation from, or generation-related processes carried out at, other generating facilities;
- (B) generating facilities the generation output of which is subject to a FiT Contract for Difference, or the generation from, or any generation-related processes carried out at, such generating facilities, and not in respect of any generating facilities which are not subject to a FiT Contract for Difference, or the generation from, or generation-related processes carried out at, any such generating facilities;
- (C) generating facilities which deploy the same Generation Technology as the Facility Generation Technology and the generation output of which is subject to a FiT Contract for Difference, or the generation from, or any generation-related processes carried out at, such generating facilities, and not to any generating facilities which are not of the same or similar type to the Facility but which are

subject to a FiT Contract for Difference, or the generation from, or generation-related processes carried out at, such other generating facilities; or

- (D) the holding of shares in companies, the membership of partnerships, limited partnerships or limited liability partnerships, the participation in joint ventures (whether or not incorporated) or the holding of any other economic interest in an undertaking whose main business is the development, construction, operation and maintenance of generating facilities referred to in paragraph (A), (B) or (C) and not other generating facilities;

**“Specified Expiry Date”** has the meaning given to that term in the CfD Agreement;

**“Standard and Poor's”** means Standard & Poor's Ratings Service, a division of the McGraw-Hill Companies, Inc., and any successor thereto;

**“Start Date”** has the meaning given to that term in Condition 3.15(B);

**“Start Date Notice”** has the meaning given to that term in Condition 3.15;

**“State Aid Rules”** means:

- (A) the State aid provisions of the Treaty on the Functioning of the European Union;
- (B) any associated European Union legislation in relation to such State aid provisions including Council Regulation 659/1999; and
- (C) any relevant decisions or judgments of the European Commission, the Court of Justice of the European Union or any other Competent Authority in relation to such State Aid provisions;

**“Strike Price”** means the Initial Strike Price, as may be amended from time to time in accordance with the Contract for Difference;

**“Strike Price Adjustment”** means any adjustment to the Strike Price effected pursuant to and in accordance with the Contract for Difference, including:

- (A) a QCiL Strike Price Adjustment;
- (B) a QCiL True-Up Strike Price Adjustment;
- (C) an Indexation Adjustment;
- (D) a GT Strike Price Adjustment;
- (E) a BSUoS Strike Price Adjustment; or
- (F) a TLM Strike Price Adjustment;

**“Summer Season”** in any year, means the Season commencing on 01 April in that year;

**“Supplier Obligation Regulations”** means regulations made pursuant to the EA 2013 which make provision for Electricity Suppliers to pay the CfD Counterparty for the purpose of enabling the CfD Counterparty to make payments pursuant to FIT Contracts for Difference;

**“Supporting Information”** means any and all calculations, confirmations, data, documentation, evidence (including expert’s reports), explanations, Information, measurements, readings, reports (including expert’s reports), representations and statements (whether in written or documentary form);

**“Target Commissioning Window”** means the Initial Target Commissioning Window for the Facility as specified in the CfD Agreement, as such period may be extended day for day for each day of delay to the Project by reason of:

- (A) Force Majeure affecting the Project; or
- (B) any failure by any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO, to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives);

**“Tax”** means any taxes, levies, duties, imposts and any charges, deductions or withholdings in the nature of tax including taxes on gross or net Income, Profits or Gains and taxes on receipts, sales, use, occupation, development, franchise, employment, value added and personal property, together with any penalties, charges and interest relating to any of them;

**“Technical Amendment”** means any Proposed Amendment which is:

- (A) not a Material Amendment; or
- (B) required to correct a manifest error;

**“Technical Amendment Agreement”** has the meaning given to that term in paragraph 2.10 of Annex 2 (*Change Control Procedure*);

**“Technical Amendment Response Notification”** has the meaning given to that term in paragraph 2.6(B)(ii) of Annex 2 (*Change Control Procedure*);

**“Technical Amendment Response Period”** has the meaning given to that term in paragraph 2.6 of Annex 2 (*Change Control Procedure*);

**“Technical Compliance Termination Event”** means an event as set out in Condition 29.6;

**“Term”** has the meaning given to that term in Condition 2.1;

**“Termination Amount”** means an amount (expressed in pounds) calculated in accordance with the formula set out in paragraph 2.1 of Annex 1 (*Calculation of Termination Amount*);

**“Termination Amount Notice”** has the meaning given to that term in Condition 46.3(B);

**“Termination Date”** means the day designated as an early termination date in respect of and in accordance these Conditions;

**“Termination Event”** has the meaning given to that term in Condition 47.1;

**“Third Party”** has the meaning given to that term in Condition 77.1;

**“Third Party Provisions”** has the meaning given to that term in Condition 77.1;

**“TLM”** means:

- (A) the Transmission Loss Multiplier determined in accordance with the BSC for BM Units belonging to delivering Trading Units; and
- (B) any new or substitute multiplier or factor which is in the nature of, or similar to, the Transmission Loss Multiplier determined in accordance with BSC for BM Units belonging to delivering Trading Units;

**“TLM Charges”** means the arithmetic mean of the charge to electricity generators in Great Britain on account of the application of the TLM to their electricity generation output;

**“TLM Charges Difference”** has the meaning given to that term in Condition 41.2(G);

**“TLM Charges Percentage Difference”** has the meaning given to that term in Condition 41.2(G);

**“TLM Charges Report”** has the meaning given to that term in Condition 41.2;

**“TLM Charges Report Year”** has the meaning given to that term in Condition 41.2;

**“TLM Charges Review Date”** has the meaning given to that term in Condition 41.2(C);

**“TLM Strike Price Adjustment”** has the meaning given to that term in Condition 41.3;

**“Total Project Costs”** has the meaning given to that term in the CfD Agreement;

**“Transfer”** has the meaning given to that term in Condition 73.1;

**“Transfer Scheme”** means a transfer scheme made under paragraph 1(1) of Schedule 1 or paragraph 16 of Schedule 2 to the EA 2013;

**“Transferee”** has the meaning given to that term in Condition 73.1;

“**Transferring Rights and Obligations**” has the meaning given to that term in Condition 73.5;

“**Transmission Licence**” means an electricity transmission licence granted or treated as granted pursuant to section 6(1)(b) of the EA 1989 that authorises a person to transmit electricity;

“**Transmission Licensee**” means any person who is authorised by a Transmission Licence to transmit electricity;

“**Transmission System**” means those parts of the GB Transmission System that are owned by a Transmission Licensee within the transmission area specified in its Transmission Licence;

“**Transmission System Operator**” means the holder of a Transmission Licence in relation to which licence the Authority or the Secretary of State, where appropriate, has issued a Section C (system operator standard conditions) Direction in accordance with such licence and where that direction remains in effect;

“**UK Competent Authority**” means a Competent Authority of the United Kingdom; and

“**Working Hours**” means 09:00 to 17:00 on a Business Day.

### ***BSC definitions***

- 1.2 References in these Conditions to “**BSC Agent**”, “**BM Unit**”, “**BM Unit Metered Volume**”, “**BSC Company**”, “**Clock Change Day**”, “**Code of Practice**”, “**Code Subsidiary Documents**”, “**Credited Energy Volume**”, “**Metering Equipment**”, “**MSID**”, “**Registrant**”, “**Residual Cashflow Reallocation Cashflow**”, “**Settlement Run**”, “**Supplier**”, “**Trading Disputes**”, “**Trading Units**” and “**Transmission Loss Multiplier**” have the meanings given to such terms in the BSC.

### ***Interpretation***

- 1.3 Any reference in the Contract for Difference to:
- (A) a Law, Directive or other similar enactment or instrument (including any European Union instrument) (each, an “**enactment**”) includes references to:
- (i) that enactment as amended, supplemented or applied by or pursuant to any other enactment before, on or after the Agreement Date;
  - (ii) any enactment which re-enacts, restates or replaces (in each case with or without modification) that enactment; and
  - (iii) any subordinate legislation made (before, on or after the Agreement Date) pursuant to any enactment, including an enactment falling within Condition 1.3(A)(i) or 1.3(A)(ii); or

- (B) an Industry Document includes references to such Industry Document as amended, supplemented, restated, novated or replaced from time to time,

except, in each case, for the purposes of Part 8 (*Changes in Law*) or where otherwise expressly specified.

1.4 Unless otherwise expressly specified:

- (A) any reference in the Contract for Difference or any other CfD Document (or in any certificate or other document made or delivered pursuant to the Contract for Difference or any other CfD Document) to:
- (i) these Conditions shall be deemed to include the Schedules and the Annexes;
  - (ii) the CfD Agreement shall be deemed to include any schedules or annexes to the CfD Agreement;
  - (iii) a “**company**” shall be construed as including any corporation or other body corporate, wherever and however incorporated or established;
  - (iv) the expressions “**holding company**” and “**subsidiary**” shall have the meanings respectively ascribed to them by section 1159 of the Companies Act 2006, the expression “**subsidiary undertaking**” shall have the meaning ascribed to it in section 1162 of the Companies Act 2006 and the expression “**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);
  - (v) a “**person**” shall be construed as including any individual, firm, company, unincorporated organisation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any other entity;
  - (vi) a person shall be construed as including its successors, permitted assignees and permitted transferees and, where a person ceases to exist, any other person to which some or all of its duties, functions, liabilities, obligations, powers or responsibilities may from time to time be transferred;
  - (vii) an “**agreement**” shall be construed as including any commitment or arrangement, whether legally binding or not, and references to being party to an agreement or having agreed to do anything shall be construed accordingly;
  - (viii) any agreement or document shall be construed as a reference to that agreement or document as amended, supplement, restated, novated or replaced from time to time;

- (ix) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be treated as including what most nearly approximates in that jurisdiction to the English legal term;
  - (x) time shall be a reference to time in London, England;
  - (xi) words in the singular shall be interpreted as include the plural and vice versa; and
  - (xii) any gender includes the other genders;
- (B) in construing the Contract for Difference or any other CfD Document (or any certificate or other document made or delivered pursuant to the Contract for Difference or any other CfD Document):
- (i) the rule of interpretation known as the *ejusdem generis* rule shall not apply and, accordingly, general words introduced by the word “other” shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and
  - (ii) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;
- (C) any reference in these Conditions to a “**paragraph**”, “**Condition**”, “**Part**”, “**Annex**” or “**Schedule**” is a reference to a paragraph, Condition or Part of, or Annex or Schedule to, these Conditions; and
- (D) any reference in the CfD Agreement to a “**paragraph**”, “**clause**”, “**Annex**” or “**Schedule**” is a reference to a paragraph or clause of, or Annex or Schedule to, the CfD Agreement.
- 1.5 These Conditions form part of the Contract for Difference and shall have the same force and effect as if expressly set out in the body of the Contract for Difference, and any reference to the Contract for Difference shall include the Schedules and the Annexes.
- 1.6 Headings and sub-headings used in the Contract for Difference are for ease of reference only and shall not affect the interpretation of the Contract for Difference.
- 1.7 If there is a conflict between:
- (A) the main body of these Conditions and any Annex or Schedule, the main body of these Conditions shall prevail; or
  - (B) these Conditions and the CfD Agreement, the CfD Agreement shall prevail.

- 1.8 Condition 1.4(A)(vi) shall apply (without limitation) to any references in the Contract for Difference to the Authority, DECC, the Environment Agencies and the Secretary of State.

***Symbols and currency***

- 1.9 Any reference in these Conditions to “£”, “pounds” or “sterling” is to the lawful currency of the United Kingdom.
- 1.10 Any reference in these Conditions to “MW” is to megawatts and to “MWh” is to megawatt hours.

***No interest in the Facility***

- 1.11 Nothing in the Contract for Difference is intended to create, or shall create, a legal or beneficial interest in the Facility or the Project in favour of any person other than the Generator.

**Part 2**  
**Term**

**2. TERM**

***Term and duration***

- 2.1 (A) Subject to Condition 3 (*Conditions Precedent*), the provisions of, and the rights and obligations of the Parties under, the Contract for Difference shall become effective and binding on the Agreement Date; and
- (B) (except in circumstances in which the Contract for Difference is terminated pursuant to Conditions 45.1, 45.4 or 45.6) the Contract for Difference shall continue in full force and effect until the Specified Expiry Date,
- (such period, the “**Term**”).

***Consequences of expiry***

- 2.2 Subject to Condition 2.3: (i) the Contract for Difference shall expire automatically on the Specified Expiry Date; and (ii) upon expiry of the Contract for Difference:
- (A) no termination payment shall be payable by either Party to the other Party;
- (B) all rights and obligations of the Parties under the Contract for Difference shall end; and
- (C) neither Party shall be entitled to make any claim against the other Party pursuant to the Contract for Difference.
- 2.3 Expiry of the Contract for Difference:
- (A) shall not affect, and shall be without prejudice to, accrued rights and liabilities and rights and liabilities arising as a result of:
- (i) any antecedent breach of any provision of the Contract for Difference; and
- (ii) any breach of any provisions of the Contract for Difference which are expressed to survive expiry pursuant to Condition 48 (*Survival*); and
- (B) shall be subject to Condition 48 (*Survival*).

**Part 3**  
**Conditions Precedent and Milestone Requirements**

**3. CONDITIONS PRECEDENT**

***Provisions effective and binding from Agreement Date***

3.1 The provisions of, and the rights and obligations of the Parties pursuant to, the Agreement Date Provisions shall become effective and binding on the Agreement Date.

***Initial Conditions Precedent***

3.2 The provisions of, and the rights and obligations of the Parties pursuant to, the Initial CP Provisions are conditional upon the Initial Conditions Precedent being:

(A) fulfilled by the Generator; or

(B) waived by the CfD Counterparty in accordance with Condition 3.20.

3.3 The Generator shall use reasonable endeavours to fulfil or procure the fulfilment of the Initial Conditions Precedent as soon as reasonably practicable, and in any event within ten (10) Business Days of the Agreement Date.

3.4 The CfD Counterparty shall notify the Generator as soon as reasonably practicable after the CfD Counterparty considers that the Initial Conditions Precedent have been fulfilled.

***Further Conditions Precedent***

3.5 The provisions of, and the rights and obligations of the Parties pursuant to, the Further CP Provisions are conditional upon the Further Conditions Precedent being:

(A) fulfilled by the Generator; or

(B) waived by the CfD Counterparty in accordance with Condition 3.20.

3.6 The Generator shall use reasonable endeavours to fulfil or procure the fulfilment of the Further Conditions Precedent as soon as reasonably practicable, and in any event before the Longstop Date.

3.7 The Generator shall keep the CfD Counterparty reasonably informed as to progress towards fulfilment of the Further Conditions Precedent and, in particular, shall:

(A) provide the CfD Counterparty with reports (in form and content reasonably satisfactory to the CfD Counterparty and in accordance with the reasonable requirements of the CfD Counterparty as to the timing and frequency of such reports) of the progress made in or towards fulfilment of the Further Conditions Precedent; and

(B) give the CfD Counterparty a notice each time the Generator considers a Further Condition Precedent has been fulfilled (a **“Further CP Notice”**). Each Further CP Notice shall:

- (i) be substantially in the form set out in Part B of Annex 8 (*Pro forma notices*);
- (ii) identify the Further Condition Precedent which the Generator considers to have been fulfilled; and
- (iii) include such Supporting Information as the Generator considers to be relevant to evidence the fulfilment of the relevant Further Condition Precedent.

3.8 Each Further CP Notice shall be accompanied by a Directors’ Certificate certifying that the information contained in, and enclosed with, the Further CP Notice is true, complete and accurate in all material respects and is not misleading.

3.9 The Generator shall give the CfD Counterparty a notice promptly upon the Generator becoming aware:

- (A) of any fact, matter or circumstance which will or is reasonably likely to prevent any of the Further Conditions Precedent from being fulfilled by the Longstop Date; or
- (B) that any of the Further Conditions Precedent which had previously been notified to the CfD Counterparty as fulfilled pursuant to Condition 3.7(B) is no longer fulfilled at any time prior to the Start Date,

(any such notice, a **“Further CP Non-Compliance Notice”** and the Further Condition Precedent referenced in such notice, an **“Affected Further CP”**). Each such Further CP Non-Compliance Notice shall:

- (i) be substantially in the form set out in Part C of Annex 8 (*Pro forma notices*);
- (ii) identify the Affected Further CP;
- (iii) include such Supporting Information as the Generator considers to be relevant to the content of the Further CP Non-Compliance Notice; and
- (iv) include details of any remedial action that the Generator is taking or proposes to take,

provided that no Further CP Non-Compliance Notice need be given by the Generator to the CfD Counterparty if the Affected Further CP has been waived by the CfD Counterparty in accordance with Condition 3.20.

3.10 Each Further CP Non-Compliance Notice shall be accompanied by a Directors’ Certificate certifying that the information contained in, and enclosed with, the Further CP

Non-Compliance Notice is true, complete and accurate in all material respects and is not misleading.

3.11 The CfD Counterparty shall, within ten (10) Business Days of receipt of a Further CP Notice, give a notice to the Generator (a "**CP Response Notice**"). A CP Response Notice shall:

- (A) be substantially in the form set out in Part D of Annex 8 (*Pro forma notices*); and
- (B) specify whether the CfD Counterparty considers that:
  - (i) the Generator has fulfilled the Further Condition Precedent to which the Further CP Notice relates; or
  - (ii) it has not been provided with sufficient Supporting Information to determine whether the Generator has fulfilled the Further Condition Precedent to which the Further CP Notice relates and, if so, details of the additional Supporting Information which the CfD Counterparty requires to determine whether the Generator has fulfilled the Further Condition Precedent (the "**Further Condition Precedent Evidence**").

3.12 If the CfD Counterparty states in the CP Response Notice that:

- (A) the Generator has fulfilled the Further Condition Precedent, then the Further Condition Precedent will be deemed to have been fulfilled for the purposes of the Contract for Difference; or
- (B) the Generator has not provided the CfD Counterparty with sufficient Supporting Information to determine whether the Generator has fulfilled the Further Condition Precedent:
  - (i) the Generator shall provide the Further Condition Precedent Evidence as soon as reasonably practicable, and in any event within ten (10) Business Days of receipt of the CP Response Notice, or such longer period as is specified by the CfD Counterparty; and
  - (ii) upon receipt of the Further Condition Precedent Evidence, the CfD Counterparty shall as soon as reasonably practicable, and in any event within ten (10) Business Days of receipt of such Further Condition Precedent Evidence, give a further CP Response Notice to the Generator (the "**Further CP Response Notice**"). A Further CP Response Notice shall:
    - (a) be substantially in the form set out in Part E of Annex 8 (*Pro forma notices*); and
    - (b) specify whether the CfD Counterparty considers that the Generator has or has not fulfilled the Further Condition Precedent.

- 3.13 The CfD Counterparty shall, no later than ten (10) Business Days after the CfD Counterparty has determined that all of the Further Conditions Precedent have been satisfied, give a notice to the Generator (a “**CP Fulfilment Notice**”). A CP Fulfilment Notice shall be substantially in the form set out in Part F of Annex 8 (*Pro forma notices*).
- 3.14 Nothing in this Condition 3 (*Conditions Precedent*) shall require the CfD Counterparty:
- (A) to specify in any CP Response Notice or Further CP Response Notice that the CfD Counterparty accepts that a Further Condition Precedent has been fulfilled unless the CfD Counterparty is satisfied of the same; or
  - (B) to give a CP Fulfilment Notice unless the CfD Counterparty is satisfied that all of the Further Conditions Precedent have been fulfilled.

**Notification of Start Date**

- 3.15 No later than ten (10) Business Days following receipt of the CP Fulfilment Notice, the Generator shall give a notice to the CfD Counterparty (a “**Start Date Notice**”). A Start Date Notice shall:
- (A) be substantially in the form set out in Part G of Annex 8 (*Pro forma notices*); and
  - (B) specify the date that the Generator proposes to be the Start Date for the purposes of the Contract for Difference, such date being:
    - (i) at least ten (10) Business Days after the date on which the Start Date Notice is given;
    - (ii) no earlier than the first day of the Target Commissioning Window;
    - (iii) no later than the Longstop Date; and
    - (iv) no earlier than 01 April 2015,

(the date so notified being, subject to Condition 3.18, the “**Start Date**”).
- 3.16 Each Start Date Notice shall be accompanied by a Directors’ Certificate certifying that the information contained in, and enclosed with, the Start Date Notice is true, complete and accurate in all material respects and is not misleading, in each case by reference to the facts and circumstances then existing.
- 3.17 On the Start Date, the Generator shall deliver to the CfD Counterparty a Directors’ Certificate certifying that the information contained in, and enclosed with, the Start Date Notice (in respect of the provisions in Condition 3.18(B)) is true, complete and accurate in all material respects and is not misleading, in each case by reference to the facts and circumstances then existing.
- 3.18 A Start Date Notice shall be effective in determining the Start Date only if:
- (A) the Generator complies with its obligation pursuant to Condition 3.17; and

- (B) on the date such Start Date Notice is given and on the proposed Start Date specified in the Start Date Notice:
- (i) the Generator Repeating Representations are true, accurate and not misleading by reference to the facts and circumstances then existing;
  - (ii) the representations set out in Conditions 26.1(G) and 26.2 are true, accurate and not misleading by reference to the facts and circumstances then existing;
  - (iii) no Default has occurred which is continuing unremedied and which has not been waived by the CfD Counterparty in accordance with Condition 3.20; and
  - (iv) all Conditions Precedent (except those waived by the CfD Counterparty in accordance with Condition 3.20) continue to be fulfilled.

3.19 If the Generator gives a Start Date Notice to the CfD Counterparty and such notice is, pursuant to Condition 3.18, ineffective, this shall not, subject to Part 12 (*Termination*), preclude the Generator from giving a further Start Date Notice to the CfD Counterparty. Conditions 3.15 to 3.18 (inclusive) shall apply, *mutatis mutandis*, to any such further Start Date Notice.

***Waiver of Conditions Precedent and Default***

3.20 The CfD Counterparty may agree by notice to the Generator to waive:

- (A) the fulfilment of any of the Conditions Precedent; and
- (B) any Default which is continuing unremedied and which would otherwise prevent the Start Date Notice from being effective in determining the Start Date.

3.21 Conditions 59 (*No waiver*) and 60 (*Consents*) shall apply to any waiver given by the CfD Counterparty pursuant to Condition 3.20.

**4. MILESTONE REQUIREMENTS**

***Milestone Requirements Notice***

4.1 No later than the Milestone Delivery Date, the Generator shall give a notice to the CfD Counterparty (the "**Milestone Requirements Notice**") that the Generator considers that it has complied with and fulfilled the Milestone Requirements. The Milestone Requirements Notice shall:

- (A) be substantially in the form set out in Part H of Annex 8 (*Pro forma notices*); and
- (B) include:
  - (i) such invoices, payment receipts and other Supporting Information with respect to the Project as the Generator considers relevant to evidence

that it has spent ten per cent. (10%) or more of the Total Project Costs;  
or

- (ii) such Information as is listed as the Project Commitments and such Supporting Information as the Generator considers relevant to evidence compliance or fulfilment of the Project Commitments,

(each, the “**Milestone Requirements**”).

4.2 Each Milestone Requirements Notice shall be accompanied by a Directors’ Certificate certifying that the information contained in, and enclosed with, the Milestone Requirements Notice is true, complete and accurate in all material respects and is not misleading, in each case by reference to the facts and circumstances then existing.

4.3 The CfD Counterparty shall, within **[•]** Business Days of receipt of a Milestone Requirements Notice, give a notice to the Generator (a “**Milestone Assessment Response Notice**”). A Milestone Assessment Response Notice shall:

- (A) be substantially in the form set out in Part I of Annex 8 (*Pro forma notices*); and
- (B) specify whether the CfD Counterparty considers that:
  - (i) the Generator has complied with and fulfilled the Milestone Requirements; or
  - (ii) it has not been provided with sufficient Supporting Information to determine whether the Generator has complied with and fulfilled the Milestone Requirements and, if so, details of the additional Supporting Information which the CfD Counterparty requires to determine whether the Generator has complied with and fulfilled the Milestone Requirements (the “**Requested Milestone Supporting Information**”).

4.4 If the CfD Counterparty states in the Milestone Assessment Response Notice that:

- (A) the Generator has complied with and fulfilled the Milestone Requirements, then the Milestone Requirements will be deemed to have been complied with and fulfilled for the purposes of the Contract for Difference; or
- (B) the Generator has not provided the CfD Counterparty with sufficient Supporting Information to determine whether the Generator has complied with and fulfilled the Milestone Requirements:
  - (i) the Generator shall provide the Requested Milestone Supporting Information as soon as reasonably practicable, and in any event within ten (10) Business Days of receipt of the Milestone Assessment Response Notice, or such longer period as is specified by the CfD Counterparty; and
  - (ii) upon receipt of the Requested Milestone Supporting Information, the CfD Counterparty shall as soon as reasonably practicable, and in any

event within twenty (20) Business Days of receipt of such Requested Milestone Supporting Information, give a further Milestone Assessment Response Notice to the Generator (the “**Further Milestone Assessment Response Notice**”). A Further Milestone Assessment Response Notice shall:

- (a) be substantially in the form set out in Part J of Annex 8 (*Pro forma notices*); and
- (b) specify whether the CfD Counterparty considers that the Generator has or has not complied with and fulfilled the Milestone Requirements.

4.5 Nothing in this Condition 4 (*Milestone Requirements*) shall require the CfD Counterparty to specify in any Milestone Assessment Response Notice or Further Milestone Assessment Response Notice that the CfD Counterparty accepts that the Milestone Requirements have been complied with and fulfilled unless the CfD Counterparty is satisfied of the same.

***Waiver of Milestone Requirements***

4.6 The CfD Counterparty may agree by notice to the Generator to waive any of the Milestone Requirements.

4.7 Conditions 59 (*No waiver*) and 60 (*Consents*) shall apply to any waiver given by the CfD Counterparty pursuant to Condition 4.6.

**Part 4**  
**Adjustments to Installed Capacity Estimate**

**5. ADJUSTMENT TO INSTALLED CAPACITY ESTIMATE: RELEVANT GEOLOGICAL ISSUE**

5.1 The Generator may, if it considers that a Relevant Geological Issue has occurred, give a notice to the CfD Counterparty (an “**RGI Notice**”). An RGI Notice must be given to the CfD Counterparty no later than the date on which the CfD Counterparty gives the CP Fulfilment Notice to the Generator (the “**RGI Deadline**”) and shall:

- (A) be substantially in the form set out in Part K of Annex 8 (*Pro forma notices*);
- (B) specify:
  - (i) the reduction to the Installed Capacity Estimate which the Generator considers to be necessary to take into account the Relevant Geological Issue; and
  - (ii) the Installed Capacity Estimate which will apply if such reduction is made (an “**RGI-Adjusted Installed Capacity Estimate**”); and
- (C) include such Supporting Information as the Generator considers to be relevant to evidence:
  - (i) the existence or occurrence of the Geological Issue and the basis for the Generator having concluded that the Geological Issue constitutes a Relevant Geological Issue; and
  - (ii) the basis for the Generator having concluded that, as a result of the existence or occurrence of the Relevant Geological Issue, the Installed Capacity Estimate is required to be reduced to the RGI-Adjusted Installed Capacity Estimate.

5.2 Each RGI Notice shall be accompanied by a Directors’ Certificate certifying that the information contained in, and enclosed with, the RGI Notice is true, complete and accurate in all material respects and is not misleading.

5.3 If the Generator gives an RGI Notice to the CfD Counterparty, the CfD Counterparty shall, within twenty (20) Business Days of receipt of such RGI Notice, give a notice to the Generator (an “**RGI Response Notice**”). An RGI Response Notice shall:

- (A) be substantially in the form set out in Part L of Annex 8 (*Pro forma notices*); and
- (B) specify whether the CfD Counterparty considers that:
  - (i) a Relevant Geological Issue has or has not occurred;

- (ii) it accepts or does not accept the RGI-Adjusted Installed Capacity Estimate; or
- (iii) the CfD Counterparty has not been provided with sufficient Supporting Information to determine:
  - (a) whether a Relevant Geological Issue has occurred; or
  - (b) whether it will accept the RGI-Adjusted Installed Capacity Estimate,

in which case the CfD Counterparty shall provide details of the additional Supporting Information which the CfD Counterparty requires to determine whether a Relevant Geological Issue has occurred or whether to accept the RGI-Adjusted Installed Capacity Estimate (the “**RGI Supporting Information**”).

5.4 If the CfD Counterparty specifies in an RGI Response Notice that:

- (A) the CfD Counterparty considers that a Relevant Geological Issue has occurred, then (except where it has requested RGI Supporting Information relating to the RGI-Adjusted Installed Capacity Estimate) the RGI Response Notice shall:
  - (i) include a confirmation that the CfD Counterparty agrees with the RGI-Adjusted Installed Capacity Estimate specified in the RGI Notice, in which case the RGI-Adjusted Installed Capacity Estimate shall constitute the Installed Capacity Estimate with effect from the date of the RGI Response Notice; or
  - (ii) state that the CfD Counterparty does not agree with the RGI-Adjusted Installed Capacity Estimate specified in the RGI Notice, in which case the Installed Capacity Estimate shall remain unadjusted for the purposes of the Contract for Difference, unless and until it is varied in accordance with Condition 51 (*Dispute Resolution Procedure: General provisions*);
- (B) the CfD Counterparty considers that a Relevant Geological Issue has not occurred, the Installed Capacity Estimate shall remain unadjusted for the purposes of the Contract for Difference, unless and until it is varied in accordance with Condition 51 (*Dispute Resolution Procedure: General provisions*); or
- (C) the CfD Counterparty requires the Generator to provide RGI Supporting Information:
  - (i) the Generator shall provide the RGI Supporting Information as soon as reasonably practicable and in any event within ten (10) Business Days of receipt of the RGI Response Notice, or such longer period as is specified by the CfD Counterparty; and

- (ii) upon receipt of the RGI Supporting Information, the CfD Counterparty shall, within ten (10) Business Days of receipt of the RGI Supporting Information, give a further RGI Response Notice to the Generator.

- 5.5 Nothing in this Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Geological Issue*) shall require the CfD Counterparty to specify in any RGI Response Notice that a Relevant Geological Issue has occurred or that the CfD Counterparty accepts any RGI-Adjusted Installed Capacity Estimate unless and until the CfD Counterparty is satisfied of the same.
- 5.6 Any RGI Notice shall be irrevocable and, if the Installed Capacity Estimate is reduced pursuant to this Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Geological Issue*), the Generator may not subsequently increase the Installed Capacity Estimate.
- 5.7 The Generator may give an RGI Notice on only one occasion prior to the RGI Deadline. Any RGI Notice given to the CfD Counterparty after the RGI Deadline shall be invalid and of no effect.
- 5.8 No adjustment to the Strike Price shall be made solely as a result of a reduction to the Installed Capacity Estimate pursuant to this Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Geological Issue*).

## 6. ADJUSTMENT TO INSTALLED CAPACITY ESTIMATE: PERMITTED REDUCTION

- 6.1 The Generator may, if it considers that the Installed Capacity will be lower than the Installed Capacity Estimate, give a notice to the CfD Counterparty (an “**ICE Adjustment Notice**”). An ICE Adjustment Notice must be given to the CfD Counterparty no later than the Milestone Delivery Date (the “**ICE Adjustment Deadline**”) and shall:
- (A) be substantially in the form set out in Part M of Annex 8 (*Pro forma notices*); and
  - (B) specify:
    - (i) the amount by which the Installed Capacity will be lower than the Installed Capacity Estimate; and
    - (ii) the new Installed Capacity Estimate which is to apply to the Facility as a result of such reduction (the “**Revised ICE**”).
- 6.2 The Revised ICE shall constitute the Installed Capacity Estimate with effect from the date of the ICE Adjustment Notice, provided that if an ICE Adjustment Notice specifies a Revised ICE which is less than seventy-five per cent. (75%) of the Initial Installed Capacity Estimate, such ICE Adjustment Notice shall be invalid and of no effect.
- 6.3 Any ICE Adjustment Notice shall be irrevocable and the Generator may not subsequently increase the Installed Capacity Estimate.

6.4 The Generator may give an ICE Adjustment Notice on only one occasion prior to the ICE Adjustment Deadline. Any ICE Adjustment Notice given to the CfD Counterparty after the ICE Adjustment Deadline shall be invalid and of no effect.

6.5 No adjustment to the Strike Price shall be made solely as a result of an adjustment to the Installed Capacity Estimate pursuant to this Condition 6 (*Adjustment to Installed Capacity Estimate: Permitted reduction*).

## 7. FINAL INSTALLED CAPACITY; MAXIMUM CONTRACT CAPACITY

7.1 The Generator shall, no more than ten (10) Business Days after the Longstop Date, give a notice to the CfD Counterparty (a **"Final Installed Capacity Notice"**). A Final Installed Capacity Notice shall:

- (A) be substantially in the form set out in Part N of Annex 8 (*Pro forma notices*); and
- (B) specify the Installed Capacity which has been Commissioned at the Longstop Date (the **"Final Installed Capacity"**) together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of its conclusion.

7.2 The CfD Counterparty shall, within twenty (20) Business Days after receipt of the Final Installed Capacity Notice, give a notice to the Generator (a **"Final Installed Capacity Response Notice"**). A Final Installed Capacity Response Notice shall:

- (A) be substantially in the form set out in Part O of Annex 8 (*Pro forma notices*); and
- (B) specify that either:
  - (i) the CfD Counterparty agrees with the Final Installed Capacity as specified in the Final Installed Capacity Notice; or
  - (ii) the CfD Counterparty has not been provided with sufficient Supporting Information to determine the Final Installed Capacity, in which case the Final Installed Capacity Response Notice shall provide details of the additional Supporting Information which the CfD Counterparty requires to determine the Final Installed Capacity (**"Final Installed Capacity Supporting Information"**).

7.3 If the CfD Counterparty:

- (A) gives a Final Installed Capacity Response Notice pursuant to Condition 7.2(B)(i), the Final Installed Capacity shall be the amount so specified in the Final Installed Capacity Notice with effect from the Longstop Date; or
- (B) gives a Final Installed Capacity Response Notice pursuant to Condition 7.2(B)(ii):
  - (i) the Generator shall provide the Final Installed Capacity Supporting Information as soon as reasonably practicable and in any event within

ten (10) Business Days of receipt of the Final Installed Capacity Response Notice, or such longer period as is specified by the CfD Counterparty; and

- (ii) upon receipt of the Final Installed Capacity Supporting Information, the CfD Counterparty shall, within twenty (20) Business Days of receipt of the Final Installed Capacity Supporting Information, give a further Final Installed Capacity Response Notice to the Generator.

7.4 Nothing in this Condition 7 (*Final Installed Capacity; Maximum Contract Capacity*) shall require the CfD Counterparty to specify in any Final Installed Capacity Response Notice that the CfD Counterparty accepts the Final Installed Capacity notified to it by the Generator unless and until the CfD Counterparty is satisfied of the same.

7.5 If the Generator does not give the CfD Counterparty a Final Installed Capacity Notice by the date stipulated in Condition 7.1, the Final Installed Capacity shall, with effect from the Longstop Date, be deemed to be ninety-five per cent. (95%) of the Installed Capacity Estimate.

**Part 5A**  
**Payment calculations: Baseload Technologies**

**8. APPLICATION**

This Part 5A (*Payment calculations: Baseload Technologies*) shall apply to the Contract for Difference only if it is expressed to apply to the Contract for Difference in the CfD Agreement.

**9. DEFINITIONS: PART 5A**

In this Part 5A (*Payment calculations: Baseload Technologies*):

“**Baseload Difference Amount**” means, in respect of a Settlement Unit, an amount (expressed in pounds) calculated in accordance with the following formula:

$$\text{Baseload Difference Amount} = \text{Difference} \times \text{MAX}(\text{MIN}(Q_t \times h_t \times RQM \times CHPQM \times TLM_t, M_t), 0)$$

where:

$Q_t$  is the Maximum Contract Capacity applicable to Settlement Unit (t);

$h_t$  is the number of hours in Settlement Unit (t);

$RQM$  is the Renewable Qualifying Multiplier in Settlement Unit (t) (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference pursuant to the CfD Agreement) or, otherwise, one (1);

$CHPQM$  is the CHP Qualifying Multiplier in Settlement Unit (t) (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference pursuant to the CfD Agreement) or, otherwise, one (1);

$TLM_t$  is the transmission loss multiplier allocated in accordance with the BSC, or any new or substituted multiplier or factor which is in the nature of, or similar to, a transmission loss multiplier, in Settlement Unit (t); and

$M_t$  is the Metered Output during Settlement Unit (t);

“**Baseload Forward Season Contract**” means a contract providing for delivery of a firm volume of energy in each Settlement Unit within the Season immediately following the Season in which such contract is entered into;

“**Baseload Forward Season Contract Price**” means the price (expressed in £/MWh) for, or in reference to, delivery of a firm volume of energy pursuant to a Baseload Forward Season Contract as reflected in a Baseload Price Source or the Baseload Price Sources (as the context requires);

**“Baseload Forward Season Index”** means an index of Baseload Forward Season Contract Prices or another source of Baseload Forward Season Contract Prices and **“Baseload Forward Season Indices”** shall be construed accordingly;

**“Baseload Market Reference Price”** has the meaning given to that term in Condition 14.2;

**“Baseload Price Sources”** means the Baseload Forward Season Indices to be used in the calculation of the Baseload Market Reference Price, being the Initial BMRP Indices or such other replacement or supplementary Baseload Forward Season Indices which are required to be so used as a result of the operation of the provisions of Part A of Annex 4 (*BMRP*), and **“Baseload Price Source”** shall be construed accordingly;

**“Baseload Technology”** means a technology to which the Baseload Market Reference Price applies in accordance with the EA 2013 Regulations;

**“Calculation Season”** means a Season for which the Baseload Market Reference Price is calculated;

**“Estimated Output Billing Statement”** has the meaning given to that term in Condition 10.2;

**“Estimated Output Settlement Unit”** has the meaning given to that term in Condition 10.2;

**“Initial BMRP Indices”** means the LEBA Baseload Index and the NASDAQ Baseload Index;

**“LEBA Baseload Index”** means the Baseload Forward Season Index published by the London Energy Brokers’ Association;

**“Metered Output Cut-Off Time”** means, in relation to each Billing Period, 14:00 on the sixth (6<sup>th</sup>) Business Day following such Billing Period;

**“NASDAQ Baseload Index”** means the Baseload Forward Season Index published by NASDAQ OMX Commodities A.S.;

**“Reference Price Sample Period”** means each Trading Day falling within the Season before the Calculation Season; and

**“Trading Day”** means any day on which trading on the markets from which the Baseload Price Sources are derived ordinarily takes place.

## 10. METERED OUTPUT

### *Metered Output calculation*

- 10.1 The CfD Counterparty shall calculate the Metered Output in respect of each Settlement Unit. The **“Metered Output”** in respect of each Settlement Unit shall be:

- (A) (subject to Conditions 10.2 to 10.4) the Loss Adjusted Metered Output for such Settlement Unit as reported by a BSC Company or a BSC Agent to the CfD Counterparty; multiplied by
- (B) the Renewable Qualifying Multiplier in relation to such Settlement Unit (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement); multiplied by
- (C) the CHP Qualifying Multiplier in relation to such Settlement Unit (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement).

***Estimates of Loss Adjusted Metered Output***

- 10.2 If the CfD Counterparty has not received notification from a BSC Company or a BSC Agent of the Loss Adjusted Metered Output for any Settlement Unit (an “**Estimated Output Settlement Unit**”) within a Billing Period (an “**Estimated Output Billing Period**”) on or prior to the Metered Output Cut-Off Time, the Loss Adjusted Metered Output for the Estimated Output Settlement Unit, as set out in the Billing Statement relating to such Estimated Output Billing Period (an “**Estimated Output Billing Statement**”), shall be calculated by the CfD Counterparty in accordance with Condition 10.3.
- 10.3 The estimated Loss Adjusted Metered Output for each Estimated Output Settlement Unit comprised within an Estimated Output Billing Period (the “**Estimated Metered Output**”) shall be calculated by the CfD Counterparty as being the Loss Adjusted Metered Output in the most recent Settlement Unit prior to the Estimated Output Settlement Unit for which the CfD Counterparty has received notification of the Loss Adjusted Metered Output from a BSC Company or a BSC Agent.

***Reconciliations of Estimated Metered Output***

- 10.4 If a BSC Company or a BSC Agent subsequently notifies the CfD Counterparty of the Loss Adjusted Metered Output for an Estimated Output Settlement Unit:
- (A) the CfD Counterparty shall recalculate the Metered Output for such Settlement Unit using such Loss Adjusted Metered Output; and
  - (B) if the calculation performed by the CfD Counterparty pursuant to Condition 10.4(A) results in a different Metered Output than that calculated by the CfD Counterparty in relation to the Estimated Output Settlement Unit and reflected in the relevant Estimated Output Billing Statement, then:
    - (i) the difference between the original and the recalculated amount shall be used by the CfD Counterparty to recalculate:
      - (a) the Baseload Difference Amount for each relevant Estimated Output Settlement Unit; and

- (b) the Aggregate Difference Amount for the Estimated Output Billing Period;
- (ii) any adjustment to the Aggregate Difference Amount for the Estimated Output Billing Period shall be treated as and will constitute a Reconciliation Amount; and
- (iii) such Reconciliation Amount shall be included as such in the Billing Statement which is next issued by the CfD Counterparty.

## **11. RENEWABLE QUALIFYING MULTIPLIER**

### ***Application***

- 11.1 This Condition 11 (*Renewable Qualifying Multiplier*) shall only apply to the Contract for Difference if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement.

### ***Calculation of Renewable Qualifying Multiplier***

- 11.2 The CfD Counterparty shall calculate the Renewable Qualifying Multiplier in respect of each RQM Calculation Month. The Renewable Qualifying Multiplier shall, in respect of each Settlement Unit within an RQM Calculation Month, be the amount so calculated by the CfD Counterparty in accordance with the RQM Calculation Methodology.

### ***Calculation of RQM Adjustment Amounts***

- 11.3 If, pursuant to the RQM Calculation Methodology, an adjustment to the Renewable Qualifying Multiplier for any Settlement Unit is calculated by the CfD Counterparty:
- (A) the CfD Counterparty shall recalculate the Metered Output for each Settlement Unit to which the adjusted Renewable Qualifying Multiplier applies;
  - (B) the difference between the original and the recalculated amount shall be used by the CfD Counterparty to recalculate:
    - (i) the Baseload Difference Amount for each relevant Settlement Unit; and
    - (ii) the Aggregate Difference Amount for each Billing Period to which such Settlement Units relate;
  - (C) any adjustment to the Aggregate Difference Amount shall be treated as and constitute an RQM Adjustment Amount; and
  - (D) such RQM Adjustment Amount shall be included as such in the Billing Statement which is next issued by the CfD Counterparty.

## 12. CHP QUALIFYING MULTIPLIER

### *Application*

- 12.1 This Condition 12 (*CHP Qualifying Multiplier*) shall only apply to the Contract for Difference if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement.

### *Calculation of CHP Qualifying Multiplier*

- 12.2 The CfD Counterparty shall calculate the CHP Qualifying Multiplier in respect of each Settlement Unit. The CHP Qualifying Multiplier shall, in respect of each Settlement Unit, be the amount so calculated by the CfD Counterparty in accordance with the CHPQM Calculation Methodology.

## 13. STRIKE PRICE

### *Strike Price*

- 13.1 The Strike Price may be adjusted only in accordance with the express provisions of the Contract for Difference.

### *Strike Price indexation*

- 13.2 The CfD Counterparty shall calculate an adjustment to the Strike Price in each calendar year of the Term (each such adjustment, an “**Indexation Adjustment**”). The first Indexation Adjustment shall be calculated by the CfD Counterparty no earlier than the date on which the CPI for the February preceding the Summer Season immediately following the Agreement Date is published and no later than the first day of the Summer Season immediately following the Agreement Date. Each subsequent Indexation Adjustment shall be calculated by the CfD Counterparty no earlier than the date on which the CPI for February in the relevant calendar year is published and no later than the first day of the Summer Season in the relevant calendar year.
- 13.3 Each Indexation Adjustment shall become effective on the first day of the Summer Season in the calendar year in which the Indexation Adjustment is calculated (each such date, an “**Indexation Anniversary**”).
- 13.4 The adjusted Strike Price which is to apply with effect from each Indexation Anniversary as a result of the Indexation Adjustment shall be calculated by the CfD Counterparty in accordance with the following formula:

$$\text{Strike Price} = (SP^{base} + ADJ_t^{base}) \times \prod_t$$

where:

$SP^{base}$  is the Initial Strike Price;

$ADJ_t^{base}$  denotes the sum of the Strike Price Adjustments applicable in Settlement Unit (t), expressed in Base Year Terms; and

$\Pi_t$  is the Inflation Factor applying in Settlement Unit (t).

### **Other Strike Price Adjustments**

13.5 The following adjustments to the Strike Price may also be effected pursuant to and in accordance with the Contract for Difference:

- (A) a QCiL Strike Price Adjustment;
- (B) a QCiL True-Up Strike Price Adjustment;
- (C) an Indexation Adjustment;
- (D) a GT Strike Price Adjustment;
- (E) a BSUoS Strike Price Adjustment; and
- (F) a TLM Strike Price Adjustment.

## **14. BASELOAD MARKET REFERENCE PRICE**

14.1 The CfD Counterparty shall calculate the Baseload Market Reference Price for each Settlement Unit of the Calculation Season on the first Business Day of such Calculation Season.

14.2 The “**Baseload Market Reference Price**” shall be expressed in £/MWh and shall, in respect of each Settlement Unit, be calculated in accordance with the following formula:

$$\text{Baseload Market Reference Price} = \sum_{i=1}^d \left( \frac{\sum_{j=1}^e (BP_{i,j} \times BQ_{i,j})}{\sum_{j=1}^e (BQ_{i,j})} \right) \times \frac{1}{N_d}$$

where:

$d$  is the number of Trading Days in the Reference Price Sample Period;

$e$  is the number of Baseload Price Sources;

$BP_{i,j}$  is, for each Baseload Price Source (j), the Baseload Forward Season Contract Price in respect of the Calculation Season quoted on Trading Day (i) in the Reference Price Sample Period;

$BQ_{i,j}$  is, for each Baseload Price Source (j), the quantity of energy in MWh traded through the trades considered in determining  $BP_{i,j}$  for the Trading Day (i); and

$N_d$  is the number of Trading Days in the Reference Price Sample Period for which the total quantity of energy in MWh traded on the Baseload Forward Season Indices,  $\sum_{j=1}^e (BQ_{i,j})$ , is greater than zero.

- 14.3 Condition 9 (*Definitions: Part 5A*) and this Condition 14 (*Baseload Market Reference Price*) may be amended, supplemented or replaced in accordance with Annex 4 (*BMRP*).

**Part 5B**  
**Payment calculations: Intermittent Technologies**

**15. APPLICATION**

This Part 5B (*Payment calculations: Intermittent Technologies*) shall apply to the Contract for Difference only if it is expressed to apply to the Contract for Difference in the CfD Agreement.

**16. DEFINITIONS: PART 5B**

In this Part 5B (*Payment calculations: Intermittent Technologies*):

**“APX Intermittent Index”** means the APX Power UK Auction index, as administered by APX Holding B.V. (either directly or through one or more of its subsidiaries);

**“Day Ahead Hourly Price”** means the price (expressed in £/MWh) for the delivery of a firm volume of energy pursuant to an Intermittent Day Ahead Contract as reflected in an Intermittent Day Ahead Index or Intermittent Day Ahead Indices (as the context requires);

**“Day Ahead Hourly Volume”** means the quantity of energy (expressed in MWh) traded for delivery in a Settlement Unit via the auction occurring on the previous Trading Day (or, in respect of the last Settlement Unit of any day which is also the first Settlement Unit of a Trading Day, occurring on such Trading Day) and conducted by the operator of the relevant Intermittent Price Source;

**“Estimated Output Billing Statement”** has the meaning given to that term in Condition 17.2;

**“Estimated Output Settlement Unit”** has the meaning given to that term in Condition 17.2;

**“IMRP Calculation Date”** means the day which contains the Settlement Unit in respect of which an Intermittent Market Reference Price is being calculated;

**“IMRP Fallback Day”** has the meaning given to that term in Condition 19.2(D)(i);

**“IMRP Fallback Settlement Unit”** has the meaning given to that term in Condition 19.2(D);

**“Initial IMRP Indices”** means the APX Intermittent Index and the N2Ex Intermittent Index;

**“Intermittent Day Ahead Contract”** means a contract providing for delivery of a firm volume of energy in a specified Settlement Unit within a specified day, entered into in the Trading Day preceding such day (or, in respect of the last Settlement Unit of any day

which is also the first Settlement Unit of a Trading Day, entered into on such Trading Day);

“**Intermittent Day Ahead Index**” means an index of Day Ahead Hourly Prices or another source of Day Ahead Hourly Prices and “**Intermittent Day Ahead Indices**” shall be construed accordingly;

“**Intermittent Difference Amount**” means, in respect of a Settlement Unit, an amount (expressed in pounds) calculated in accordance with the following formula:

$$\text{Intermittent Difference Amount} = \text{Difference} \times \text{MAX}(\text{MIN}(Q_t \times h_t \times \text{TLM}_t, M_t), 0)$$

where:

$Q_t$  is the Maximum Contract Capacity applicable to Settlement Unit (t);

$h_t$  is the number of hours in Settlement Unit (t);

$\text{TLM}_t$  is the transmission loss multiplier allocated in accordance with the BSC, or any new or substituted multiplier or factor which is in the nature of, or similar to, a transmission loss multiplier, in Settlement Unit (t); and

$M_t$  is the Metered Output during Settlement Unit (t);

“**Intermittent Market Reference Price**” has the meaning given to that term in Condition 19.2;

“**Intermittent Price Sources**” means the Intermittent Day Ahead Indices to be used in the calculation of the Intermittent Market Reference Price, being the Initial IMRP Indices or such other replacement or supplementary Intermittent Day Ahead Indices which are required to be so used as a result of the operation of the provision of Part A of Annex 5 (*IMRP*), and “**Intermittent Price Source**” shall be construed accordingly;

“**Intermittent Technology**” means a technology to which the Intermittent Market Reference Price applies in accordance with the EA 2013 Regulations;

“**Long Clock Change Day**” means a Clock Change Day consisting of 25 hours;

“**Metered Output Cut-Off Time**” means, in relation to each Billing Period, 14:00 on the sixth (6<sup>th</sup>) Business Day following such Billing Period;

“**N2Ex Intermittent Index**” means the N2Ex Day-Ahead Auction Market index for physical delivery jointly operated by N2Ex OMX Commodities A.S. and Nord Pool Spot A.S.;

“**Short Clock Change Day**” means a Clock Change Day consisting of 23 hours; and

“**Trading Day**” means any day on which trading on the market from which the Intermittent Price Sources are derived ordinarily takes place.

## 17. METERED OUTPUT

### *Metered Output calculation*

17.1 The CfD Counterparty shall calculate the Metered Output in respect of each Settlement Unit. The “**Metered Output**” in respect of each Settlement Unit shall be (subject to Conditions 17.2 to 17.6) the Loss Adjusted Metered Output for such Settlement Unit as reported by a BSC Company or a BSC Agent to the CfD Counterparty.

### *Estimates of Loss Adjusted Metered Output*

17.2 If the CfD Counterparty has not received notification from a BSC Company or a BSC Agent of the Loss Adjusted Metered Output for any Settlement Unit (an “**Estimated Output Settlement Unit**”) within a Billing Period (an “**Estimated Output Billing Period**”) on or prior to the Metered Output Cut-Off Time, the Loss Adjusted Metered Output for the Estimated Output Settlement Unit, as set out in the Billing Statement relating to such Estimated Output Billing Period (an “**Estimated Output Billing Statement**”), shall be calculated by the CfD Counterparty in accordance with Condition 17.3.

17.3 Subject to Conditions 17.4 and 17.5, the estimated Loss Adjusted Metered Output for each Estimated Output Settlement Unit comprised within an Estimated Output Billing Period (the “**Estimated Metered Output**”) shall be calculated by the CfD Counterparty as being the arithmetic mean of the Loss Adjusted Metered Output for the corresponding Settlement Units in each of the seven (7) Billing Periods immediately prior to the Estimated Output Billing Period for which the CfD Counterparty has received notification of the Loss Adjusted Metered Output from a BSC Company or a BSC Agent.

17.4 If an Estimated Output Billing Period is:

- (A) a Long Clock Change Day, then the second Settlement Unit in each of the Billing Periods specified in Condition 17.3 shall be repeated for the purposes of estimating the Loss Adjusted Metered Output during the additional hour in such Clock Change Day; or
- (B) a Short Clock Change Day, then the second Settlement Unit in each of the Billing Periods specified in Condition 17.3 shall be ignored for the purposes of estimating the Loss Adjusted Metered Output during such Clock Change Day.

17.5 If any of the Billing Periods specified in Condition 17.3 is:

- (A) a Long Clock Change Day, then the second Settlement Unit in such Billing Period shall be ignored for the purposes of estimating the Loss Adjusted Metered Output for the Estimated Output Billing Period; or
- (B) a Short Clock Change Day, then the second Settlement Unit in such Billing Period shall be repeated for the purposes of estimating the Loss Adjusted Metered Output for the Estimated Output Billing Period.

### ***Reconciliations of Estimated Metered Output***

- 17.6 If a BSC Company or a BSC Agent subsequently notifies the CfD Counterparty of the Loss Adjusted Metered Output for an Estimated Output Settlement Unit:
- (A) the CfD Counterparty shall recalculate the Metered Output for such Settlement Unit using such Loss Adjusted Metered Output; and
  - (B) if the calculation performed by the CfD Counterparty pursuant to Condition 17.6(A) results in a different Metered Output than that calculated by the CfD Counterparty in relation to the Estimated Output Settlement Unit and reflected in the relevant Estimated Output Billing Statement, then:
    - (i) the difference between the original and the recalculated amount shall be used by the CfD Counterparty to recalculate:
      - (a) the Intermittent Difference Amount for each relevant Estimated Output Settlement Unit; and
      - (b) the Aggregate Difference Amount for the Estimated Output Billing Period;
    - (ii) any adjustment to the Aggregate Difference Amount for the Estimated Output Billing Period shall be treated as and constitute a Reconciliation Amount; and
    - (iii) such Reconciliation Amount shall be included as such in the Billing Statement which is next issued by the CfD Counterparty.

## **18. STRIKE PRICE**

### ***Strike Price***

- 18.1 The Strike Price may be adjusted only in accordance with the express provisions of the Contract for Difference.

### ***Strike Price indexation***

- 18.2 The CfD Counterparty shall calculate an adjustment to the Strike Price in each calendar year of the Term (each such adjustment, an “**Indexation Adjustment**”). The first Indexation Adjustment shall be calculated by the CfD Counterparty no earlier than the date on which the CPI for the February preceding the Summer Season immediately following the Agreement Date is published and no later than the first day of the Summer Season immediately following the Agreement Date. Each subsequent Indexation Adjustment shall be calculated by the CfD Counterparty no earlier than the date on which the CPI for February in the relevant calendar year is published and no later than the first day of the Summer Season in the relevant year.

- 18.3 Each Indexation Adjustment shall become effective on the first day of the Summer Season in the calendar year in which the Indexation Adjustment is calculated (each such date, an “**Indexation Anniversary**”).
- 18.4 The adjusted Strike Price which is to apply with effect from each Indexation Anniversary as a result of the Indexation Adjustment shall be calculated by the CfD Counterparty in accordance with the following formula:

$$\text{Strike Price} = (SP^{base} + ADJ_t^{base}) \times \Pi_t$$

where:

$SP^{base}$  is the Initial Strike Price;

$ADJ_t^{base}$  denotes the sum of the Strike Price Adjustments applicable in Settlement Unit (t), expressed in Base Year Terms; and

$\Pi_t$  is the Inflation Factor applying in Settlement Unit (t).

#### **Other Strike Price Adjustments**

- 18.5 The following adjustments to the Strike Price may also be effected pursuant to and in accordance with the Contract for Difference:
- (A) a QCiL Strike Price Adjustment;
  - (B) a QCiL True-Up Strike Price Adjustment;
  - (C) an Indexation Adjustment;
  - (D) a GT Strike Price Adjustment;
  - (E) a BSUoS Strike Price Adjustment; and
  - (F) a TLM Strike Price Adjustment.

#### **19. INTERMITTENT MARKET REFERENCE PRICE**

- 19.1 The CfD Counterparty shall calculate the Intermittent Market Reference Price for each Settlement Unit.
- 19.2 The “**Intermittent Market Reference Price**” shall be expressed in £/MWh and shall, in respect of each Settlement Unit, be calculated as follows:
- (A) If any of the Intermittent Price Sources has published a “GB Day Ahead Hourly Price” in relation to such Settlement Unit, the Intermittent Market Reference Price shall be such “GB Day Ahead Hourly Price”.

- (B) If: (i) none of the Intermittent Price Sources has published a “GB Day Ahead Hourly Price” in relation to such Settlement Unit; and (ii) the Day Ahead Hourly Price published by each Intermittent Price Source is the same in relation to such Settlement Unit, the Intermittent Market Reference Price shall be such Day Ahead Hourly Price.
- (C) If: (i) none of the Intermittent Price Sources has published a “GB Day Ahead Hourly Price” in relation to such Settlement Unit; and (ii) the Day Ahead Hourly Price published by each Intermittent Price Source is not the same in relation to such Settlement Unit, then the Intermittent Market Reference Price in relation to Settlement Unit (t) shall be calculated in accordance with the following formula:

$$\text{Intermittent Market Reference Price} = \left( \frac{\sum_{i=1}^e (DAP_{i,t} \times DAV_{i,t})}{\sum_{i=1}^e (DAV_{i,t})} \right)$$

where:

$e$  is the number of Intermittent Price Sources;

$DAP_{i,t}$  is the Day Ahead Hourly Price in Settlement Unit (t) as determined in the auction on the previous Trading Day (or, in respect of the last Settlement Unit of any day which is also the first Settlement Unit of a Trading Day, in the auction on such Trading Day) conducted by the operator of each Intermittent Price Source (i); and

$DAV_{i,t}$  is the Day Ahead Hourly Volume traded on Intermittent Price Sources (i) in respect of Settlement Unit (t).

- (D) If no Intermittent Market Reference Price is capable of being calculated pursuant to Conditions 19.2(A) to 19.2(C) in respect of any Settlement Unit (an “**IMRP Fallback Settlement Unit**”), the Intermittent Market Reference Price for such IMRP Fallback Settlement Unit shall, subject to Conditions 19.2(E) and 19.2(F), be:
- (i) the “GB Day Ahead Hourly Price” for the Settlement Unit corresponding to the IMRP Fallback Settlement Unit falling on the seventh (7<sup>th</sup>) day prior to the IMRP Calculation Date (the “**IMRP Fallback Day**”); or
- (ii) (if no Intermittent Market Reference Price is available on the IMRP Fallback Day in respect of such corresponding Settlement Unit) the “GB Day Ahead Hourly Price” for the corresponding Settlement Unit on the nearest prior corresponding day of the week to the IMRP Fallback Day for which a “GB Day Ahead Hourly Price” is available.
- (E) If: (i) Condition 19.2(D) applies; (ii) the IMRP Calculation Date is a Business Day; and (iii) the IMRP Fallback Day is not a Business Day, then the Intermittent Market Reference Price in respect of the IMRP Fallback Settlement Unit shall

be the “GB Day Ahead Hourly Price” for the corresponding Settlement Unit falling on the next Business Day following the IMRP Fallback Day.

- (F) If: (i) Condition 19.2(D) applies; (ii) the IMRP Calculation Date is not a Business Day; and (iii) the IMRP Fallback Day is a Business Day, then the Intermittent Market Reference Price in respect of such corresponding Settlement Unit shall be the “GB Day Ahead Hourly Price” for the corresponding Settlement Unit falling on the next day which is not a Business Day following the IMRP Fallback Day.

19.3 Condition 16 (*Definitions: Part 5B*) and this Condition 19 (*Intermittent Market Reference Price*) may be amended, supplemented or replaced in accordance with Annex 5 (*IMRP*).

**Part 6**  
**Billing and payment**

**20. BILLING STATEMENTS**

***Delivery of Billing Statement***

- 20.1 The CfD Counterparty shall, in relation to each Billing Period, deliver a billing statement to the Generator (each, a “**Billing Statement**”).
- 20.2 Each Billing Statement shall be delivered to the Generator no later than seven (7) Business Days after the end of the relevant Billing Period.

***Contents of Billing Statement***

- 20.3 Each Billing Statement shall set out or identify:

*Identification information*

- (A) the Billing Period to which the Billing Statement relates;
- (B) the name of the Generator (or a unique identifier attributed to the Generator by the CfD Counterparty);
- (C) the details of the Facility (or a unique identifier attributed to the Facility by the CfD Counterparty);

*Aggregate Difference Amount calculation*

- (D) the Metered Output (or, if relevant, the Estimated Metered Output) in respect of each Settlement Unit falling in the relevant Billing Period;
- (E) the Market Reference Price in respect of each Settlement Unit falling in the relevant Billing Period;
- (F) the Strike Price applicable to each Settlement Unit falling in the relevant Billing Period;
- (G) the Difference for each of the Settlement Units falling in the relevant Billing Period;
- (H) the Difference Amounts for each of the Settlement Units falling in the relevant Billing Period;
- (I) the sum of the Difference Amounts for the Settlement Units falling in the relevant Billing Period (the “**Aggregate Difference Amount**”);

*Additional components*

- (J) any Reconciliation Amounts;
- (K) any Compensatory Interest Amount;

*RQM amounts*

- (L) (i) the Renewable Qualifying Multiplier for each Settlement Unit falling in the relevant Billing Period; and (ii) any RQM Adjustment Amount (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);

*CHP amounts*

- (M) the CHP Qualifying Multiplier for each Settlement Unit falling in the relevant Billing Period (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement); and

*Net Payable Amount*

- (N) the Net Payable Amount in respect of the relevant Billing Period.

**Calculation of Reconciliation Amounts**

20.4 The “**Reconciliation Amounts**” shall, in respect of each Billing Period, comprise any revisions to the Net Payable Amount in respect of any preceding Billing Period which are required to reflect:

- (A) any Settlement Runs;
- (B) the resolution of any Metering Dispute;
- (C) the operation of:
  - (i) Condition 10.4 (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
  - (ii) Condition 17.6 (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);
- (D) any RQM Adjustment Amount;
- (E) any agreed or determined adjustment to the Final Installed Capacity;
- (F) any QCiL Compensation (including any QCiL Strike Price Adjustment);

- (G) any QCiL True-Up Compensation (including any QCiL True-Up Strike Price Adjustment);
- (H) any Indexation Adjustment;
- (I) any BSUoS Strike Price Adjustment;
- (J) any TLM Strike Price Adjustment;
- (K) any GT Strike Price Adjustment; and
- (L) the correction of any error in any previous Billing Statement.

***Calculation of Compensatory Interest Amount***

20.5 The “**Compensatory Interest Amount**” shall, in respect of each Billing Period, comprise interest due and payable in relation to each Reconciliation Amount reflected in the Billing Statement for the relevant Billing Period (a “**Reconciliation Billing Period**”), calculated on the basis that interest on each Reconciliation Amount shall accrue on such amount at the Compensatory Interest Rate for the period from (and including):

- (A) the Billing Period to which a Settlement Run relates in respect of any Reconciliation Amount resulting from a Settlement Run;
- (B) the Billing Period to which a Metering Dispute relates in respect of any Reconciliation Amount resulting from the resolution of a Metering Dispute;
- (C) the Estimated Output Billing Period to which an adjustment to the Metered Output relates pursuant to:
  - (i) Condition 10.4 (but only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
  - (ii) Condition 17.6 (but only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);
- (D) the Billing Period to which an RQM Adjustment Amount relates (other than where Part B of Annex 7 (*FMS arrangements and RQM Calculation Methodology*) expressly provides that Compensatory Interest is not payable in respect of the relevant RQM Adjustment Amount);
- (E) the Longstop Date in respect of any Reconciliation Amount resulting from the agreement or determination of the Final Installed Capacity;
- (F) the QCiL Compensation Date in respect of any Reconciliation Amount to reflect any QCiL Compensation (including any QCiL Strike Price Adjustment) or QCiL True-Up Compensation (including any QCiL True-Up Strike Price Adjustment);

- (G) the relevant Indexation Anniversary in respect of any Indexation Adjustment;
- (H) the effective date of the relevant adjustment in respect of any Reconciliation Amount resulting from a BSUoS Strike Price Adjustment;
- (I) the effective date of the relevant adjustment in respect of any Reconciliation Amount resulting from a TLM Strike Price Adjustment;
- (J) the effective date of the relevant adjustment in respect of any Reconciliation Amount resulting from a GT Strike Price Adjustment; and
- (K) the Billing Period to which any adjustment to correct any error in any previous Billing Statement relates in respect of any Reconciliation Amount to correct such an error,

to (but not including) the date of the relevant Reconciliation Billing Period. For this purpose: (i) interest shall accrue on such amounts from day to day and shall be calculated on the basis of the actual number of days elapsed and a year of 365 days; and (ii) the “**Compensatory Interest Rate**” shall be the prevailing Base Rate on each day during the relevant calculation period.

#### ***Calculation of Net Payable Amount***

20.6 The “**Net Payable Amount**” shall, in respect of each Billing Period, be an amount expressed in pounds calculated in accordance with the following formula:

$$\text{Net Payable Amount} = ADA + RA + CIA$$

where:

*ADA* is the Aggregate Difference Amount in respect of such Billing Period;

*RA* is any Reconciliation Amount in respect of such Billing Period; and

*CIA* is any Compensatory Interest Amount in respect of such Billing Period,

and if such amount is:

- (i) positive, it shall represent an amount payable by the CfD Counterparty to the Generator; or
- (ii) negative, it shall represent an amount payable by the Generator to the CfD Counterparty.

## **21. SETTLEMENT**

### ***Payment from Generator***

21.1 If the Net Payable Amount is a negative number, no later than the end of the fifth (5<sup>th</sup>) Business Day following the delivery of the Billing Statement, the Generator shall pay to

the CfD Counterparty the absolute value of the Net Payable Amount by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the Generator pursuant to Condition 25.1(A).

***Payment from CfD Counterparty***

21.2 If the Net Payable Amount is a positive number, no later than twenty-eight (28) calendar days following the Billing Period to which the Billing Statement relates, the CfD Counterparty shall pay to the Generator the Net Payable Amount by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the CfD Counterparty pursuant to Condition 25.1(B).

***Billing Statement Disputes***

21.3 Conditions 21.1 and 21.2 shall apply notwithstanding any dispute with respect to any Billing Statement and, if a Party wishes to dispute any amount shown in a Billing Statement, it shall give a notice to the other Party (a "**Billing Statement Dispute Notice**") which shall:

- (A) be substantially in the form set out in Part P of Annex 8 (*Pro forma notices*);
- (B) specify the Billing Statement(s) to which the dispute relates;
- (C) specify the name of the Generator (or the unique identifier attributed to the Generator by the CfD Counterparty);
- (D) specify the name of the Facility (or the unique identifier attributed to the Facility by the CfD Counterparty);
- (E) specify the Billing Statement items to which the dispute relates;
- (F) specify the amount in dispute and the apportionment of such amount in relation to the relevant Billing Statement items;
- (G) include details of any other Billing Statement dispute which the referring Party considers should be consolidated with or joined to the dispute;
- (H) specify the position the Party considers is correct and the Party's reasons for that position;
- (I) include copies of any Supporting Information on which the referring Party intends to rely; and
- (J) include any other Information that the Party deems relevant in relation to the dispute.

21.4 The making of a payment pursuant to Condition 21.1 or 21.2 shall not prevent a Party from raising a dispute pursuant to Condition 21.3.

- 21.5 If a dispute or part of a dispute pursuant to Condition 21.3 relates to the calculation of the Loss Adjusted Metered Output in respect of a Settlement Unit (a “**Metering Dispute**”):
- (A) such Metering Dispute shall be treated as a Trading Dispute pursuant to the BSC and shall be resolved in accordance with the provisions set out therein (to the exclusion of the Dispute Resolution Procedure);
  - (B) the Parties shall continue to comply with their obligations under the Contract for Difference notwithstanding such Metering Dispute;
  - (C) the final determination of the Metering Dispute in accordance with Condition 21.5(A) shall be binding on the Parties; and
  - (D) neither Party shall dispute or attempt to dispute a final determination made in accordance with Condition 21.5(A).
- 21.6 Any Metering Dispute must be brought by the Party within the limitation period set out in the BSC with respect to Trading Disputes.
- 21.7 The Generator shall inform the CfD Counterparty as soon as reasonably practicable after the Generator:
- (A) commences or becomes engaged in any Trading Dispute; or
  - (B) becomes aware of any fact, matter or circumstance which will or is reasonably likely to give rise to a Trading Dispute

where (in either case) the resolution of such Trading Dispute will or may impact the calculation of the Loss Adjusted Metered Output for the purposes of the Contract for Difference.

## 22. DEFAULT INTEREST

### *Definition; Calculation*

- 22.1 “**Default Interest**” for any period (a “**calculation period**”) in respect of an amount shall be calculated as follows:

$$\prod_{i=1}^D \left\{ 1 + \frac{\text{Base Rate} + 5\%}{365} \right\}$$

where:

*i* is a series of whole numbers from one to “D” each representing the relevant day in chronological order from, and including, the first day in such calculation period;

*D* is the number of days in such calculation period; and

Base Rate means the prevailing Base Rate in the relevant day in the calculation period.

***Application of Default Interest***

- 22.2 Subject to Conditions 22.4 and 75 (*Costs*), if either Party fails to pay any sum payable by it pursuant to the Contract for Difference (including any Arbitral Award or Expert determination) on the due date for payment, Default Interest shall accrue on that sum for the period from the due date for payment to the date of actual payment of that sum (after as well as before award or judgment).
- 22.3 The right to receive Default Interest pursuant to the Contract for Difference (and as calculated in accordance with this Condition 22 (*Default Interest*)) is not exclusive of any rights and remedies provided by law in respect of the failure to pay the relevant sum on the due date or at all, provided that the Late Payment of Commercial Debts (Interest) Act 1988 shall not apply in respect of any unpaid sum due pursuant to the Contract for Difference.
- 22.4 No Default Interest shall be payable by one Party to the other Party in relation to a Reconciliation Amount in respect of the period during which a Compensatory Interest Amount has accrued and been calculated pursuant to Condition 20.5, except that Default Interest shall accrue in respect of any Compensatory Interest Amount (and the Reconciliation Amount to which it relates) if and to the extent that such Compensatory Interest Amount has accrued and become due and payable and has not been paid.

**23. SET-OFF**

The CfD Counterparty may set off any matured obligations due by the Generator pursuant to the Contract for Difference against any matured obligation owed by the CfD Counterparty to the Generator.

**24. DEDUCTIONS AND WITHHOLDINGS**

All payments required to be made by the Generator pursuant to the Contract for Difference shall be made in full, free and clear of any right of set-off and from any restriction, condition or deduction because of any counterclaim.

**25. PAYMENT ACCOUNTS**

- 25.1 Any payments made pursuant to or in connection with:
- (A) the CfD Counterparty shall be made to such account as may be notified to the Generator by the CfD Counterparty from time to time; and
  - (B) the Generator shall be made to such account in the United Kingdom as may be notified to the CfD Counterparty by the Generator from time to time.

**Part 7**  
**Representations, warranties and undertakings**

**26. GENERATOR REPRESENTATIONS AND WARRANTIES**

***Agreement Date representations***

26.1 The Generator represents and warrants to the CfD Counterparty that, as at the Agreement Date, the following statements are true, accurate and not misleading:

- (A) *Status:* The Generator:
  - (i) is duly formed and validly existing under the laws of its jurisdiction of formation; and
  - (ii) has the power to own its assets and carry on its business as it is currently being conducted and as contemplated by the Contract for Difference and the other CfD Documents.
- (B) *Power and authority:* The Generator has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Contract for Difference and the other CfD Documents.
- (C) *Enforceability:* The obligations expressed to be assumed by the Generator pursuant to the Contract for Difference and the other CfD Documents are legal, valid, binding and enforceable subject only to the Legal Reservations.
- (D) *Non-conflict with other obligations:* The entry into, delivery and performance by the Generator of the Contract for Difference and the other CfD Documents does not conflict with:
  - (i) its constitutional documents;
  - (ii) any Law or Directive applicable to it to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect;
  - (iii) any Required Authorisations to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect; or
  - (iv) any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect.
- (E) *Required Authorisations:*
  - (i) All Required Authorisations have been obtained by the Generator and are in full force and effect, save to the extent that failure to do so has

not had and is not reasonably expected to have a Material Adverse Effect.

- (ii) All conditions of, and all obligations and liabilities under, Required Authorisations which are required to be performed, complied with or satisfied on or before the date on which this representation and warranty is made or deemed to be repeated by the Generator have been performed, complied with or satisfied, save where failure to do so has not had and is not reasonably expected to have a Material Adverse Effect.
- (F) *No Default*: No Default with respect to the Generator has occurred and is continuing or might reasonably be expected to result from its entry into or performance of the Contract for Difference or any of the other CfD Documents.
- (G) *No litigation*: No litigation, arbitration or administrative suit or proceeding, adjudication, expert determination, Tax claim or Tax investigation is current, pending or, so far as the Generator is aware, threatened against the Generator and which, if adversely determined, would have or would reasonably be expected to have a Material Adverse Effect.
- (H) *No requirement to deduct or withhold*: The Generator is not required by any Law or Directive applicable to it, as applied, interpreted or modified by the published practice of any relevant Competent Authority of any jurisdiction in which it is resident for Tax purposes, to make any deduction or withholding for or on account of any Tax from any payment to be made by it to the CfD Counterparty pursuant to the Contract for Difference or any of the other CfD Documents.

### ***Start Date Representation***

26.2 The Generator represents and warrants to the CfD Counterparty that, as at and from the Start Date, the following statements are true, accurate and not misleading:

- (A) *Ownership*: The Generator is the legal and beneficial owner of the Facility, subject only to such rights and benefits as have been assigned by way of security to or in favour of any Lender in accordance with Condition 73 (*Transfers*).
- (B) *Compliance with Eligibility Criteria*: The generation technology deployed by the Facility is the Facility Generation Technology.

### ***Repeating Representations***

26.3 The Generator Repeating Representations are deemed to be repeated by the Generator on the Start Date in each case by reference to the facts and circumstances then existing.

**27. CFD COUNTERPARTY REPRESENTATIONS AND WARRANTIES**

27.1 The CfD Counterparty represents and warrants to the Generator that as at the Agreement Date, the following statements are true, accurate and not misleading:

- (A) *Status*: The CfD Counterparty:
- (i) is a limited liability company, duly incorporated and validly existing pursuant to the laws of England and Wales; and
  - (ii) has the power to own its assets and carry on its business as contemplated by the Contract for Difference and the other CfD Documents.
- (B) *Power and authority*: The CfD Counterparty has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Contract for Difference and the other CfD Documents (including the obligations of the CfD Counterparty, and the transaction contemplated by or provided for by the Contract for Difference and the other CfD Documents).
- (C) *Enforceability*: The obligations expressed to be assumed by the CfD Counterparty pursuant to the Contract for Difference and the other CfD Documents are legal, valid, binding and enforceable subject only to the Legal Reservations.
- (D) *Non-conflict with other obligations*: The entry into, delivery and performance by the CfD Counterparty of the Contract for Difference and the other CfD Documents does not conflict with:
- (i) its constitutional documents;
  - (ii) any Law or Directive applicable to it to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect; or
  - (iii) any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect.
- (E) *No requirement to deduct or withhold*: The CfD Counterparty is not required by any Law or Directive applicable to it, as applied, interpreted or modified by the published practice of any relevant Competent Authority of any jurisdiction in which it is resident for Tax purposes, to make any deduction or withholding for or on account of any Tax from any payment to be made by it to the Generator pursuant to the Contract for Difference or any of the other CfD Documents.

27.2 The representations in Conditions 27.1(A) to 27.1(D) are deemed to be repeated by the CfD Counterparty on the Start Date in each case by reference to the facts and circumstances then existing.

**28. GENERATOR UNDERTAKINGS: GENERAL**

28.1 The Generator undertakes to the CfD Counterparty as follows:

- (A) *Compliance with Laws and Directives*: The Generator shall at all times comply with all Laws and Directives if failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (B) *Required Authorisations*: The Generator shall: (i) promptly obtain all Required Authorisations; (ii) at all times perform, comply with and satisfy all conditions of, and all obligations and liabilities under, all Required Authorisations; and (iii) do all that is necessary to maintain in full force and effect all Required Authorisations, to the extent, in each case, that failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (C) *Industry Documents*: The Generator shall at all times comply with all terms of those Industry Documents to which it is a party or by which it is bound if failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (D) *No insolvency action*: The Generator shall not petition, apply for, institute, support or vote for the administration, winding-up or liquidation of the CfD Counterparty or seek any other relief as against the CfD Counterparty under any administration, insolvency or bankruptcy law or similar law affecting creditors' rights generally.
- (E) *Ownership*: The Generator shall at all times as from the Start Date be the legal and beneficial owner of the Facility, subject only to such rights and benefits as have been assigned by way of security to or in favour of any Lender in accordance with Condition 73 (*Transfers*).
- (F) *Compliance with Eligibility Criteria*: The Generator shall at all times ensure that the generation technology deployed by the Facility is the Facility Generation Technology. A Generator shall not be deemed to be in breach of this Condition 28.1(F) solely by virtue of any failure to comply with the Fuelling Criteria if such failure has been addressed in the calculation or recalculation of the Renewable Qualifying Multiplier in accordance with Part B of Annex 7 (*FMS arrangements and RQM Calculation Methodology*) (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement).
- (G) *Notification*: The Generator shall:
  - (i) provide the CfD Counterparty promptly with such Information regarding compliance or non-compliance by the Generator with the undertakings in this Condition 28.1 as the CfD Counterparty may reasonably request; and

- (ii) give notice to the CfD Counterparty promptly upon becoming aware of the occurrence of any Default (together with details of the steps, if any, being taken to remedy it).

***Failure to comply with Eligibility Criteria undertaking***

28.2 If the Generator fails to comply with Condition 28.1(F), the CfD Counterparty:

- (A) may withhold payment of any amounts which would otherwise be payable by the CfD Counterparty to the Generator which are attributable to the period during which the Generator is not in compliance with such Condition; and
- (B) shall be entitled to recover from the Generator any amounts paid by the CfD Counterparty to the Generator which are attributable to the period during which the Generator is not in compliance with such Condition.

**29. GENERATOR UNDERTAKINGS: METERING**

***Undertakings: Facility Metering Equipment***

29.1 The Generator shall:

- (A) ensure that at all times the Facility Metering Equipment meets all applicable rules and standards provided for in the BSC;
- (B) ensure that at all times the Facility Metering Equipment is assigned to the BM Unit and that BM Unit accurately records metered data such that the BM Unit Metered Volume derived by such BM Unit shall comprise:
  - (i) all output electricity generated by the Facility (excluding, if the Facility is an Existing Scheme Facility, all output electricity to which the Existing Scheme relates);
  - (ii) all input electricity used by the Facility (excluding, if the Facility is an Existing Scheme Facility, all input electricity utilised in the production of output electricity to which the Existing Scheme relates); and
  - (iii) no other output electricity or input electricity except for that referred to in Conditions 29.1(B)(i) and 29.1(B)(ii);
- (C) ensure that at all times all information technology systems relating to Facility Metering Equipment are satisfactorily installed, commissioned, configured, operational, maintained, tested and are fully compliant with the BSC; and
- (D) investigate any fault or issue with the Facility Metering Equipment of which it is notified by the CfD Counterparty or required to investigate pursuant to the BSC,

(each a “**Metering Compliance Obligation**” and together the “**Metering Compliance Obligations**”).

***Notification of Metering Compliance Obligation breach***

29.2 The CfD Counterparty may at any time give a notice to the Generator (a “**Metering Breach Notice**”) if it considers that the Generator is in breach of a Metering Compliance Obligation. A Metering Breach Notice shall be:

- (A) substantially in the form set out in Part Q of Annex 8 (*Pro forma notices*);
- (B) specify which Metering Compliance Obligation the CfD Counterparty considers that the Generator has breached; and
- (C) be accompanied by such Supporting Information as the CfD Counterparty considers necessary to evidence the breach of the Metering Compliance Obligation.

***Response to notification of Metering Compliance Obligation breach***

29.3 Within ten (10) Business Days of receipt of a Metering Breach Notice, the Generator shall investigate whether it is in breach of the relevant Metering Compliance Obligation and give a notice to the CfD Counterparty (a “**Metering Breach Response Notice**”). A Metering Breach Response Notice shall:

- (A) be substantially in the form set out in Part R of Annex 8 (*Pro forma notices*); and
- (B) state that either:
  - (i) (a) the Generator accepts that there has been a breach of the Metering Compliance Obligation; and (b) notify the date from which the Generator accepts that there has been a breach of the relevant Metering Compliance Obligation; or
  - (ii) the Generator does not accept that there has been a breach of the Metering Compliance Obligation.

29.4 If the Generator submits a Metering Breach Response Notice in accordance with:

- (A) Condition 29.3(B)(i), the provisions of Condition 29.5 shall apply; or
- (B) Condition 29.3(B)(ii), then the Expert Determination Procedure shall apply in respect of such dispute and if the Expert Determination Procedure applied pursuant to this Condition 29.4(B) determines that:
  - (i) there has not been a breach of the Metering Compliance Obligation, then neither Party shall be required to take any further steps in relation to the Metering Breach Notice; or
  - (ii) there has been a breach of the Metering Compliance Obligation, the provisions of Condition 29.5 shall apply.

**Resolution of Metering Compliance Obligation breach**

29.5 If this Condition 29.5 applies:

- (A) the Generator shall provide a copy of a Metering Remediation Plan to the CfD Counterparty not later than fifteen (15) Business Days after the receipt (or deemed receipt) of a Metering Breach Response Notice in accordance with Condition 29.3(B)(i) or the determination of the Expert in accordance with Condition 29.4(B)(ii) (as applicable);
- (B) as soon as reasonably practicable and in any case not later than sixty (60) Business Days after a BSC Company has approved the Metering Remediation Plan, the Generator shall:
  - (i) remedy the breach of the Metering Compliance Obligation; and
  - (ii) provide to the CfD Counterparty written confirmation from the relevant BSC Company that the breach of the Metering Compliance Obligation has been remedied to the satisfaction of such relevant BSC Company; and
- (C) the Generator shall give a notice to the CfD Counterparty confirming the fulfilment of its obligations pursuant to Condition 29.5(B) within five (5) Business Days of remedying the breach and in any case not later than sixty (60) Business Days after a BSC Company has approved the Metering Remediation Plan.

**Failure to remedy Metering Compliance Obligation breach**

29.6 If the Generator has not complied with its obligations under Condition 29.5, then a Technical Compliance Termination Event will be deemed to have occurred.

**Undertakings: electrical schematic**

29.7 If there is a “material change” to the Facility Metering Equipment, as such term is defined in the BSC, with references to Metering Equipment therein being replaced by references to Facility Metering Equipment, and the relevant Code of Practice, as determined in accordance with the BSC (a “**Metering Change**”) then the Generator shall:

- (A) notify the CfD Counterparty as soon as reasonably practicable and in any case within two (2) Business Days of the Metering Change occurring; and
- (B) provide an updated version of the electrical schematic diagram referred to in paragraph 1(D) of Part B of Schedule 1 (*Conditions Precedent*) as soon as reasonably practicable and in any case within ten (10) Business Days of the Metering Change occurring,

(the “**Electrical Schematic Obligation**”).

- 29.8 Any copy of the electrical schematic diagram provided pursuant to Condition 29.7(B) shall be accompanied by a Directors' Certificate certifying that the date as at which the electrical schematic diagram is valid and the version number thereof are true, complete and accurate in all material respects and are not misleading.

***Failure to comply with Electrical Schematic Obligation***

- 29.9 If the Generator is in breach of the Electrical Schematic Obligation, the CfD Counterparty may elect to suspend payment of any Net Payable Amounts which would otherwise be payable by the CfD Counterparty to the Generator in any period during which the Generator is in breach of the Electrical Schematic Obligation, provided that, prior to effecting any such suspension, the CfD Counterparty shall notify the Generator of: (i) its intention to suspend payment of any Net Payable Amounts; and (ii) the date from which it proposes to effect such suspension.
- 29.10 If the Generator subsequently complies with its Electrical Schematic Obligation, then the CfD Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 29.9. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 29.10.

***Undertakings: Access to and testing of meters***

- 29.11 The Generator shall grant (or, if the Generator is not the Registrant of the Facility Metering Equipment, shall procure that the Registrant grants) the CfD Counterparty and any suitably-qualified persons nominated by the CfD Counterparty access to the Facility, the Facility Metering Equipment and to such plant, property or assets owned, occupied or controlled by the Generator (or the Registrant if the Generator is not the Registrant of the Facility Metering Equipment) and to which the Generator (or the Registrant if the Generator is not the Registrant of the Facility Metering Equipment) can lawfully grant access as may be reasonably necessary for the CfD Counterparty to read, test or verify any relevant data and inspect and conduct tests in respect of the Facility Metering Equipment (the "**Metering Access Right**").
- 29.12 If the CfD Counterparty intends to exercise the Metering Access Right it shall give a notice to the Generator (a "**Metering Inspection Notice**"). A Metering Inspection Notice shall:
- (A) be substantially in the form set out in Part S of Annex 8 (*Pro forma notices*);
  - (B) specify that the CfD Counterparty (or suitably-qualified persons nominated by it) intends to exercise the Metering Access Right; and
  - (C) specify the date by which the Generator must, in accordance with Condition 29.13, permit the exercise of the Metering Access Right.

29.13 On receipt of a Metering Inspection Notice:

- (A) if the Generator is the Registrant of the Facility Metering Equipment, it shall permit the CfD Counterparty to exercise the Metering Access Right within ten (10) Business Days of receipt of the Metering Inspection Notice; and
- (B) if the Generator is not the Registrant of the Facility Metering Equipment, it shall procure that the CfD Counterparty is permitted to exercise the Metering Access Right within fifteen (15) Business Days of receipt of the Metering Inspection Notice.

***Failure to provide Metering Access Right***

29.14 If the Generator is in breach of its obligation to permit the CfD Counterparty to exercise the Metering Access Right, the CfD Counterparty may elect to suspend payment of any Net Payable Amounts which would otherwise be payable by the CfD Counterparty to the Generator in any period during which the Generator is in breach of such obligation, provided that, prior to effecting any such suspension, the CfD Counterparty shall notify the Generator of: (i) its intention to suspend payment of any Net Payable Amounts; and (ii) the date from which it proposes to effect such suspension.

29.15 If the Generator subsequently complies with its obligation to permit the CfD Counterparty to exercise the Metering Access Right, then the CfD Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 29.14. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 29.15.

29.16 If the Generator:

- (A) fails to comply with its obligations under Condition 29.13; and
- (B) has not permitted the CfD Counterparty to exercise its Metering Access Right within twenty (20) Business Days following the latest permitted date for compliance with its obligations pursuant to Condition 29.13(A) or 29.13(B) (as applicable),

then a Metering Access Termination Event will be deemed to have occurred.

**30. GENERATOR UNDERTAKINGS: INFORMATION PROVISION**

***Provision of Information to the CfD Counterparty***

30.1 The Generator, acting to a Reasonable and Prudent Standard, shall provide the CfD Counterparty with:

- (A) the Generator's estimate of the:
  - (i) expected Start Date;
  - (ii) Installed Capacity as at the Start Date; and

(iii) commissioning profile of the Facility,

each such estimate to be provided on the Agreement Date and at monthly intervals thereafter;

- (B) all Information requested by the CfD Counterparty to comply with its obligations under the Contract for Difference (including the CfD Settlement Required Information), such Information to be provided promptly, and no later than five (5) Business Days, or such longer period as is specified by the CfD Counterparty, after the Information is requested;
- (C) a forecast of the availability, the Loss Adjusted Metered Output, the Renewable Qualifying Multiplier (if applicable) and the CHP Qualifying Multiplier (if applicable) in respect of the Facility, such forecast to be provided:
- (i) within ten (10) Business Days of the Agreement Date, for the period from the projected Start Date to the following 31 March and in respect of each calendar month (or part of a calendar month) during such period (but only if the Start Date is projected to occur before the following 31 March);
  - (ii) not later than 30 September in each year (or, in relation to the first such forecast, and if the Agreement Date is after 30 September, no later than ten (10) Business after the Agreement Date) for the twelve (12) month period commencing on 01 April in the following year in respect of each calendar month (or part of a calendar month) during such period, provided that either:
    - (a) such period commences after the Start Date; or
    - (b) the Start Date is projected to occur during such period; and
  - (iii) not later than five (5) Business Days prior to the first day of each calendar month after the Start Date in respect of:
    - (a) the next calendar month; and
    - (b) any other calendar months in respect of which the Generator has previously provided forecasts to the CfD Counterparty (but only if any of the Generator's forecasts have changed);
- (D) notification of the occurrence of any material event or circumstance which will or is reasonably likely to affect significantly the Metered Output, of the Facility, such notification to be provided promptly, and no later than five (5) Business Days after the Generator has become aware of a material event or circumstance;
- (E) details of any material event or circumstance which will or is reasonably likely to affect significantly the Metered Output of the Facility, promptly, and no later than

twenty five (25) Business Days after the Generator has become aware of such material event or circumstance;

- (F) all Information reasonably requested by the CfD Counterparty regarding the financial condition, business or operations of the Generator to enable or assist the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes, such Information to be provided promptly and no later than ten (10) Business Days after such Information is requested, or such longer period as is specified by the CfD Counterparty; and
- (G) all Information reasonably requested by the CfD Counterparty for the purposes of: (i) compiling and evaluating statistics relating to the outcomes of the Electricity Market Reform programme and the impact of that programme across a range of social and economic factors; and (ii) publishing material relating thereto, including announcements and reports describing the general outcomes, merits and achievements relating to the programme, such Information to be provided promptly and no later than ten (10) Business Days, or such longer period as is specified by the CfD Counterparty, after such Information is requested.

#### ***Accuracy of Information***

30.2 The Generator shall ensure that:

- (A) all forecasts and forward-looking statements provided by or on behalf of the Generator pursuant to Condition 30.1 are prepared on a reasonable basis, with due care and attention and are provided in good faith after due consideration; and
- (B) all other Information provided by or on behalf of the Generator pursuant to Condition 30.1 is true, complete and accurate in all material respects and not misleading.

**Part 8**  
**Changes in Law**

**31. QUALIFYING CHANGE IN LAW: PROCEDURE**

***CfD Counterparty QCiL Notice***

31.1 If the CfD Counterparty considers that a Qualifying Change in Law has been implemented, occurred or become effective or is shortly to be implemented, occur or become effective, it may give a notice to the Generator (a “**CfD Counterparty QCiL Notice**”). A CfD Counterparty QCiL Notice shall:

- (A) be substantially in the form set out in Part T of Annex 8 (*Pro forma notices*);
- (B) include reasonable details of the relevant Qualifying Change in Law;
- (C) specify the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate);
- (D) specify why the CfD Counterparty considers that the Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the CfD Counterparty considers the Qualifying Change in Law to be a Discriminatory Change in Law, a Specific Change in Law or an Other Change in Law; and
- (E) (if the CfD Counterparty considers it reasonably practicable to do so) specify whether the CfD Counterparty considers that the Notified Change in Law will give rise to or result in:
  - (i) QCiL Operating Costs or QCiL Operating Savings;
  - (ii) QCiL Capital Costs or QCiL Capital Savings;
  - (iii) an Adjusted Output Period (and, if so, the CfD Counterparty’s AOP Estimate);
  - (iv) a QCiL Construction Event; and/or
  - (v) a QCiL Operations Cessation Event.

***Generator QCiL Response Notice***

31.2 If the CfD Counterparty gives a CfD Counterparty QCiL Notice to the Generator, the Generator shall as soon as reasonably practicable, and in any event within forty (40) Business Days after receipt of such CfD Counterparty QCiL Notice, give a notice to the CfD Counterparty (a “**Generator QCiL Response Notice**”). A Generator QCiL Response Notice shall:

- (A) be substantially in the form set out in Part U of Annex 8 (*Pro forma notices*);

- (B) specify whether the Generator considers that the Notified Change in Law is, or will be, a Qualifying Change in Law (and, if the Generator does not consider that the Notified Change in Law is, or will be, a Qualifying Change in Law, the Generator shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion);
- (C) include either:
- (i) a statement that the Generator agrees with the QCiL Effective Date or the Expected QCiL Effective Date specified in the CfD Counterparty QCiL Notice; or
  - (ii) if the Generator does not agree with the QCiL Effective Date or the Expected QCiL Effective Date specified in the CfD Counterparty QCiL Notice, an alternative QCiL Effective Date or Expected QCiL Effective Date;
- (D) specify whether the Generator considers that the Notified Change in Law will give rise to or result in:
- (i) QCiL Operating Costs or QCiL Operating Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
  - (ii) QCiL Capital Costs or QCiL Capital Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
  - (iii) an Adjusted Output Period and, if so: (a) the Generator's AOP Estimate; and (b) the Generator's good faith estimate of the impact of the Notified Change in Law on the Estimated Facility Generation;
  - (iv) a QCiL Construction Event and, if so, the Generator's good faith estimate of the QCiL Construction Event Costs and QCiL Construction Event Savings; and/or
  - (v) a QCiL Operations Cessation Event and, if so, the Generator's good faith estimate of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings,
- together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and
- (E) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with the QCiL Mitigation Obligation and the Reasonable and Prudent Standard.

- 31.3 If the Generator, in a Generator QCiL Response Notice, indicates that it does not consider the Notified Change in Law to be a Qualifying Change in Law, it shall nonetheless provide the QCiL Response Information on the basis of an assumption that the Notified Change in Law is a Qualifying Change in Law.
- 31.4 Any Generator QCiL Response Notice shall be accompanied by a Directors' Certificate certifying that the information contained in, and enclosed with, the Generator QCiL Response Notice is true, complete and accurate in all material respects and is not misleading, and stating (without prejudice to the generality of the certification required pursuant to this Condition 31.4) whether, in the opinion of the Generator, having made all due and careful enquiries, the Notified Change in Law is or will be a Qualifying Change in Law.

***Generator QCiL Notice***

- 31.5 If the Generator considers that a Qualifying Change in Law has been implemented, occurred or become effective or is shortly to be implemented, occur or become effective, it may give a notice to the CfD Counterparty (a "**Generator QCiL Notice**"). A Generator QCiL Notice shall:
- (A) be substantially in the form set out in Part V of Annex 8 (*Pro forma notices*);
  - (B) include reasonable details of the relevant Qualifying Change in Law;
  - (C) specify the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate);
  - (D) specify why the Generator considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the Generator considers the Qualifying Change in Law to be a Discriminatory Change in Law, a Specific Change in Law or an Other Change in Law (and including Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion);
  - (E) specify whether the Generator considers that the Notified Change in Law will give rise to or result in:
    - (i) QCiL Operating Costs or QCiL Operating Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
    - (ii) QCiL Capital Costs or QCiL Capital Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
    - (iii) an Adjusted Output Period and, if so: (a) the Generator's AOP Estimate; and (b) the Generator's good faith estimate of the impact of the Notified Change in Law on the Estimated Facility Generation;

- (iv) a QCiL Construction Event and, if so, the Generator's good faith estimate of the QCiL Construction Event Costs and the QCiL Construction Event Savings; and/or
- (v) a QCiL Operations Cessation Event and, if so, the Generator's good faith estimate of the QCiL Operations Cessation Event Costs and the QCiL Operations Cessation Event Savings,

together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and

- (F) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with the QCiL Mitigation Obligation and the Reasonable and Prudent Standard.

31.6 Any Generator QCiL Notice shall be accompanied by a Directors' Certificate certifying that the information contained in, and enclosed with, the Generator QCiL Notice is true, complete and accurate in all material respects and is not misleading, and stating (without prejudice to the generality of the certification required pursuant to this Condition 31.6) whether, in the opinion of the Generator, having made all due and careful enquiries, the Notified Change in Law is or will be a Qualifying Change in Law.

31.7 The CfD Counterparty shall be under no obligation to consider or take any action in response to a Generator QCiL Notice unless and until the Generator shall have provided the CfD Counterparty with all of the QCiL Supporting Information, and the QCiL Directors' Certificate, in respect of such Generator QCiL Notice.

***Agreement between the Parties in respect of a Qualifying Change in Law***

31.8 As soon as reasonably practicable, and in any event within fifteen (15) Business Days of either:

- (A) the Generator giving a Generator QCiL Notice (and the associated QCiL Directors' Certificate); or
- (B) the Generator giving a Generator QCiL Response Notice (and the associated QCiL Directors' Certificate),

in respect of a Notified Change in Law, the Parties shall meet to discuss and, in good faith, seek to agree:

- (i) whether the Notified Change in Law is or will be a Qualifying Change in Law;
- (ii) in respect of a Qualifying Change in Law:
  - (a) the QCiL Effective Date or the Expected QCiL Effective Date;
  - (b) whether the Notified Change in Law will, or is reasonably expected to, result in:

- (1) QCiL Net Operating Costs or QCiL Net Operating Savings;
  - (2) QCiL Net Capital Costs or QCiL Net Capital Savings;
  - (3) an Adjusted Output Period (and, if so, the impact of the Notified Change in Law on the Estimated Facility Generation);
  - (4) a QCiL Construction Event; and/or
  - (5) a QCiL Operations Cessation Event; and
- (c) the amounts, forecasts and estimates applicable to that Qualifying Change in Law referred to in Condition 31.2(D) or 31.5(E) (as the context requires);
  - (d) the steps or additional steps, as the case may be, which the Generator should take to comply with the QCiL Mitigation Obligation and the Reasonable and Prudent Standard; and
  - (e) any other matters necessary to determine the quantum of the QCiL Compensation;
- (iii) the QCiL Compensation in respect of such Qualifying Change in Law;
  - (iv) the QCiL Compensation Date; and
  - (v) whether the QCiL Compensation shall be subject to a true-up (and, if so, the date for the Parties to meet to discuss and, in good faith, seek to agree the QCiL True-Up Compensation (a “**QCIL True-Up Meeting**”)). If the Parties do not reach an agreement on whether the QCiL Compensation shall be subject to a true-up or as to the date on which any QCiL True-Up Meeting shall take place, then Condition 34.1 shall apply.

***Disputes in respect of a Qualifying Change in Law***

- 31.9 If the Generator and the CfD Counterparty are not able to agree any of the matters in Condition 31.8, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.
- 31.10 Until the Dispute has been resolved by agreement between the Generator and the CfD Counterparty or determination in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no QCiL Compensation.

## 32. QUALIFYING CHANGE IN LAW: COMPENSATION

### *Categories of Qualifying Change in Law compensation*

32.1 Compensation in respect of a Qualifying Change in Law shall be calculated:

- (A) if there are QCiL Operating Costs or QCiL Operating Savings, in accordance with Conditions 32.3 to 32.5 (inclusive) (any such compensation, a “**QCIL Opex Adjustment**”);
- (B) if there are QCiL Capital Costs or QCiL Capital Savings, in accordance with Conditions 32.6 to 32.13 (inclusive) (any such compensation, a “**QCIL Capex Payment**”);
- (C) if there is an Adjusted Output Period, in accordance with Conditions 32.14 to 32.18 (inclusive) (any such compensation, a “**QCIL Adjusted Revenues Payment**”);
- (D) if there is a QCiL Construction Event, in accordance with Conditions 32.19 and 32.20 (any such compensation, a “**QCIL Construction Payment**”); and
- (E) if there is a QCiL Operations Cessation Event, in accordance with Conditions 32.21 and 32.22 (any such compensation, a “**QCIL Operations Cessation Payment**”).

32.2 Any QCiL Compensation to be calculated in accordance with Condition 32.1 shall be payable in accordance with, and subject to, Conditions 33 (*Qualifying Change in Law: Effective date and payment*), 34 (*Qualifying Change in Law: True-up*) and 35 (*Changes in Law: General provisions*).

### **QCIL Opex Adjustment**

32.3 Any QCiL Opex Adjustment shall be effected as an adjustment to the Strike Price and:

- (A) if there are QCiL Net Operating Costs, the Strike Price shall be increased; and
- (B) if there are QCiL Net Operating Savings, the Strike Price shall be reduced,

irrespective of whether or not the relevant Qualifying Change in Law occurs, is implemented or becomes effective before or after the Start Date.

32.4 For the purposes of Condition 32.3, the adjustment to the Strike Price shall, subject to Condition 32.5, be calculated in accordance with the following formula:

$$\text{QCIL Opex Adjustment} = \frac{\sum_{i=1}^n \frac{C_{L,i} - C_{S,i}}{(1 + R_S)^{i-1}}}{\text{Effective Projected Generation}}$$

where:

$i$  is a whole number integer from 1 to  $n$ ; such integers referring to distinct time periods as follows:

- the 1st period ( $i = 1$ ) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
- the 2nd to the  $(n-1)$ th periods ( $2 \leq i < n$ ) are consecutive periods of one calendar year length each; and
- the  $n$ th period ( $i = n$ ) is the period starting on 01 January in the year in which the last day of the Term falls and ending on the last day of the Term;

$C_{l,i}$  are, subject to Condition 32.5(B), the QCiL Operating Costs in period (i) expressed in pounds in real terms as at the QCiL Compensation Date;

$C_{s,i}$  are, subject to Condition 32.5(B), the QCiL Operating Savings in period (i) expressed in pounds in real terms as at the QCiL Compensation Date; and

$R_S$  is the Post-Tax Discount Rate.

32.5 If a Qualifying Change in Law gives rise to or results in both: (i) QCiL Operating Costs or QCiL Operating Savings; and (ii) an Adjusted Output Period, then:

- (A) subject to Condition 32.5(B), such QCiL Operating Costs or QCiL Operating Savings shall be used for the purposes of calculating the QCiL Opex Adjustment in accordance with Conditions 32.3 and 32.4; and
- (B) if and to the extent that any QCiL Operating Costs or QCiL Operating Savings are (or are reasonably likely to be) incurred, made or received solely in connection with, and during, the Adjusted Output Period, such QCiL Operating Costs or QCiL Operating Savings shall be excluded from the calculation of the QCiL Opex Adjustment in accordance with Conditions 32.3, 32.4 and 32.5(A) and shall instead be taken into account in the calculation of the QCiL Adjusted Revenues Payment in accordance with Conditions 32.14, 32.15 and 32.18 and either Condition 32.16 or 32.17 (as applicable).

### **QCIL Capex Payment**

32.6 Any QCiL Capex Payment shall be effected, at the election of the CfD Counterparty (after consultation with the Generator), as either a lump sum payment or a daily payment which shall be payable:

- (A) by the CfD Counterparty to the Generator if there are QCiL Net Capital Costs; or
- (B) by the Generator to the CfD Counterparty where there are QCiL Net Capital Savings,

irrespective of whether or not the relevant Qualifying Change in Law occurs, is implemented or becomes effective before or after the Start Date.

32.7 For the purposes of Condition 32.6, the QCiL Capex Payment shall, subject to Condition 32.13, be an amount (expressed in pounds) calculated in accordance with:

- (A) Condition 32.8 or 32.9 (as applicable) if the QCiL Capex Payment is to be paid as a lump sum; or
- (B) Condition 32.10 or 32.11 (as applicable) if the QCiL Capex Payment is to be paid on a daily basis.

32.8 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are incurred, made or realised (or reasonably expected to be incurred, made or realised) on or prior to the 12<sup>th</sup> anniversary of the Start Date; and (ii) Condition 32.7(A) applies, the QCiL Capex Payment shall be calculated in accordance with the following formula:

$$\text{QCiL Capex Payment} = \sum_{i=1}^n \frac{C_i - S_i}{(1 + R_S)^{i-1}}$$

32.9 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are incurred, made or realised (or reasonably expected to be incurred, made or realised) after the 12<sup>th</sup> anniversary of the Start Date; and (ii) Condition 32.7(A) applies, the QCiL Capex Payment shall be calculated in accordance with the following formula:

$$\text{QCiL Capex Payment} = \frac{L - X}{L - N} \times \sum_{i=1}^n \frac{C_i - S_i}{(1 + R_S)^{i-1}}$$

32.10 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are incurred, made or realised (or reasonably expected to be incurred, made or realised) on or prior to the 12<sup>th</sup> anniversary of the Start Date; and (ii) Condition 32.7(B) applies, the QCiL Capex Payment in respect of each Billing Period shall be calculated in accordance with the following formula:

$$\text{QCiL Capex Payment} = \sum_{i=1}^n \frac{C_i - S_i}{(1 + R_S)^{i-1}} \times \frac{R_d}{1 - \frac{1}{(1 + R_d)^{365(L-X)}}} \times \frac{CPI_t}{CPI_q}$$

32.11 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are incurred, made or realised (or reasonably expected to be incurred, made or realised) after the 12<sup>th</sup> anniversary of the Start Date; and (ii) Condition 32.7(B) applies, the QCiL Capex Payment in respect of each Billing Period shall be calculated in accordance with the following formula:

$$\text{QCiL Capex Payment} = \frac{L - X}{L - N} \times \sum_{i=1}^n \frac{C_i - S_i}{(1 + R_S)^{i-1}} \times \frac{R_d}{1 - \frac{1}{(1 + R_d)^{365(L-X)}}} \times \frac{CPI_t}{CPI_q}$$

32.12 For the purposes of the formulae in Conditions 32.8, 32.9, 32.10 and 32.11:

*i* is a whole number integer from 1 to *n*; such integers referring to distinct time

periods as follows:

- the 1st period ( $i = 1$ ) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
- the 2nd to the  $(n-1)$ th periods ( $2 \leq i < n$ ) are consecutive periods of one calendar year length each; and
- the  $n$ th period ( $i = n$ ) is the period starting on 01 January in the year in which the last day of the Term falls and ending on the last day of the Term;

$C_i$  are the QCiL Capital Costs in period (i), expressed in pounds in real terms as at the QCiL Compensation Date;

$S_i$  are the QCiL Capital Savings in period (i) expressed in pounds in real terms as at the QCiL Compensation Date;

$R_S$  is the Post-Tax Discount Rate;

$L$  is the period between: (a) the Start Date; and (b) the Specified Expiry Date, in years, and expressed as an integer;

$X$  is the number of days that have passed or will have passed from and including the Start Date to the QCiL Compensation Date divided by 365 (or, if such number would be a negative number, 0);

$N$  is 12;

$R_d$  is the Daily Discount Rate;

$CPI_t$  denotes the Reference CPI applicable at Billing Period (t); and

$CPI_q$  denotes the Reference CPI applicable at the QCiL Compensation Date.

32.13 If a Qualifying Change in Law gives rise to or results in both: (i) QCiL Capital Costs or QCiL Capital Savings; and (ii) an Adjusted Output Period, then:

(A) subject to Condition 32.13(B), such QCiL Capital Costs or QCiL Capital Savings shall be used for the purposes of calculating the QCiL Capex Payment in accordance with Conditions 32.6, 32.7 and 32.12 and Conditions 32.8, 32.9, 32.10 or 32.11 (as applicable); and

(B) if and to the extent that any QCiL Capital Savings are (or are reasonably likely to be) made or received solely in connection with, and during, the Adjusted Output Period, then such QCiL Capital Savings shall be excluded from the calculation of the QCiL Capex Payment in accordance with Conditions 32.6, 32.7, 32.12 and 32.13(A), and Condition 32.8, 32.9, 32.10 or 32.11 (as applicable), and such QCiL Capital Savings shall instead be taken into account in the calculation of the QCiL Adjusted Revenues Payment in accordance with

Conditions 32.14, 32.15 and 32.18 and either Condition 32.16 or 32.17 (as applicable).

**QCIL Adjusted Revenues Payment**

32.14 Any QCIL Adjusted Revenues Payment shall be effected, at the election of the CfD Counterparty (after consultation with the Generator), as either a lump sum payment or a daily payment which shall be payable:

- (A) by the CfD Counterparty to the Generator if the amount calculated under the relevant formula is positive; or
- (B) by the Generator to the CfD Counterparty if the amount calculated under the relevant formula is negative,

irrespective of whether or not the relevant Qualifying Change in Law occurs, is implemented or becomes effective before or after the Start Date.

32.15 For the purposes of Condition 32.14, the QCIL Adjusted Revenues Payment shall be an amount (expressed in pounds) calculated in accordance with:

- (A) Condition 32.16 if the QCIL Adjusted Revenues Payment is to be paid as a lump sum; or
- (B) Condition 32.17 if the QCIL Adjusted Revenues Payment is to be paid on a daily basis.

32.16 If Condition 32.15(A) applies, the QCIL Adjusted Revenues Payment shall be calculated in accordance with the following formula:

$$\text{QCIL Adjusted Revenues Payment} = SP \times \left( \sum_{i=1}^n \frac{M_{1,i}}{(1+R_S)^{i-1}} - \sum_{i=1}^n \frac{M_{2,i}}{(1+R_S)^{i-1}} \right) + \sum_{i=1}^n \frac{C_i - S_i}{(1+R_S)^{i-1}}$$

32.17 If Condition 32.15(B) applies, the QCIL Adjusted Revenues Payment in respect of each Billing Period shall be calculated in accordance with the following formula:

$$\text{QCIL Adjusted Revenues Payment} = ARP \times \frac{R_d}{1 - \frac{1}{(1+R_d)^N}} \times \frac{CPI_t}{CPI_q}$$

32.18 For the purposes of the formulae in Conditions 32.16 and 32.17:

*SP* is the Strike Price applicable immediately prior to the QCIL Compensation Date (for this purpose, after any Strike Price Adjustment made pursuant to Conditions 32.3, 32.4 and 32.5(A) (if relevant));

*i* is a whole number integer from 1 to *n*; such integers referring to distinct time periods as follows:

- the 1st period ( $i = 1$ ) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
- the 2nd to the  $(n-1)$ th periods ( $2 \leq i < n$ ) are consecutive periods of one calendar year length each; and
- the  $n$ th period ( $i = n$ ) is the period starting on 01 January in the year in which the last day of the Adjusted Output Period falls and ending on the last day of the Adjusted Output Period;

$M_{1,i}$  is the Estimated Facility Generation in period (i) had the Qualifying Change in Law not been implemented, occurred or become effective;

$M_{2,i}$  is the Estimated Facility Generation in period (i) taking into account the Qualifying Change in Law having been implemented, having occurred or having become effective;

$C_i$  are all QCiL Operating Costs incurred in period (i) (but only those QCiL Operating Costs referred to in Condition 32.5(B)), expressed in pounds in real terms as at the QCiL Compensation Date;

$S_i$  are all QCiL Operating Savings and QCiL Capital Savings made or realised in period (i) (but only those QCiL Operating Savings referred to in Condition 32.5(B) and those QCiL Capital Savings referred to in Condition 32.13(B)), expressed in pounds in real terms as at the QCiL Compensation Date;

$R_s$  is the Post-Tax Discount Rate;

$ARP$  is the QCiL Adjusted Revenues Payment (lump sum), as calculated in accordance with Condition 32.16;

$R_d$  is the Daily Discount Rate;

$N$  is the duration, in days, of the Adjusted Output Period;

$CPI_t$  denotes the Reference CPI applicable at Billing Period (t); and

$CPI_q$  denotes the Reference CPI applicable at the QCiL Compensation Date.

### **QCIL Construction Payment**

32.19 Any QCiL Construction Payment shall be effected as a lump sum payment which shall be payable to the Generator by the CfD Counterparty.<sup>2</sup>

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<sup>2</sup> Note to Generator: DECC is giving further consideration to whether QCiL Construction Payment should be payable in the form of staged payments.

32.20 For the purposes of Condition 32.19, the QCiL Construction Payment shall be an amount (expressed in pounds) calculated in accordance with the following formula:

$$\text{QCiL Construction Payment} = \sum_{i=1}^n \frac{C_i - S_i}{(1 + R_S)^{i-m}}$$

where:

$i$  is a whole number integer from 1 to  $n$ ; such integers referring to distinct time periods as follows:

- the 1st period ( $i = 1$ ) covers the period from the date the first QCiL Construction Event Cost was incurred to 31 December in that year;
- the 2nd to the  $(n-1)$ th periods ( $2 \leq i < n$ ) are consecutive periods of one calendar year length each; and
- the  $n$ th period ( $i = n$ ) is the period starting on 01 January in the year in which the final QCiL Construction Event Cost was incurred and ending on the last day of that year;

$C_i$  are all QCiL Construction Event Costs in period ( $i$ ), expressed in pounds in real terms as at the QCiL Compensation Date;

$S_i$  are all QCiL Construction Event Savings in period ( $i$ ), expressed in pounds in real terms as at the QCiL Compensation Date;

$R_s$  is the Post-Tax Discount Rate; and

$m$  is a whole number integer that defines the calendar year period within which the QCiL Compensation Date falls, defined as the number of years since the date the first cost was realised in relation to the QCiL Construction Event, rounded up to the nearest integer.

### ***QCIL Operations Cessation Payment***

32.21 Any QCiL Operations Cessation Payment shall be effected as a lump sum payment which shall be payable to the Generator by the CfD Counterparty.<sup>3</sup>

32.22 For the purposes of Condition 32.21, the QCiL Operations Cessation Payment shall be an amount (expressed in pounds) calculated in accordance with the following formula:

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<sup>3</sup> Note to Generator: DECC is giving further consideration to whether QCiL Operations Cessation Payment should be payable in the form of staged payments.

$$\text{QCiL Operations Cessation Payment} = SP \times \text{Effective Projected Generation} + \sum_{i=1}^n \frac{C_i - S_i}{(1 + R_S)^{i-1}}$$

where:

$SP$  is the Strike Price applicable immediately prior to the QCiL Compensation Date;

$i$  is a whole number integer from 1 to  $n$ ; such integers referring to distinct time periods as follows:

- the 1st period ( $i = 1$ ) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
- the 2nd to the ( $n-1$ )th periods ( $2 \leq i < n$ ) are consecutive periods of one calendar year length each; and
- the  $n$ th period ( $i = n$ ) is the period starting on 01 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date.

$C_i$  are all QCiL Operations Cessation Event Costs (where relevant, assessed by reference to the Estimated Facility Generation) in period ( $i$ ), expressed in pounds in real terms as at the QCiL Compensation Date;

$S_i$  are all QCiL Operations Cessation Event Savings (where relevant, assessed by reference to the Estimated Facility Generation) in period ( $i$ ), expressed in pounds in real terms as at the QCiL Compensation Date; and

$R_S$  is the Post-Tax Discount Rate.

**Additional calculations: Effective Projected Generation and Estimated Facility Generation**

32.23 If any formula in this Condition 32 (*Qualifying Change in Law: Compensation*) requires the Effective Projected Generation to be calculated, the “**Effective Projected Generation**” shall be an amount (expressed in MWh) calculated in accordance with the following formula:

$$\text{Effective Projected Generation} = \sum_{i=1}^n \frac{\text{Generation}_i}{(1 + R_S)^{i-1}}$$

where:

$i$  is a whole number integer from 1 to  $n$ ; such integers referring to distinct time periods as follows:

- the 1st period ( $i = 1$ ) covers the period from (if the QCiL Effective Date is on or after the Start Date) the QCiL Effective Date or (if the QCiL Effective Date is before the Start Date) the later of (i) the first day of the Target Commissioning Window and (ii) the date on

which ninety-five per cent. (95%) of Installed Capacity is expected to be commissioned, to 31 December in that year;

- the 2nd to the (n-1)th periods ( $2 \leq i < n$ ) are consecutive periods of one calendar year length each; and
- the nth period ( $i = n$ ) is the period starting on 01 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date;

$Generation_i$  is the Estimated Facility Generation in period (i); and

$R_s$  is the Post-Tax Discount Rate.

32.24 For the purposes of the formula in Condition 32.23, the “**Estimated Facility Generation**” shall be an amount (expressed in MWh) which is the product of:

- (A) (i) (where the Qualifying Change in Law occurs prior to the Start Date) the Installed Capacity Estimate; or (ii) (where the Qualifying Change in Law occurs on or after the Start Date), the lesser of: (a) the Maximum Contract Capacity; and (b) the Installed Capacity;
- (B) the number of hours in period;
- (C) the Assumed RQM (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);
- (D) the CHP Qualifying Multiplier (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement); and
- (E) the Assumed Load Factor.

**Additional calculations: Daily Discount Rate**

32.25 If any formula in this Condition 32 (*Qualifying Change in Law: Compensation*) requires a Daily Discount Rate to be calculated, such rate shall be calculated in accordance with the following formula:

$$\text{Daily Discount Rate} = (1 + R_s)^{\frac{1}{365}} - 1$$

where:

$R_s$  is the Post-Tax Discount Rate.

### 33. QUALIFYING CHANGE IN LAW: EFFECTIVE DATE AND PAYMENT

33.1 All QCiL Compensation in respect of a Notified Change in Law shall be calculated as at and be effective from:

- (A) (if the QCiL Compensation takes the form of a QCiL Opex Adjustment or a QCiL Capex Payment) the earlier of: (i) the QCiL Effective Date; and (ii) the date on which the Generator (acting in accordance with a Reasonable and Prudent Standard) first incurs QCiL Operating Costs or QCiL Capital Costs, or makes or realises QCiL Operating Savings or QCiL Capital Savings, in anticipation of such Notified Change in Law being implemented, occurring or becoming effective;
- (B) (if the QCiL Compensation takes the form of a QCiL Adjusted Revenues Payment) the first day of the relevant Adjusted Output Period;
- (C) (if the QCiL Compensation takes the form of a QCiL Construction Payment) the date of the QCiL Construction Event; or
- (D) (if the QCiL Compensation takes the form of a QCiL Operations Cessation Payment) the date of the QCiL Operations Cessation Event,

(the “**QCiL Compensation Date**”).

33.2 Subject to Condition 33.3:

- (A) any QCiL Compensation (other than a QCiL Opex Adjustment) shall be paid by the CfD Counterparty or the Generator (as applicable) no later than twenty (20) Business Days after the later of:
  - (i) the QCiL Compensation Date; and
  - (ii) the date on which the amount of the QCiL Compensation is agreed or determined; and
- (B) any QCiL Opex Adjustment shall be reflected in the calculation of the Difference, the Difference Amounts and the Aggregate Difference Amount in the Billing Statements for each Billing Period on and with effect from the QCiL Compensation Date,

provided that, in each case, if the amount of any QCiL Compensation is agreed or determined after the QCiL Compensation Date, such QCiL Compensation shall be reflected as a Reconciliation Amount (pursuant to Condition 20.4(F)) in respect of the Billing Statements for each Billing Period on and with effect from the QCiL Compensation Date.

33.3 No QCiL Compensation shall be paid to the extent that the CfD Counterparty withholds or suspends payment pursuant to Conditions 29.9 or 29.14.

- 33.4 All QCiL Compensation shall be made by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the Generator pursuant to Condition 25.1(A) or the CfD Counterparty pursuant to Condition 25.1(B) (as relevant).
- 33.5 Any payment required to be made by the CfD Counterparty to the Generator pursuant to Condition 32 (*Qualifying Change in Law: Compensation*) shall be subject to the provisions of Condition 65.6.

#### **34. QUALIFYING CHANGE IN LAW: TRUE-UP**

- 34.1 If the Parties fail to agree whether any QCiL Compensation shall be subject to a true-up or as to when the QCiL True-Up Meeting shall take place pursuant to Condition 31.8(B)(v), Conditions 34.2 to 34.9 (inclusive) shall apply.

##### ***CfD Counterparty QCiL True-Up Notice***

- 34.2 The CfD Counterparty may, subject to Condition 34.3, deliver to the Generator a notice (a "**CfD Counterparty QCiL True-Up Notice**") requiring the Generator to confirm:

- (A) the impact of the relevant Qualifying Change in Law having occurred, having being implemented or having become effective (including as to the costs (including in relation to Tax), savings (including in relation to Tax reliefs or insurance proceeds), compensation and revenue decreases or increases which were incurred, received or made by the Generator, and which arose directly from the relevant Qualifying Change in Law being implemented, occurring or becoming effective, and the duration of any Adjusted Output Period affecting the Facility); and
- (B) such other matters which were pertinent to the calculation of the QCiL Compensation (including the steps that the Generator has taken to comply with the QCiL Mitigation Obligation and the Reasonable and Prudent Standard),

(together, the "**QCiL True-Up Information**"). A CfD Counterparty QCiL True-Up Notice shall be substantially in the form set out in Part W of Annex 8 (*Pro forma notices*).

- 34.3 The CfD Counterparty shall not, in respect of a Qualifying Change in Law, give to the Generator more than one CfD Counterparty QCiL True-Up Notice and no CfD Counterparty QCiL True-Up Notice shall be given within one calendar year of the relevant QCiL Compensation Date.

##### ***QCiL True-Up Response Notice***

- 34.4 As soon as reasonably practicable and in any event within forty (40) Business Days following the receipt of a CfD Counterparty QCiL True-Up Notice, the Generator shall give to the CfD Counterparty a notice (a "**QCiL True-Up Response Notice**"). A QCiL True-Up Response Notice shall:

- (A) be substantially in the form set out in Part X of Annex 8 (*Pro forma notices*);
- (B) contain the QCiL True-Up Information; and

- (C) include confirmation that no amount has been recovered (or is entitled to be recovered) by the Generator pursuant to Conditions 35.6 and 35.7 or, if any amount has been so recovered, confirmation of such amount,

together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the information contained in the QCiL True-Up Response Notice.

- 34.5 A QCiL True-Up Response Notice shall be accompanied by a Directors' Certificate certifying that the information contained in, and enclosed with, the QCiL True-Up Response Notice is true, complete and accurate in all material respects and is not misleading.

***Generator QCiL True-Up Notice***

- 34.6 The Generator may, subject to Condition 34.8, deliver to the CfD Counterparty a notice (a "**Generator QCiL True-Up Notice**"). A Generator QCiL True-Up Notice shall:

- (A) be substantially in the form set out in Part Y of Annex 8 (*Pro forma notices*);
- (B) contain the QCiL True-Up Information; and
- (C) include confirmation that no amount has been recovered (or is entitled to be recovered) by the Generator pursuant to Conditions 35.6 and 35.7 or, if any amount has been so recovered, confirmation of such amount,

together with such Supporting Information as the Generator considers to be relevant to and supportive of its conclusions in respect of this Condition 34.6.

- 34.7 A Generator QCiL True-Up Notice shall be accompanied by a Directors' Certificate certifying that the information contained in, and enclosed with, the Generator QCiL True-Up Notice is true, complete and accurate in all material respects and is not misleading.

- 34.8 The Generator shall not, in respect of a Qualifying Change in Law, give to the CfD Counterparty more than one Generator QCiL True-Up Notice and no Generator QCiL True-Up Notice shall be given within one calendar year of the relevant QCiL Compensation Date.

- 34.9 The CfD Counterparty shall be under no obligation to consider or take any action in response to a Generator QCiL True-Up Notice unless and until the Generator shall have provided the CfD Counterparty with all the QCiL True-Up Information, and the Directors' Certificate in respect of such Generator QCiL True-Up Notice.

***Agreement between the Parties in respect of a true-up***

- 34.10 If the Parties have agreed in accordance with Condition 31.8(B)(v) that any QCiL Compensation shall be subject to a true-up and the date of any corresponding QCiL True-Up Meeting, the Generator shall, at least twenty (20) Business Days prior to the QCiL True-Up Meeting, provide the CfD Counterparty with:

- (A) the QCiL True-Up Information;
- (B) confirmation that no amount has been recovered (or is entitled to be recovered) by the Generator pursuant to Conditions 35.6 and 35.7 or, if any amount has been so recovered, confirmation of such amount; and
- (C) any such other matters which the Generator considers pertinent to the calculation of the QCiL True-Up Compensation;

together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of its conclusions in respect of this Condition 34.10, and accompanied by a Directors' Certificate certifying that the QCiL True-Up Information and any enclosed Information is true, complete and accurate in all material respects and is not misleading.

34.11 The Parties shall meet:

- (A) as soon as reasonably practicable and in any event within twenty (20) Business Days of either:
  - (i) the Generator giving a QCiL True-Up Response Notice (and the associated Directors' Certificate); or
  - (ii) the Generator giving a Generator QCiL True-Up Notice (and the associated Directors' Certificate); or
- (B) on the agreed date of the QCiL True-Up Meeting in accordance with Condition 31.8(B)(v),

(as relevant) to discuss and, in good faith, seek to agree:

- (i) the QCiL True-Up Information;
- (ii) any such other matters which the Parties consider pertinent to the calculation of the QCiL True-Up Compensation;
- (iii) the QCiL True-Up Compensation that shall be payable by the CfD Counterparty or the Generator (as the case may be); and
- (iv) the manner in which such QCiL True-Up Compensation shall be paid by the CfD Counterparty or the Generator (as the case may be), provided that:
  - (a) where the QCiL True-Up Compensation relates to a QCiL Strike Price Adjustment, the QCiL True-Up Compensation shall be effected by way of a QCiL True-Up Strike Price Adjustment; and
  - (b) where the QCiL True-Up Compensation does not relate to a QCiL Strike Price Adjustment, the QCiL True-Up Compensation shall be paid in the same manner as the QCiL Compensation agreed in respect of that

Qualifying Change in Law, unless the Parties expressly agree otherwise.

***Disputes in respect of a true-up***

- 34.12 If the Generator and the CfD Counterparty are not able to agree any of the matters in Condition 34.11, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.
- 34.13 Until the Dispute has been resolved by agreement between the Generator and the CfD Counterparty or determination in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no QCiL True-Up Compensation.
- 34.14 Any QCiL True-Up Compensation is to be calculated and paid in accordance with and subject to Conditions 32 (*Qualifying Change in Law: Compensation*), 33 (*Qualifying Change in Law: Effective date and payment*) and 35 (*Changes in Law: General provisions*) (in each case with the necessary modifications).

**35. CHANGES IN LAW: GENERAL PROVISIONS**

***Interpretation***

- 35.1 Any QCiL Compensation in respect of any Notified Change in Law to be calculated, agreed or determined and paid pursuant to this Part 8 (*Changes in Law*) shall be calculated on the basis that the Generator:
- (A) has complied, and will comply, with the QCiL Mitigation Obligation, irrespective of whether the Generator has in fact complied, or will comply, with such obligation; and
  - (B) has complied, and will comply, with the Reasonable and Prudent Standard, irrespective of whether the Generator has in fact complied, or will comply, with such standard.
- 35.2 Any notification by the Generator to the CfD Counterparty of the mitigating steps that the Generator has taken, or proposes to take, in order to comply with the QCiL Mitigation Obligation, or the Reasonable and Prudent Standard, shall be of indicative value only and, as such, shall not be determinative of whether the Generator has complied, or will comply, with the QCiL Mitigation Obligation or the Reasonable and Prudent Standard.

***Mitigation and costs***

- 35.3 The Generator shall promptly take all reasonable steps to mitigate any loss or, as the case may be, maximise any benefit, in each case arising from a Qualifying Change in Law (including by recommencing generation as soon as reasonably practicable),

provided that this obligation to mitigate shall not be construed as relieving the Generator from complying in full with the Qualifying Change in Law.

- 35.4 The Generator shall give notice promptly to the CfD Counterparty of the mitigating steps that it has taken, is taking and proposes to take and shall promptly provide such Supporting Information regarding such mitigation as the CfD Counterparty may reasonably request.
- 35.5 The Generator shall, promptly on demand from time to time, indemnify the CfD Counterparty against any out-of-pocket costs properly incurred by the CfD Counterparty and which would not have been incurred but for a Generator QCiL Notice having been given.

***No double recovery***

- 35.6 If the Generator is at any time entitled to recover from some other person any sum as a consequence of a Change in Law (whether under a power purchase agreement, an electricity sale contract, insurance policy or otherwise), the Generator shall take all necessary steps to enforce such recovery. If the Generator shall recover any amount from such other person:
- (A) such amount shall be taken into account in the calculation of compensation pursuant to this Part 8 (*Changes in Law*);
  - (B) no claim shall be made by the Generator pursuant to this Part 8 (*Changes in Law*) in respect of the amounts so recovered; and
  - (C) if the Generator had previously received compensation in relation to such Change in Law pursuant to the Contract for Difference, it shall pay to the CfD Counterparty an amount equal to the lesser of: (i) the amount so recovered; and (ii) the amount so previously received.
- 35.7 Condition 35.6 shall apply, *mutatis mutandis*, in circumstances in which the Generator is at any time entitled to recover from the CfD Counterparty any sum as a consequence of a Qualifying Change in Law under any other FIT Contract for Difference to which it is a party.

***Excluded Change in Law***

- 35.8 There shall be no amendment to the Contract for Difference, adjustment to the Strike Price or other compensation in respect of or on account of any Excluded Change in Law other than pursuant to the Change Control Procedure.

**36. QUALIFYING SHUTDOWN EVENT: COMPENSATION**

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<sup>4</sup> Note to Generator: Part 1 includes a provisional definition of "Qualifying Shutdown Event". Full form drafting of the compensation available as a result of a "Qualifying Shutdown Event" to be provided in due course.

**Part 9**  
**Generation Tax**

**37. GENERATION TAX: PROCEDURE**

***Generator GT Notice***

- 37.1 If the Generator considers that a Generation Tax Change in Law has been implemented, occurred or become effective, it may give a notice to the CfD Counterparty (a “**Generator GT Notice**”).
- 37.2 Where a Generation Tax first comes into effect:
- (A) the Generator shall give a Generator GT Notice relating thereto no earlier than twelve (12) months and no later than twenty-four (24) months after the applicable Generation Tax Effective Date; and
  - (B) any Generator GT Notice relating thereto not given within such period shall be invalid and of no effect.
- 37.3 A Generator GT Notice shall:
- (A) be substantially in the form set out in Part Z of Annex 8 (*Pro forma notices*);
  - (B) be prepared at the cost and expense of the Generator;
  - (C) include reasonable details of the relevant Generation Tax Change in Law;
  - (D) specify the applicable Generation Tax Effective Date; and
  - (E) include an explanation in reasonable detail, together with Supporting Information, of:
    - (i) where a Generation Tax first comes into effect, the Generation Tax Liability that the Generator has incurred in, or in respect of, the twelve (12) months immediately after the applicable Generation Tax Effective Date, both in absolute terms and expressed in £/MWh;
    - (ii) in any other case, any Generation Tax Liability or change(s) in the Generation Tax Liability that the Generator has incurred or saved, or estimates in good faith that it will incur or save, for each relevant period, both in absolute terms and expressed in £/MWh; and
    - (iii) the change(s) or estimated change(s) to the Market Reference Price, expressed in £/MWh, for each relevant period by reason of electricity generators who are not party to FiT Contracts for Difference passing through all or some of the Generation Tax Liability to the wholesale price for electricity that is referable to the Market Reference Price.

- 37.4 Any Generator GT Notice shall be accompanied by a Directors' Certificate certifying that the information contained in, and enclosed with, the Generator GT Notice and the Supporting Information is true, complete and accurate in all material respects and is not misleading.
- 37.5 The CfD Counterparty shall be under no obligation to consider or take any action in response to a Generator GT Notice unless and until the Generator shall have provided the CfD Counterparty with all of the Supporting Information, and the Directors' Certificate, in respect of such Generator GT Notice.

***CfD Counterparty GT Response Notice***

- 37.6 If the Generator gives a Generator GT Notice to the CfD Counterparty then, subject as provided in Condition 37.5, the CfD Counterparty shall as soon as reasonably practicable, and in any event within **[●]** Business Days after receipt of such Generator GT Notice, give a notice in reply to the Generator (a "**CfD Counterparty GT Response Notice**"). A CfD Counterparty GT Response Notice shall:
- (A) be substantially in the form set out in Part AA of Annex 8 (*Pro forma notices*); and
  - (B) specify whether the CfD Counterparty agrees with any or all of the Generation Tax Preliminary Matters set out or referred to in the relevant Generator GT Notice, and if the CfD Counterparty does not agree with the Generator as regards any or all of such Generation Tax Preliminary Matters, include such Supporting Information, in reasonable detail, as the CfD Counterparty considers to be relevant to and supportive of its conclusions.

***CfD Counterparty GT Notice***

- 37.7 If the CfD Counterparty considers that a Generation Tax Change in Law has been implemented, occurred or become effective, it may give a notice to the Generator (a "**CfD Counterparty GT Notice**"). A CfD Counterparty GT Notice shall:
- (A) be substantially in the form set out in Part BB of Annex 8 (*Pro forma notices*);
  - (B) include reasonable details of the relevant Generation Tax Change in Law; and
  - (C) specify the applicable Generation Tax Effective Date.
- 37.8 If the CfD Counterparty gives a CfD Counterparty GT Notice to the Generator, the provisions of Condition 37.13 shall apply.

***Agreement between the Parties as to Generation Tax Preliminary Matters***

- 37.9 As soon as reasonably practicable, and in any event within **[●]** Business Days, after the CfD Counterparty has given the Generator a CfD Counterparty GT Response Notice to the effect that the CfD Counterparty does not agree with the Generator as regards any or all of the Generation Tax Preliminary Matters set out or referred to in the relevant

Generator GT Notice, the Parties shall meet to discuss and, in good faith, seek to agree such Generation Tax Preliminary Matters.

***Disputes in relation to Generation Tax Preliminary Matters***

37.10 If the Generator and the CfD Counterparty are not able to agree the Generation Tax Preliminary Matters within the period prescribed in Condition 37.9, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

37.11 Until the Dispute has been resolved by agreement between the Generator and the CfD Counterparty or determination in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no appointment of any Energy Consultant.

37.12 If:

- (A) the CfD Counterparty agrees with the Generator as regards the Generation Tax Preliminary Matters and has given the Generator a CfD Counterparty GT Response Notice to that effect; or
- (B) it is determined as provided in accordance with Condition 37.10 that the Generation Tax Preliminary Matters have occurred,

the provisions of Condition 37.13 shall apply.

***Appointment of Energy Consultant***

37.13 If:

- (A) either of the conditions in Condition 37.12 is satisfied; or
- (B) the CfD Counterparty gives a CfD Counterparty GT Notice to the Generator,

the CfD Counterparty shall, as soon as reasonably practicable and at its own cost and expense, appoint an Energy Consultant and instruct the Energy Consultant in accordance with this Condition 37.13 to prepare a Generation Tax Report, provided that the CfD Counterparty shall not be required to appoint or instruct an Energy Consultant under this Condition 37.13 if the CfD Counterparty has already appointed and instructed (or proposes shortly to, and does in fact, appoint and instruct) an Energy Consultant to prepare a report similar to a Generation Tax Report pursuant to the terms of another FiT Contract for Difference, and provided further that in relation to any particular Generation Technology the CfD Counterparty shall not be required to appoint or instruct an Energy Consultant under this Condition 37.13 or pursuant to the terms of another FiT Contract for Difference in the circumstances set out in Condition 39.3.

37.14 The Energy Consultant shall be instructed to determine:

- (A) the change(s) or estimated change(s) to the Market Reference Price, expressed in £/MWh or in or by such other manner, method or formulation as the Energy Consultant shall see fit, for each relevant period by reason and to the extent of electricity generators who are not party to FiT Contracts for Difference passing through all or some of the Generation Tax Liability to the wholesale price for electricity that is referable to the Market Reference Price;
- (B) the consequential change(s) for each such period that will need to be made to the Strike Prices used in FiT Contracts for Difference for each particular Generation Technology and/or electricity generation project, as the Energy Consultant considers appropriate, to reflect the change(s) to the Market Reference Price referred to in Condition 37.14(A); and
- (C) the date with effect from which each such consequential change is to be made, which may be on, before or after the Generation Tax Effective Date.

37.15 For the purposes of making its determination under Condition 37.14, the Energy Consultant shall:

- (A) have regard to the following:
  - (i) the Market Reference Price before and after the Generation Tax Change in Law (including such forecasts of the relevant Market Reference Price as the Energy Consultant shall consider appropriate);
  - (ii) any change in the dispatch regime of electric generating facilities before and after the Generation Tax Change in Law; and
  - (iii) such other fact based evidence as the Energy Consultant in its professional judgement, opinion and experience shall determine to be relevant;
- (B) expressly disregard the following:
  - (i) any increase or decrease in the operating costs, expenses or revenues of electricity generators selling into the markets from which the Market Reference Price is derived which has been passed into that price but which is not referable to the Generation Tax Change in Law, including:
    - (a) the cost of fuel and other consumables;
    - (b) the carbon price floor on non-oil fossil fuels introduced by amendment of Schedule 6 to the Finance Act 2000 by the Finance Act 2013 (or any successor to such carbon price floor);
    - (c) any other Tax; and

- (d) labour costs, insurance costs, business rates, transmission and balancing services charges, exchange rate changes, costs of capital and inflation;
- (ii) any price controls, revenue restrictions, constraints or other limitations imposed by Law or a Competent Authority on electricity generators intended to prevent or limit the pass through to the market price for electricity of the cost to generators of any Generation Tax Change in Law; and
- (iii) any other matters which the Energy Consultant in its professional judgement, opinion and experience shall determine not to be relevant,

and otherwise use its professional judgment, discretion and experience in making its determination under Condition 37.14.

37.16 For the purposes of making its determination under Condition 37.14, the Energy Consultant shall be entitled to take into account any financial modelling, data or other submissions provided by any interested party (including any Government Entity, UK Competent Authority, the CfD Settlement Services Provider or the Parties), and the Parties consent to copies of any Generator GT Notice, CfD Counterparty GT Response Notice or CfD Counterparty GT Notice or any Arbitral Tribunal or Expert determination referred to in Condition 37.10 being made available to the Energy Consultant.

37.17 The Energy Consultant shall be entitled to seek the views or procure the services of any third party expert or market participant it determines necessary or desirable in order to establish any inputs relevant to its determination under Condition 37.14.

37.18 The determination of the Energy Consultant as to the matters set out in Condition 37.14 shall be final and binding on the Parties in the absence of manifest error or fraud.

### ***Generation Tax Report***

37.19 The terms of appointment of the Energy Consultant shall require it to produce the Generation Tax Report as soon as reasonably practicable (and in any event within one hundred and eighty (180) days) after the date of instruction of the Energy Consultant by the CfD Counterparty.

37.20 The Generation Tax Report shall be a document comprising at least:

- (A) a summary of the report's contents;
- (B) the following statements:
  - (i) confirmation that the Energy Consultant is not an affiliate of either Party or any other CfD Generator;
  - (ii) confirmation that the Energy Consultant has acted in the capacity of an independent professional in preparing the Generation Tax Report; and

- (iii) any reasons that the Energy Consultant wishes to give for considering that it is independent of both Parties and any other CfD Generator;
- (C) the determination of the Energy Consultant as to those matters set out in Condition 37.14;
- (D) a section setting out the professional rules or standards which apply to the Energy Consultant (or to the key personnel who have prepared the Generation Tax Report);
- (E) a section setting out the curriculum vitae of the key personnel who have prepared the Generation Tax Report and/or any other details of the Energy Consultant's qualifications and experience which it wishes to provide; and
- (F) a statement of the limits of liability of the Energy Consultant with respect to the Generation Tax Report.

37.21 The Energy Consultant shall be required to deliver the Generation Tax Report to the CfD Counterparty and consent to it being disclosed to all CfD Generators. The CfD Counterparty shall send the Generator a copy of the final Generation Tax Report (redacted as necessary to protect Information which, in the opinion of the CfD Counterparty (acting reasonably), is commercially confidential to the CfD Counterparty or a CfD Generator) as soon as reasonably practicable after receipt.

## **38. GENERATION TAX: COMPENSATION**

### ***Strike Price Adjustment***

38.1 Promptly following receipt by the CfD Counterparty of the relevant Generation Tax Report (which shall include any similar report of an Energy Consultant prepared under any other FiT Contract for Difference), there shall be a consequential Strike Price Adjustment (a "**GT Strike Price Adjustment**") with effect from the date(s) and for the duration specified in such Generation Tax Report in accordance with the principles set out in Conditions 38.3 to 38.7 (inclusive) and after making allowance for any under or over-compensation already paid as a result of any delay in making such adjustment.

38.2 Any payment resulting from a GT Strike Price Adjustment may be paid by the CfD Counterparty or the Generator (as applicable) by way of a lump sum payment, on a date agreed by the Parties (or, in default of agreement, as determined by the CfD Counterparty) or a series of payments during the remaining Term, as the CfD Counterparty may in its sole and absolute discretion determine.

### ***Compensation on account of Generation Tax Liability***

38.3 The Generator's entitlement to compensation on account of Generation Tax Liability in respect of any period shall be subject to the Generator having given the CfD Counterparty a notice confirming that in respect of the relevant period it has incurred and/or paid a Generation Tax Liability as a result of the relevant Generation Tax Change in Law and stating the actual amount of such Generation Tax Liability (a "**Generator GT**

**Claim Notice**). The Generator shall give the CfD Counterparty a Generator GT Claim Notice no less frequently than once in each year.

38.4 A Generator GT Claim Notice shall:

- (A) be substantially in the form set out in Part CC of Annex 8 (*Pro forma notices*);
- (B) be prepared at the cost and expense of the Generator; and
- (C) set out:
  - (i) the Generation Tax Liability the Generator has incurred and/or paid (if any), and the computation thereof, in respect of such period;
  - (ii) the Generation Tax Liability of the Generator in respect of such period that has otherwise been made good without cost to the Generator (if any); and
  - (iii) the Metered Output in respect of each Settlement Unit in such period,

and shall be accompanied by such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the above (including any tax returns or amended tax returns submitted to, and any material correspondence in relation thereto with, HM Revenue & Customs).

38.5 Any Generator GT Claim Notice shall be accompanied by a Directors' Certificate certifying that the information contained in, and enclosed with, the Generator GT Claim Notice and the Supporting Information is true, complete and accurate in all material respects and is not misleading.

38.6 The maximum amount of compensation payable to the Generator on account of Generation Tax Liability in respect of any period shall be the lesser of:

- (A) the amount that is the product of the Metered Output in respect of each Settlement Unit in the relevant period and the amount of the GT Strike Price Adjustment for such period; and
- (B) the Generation Tax Liability of the Generator in respect of the relevant period, as reduced by an amount equal to:
  - (i) the Generation Tax Liability in respect of such period that has otherwise been made good without cost to the Generator; and
  - (ii) the Generation Tax Liability in respect of such period that would not have arisen or would have been reduced or eliminated but for a failure by the Generator to comply with any of its obligations under the Contract for Difference or any other CfD Document (including under Condition 39.1).

- 38.7 The Parties shall make adjustment payments to each other as necessary to give effect to Conditions 38.3 to 38.6. Any such adjustment payment shall be paid by the CfD Counterparty or the Generator (as applicable) by way of a lump sum payment, on a date agreed by the Parties or, in default of agreement, as determined by the CfD Counterparty or a series of payments during the remaining Term, as the CfD Counterparty may in its sole and absolute discretion determine.

## **39. GENERATION TAX: GENERAL PROVISIONS**

### ***Mitigation***

- 39.1 The Generator shall promptly take all reasonable steps to mitigate any Generation Tax Liability.
- 39.2 The Generator shall give notice promptly to the CfD Counterparty of the mitigating steps that it has taken, is taking and proposes to take and shall promptly provide such Supporting Information regarding such mitigation as the CfD Counterparty may reasonably request.

### ***Reversal of Strike Price Adjustment***

- 39.3 If the Strike Price has been adjusted in accordance with Condition 38.1 and thereafter the Generation Tax is terminated, repealed or withdrawn in its entirety in relation to some or all Generation Technologies, then the Strike Price applicable to those Generation Technologies will automatically be adjusted to the amount that it would have been but for any earlier adjustments with respect thereto in accordance with Condition 38.1.
- 39.4 The adjustment in Condition 39.3 will occur without the need for a Generator GT Notice, a CfD Counterparty GT Notice or the appointment of an Energy Consultant.

### ***Interaction with Change in Law***

- 39.5 This Part 9 (*Generation Tax*) will apply to the exclusion of the Qualifying Change in Law provisions in Part 8 (*Changes in Law*) in respect of any matter that concerns a Generation Tax Change in Law or compensation payable by or to the CfD Counterparty in respect of any such Generation Tax Change in Law.
- 39.6 If any matter would fall to be covered by this Part 9 (*Generation Tax*) but for an exclusion, threshold, cap or other limitation set out or referred to in this Part 9 (*Generation Tax*) (including in any definitions contained in Part 1 (*Introduction*) which are used in this Part 9 (*Generation Tax*)) and it is also a Qualifying Change in Law, such matter shall not fall within the Qualifying Change in Law provisions in Part 8 (*Changes in Law*) due to the application of such exclusion, threshold, cap or other limitation.

**Part 10**  
**Balancing System (BSUoS/RCRC) and TLM**

**40. BALANCING SYSTEM CHARGES**

***Initial Balancing System Charges***

40.1 The Initial Strike Price contains an assumed level of BSUoS Charges and RCRC Credits. The Initial Balancing System Charges are set out in the CfD Agreement.

***Balancing System Charges Reports***

40.2 Once each calendar year beginning with the year immediately following the year in which the Agreement Date falls (a “**Balancing System Charges Report Year**”), the CfD Counterparty shall provide the Generator with a written report (a “**Balancing System Charges Report**”). Each Balancing System Charges Report shall:

- (A) be substantially in the form set out in Part DD of Annex 8 (*Pro forma notices*);
- (B) be prepared at the cost and expense of the CfD Counterparty;
- (C) be prepared no later than one (1) calendar month prior to the Indexation Anniversary (the “**Balancing System Charges Review Date**”) in the relevant Balancing System Charges Report Year;
- (D) take no account of:
  - (i) any inaccuracy in any previous Balancing System Charges Report; or
  - (ii) any locational incentives or differences;
- (E) set out, in respect of the twelve (12) months immediately preceding the relevant Balancing System Charges Review Date, the Annual Balancing System Charges which were incurred by electricity generators in Great Britain in that year, where such charges shall be sourced from relevant data provided by the GB System Operator (in the case of BSUoS Charges) or a BSC Company (in the case of RCRC Credits) (the “**Actual Balancing System Charge**”);
- (F) set out the Initial Balancing System Charges indexed in accordance with the following formula (the “**Indexed Initial Balancing System Charge**”):

$$IBC = \Pi_t \times I$$

where:

*IBC* is the Indexed Initial Balancing System Charge;

$\Pi_t$  is the Inflation Factor applying at the Balancing System Review Date;  
and

$I$  is the Initial Balancing System Charge;

(G) set out the difference (expressed in £/MWh) between:

(i) the Actual Balancing System Charge; and

(ii) the Indexed Initial Balancing System Charge,

(the “**Balancing System Charges Difference**”), where such difference shall be calculated in accordance with the following formula:

$$BSCD = ABC - IBC$$

where:

$BSCD$  is the Balancing System Charges Difference;

$ABC$  is the Actual Balancing System Charge; and

$IBC$  is the Indexed Initial Balancing Charge;

(H) set out the revised Strike Price that will apply with effect from the relevant Indexation Anniversary to give effect to the Balancing System Charges Difference calculated as at the relevant Balancing System Charges Review Date, where such revised Strike Price shall be calculated in accordance with the following formula:

$$ADJ_i = BSCD_i - BSCD_{i-1} \text{ if } i > 1; \text{ and}$$

$$ADJ_i = BSCD_i \text{ if } i = 1,$$

where:

$ADJ_i$  is the Strike Price Adjustment to be made at the Indexation Anniversary as a result of that year’s Balancing System Charges Review;

$BSCD_i$  is the Balancing System Charges Difference amount as calculated in that year’s Balancing System Charges Report; and

$i$  is a whole number integer, which refers to the year of the Balancing System Charges Report where:

- $i = 1$  is the year immediately following the year in which the Agreement Date falls; and

- $i > 1$  is any subsequent year in which a Balancing System Charges Report is being prepared.

### ***BSUoS Strike Price Adjustment***

40.3 The revised Strike Price, as set out in the relevant Balancing System Charges Report, shall apply on and from the relevant Indexation Anniversary (the “**BSUoS Strike Price Adjustment**”).

## **41. TLM CHARGES**

### ***Initial TLM Charge***

41.1 The Initial Strike Price contains an assumed profile of TLM Charges. The Initial TLM Charge for each calendar year from (and including) the Agreement Date to the end of the Term is set out in the CfD Agreement.

### ***TLM Charges Reports***

41.2 Once each calendar year, beginning with the year immediately following the year in which the Agreement Date falls, (a “**TLM Charges Report Year**”), the CfD Counterparty shall provide the Generator with a written report (a “**TLM Charges Report**”). Each TLM Charges Report shall:

- (A) be substantially in the form set out in Part EE of Annex 8 (*Pro forma notices*);
- (B) be prepared at the cost and expense of the CfD Counterparty;
- (C) be prepared no later than one (1) calendar month prior to the Indexation Anniversary (the “**TLM Charges Review Date**”) in the relevant TLM Charges Report Year;
- (D) take no account of:
  - (i) any inaccuracy in any previous TLM Charges Report; or
  - (ii) any locational incentives or differences;
- (E) set out, in respect of the twelve (12) months immediately preceding the relevant TLM Charges Review Date, the Annual TLM Charges which were incurred by electricity generators in Great Britain in that year, where such charges shall be sourced from publicly available data published by a BSC Company (the “**Actual TLM Charge**”);
- (F) set out the Initial TLM Charge;
- (G) set out the difference (expressed in percentage points) between:
  - (i) the Actual TLM Charge; and

(ii) the Initial TLM Charge,

(the “**TLM Charges Percentage Difference**”), such difference being converted into an amount (expressed in £/MWh) by multiplying the TLM Charges Percentage Difference by the Indexed Base Year Strike Price (the “**TLM Charges Difference**”) and calculated in accordance with the following formula:

$$TCD = SP_{IB} \times (TLM_A - TLM_I)$$

where:

$TCD$  is the TLM Charges Difference;

$SP_{IB}$  is the Initial Strike Price indexed to the TLM Charges Review Date;

$TLM_A$  is the Actual TLM Charge (expressed as a percentage) for the preceding twelve (12) month period; and

$TLM_I$  is the Initial TLM Charge (expressed as a percentage) for the preceding twelve (12) month period; and

(H) set out the revised Strike Price that will apply with effect from the relevant Indexation Anniversary to give effect to the TLM Charges Difference calculated as at the relevant TLM Charges Review Date, where such revised Strike Price shall be an amount equal to the aggregate of:

(i) the absolute value of the TLM Charges Difference calculated in respect of that Indexation Anniversary; less

(ii) any TLM Charges Difference added to the then prevailing Strike Price in respect of any previous Indexation Anniversary; plus

(iii) any TLM Charges Difference deducted from the then prevailing Strike Price in respect of any previous Indexation Anniversary.

### ***TLM Strike Price Adjustment***

41.3 The revised Strike Price, as set out in the relevant TLM Charges Report, shall apply on and from the relevant Indexation Anniversary (the “**TLM Strike Price Adjustment**”).

**Part 11**  
**Curtailment**

**42. QUALIFYING CPC EVENT: PROCEDURE**

***Preliminary Annual QCPC Report***

42.1 If:

- (A) in respect of any Contract Year (other than the final Contract Year), the Generator reasonably considers that a Qualifying CPC Event has occurred, it may (and shall, if so requested in writing by the CfD Counterparty) provide the CfD Counterparty with a written report in respect of such Contract Year no later than [●] in the immediately succeeding Contract Year; and
- (B) in respect of the final Contract Year, the Generator reasonably considers that a Qualifying CPC Event has occurred, it may (and shall, if so requested in writing by the CfD Counterparty) provide the CfD Counterparty with a written report in respect of such Contract Year no later than [●],

(each, a “**Preliminary Annual QCPC Report**”).

42.2 A Preliminary Annual QCPC Report shall:

- (A) be substantially in the form set out in Part FF of Annex 8 (*Pro forma notices*);
- (B) be prepared at the cost and expense of the Generator;
- (C) be prepared using the most up-to-date data available to the Generator at the time of its preparation;
- (D) set out in respect of the relevant Contract Year, and each and every Qualifying CPC Event in such Contract Year, in reasonable detail:
  - (i) the circumstances which have given rise to the relevant Qualifying CPC Event and which limbs of the definition of Qualifying Curtailment or Qualifying Partial Curtailment (as relevant) have been satisfied, when and why; and
  - (ii) the MWh output from the Facility which has been foregone by reason of such Qualifying CPC Event;
- (E) set out in respect of the relevant Contract Year in reasonable detail:
  - (i) each and every CPC Event (not being a Qualifying CPC Event) in such Contract Year; and

- (ii) the MWh output from the Facility which has been foregone by reason of the relevant CPC Event;
- (F) set out in respect of the relevant Contract Year, and each and every Curtailment in such Contract Year, a detailed cost analysis in respect of the relevant Curtailment including:
- (i) the amount of the Defined Curtailment Compensation;
  - (ii) the amount of Curtailment Compensation;
  - (iii) the amount of the Curtailment Compensation Shortfall or the Curtailment Compensation Excess, as the case may be; and
  - (iv) if in respect of such Contract Year:
    - (a) there is an aggregate Curtailment Compensation Shortfall (net of the aggregate Curtailment Compensation Excess and any compensation received or receivable by the Generator or its nominee as referred to in paragraph (H)), in reasonable detail the lump sum compensation that the Generator proposes should be paid by the CfD Counterparty to the Generator to compensate the Generator for the full amount of the shortfall; or
    - (b) there is an aggregate Curtailment Compensation Excess (net of the aggregate Curtailment Compensation Shortfall), in reasonable detail the lump sum compensation that the Generator proposes should be paid by the Generator to the CfD Counterparty to compensate the CfD Counterparty for the full amount of the excess,

but in each case without prejudice to the manner in which the payment is to be made as determined in accordance with Conditions 43.1 to 43.5;
- (G) set out in respect of the relevant Contract Year, and each and every Partial Curtailment in such Contract Year, a detailed cost analysis in respect of the relevant Partial Curtailment including:
- (i) the amount of the Defined Partial Curtailment Compensation;
  - (ii) the amount of Partial Curtailment Compensation;
  - (iii) the amount of the Partial Curtailment Compensation Shortfall or the Partial Curtailment Compensation Excess, as the case may be; and
  - (iv) if in respect of such Contract Year:
    - (a) there is an aggregate Partial Curtailment Compensation Shortfall (net of the aggregate Partial Curtailment

Compensation Excess and any compensation received or receivable by the Generator or its nominee as referred to in paragraph (H)), in reasonable detail the lump sum compensation that the Generator proposes should be paid by the CfD Counterparty to the Generator to compensate the Generator for the full amount of the shortfall; or

- (b) there is an aggregate Partial Curtailment Compensation Excess (net of the aggregate Partial Curtailment Compensation Shortfall), in reasonable detail the lump sum compensation that the Generator proposes should be paid by the Generator to the CfD Counterparty to compensate the CfD Counterparty for the full amount of the excess,

but in each case without prejudice to the manner in which the payment is to be made as determined in accordance with Conditions 43.1 to 43.5;

- (H) set out in reasonable detail any other compensation which the Generator (or its nominee) has received or to which it is entitled pursuant to the Contract for Difference or otherwise in respect of the same events or circumstances so that any risk of double compensation is removed when determining the amount payable by the CfD Counterparty under this Part 11 (*Curtailment*);
- (I) be accompanied by such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and
- (J) be signed by a director of the Generator certifying to the best of his knowledge and belief (but without personal liability) that the Preliminary Annual QCPC Report is true, complete and accurate in all material respects and is not misleading.

42.3 The CfD Counterparty shall be under no obligation to consider or take any action in response to a Preliminary Annual QCPC Report unless and until the Generator shall have provided the CfD Counterparty with all of the Information referred to in Condition 42.2.

42.4 The CfD Counterparty may by notice to the Generator no later than twenty (20) Business Days after receipt of a Preliminary Annual QCPC Report request the Generator to provide such Supporting Information in relation to the Preliminary Annual QCPC Report (a "**CPC Event Information Request**") as the CfD Counterparty reasonably requires.

42.5 If the CfD Counterparty delivers a CPC Event Information Request to the Generator, the Generator shall, within ten (10) Business Days, or such longer period as is specified by the CfD Counterparty, after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty.

42.6 The CfD Counterparty shall, within twenty (20) Business Days after receipt of a Preliminary Annual QCPC Report or, if it has delivered a CPC Event Information

Request to the Generator, within twenty (20) Business Days after receipt of the further Supporting Information requested in the relevant CPC Event Information Request, notify the Generator whether or not it approves that Preliminary Annual QCPC Report.

***Agreement between the Parties as to Preliminary Annual QCPC Report***

- 42.7 As soon as reasonably practicable, and in any event within [●] Business Days, after the CfD Counterparty has notified the Generator to the effect that the CfD Counterparty does not agree with the Generator as regards any or all of the Information set out or referred to in the relevant Preliminary Annual QCPC Report, the Parties shall meet to discuss and, in good faith, seek to agree the Preliminary Annual QCPC Report.
- 42.8 If for whatever reason the Generator does not provide the CfD Counterparty with a Preliminary Annual QCPC Report in respect of any Contract Year in accordance with Conditions 42.1 and 42.2, the Generator shall not be entitled to any compensation under this Part 11 (*Curtailment*) in respect of a CPC Compensation Shortfall (if any) as it relates to that Contract Year.

***Disputes in relation to a Preliminary Annual QCPC Report***

- 42.9 If the Generator is obliged to (but does not) provide a Preliminary Annual QCPC Report or the Generator and the CfD Counterparty are not able to agree the Preliminary Annual QCPC Report within the period prescribed in Condition 42.7, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.
- 42.10 Until the Dispute has been resolved by agreement between the Generator and the CfD Counterparty or determination in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no Annual QCPC Report in respect of the relevant Contract Year.

***CPC Events generally***

- 42.11 If a Preliminary Annual QCPC Report is submitted in relation to a Qualifying CPC Event in respect of a Contract Year, the submission of a subsequent report for a subsequent Contract Year in relation to the same Change in Law is not precluded, provided that the other conditions which are necessary for the event or circumstance to constitute a Qualifying CPC Event are met for that subsequent Contract Year.

***Annual QCPC Report***

- 42.12 Upon:
- (A) the CfD Counterparty notifying the Generator that it approves a Preliminary Annual QCPC Report; or

- (B) any Dispute with respect to the Preliminary Annual QCPC Report (including its non-delivery) being resolved or determined in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, (and any amendments to the Preliminary Annual QCPC Report being made in accordance with that resolution or determination),

the Preliminary Annual QCPC Report (once delivered and as amended, if applicable) shall become the “**Annual QCPC Report**” in respect of the relevant Contract Year.

#### **43. QUALIFYING CPC EVENT: COMPENSATION**

##### ***CPC Event adjustment***

- 43.1 If, in respect of any Contract Year, there is an aggregate Curtailment Compensation Shortfall (net of the aggregate Curtailment Compensation Excess), the CfD Counterparty shall make payment(s) to the Generator in an aggregate amount equal to the amount of the lump sum compensation set out in the Annual QCPC Report for such Contract Year.
- 43.2 If, in respect of any Contract Year, there is an aggregate Curtailment Compensation Excess (net of the aggregate Curtailment Compensation Shortfall), the Generator shall make payment(s) to the CfD Counterparty in an aggregate amount equal to the amount of the lump sum compensation set out in the Annual QCPC Report for such Contract Year.
- 43.3 If, in respect of any Contract Year, there is an aggregate Partial Curtailment Compensation Shortfall (net of the aggregate Partial Curtailment Compensation Excess), the CfD Counterparty shall make payment(s) to the Generator in an aggregate amount equal to the amount of the lump sum compensation set out in the Annual QCPC Report for such Contract Year.
- 43.4 If, in respect of any Contract Year, there is an aggregate Partial Curtailment Compensation Excess (net of the aggregate Partial Curtailment Compensation Shortfall) the Generator shall make payment(s) to the CfD Counterparty in an aggregate amount equal to the amount of the lump sum compensation set out in the Annual QCPC Report for such Contract Year.
- 43.5 Payments under Conditions 43.1 to 43.4 may be aggregated or netted and shall be made, at the election of the CfD Counterparty, by way of a single lump sum or a series of payments.

#### **44. CURTAILMENT: GENERAL PROVISIONS**

##### ***Interaction with Change in Law***

- 44.1 This Part 11 (*Curtailment*) shall apply to the exclusion of the Qualifying Change in Law provisions in Part 8 (*Changes in Law*) in respect of any matter that concerns Curtailment or Partial Curtailment of the Facility or compensation payable by or to the CfD Counterparty in respect of any such event or circumstance.

- 44.2 If any matter would fall to be covered by this Part 11 (*Curtailment*) but for an exclusion, threshold, cap or other limitation set out or referred to in this Part 11 (*Curtailment*) (including in any definitions contained in Part 1 (*Introduction*) which are used in this Part 11 (*Curtailment*)) and it is also a Qualifying Change in Law, such matter shall not fall within the Qualifying Change in Law provisions in Part 8 (*Changes in Law*) due to the application of such exclusion, threshold, cap or other limitation.

**Part 12**  
**Termination**

**45. TERMINATION**

***Pre-Start Date termination***

45.1 If:

- (A) (i) the Generator fails to deliver the Milestone Requirements Notice by the Milestone Delivery Date; or
- (ii) (subject to Condition 45.3) the Milestone Requirements have not been complied with and fulfilled by the Milestone Delivery Date;
- (B) at any time prior to the Start Date, a Termination Event occurs and is continuing;
- (C) any of the Initial Conditions Precedent are not fulfilled by the Generator or waived by the CfD Counterparty within ten (10) Business Days of the Agreement Date; or
- (D) any of the Further Conditions Precedent are not fulfilled by the Generator or waived by the CfD Counterparty by the Longstop Date,

then the CfD Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating the Contract for Difference (a “**Pre-Start Date Termination Notice**”). A Pre-Start Date Termination Notice shall:

- (i) be substantially in the form set out in Part GG of Annex 8 (*Pro forma notices*); and
- (ii) specify:
  - (a) the date (on or following the date of the Pre-Start Date Termination Notice) on which termination of the Contract for Difference is designated by the CfD Counterparty to take effect (the date so designated being a “**Pre-Start Date Termination Date**”); and
  - (b) in the case of termination pursuant to Condition 45.1(B), the Termination Event which has occurred.

45.2 If the CfD Counterparty gives a Pre-Start Date Termination Notice, the Contract for Difference shall terminate on the Pre-Start Date Termination Date even if (as the context requires):

- (A) the Milestone Requirements have been complied with and fulfilled prior to such date;

- (B) the Termination Event is no longer continuing as at such date; or
- (C) the Conditions Precedent remaining to be fulfilled when the Pre-Start Date Termination Notice was given have been fulfilled.

45.3 The CfD Counterparty shall not exercise its right to terminate the Contract for Difference pursuant to Condition 45.1(A)(ii) in circumstances in which the Generator has provided a Milestone Requirements Notice no later than the Milestone Delivery Date unless and until:

- (A) the CfD Counterparty has given the Generator a Milestone Assessment Response Notice specifying that it requires Requested Milestone Supporting Information to be provided to it by the Generator; and
- (B) either:
  - (i) the Generator fails to provide to the CfD Counterparty the Requested Milestone Supporting Information within the period specified in Condition 4.4(B)(i); or
  - (ii) (a) the Requested Milestone Supporting Information is provided to the CfD Counterparty within the period specified in Condition 4.4(B)(i); and (b) the CfD Counterparty has given the Generator a Further Milestone Assessment Response Notice specifying that the CfD Counterparty does not consider the Milestone Requirements to have been complied with and fulfilled.

***Default termination***

45.4 If, at any time on or after the Start Date, a Termination Event has occurred and is continuing, the CfD Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating the Contract for Difference (a “**Default Termination Notice**”). A Default Termination Notice shall:

- (A) be substantially in the form set out in Part HH of Annex 8 (*Pro forma notices*); and
- (B) specify:
  - (i) the date (on or following the date of the Default Termination Notice) on which termination of the Contract for Difference is designated by the CfD Counterparty to take effect (the date so designated being a “**Designated Termination Date**”); and
  - (ii) the Termination Event which has occurred.

45.5 If the CfD Counterparty gives a Default Termination Notice to the Generator, the Contract for Difference shall terminate on the Designated Termination Date even if the Termination Event is no longer continuing on the Designated Termination Date.

**Qualifying Change in Law termination**

45.6 If a Qualifying Change in Law is implemented, occurs or becomes effective and gives rise to or results in a QCiL Construction Event or a QCiL Operations Cessation Event, the CfD Counterparty shall give notice to the Generator terminating the Contract for Difference (a “**QCiL Termination Notice**”). A QCiL Termination Notice shall:

- (A) be substantially in the form set out in Part II of Annex 8 (*Pro forma notices*); and
- (B) specify the date (on or following the date of the QCiL Termination Notice) on which termination of the Contract for Difference is designated by the CfD Counterparty to take effect (the date so designated being a “**QCiL Termination Date**”).

**No other termination rights**

45.7 The termination rights in this Condition 45 (*Termination*) are the only rights that either Party has to terminate the Contract for Difference.

**Notice provisions**

45.8 Any Pre-Start Date Termination Notice or Default Termination Notice issued by the CfD Counterparty pursuant to this Condition 45 (*Termination*) may be revoked by the CfD Counterparty giving written notice of the same to the Generator at any time prior to the Pre-Start Date Termination Date or Designated Termination Date (as applicable) and upon such revocation the Pre-Start Date Termination Notice or Default Termination Notice (as applicable) shall cease to have any effect.

**46. CONSEQUENCES OF TERMINATION****Consequences of termination: General**

46.1 Termination of the Contract for Difference pursuant to Condition 45.1, 45.4 or 45.6:

- (A) shall not affect, and shall be without prejudice to, the accrued rights and liabilities of each Party and the rights and liabilities of each Party arising as a result of:
  - (i) any antecedent breach of any provision of the Contract for Difference; and
  - (ii) any breach of any provisions of the Contract for Difference which are expressed to survive expiry pursuant to Condition 48 (*Survival*); and
- (B) shall be subject to Condition 48 (*Survival*).

**Consequences of Pre-Start Date termination**

46.2 Subject to Condition 46.1, if the CfD Counterparty terminates the Contract for Difference pursuant to Condition 45.1:

- (A) no payment shall be payable by either Party to the other Party as a consequence of such termination;
- (B) all rights and obligations of the Parties under the Contract for Difference shall end; and
- (C) neither Party shall be entitled to make any claim against the other Party under or in respect of the Contract for Difference.

***Consequences of Default termination***

46.3 If the CfD Counterparty terminates the Contract for Difference pursuant to Condition 45.4, the CfD Counterparty shall:

- (A) calculate the Termination Amount; and
- (B) give a notice to the Generator (a "**Termination Amount Notice**"). A Termination Amount Notice shall:
  - (i) be substantially in the form set out in Part JJ of Annex 8 (*Pro forma notices*); and
  - (ii) specify the amount of the Termination Amount along with the principal inputs used by the CfD Counterparty to calculate such Termination Amount.

46.4 The Generator shall within thirty (30) Business Days of notification of the amount of the Termination Amount, pay to the CfD Counterparty (or such person as the CfD Counterparty may direct) the Termination Amount and no dispute by the Generator as to the amount of the Termination Amount shall relieve it of its obligation pursuant to this Condition 46.4.

46.5 Subject to Conditions 46.1, 46.3 and 46.4, if the CfD Counterparty terminates the Contract for Difference pursuant to Condition 45.4:

- (A) no payment shall be payable by either Party to the other Party as a consequence of such termination;
- (B) all rights and obligations of the Parties under the Contract for Difference shall end; and
- (C) neither Party shall be entitled to make any claim against the other Party under or in respect of the Contract for Difference.

***Consequences of Qualifying Change in Law termination***

46.6 Subject to Condition 46.1, if the CfD Counterparty terminates the Contract for Difference pursuant to Condition 45.6:

- (A) no payment shall be payable by either Party to the other Party as a consequence of such termination (except that such termination shall be without prejudice to: (i) the CfD Counterparty's obligations to pay any QCiL Compensation; and (ii) the Generator's or the CfD Counterparty's (as relevant) obligations to pay any QCiL True-Up Compensation);
- (B) all rights and obligations of the Parties under the Contract for Difference shall end; and
- (C) neither Party shall be entitled to make any claim against the other Party pursuant to the Contract for Difference.

## 47. TERMINATION EVENTS

### *Termination Events*

47.1 A "**Termination Event**" means the occurrence at any time with respect to the Generator of any of the following events.

- (A) *Insolvency*: The Generator:
  - (i) 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;
  - (ii) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a solvent consolidation, amalgamation or merger); or
  - (iii) 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 Conditions 47.1(A)(i) or 47.1(A)(ii),

except where any of the events set out in this Condition 47.1(A) is attributable to the CfD Counterparty not paying when due any amount which, but for the operation of Condition 65 (*Limited recourse arrangements, undertakings and acknowledgements*), would have been due pursuant to the Contract for Difference.

- (B) *Non-payment*: The Generator fails to pay:
  - (i) any Net Payable Amount on the due date pursuant to the Contract for Difference at the place at and in the currency in which it is expressed to be payable and that failure is not remedied on or before the tenth (10<sup>th</sup>) Business Day after the CfD Counterparty gives the Generator notice of that failure (the "**NPA Payment Cure Period**") unless the failure is caused by a Payment Disruption Event in which case the NPA Payment Cure Period shall be extended day for day for each day on which the Payment Disruption Event continues; or

- (ii) any amount other than a Net Payable Amount on the due date pursuant to the Contract for Difference at the place at and in the currency in which it is expressed to be payable and that failure is not remedied on or before the twentieth (20<sup>th</sup>) Business Day after the CfD Counterparty gives the Generator notice of that failure (the “**Non-NPA Payment Cure Period**”) unless the failure is caused by a Payment Disruption Event in which case the Non-NPA Payment Cure Period shall be extended day for day for each day on which the Payment Disruption Event continues.

(C) *Breach of key obligations:* The Generator:

- (i) is in breach of any of Conditions 28.1(E) or 73 (*Transfers*); or
- (ii) any director, officer or other senior manager of the Generator commits or procures fraud, or aids, abets or counsels fraud (and fraud is in fact committed) in relation to the Contract for Difference or any other CfD Document.

(D) *Credit support default:*

- (i) The Generator fails to transfer, deliver, extend, renew and replace Acceptable Collateral in accordance with Part 13 (*Credit Support*).
- (ii) Any Letter of Credit provided pursuant to Part 13 (*Credit Support*) expires or terminates or fails or ceases to be in full force and effect in breach of, and is not extended, renewed or replaced in accordance with, Part 13 (*Credit Support*).
- (iii) The Generator, or the issuer of any Letter of Credit, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of a Letter of Credit provided to the CfD Counterparty pursuant to Part 13 (*Credit Support*).

(E) *Metering:* A Technical Compliance Termination Event or a Metering Access Termination Event.

## 48. SURVIVAL

48.1 Upon termination or expiry of the Contract for Difference, the Parties shall have no further obligations under the Contract for Difference but termination or expiry shall not affect:

- (A) (save to the extent taken into account in the calculation of the Termination Amount (if any)) the provisions of the Contract for Difference as they relate to the payment of any sum due by one Party to the other pursuant to the Contract for Difference (including any QCiL Compensation or QCiL True-Up Compensation); and
- (B) the continued existence and validity of, and the rights and obligations of the Parties pursuant to Part 1 (*Introduction*), Part 6 (*Billing and payment*), this Part

12 (*Termination*), Conditions 50.14 and 50.15 and Part 14 (*Dispute Resolution*) to Part 17 (*Miscellaneous*) (inclusive).

**Part 13**  
**Credit Support**

**49. COLLATERAL REQUIREMENT**

***Notification of collateral requirement***

49.1 If the Generator fails to comply with Condition 21.1 and makes a payment owing pursuant to Condition 21.1 during the NPA Payment Cure Period (a “**Cure Period Payment**”) on more than one occasion within any 12-month period, the CfD Counterparty may give the Generator a notice on the second such occurrence (a “**Second CPP Notice**”). A Second CPP Notice shall:

- (A) be substantially in the form set out in Part KK of Annex 8 (*Pro forma notices*); and
- (B) contain the dates of occurrence of the previous Cure Period Payment.

49.2 If there is a Payment Failure on three or more occasions in any 12-month period, the CfD Counterparty may give a notice to the Generator (a “**Collateral Posting Notice**”). A Collateral Posting Notice shall:

- (A) be substantially in the form set out in Part LL of Annex 8 (*Pro forma notices*);
- (B) specify the Billing Periods to which the Cure Period Payments relate;
- (C) specify:
  - (i) the Collateral Amount;
  - (ii) the Collateral Posting Date; and
  - (iii) the Initial Collateral Repayment Date; and
- (D) provide details of the Reserve Account.

49.3 If any Payment Failure occurs after the date of a Collateral Posting Notice and before the applicable Initial Collateral Repayment Date, the CfD Counterparty may give the Generator a notice (a “**Replacement Collateral Notice**”). A Replacement Collateral Notice shall:

- (A) be substantially in the form set out in Part MM of Annex 8 (*Pro forma notices*); and
- (B) specify:
  - (i) the Billing Periods to which the Cure Period Payments relate; and

- (ii) the Replacement Collateral Repayment Date.

***Collateral Amount***

- 49.4 The Collateral Amount shall be calculated by the CfD Counterparty in accordance with the formula below:

$$\text{Collateral Amount} = 10 \times IC \times ALF \times N \times HID$$

where:

*IC* is the Maximum Contract Capacity;

*ALF* is the Assumed Load Factor;

*N* is 33 days, representing the number of days for which Collateral is required; and

*HID* is the number of hours in a day, being 24 hours.

**50. ACCEPTABLE COLLATERAL**

***Provision of collateral***

- 50.1 If a Collateral Posting Notice is given to the Generator, the Generator shall, no later than the Collateral Posting Date, transfer or deliver, or procure the transfer or delivery of, Acceptable Collateral to the CfD Counterparty in an aggregate amount equal to the Collateral Amount.

***Transfers and custody of collateral***

- 50.2 All transfers or deliveries pursuant to the Contract for Difference of any Acceptable Collateral shall be made by or on behalf of the Generator and shall be given:
- (A) in the case of cash, by transfer in accordance with the instructions made by and on behalf of the CfD Counterparty, to the credit of the Reserve Account; and
  - (B) in the case of a Letter of Credit, by a Qualifying Issuer issuing a Letter of Credit to the CfD Counterparty or its designee. Such transfer shall be deemed effective upon receipt by the CfD Counterparty or its designee from the Qualifying Issuer of the duly executed and issued Letter of Credit.

***Letters of Credit***

- 50.3 The Generator shall:
- (A) procure that:
    - (i) any Letter of Credit provided pursuant to a Collateral Posting Notice shall be valid at least until the Initial Collateral Repayment Date as set out in that notice; and

(ii) (if a Replacement Collateral Notice is given) any Letter of Credit provided pursuant to a Replacement Collateral Notice shall be valid at least until the Replacement Collateral Repayment Date as set out in that notice; and

(B) ensure that any Letter of Credit provided by the Generator as Acceptable Collateral, including any renewal or replacement of a Letter of Credit, shall be accompanied by a notice from the Generator (a “**Letter of Credit Details Notice**”). The Letter of Credit Details Notice shall be substantially in the form set out in Part NN of Annex 8 (*Pro forma notices*).

50.4 At least ten (10) Business Days prior to the date of expiry or cancellation of a Letter of Credit, the Generator shall renew or procure the renewal of such Letter of Credit by transferring or delivering, or by procuring the transfer or delivery of, Acceptable Collateral in substitution and to be effective no later than the date of expiry or cancellation of the current Letter of Credit, provided that Acceptable Collateral is still required, pursuant to the provisions of this Part 13 (*Credit Support*), after the date of expiry or cancellation of the current Letter of Credit.

#### ***Altering collateral***

50.5 If, at any time, the Posted Collateral is not Acceptable Collateral and/or the Posted Collateral is less than the Collateral Amount, the CfD Counterparty may give a notice to the Generator (a “**Collateral Correction Notice**”). A Collateral Correction Notice shall:

(A) be substantially in the form set out in Part OO of Annex 8 (*Pro forma notices*); and

(B) specify:

(i) the Posted Collateral which is not Acceptable Collateral and the reason that prevents such collateral from constituting Acceptable Collateral; and/or

(ii) the amount by which the Posted Collateral is less than the Collateral Amount (a “**Deficient Collateral Amount**”).

50.6 No later than five (5) Business Days after receipt of a Collateral Correction Notice, the Generator shall transfer or deliver, or procure the transfer or delivery of, Acceptable Collateral in an amount more than or equal to the Deficient Collateral Amount.

50.7 The Generator may, from time to time, and on giving the CfD Counterparty not less than ten (10) Business Days’ notice, substitute some or all of the Posted Collateral with other Acceptable Collateral which shall not in any event be less than the Collateral Amount.

#### ***Credit event by a Qualifying Issuer***

50.8 If, at any time, the Qualifying Issuer of a Letter of Credit ceases to be a Qualifying Issuer, the Generator shall give notice to the CfD Counterparty and procure the

replacement of such Letter of Credit with Acceptable Collateral within ten (10) Business Days of the date on which the Qualifying Issuer ceases to be a Qualifying Issuer.

- 50.9 If the Generator fails to procure replacement collateral within ten (10) Business Days in accordance with Condition 50.8, the CfD Counterparty may demand payment pursuant to the Letter of Credit and shall hold any cash paid pursuant to the Letter of Credit in a Reserve Account until such time as the Posted Collateral is substituted in accordance with Condition 50.7.

***Making a Posted Collateral Demand***

- 50.10 The CfD Counterparty may make a demand under a Letter of Credit procured by the Generator or draw down on any cash amount in a Reserve Account (a “**Posted Collateral Demand**”) in the following circumstances:

- (A) the Generator fails to pay any amount when due pursuant to the Contract for Difference and that failure is not remedied by the last day of the NPA Payment Cure Period; or
- (B) the Generator fails to procure the extension or replacement of a Letter of Credit in accordance with Condition 50.4, in an amount of the Letter of Credit.

- 50.11 If a Posted Collateral Demand has been made, the Generator shall transfer or deliver, or procure the transfer or delivery of, further Acceptable Collateral in an amount no less than the Collateral Amount no later than two (2) Business Days after such demand.

***Return of collateral***

- 50.12 If the Generator has transferred or delivered, or procured the transfer or delivery of, Acceptable Collateral to the CfD Counterparty pursuant to Condition 50.1, and:

- (A) the Collateral Repayment Date has passed; or
- (B) the Collateral Amount has been replaced or substituted with Acceptable Collateral in accordance with this Part 13 (*Credit Support*),

the CfD Counterparty shall transfer the Posted Collateral back to the Generator.

- 50.13 The CfD Counterparty shall transfer back the Posted Collateral:

- (A) in the case of cash, by transfer in accordance with the instructions made by and on behalf of the Generator, to the credit of one or more bank accounts in the United Kingdom specified by the Generator; and
- (B) in the case of a Letter of Credit, by surrendering, or procuring the surrender of, the relevant Letter of Credit.

**Termination**

- 50.14 If the Contract for Difference expires in circumstances where no Termination Amount, QCiL Compensation or QCiL True-Up Compensation is due to the CfD Counterparty, the CfD Counterparty shall return any Posted Collateral transferred or delivered by or on behalf of the Generator no later than five (5) Business Days after the expiry, provided that the CfD Counterparty shall be entitled to set off against the cash collateral in accordance with Condition 23 (*Set-off*).
- 50.15 If the Contract for Difference is terminated in circumstances where a Termination Amount, QCiL Compensation and/or QCiL True-Up Compensation is due to the CfD Counterparty, the CfD Counterparty shall return any Posted Collateral transferred or delivered by or on behalf of the Generator after all Generator payment obligations pursuant to the Contract for Difference have been fulfilled, provided that the CfD Counterparty shall be entitled to a set off against the cash collateral in accordance with Condition 23 (*Set-off*).

**Part 14**  
**Dispute Resolution**

**51. DISPUTE RESOLUTION PROCEDURE: GENERAL PROVISIONS**

***Objective for resolution of Disputes***

51.1 Each Party shall, at each stage of the Dispute Resolution Procedure, endeavour in good faith to resolve all Disputes through negotiation.

***Compliance with obligations during a Dispute***

51.2 The Generator and the CfD Counterparty shall continue to comply with all of their respective obligations under the Contract for Difference notwithstanding any Dispute which falls to be resolved in accordance with this Condition 51 (*Dispute Resolution Procedure: General provisions*).

***Outline of Dispute Resolution Procedure***

51.3 Except as otherwise expressly provided in these Conditions, if a Dispute arises either Party may give a notice to the other Party to initiate the Dispute Resolution Procedure (a “**Dispute Notice**”). A Dispute Notice shall:

- (A) be substantially in the form set out in Part PP of Annex 8 (*Pro forma notices*);
- (B) include a description of the subject matter of the Dispute and the issues to be resolved;
- (C) include a statement identifying the Condition to which the Dispute relates or pursuant to which the Dispute arises;
- (D) include a description of the position the referring Party considers is correct and the referring Party’s reasons for that position;
- (E) include details of any other dispute or claim relating to or arising out of another FIT Contract for Difference which the referring Party considers should be consolidated with or joined to the Dispute;
- (F) include copies of any Supporting Information on which the referring Party intends to rely;
- (G) include a statement outlining the relief, determination, remedy or recourse which the referring Party seeks in relation to the Dispute;
- (H) (except where the Contract for Difference expressly provides for the Dispute to be subject to determination in accordance with the Expert Determination Procedure) include a statement as to whether the referring Party considers that the Dispute should (without a Senior Representatives Settlement being

reached) be referred for determination in accordance with the Expert Determination Procedure or resolution in accordance with the Arbitration Procedure; and

- (l) include the identity of the referring Party's Senior Representative.

51.4 Following the service by either Party of a Dispute Notice:

- (A) (subject to Condition 51.5) the Parties shall seek to resolve the Dispute by convening a meeting of the Senior Representatives of the Parties in accordance with Condition 52 (*Resolution by Senior Representatives*) but, if the Senior Representatives are unable to agree, settle, compromise or resolve the Dispute in accordance with Condition 52 (*Resolution by Senior Representatives*), Condition 51.4(B) shall apply; and
- (B) (subject to Condition 51.6) either Party may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree in writing within the Resolution Period (or such longer period as they may agree in writing) that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

51.5 Condition 51.4(A) shall not apply where the Contract for Difference expressly provides that Condition 52 (*Resolution by Senior Representatives*) shall not apply to the relevant Dispute.

51.6 If the Contract for Difference expressly provides for the relevant Dispute to be subject to determination in accordance with the Expert Determination Procedure:

- (A) Condition 51.4(B) shall not apply to such Dispute; and
- (B) following service of a Dispute Notice, such Dispute shall be referred to an Expert for determination in accordance with the Expert Determination Procedure (but subject to such amendments to the Expert Determination Procedure as are expressly provided for in the relevant provisions of the Contract for Difference).

51.7 Subject to Condition 51.8, all communications between the Parties with respect to a Dispute (including any statement, concession, waiver or agreement made by a Party during discussions and meetings pursuant to Condition 52 (*Resolution by Senior Representatives*) (and any minutes or statements relating to such discussions or meetings) shall be "without prejudice" to the Dispute (or "without prejudice save as to costs" if expressly communicated or stated to be as such) (together, "**Dispute Information**"). Dispute Information shall be inadmissible in any Proceedings that may follow (including pursuant to the Expert Determination Procedure or the Arbitration Procedure), except that those expressly stated to be "without prejudice save as to costs" shall be admissible for the purposes of Conditions 53.13 and 54.2.

51.8 Condition 51.7 shall not apply to:

- (A) any Dispute Notice;
- (B) any Senior Representatives Settlement; or
- (C) any communications between the Parties once an Expert Determination Procedure or an Arbitration Procedure has commenced, save for such communications expressly communicated or stated to be “without prejudice” or “without prejudice save as to costs”.

## 52. RESOLUTION BY SENIOR REPRESENTATIVES

52.1 The Parties shall procure that their respective Senior Representatives shall meet within ten (10) Business Days of the date of service of a Dispute Notice. If the Senior Representatives of the Parties:

- (A) are able to resolve the Dispute within thirty (30) Business Days of the date of service of the Dispute Notice (or within such longer period as the Senior Representatives of the Parties may agree) (the “**Resolution Period**”), the terms of the agreement, settlement, compromise or resolution reached between the Senior Representatives in respect of the Dispute (a “**Senior Representatives Settlement**”) shall be documented in writing and shall be signed by the Senior Representative of, and with effect from such signature shall become binding upon, each Party; or
- (B) are unable to resolve the Dispute within the Resolution Period, either Party may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree in writing within the Resolution Period (or such longer period as they may agree in writing) that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

52.2 If, at any time during the Resolution Period, both Parties agree that the Senior Representatives of the Parties will not be able to agree, settle, compromise or resolve the Dispute, then:

- (A) either Party may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure; and
- (B) there shall be no requirement for the Parties to wait until the expiry of the Resolution Period before making any such reference.

52.3 Neither Party may commence the Expert Determination Procedure nor the Arbitration Procedure prior to the expiry of the Resolution Period except in the circumstances specified in Condition 52.2.

52.4 The rules, obligations and procedures set out in this Condition 52 (*Resolution by Senior Representatives*) shall apply to all Disputes unless expressly stated to the contrary in the Contract for Difference.

### 53. EXPERT DETERMINATION PROCEDURE

53.1 Either Party may, subject to Condition 52 (*Resolution by Senior Representatives*), refer a Dispute to be determined by an Expert if either: (i) the Parties have agreed in writing that a Dispute is amenable to determination by an Expert pursuant to Condition 52.1(B) or 52.2(A); or (ii) the Contract for Difference expressly provides for the relevant Dispute to be determined by an Expert. Such referral shall be effected by either Party giving a notice (an “**Expert Determination Notice**”) to the other Party. An Expert Determination Notice shall:

- (A) be substantially in the form set out in Part QQ of Annex 8 (*Pro forma notices*);
- (B) include the information required to be included in a Dispute Notice pursuant to Conditions 51.3(B) to 51.3(G); and
- (C) include a proposal as to the identity, and terms of reference, of the Expert and the relevant expertise that the referring Party considers qualifies him to determine the relevant Expert Dispute.

53.2 Any Expert appointed to determine any Expert Dispute shall be required to have an appropriate level of experience in relation to matters of the same general description as the matter in Dispute.

53.3 The Party receiving the Expert Determination Notice (the “**Respondent**”) shall, within ten (10) Business Days of service of the Expert Determination Notice, give notice to the other Party (the “**Claimant**”) (an “**Expert Determination Response Notice**”). An Expert Determination Response Notice shall:

- (A) be substantially in the form set out in Part RR of Annex 8 (*Pro forma notices*); and
- (B) specify whether or not the Respondent accepts:
  - (i) the Expert proposed by the Claimant (and, if the Respondent does not accept the Expert proposed by the Claimant, it shall specify an alternative Expert for consideration by the Claimant); and
  - (ii) the terms of reference for the Expert proposed by the Claimant (and, if the Respondent does not accept the terms of reference for the Expert proposed by the Claimant, it shall propose alternative terms of reference for the Expert for consideration by the Claimant).

53.4 If the Parties fail to agree on the identity of the Expert within twenty (20) Business Days of the date of service of the Expert Determination Notice, either Party may request that the Expert be nominated by the LCIA, which shall be requested to choose a suitably

qualified and experienced Expert for the Expert Dispute in question. The LCIA's nomination shall, subject to Condition 53.7(A)(i), be binding on the Parties.

53.5 If the Parties fail to agree on the terms of reference of the Expert within twenty (20) Business Days of the date of service of the Expert Determination Notice, either Party may request that the terms of reference of the Expert be determined by the LCIA, which shall be requested to determine the terms of reference for the Expert. The LCIA's determination shall, subject to Conditions 53.7(B), 53.7(C) and 53.7(D), be binding on the Parties.

53.6 If the Parties fail to agree on the terms of appointment of the Expert within twenty (20) Business Days of the date of service of the Expert Determination Notice, either Party may request that the terms of appointment of the Expert be determined by the LCIA, which shall be requested to determine the terms of appointment of the Expert. The LCIA's determination shall, subject to Condition 53.7(A)(ii), be binding on the Parties.

53.7 The Parties shall:

(A) use reasonable endeavours to procure that within ten (10) Business Days of the Parties agreeing the identity of the Expert to be appointed (or the LCIA having nominated an Expert in accordance with Condition 53.4):

(i) the Expert confirms in writing to the Parties that:

(a) he is willing and available to act in relation to the Expert Dispute; and

(b) he has no conflict of interest which prevents him from determining the Expert Dispute;

(ii) (subject to the confirmation referred to in Condition 53.7(A)(i) having been given) the terms of appointment of the Expert are agreed between the Parties and the Expert (and an appointment letter entered into among them), such terms:

(a) to include an undertaking that the Expert shall not disclose to any person any Supporting Information disclosed or delivered by a Party to the Expert in consequence of, or in respect of, his appointment as the Expert; and

(b) to exempt the Expert (and any employee, agent or adviser of or to the Expert) from liability for anything done or omitted in the discharge or purported discharge of the Expert's functions, unless such act or omission is fraudulent, negligent or in bad faith;

(B) instruct the Expert:

(i) to act fairly and impartially;

- (ii) to take the initiative in ascertaining the facts and the law, including by:
    - (a) considering any Supporting Information submitted to him by the Parties;
    - (b) instructing an expert and/or taking Counsel's opinion as to any matter raised in connection with the Dispute, provided that the Expert shall not be entitled to delegate any decision to such expert or Counsel;
    - (c) requiring the Parties to produce any Supporting Information (excluding any of the foregoing which would be privileged from production in court proceedings); and
    - (d) opening up, reviewing and revising any opinion, assessment, certificate, instruction, determination or decision of whatsoever nature given or made pursuant to the Contract for Difference, provided that he may not in so doing purport to decide any matter which falls outside the Expert's terms of reference in relation to the relevant Expert Dispute or is otherwise excluded from the Expert Determination Procedure;
  - (iii) to reach his decision in accordance with the applicable laws in relation to the Expert Dispute referred to him; and
  - (iv) if requested by either Party in writing, to provide reasons for his decision, which shall be communicated to the Parties;
- (C) afford the Expert the discretion to establish the procedure (including the timetable) for the determination of the Expert Dispute, it being agreed by the Parties that:
- (i) the Expert shall be requested to confirm to the Parties the proposed procedure for the relevant Expert Dispute as soon as reasonably practicable after the Expert Appointment Date and, in any event, within ten (10) Business Days of such date and, in so doing, the Parties agree that:
    - (a) the Expert shall be requested to afford the Parties the opportunity to address him in a meeting at which both Parties shall have the right to be present, where either a Party requests such a meeting in writing or the Expert otherwise considers it to be necessary or desirable to reach a determination in respect of the relevant Expert Dispute, with the format and procedure applicable to any such meeting being a matter for the Expert to decide in his sole and absolute discretion; and
    - (b) the Expert may (without limitation) modify the time periods provided for in Condition 53.8 and otherwise modify the procedure contemplated by such Condition;

- (ii) all submissions made by a Party to the Expert (including all Supporting Information provided to him) shall be provided to the other Party contemporaneously with such submissions being made to the Expert; and
- (iii) the Parties shall (without prejudice to Condition 53.7(C)(i)) request the Expert to determine the Expert Dispute within the earlier of:
  - (a) thirty (30) Business Days following the date on which a Response Submission has been provided by each Party; and
  - (b) sixty (60) Business Days after the First Submission Deadline; and
- (D) afford the Expert all Supporting Information and assistance which the Expert requires to determine the Expert Dispute (and, if a Party fails to produce any such Supporting Information or assistance, the Expert may continue the determination process without that Supporting Information or assistance).

53.8 Subject to Condition 53.7(C):

- (A) the Claimant shall provide the Expert with a copy of the Expert Determination Notice no later than ten (10) Business Days after the Expert Appointment Date (the date on which the Expert receives the copy of the Expert Determination Notice being the “**Expert Referral Date**”);
- (B) each Party may, but is not obliged to, provide a written statement of its case to the Expert (the “**First Submission**”) within twenty (20) Business Days of the Expert Referral Date (the “**First Submission Deadline**”) and, without limitation, the First Submission may cover any of the matters required to be contained in the relevant Dispute Notice pursuant to Conditions 51.3(B) to 51.3(G) (inclusive) and a copy of such First Submission shall be provided to the other Party at the same time as it is provided to the Expert; and
- (C) each Party may submit a reply to the other Party’s First Submission (a “**Response Submission**”) within thirty (30) Business Days of receipt of the First Submission.

53.9 The Arbitration Act 1996 and the law relating to arbitrators and arbitrations shall not apply to the Expert or his determination or the procedure by which he reaches his determination.

53.10 If the Expert is at any time unable or unwilling to act, either Party may proceed to seek the appointment of a replacement Expert as if the Expert Determination Notice had just been served. The provisions of the Expert Determination Procedure shall apply, *mutatis mutandis*, to any replacement Expert and the replacement Expert shall be authorised to determine any Expert Dispute which was submitted to his predecessor but which his predecessor had not determined at the time when his predecessor became unable or unwilling to act.

- 53.11 The Expert's determination shall be final and binding upon the Parties, except in the event of fraud or manifest error.
- 53.12 No Expert determination shall have the effect of amending the Contract for Difference unless expressly permitted pursuant to the Contract for Difference.
- 53.13 The Expert may, in his determination, provide that one or other or both of the Parties pay the Expert's fees and expenses and each other's costs (including the fees and expenses of external advisers and consultants) in such proportions as he may specify on the general principle that the allocation of costs should reflect the Parties' relative success and failure in the Expert Determination Procedure. Without such a direction, each Party shall bear its own costs and the fees and expenses of the Expert shall be paid in equal shares by the Parties.

#### **54. ARBITRATION PROCEDURE**

- 54.1 Either Party may, subject to Condition 52 (*Resolution by Senior Representatives*), refer an Arbitration Dispute to arbitration. Any Arbitration Dispute so referred to arbitration shall be resolved in accordance with the LCIA Arbitration Rules, which rules are to be treated as incorporated by reference into this Condition 54.1.
- 54.2 The Arbitral Tribunal shall make its award in writing (the "**Arbitral Award**") and the Parties agree that all Arbitral Awards shall be binding on the Parties.
- 54.3 No Arbitral Award shall have the effect of amending the Contract for Difference unless expressly permitted pursuant to the Contract for Difference.
- 54.4 The Arbitral Tribunal shall consist of three Arbitrators except where the Parties have agreed in writing that the Arbitral Tribunal shall consist of one Arbitrator (the "**Mutual Appointment Decision**").
- 54.5 If the Arbitral Tribunal consists of:
- (A) three Arbitrators, each Party shall nominate one Arbitrator to be appointed by the LCIA as contemplated by the LCIA Arbitration Rules and the third Arbitrator shall be nominated by the Arbitrators nominated by the Parties and shall act as chairman; or
  - (B) one Arbitrator, the Parties shall use reasonable endeavours to agree on the identity of the Arbitrator within ten (10) Business Days of the Mutual Appointment Decision, failing which the Arbitrator shall be appointed by the LCIA as contemplated by the LCIA Arbitration Rules.
- 54.6 The seat, or legal place, of any arbitration shall be London.
- 54.7 The language to be used in any arbitral proceedings shall be English.

## 55. CONSOLIDATION OF CONNECTED DISPUTES

- 55.1 If any Dispute raises issues which are substantially the same as, connected with or related to issues raised in any dispute or claim relating to or arising out of any other FiT Contract for Difference (each a “**Connected Dispute**”), and the Dispute Resolution Procedure has been commenced in relation to the Connected Disputes, then either Party may request consolidation of those Connected Disputes at any time so that the Connected Disputes shall be determined together in accordance with the Dispute Resolution Procedure, subject to the provisions of Conditions 55.2 to 55.5 (inclusive).
- 55.2 Where a Party wishes to consolidate Connected Disputes pursuant to Condition 55.1, that Party shall give notice in writing on all of the parties to the Connected Disputes (a “**Consolidation Notice**”) and be substantially in the form set out in Part SS of Annex 8 (*Pro forma notices*). A Consolidation Notice shall be copied to the Expert or Arbitrator(s) (as relevant) of each Connected Dispute at the same time that it is given to the parties to each Connected Dispute, or, to the extent that the Expert or Arbitrator(s) have not been appointed at that date, forthwith upon appointment of the Expert or Arbitrator(s).
- 55.3 Following delivery of a Consolidation Notice, the Parties shall use reasonable endeavours to procure that the Expert or Arbitrator(s) (as relevant) of each Connected Dispute shall, within five (5) Business Days thereafter, determine between them whether:
- (A) they are satisfied both that the issues of fact and/or law raised in each of the Connected Disputes are substantially the same as, or substantially connected or related to, each other; and
  - (B) consolidation of the Connected Disputes will not materially affect the timetable for resolution of any Connected Disputes; and:
    - (i) if they are so satisfied by majority:
      - (a) the Expert and/or Arbitrator(s), shall be requested by the Parties to give notice of that fact on the parties to all of the Connected Disputes; and
      - (b) the Connected Disputes shall be consolidated; or
    - (ii) if they are not so satisfied by majority, the Connected Disputes shall not be consolidated unless and until the Expert and/or Arbitrator(s) become so satisfied and determine that they shall be consolidated.
- 55.4 If different Experts or Arbitrator(s) have been appointed in respect of Connected Disputes prior to their being consolidated in accordance with the Dispute Resolution Procedure and those Experts or Arbitrator(s) give a notice, in accordance with Condition 55.3(B)(i), that the Connected Disputes shall be consolidated, the Parties shall agree in writing, within five (5) Business Days of receipt of that notice, which of the Experts or Arbitrators shall be the Experts or Arbitrator(s) for the consolidated Connected Disputes. If no such agreement can be reached, the parties to the Connected Dispute shall request that the president or vice-president of the LCIA select, within five (5) Business

Days of such request, which of those Experts or Arbitrator(s) shall be the Experts or Arbitrator(s) for the consolidated Connected Disputes.

- 55.5 If the Expert or Arbitrator(s) of consolidated Connected Disputes is or are unable to give his or her (or their) award in respect of the consolidated Connected Disputes at the same time then the awards shall be given in such order as the Expert or Arbitrator(s) may determine.

**56. NO OTHER PROCEEDINGS**

- 56.1 Subject to Conditions 56.2 and 57.1, any and all Disputes are to be finally resolved in accordance with the Dispute Resolution Procedure, and neither Party shall commence any Proceedings in respect of a Dispute other than in accordance with the Dispute Resolution Procedure. If either Party commences any Proceedings in breach of the Dispute Resolution Procedure, it shall not oppose an application for strike-out, termination, discontinuance or stay of such Proceedings.

- 56.2 Notwithstanding any other provision of the Dispute Resolution Procedure, either Party may at any time commence or prosecute Proceedings against the other Party in the courts of England and Wales for:

- (A) an order to obtain urgent injunctive or other equitable relief, including specific performance;
- (B) judgment to enforce a Senior Representatives Settlement, the determination of an Expert, or an Arbitral Award; and/or
- (C) give a notice of arbitration to the other Party so as to prevent the expiry of any applicable period of limitation or prescription, or the application of the equitable doctrine of laches.

**57. METERING DISPUTES**

- 57.1 Metering Disputes shall be resolved solely as a Trading Dispute in accordance with the BSC and the Dispute Resolution Procedure shall not apply to any such Metering Disputes.

- 57.2 Notwithstanding any Metering Dispute, the Parties shall continue to comply with all of their respective obligations under the Contract for Difference.

**Part 15**  
**General provisions regarding liabilities, remedies and waivers**

**58. EXCLUDED LOSSES AND LIABILITIES**

***General limitation on liability***

58.1 Subject to Conditions 58.2, 58.3 and 58.4, neither Party shall be liable to the other Party pursuant to the Contract for Difference or any other CfD Document, in tort (including negligence and/or breach of statutory duty) or otherwise at law for:

- (A) any loss, damage, cost or other expense to the extent that the same does not arise naturally from the breach and cannot reasonably be supposed to have been in the contemplation of the Parties at the Agreement Date as the probable result of such breach; or
- (B) any special, indirect or consequential loss including any such loss which constitutes loss of use, loss of goodwill, loss of profit or loss of revenue,

in each case incurred by the other Party in respect of any breach of the terms of the Contract for Difference or any other CfD Document.

58.2 Condition 58.1 shall not operate so as to prejudice or override the express terms of any obligation to pay or indemnity or costs reimbursement provision contained within the Contract for Difference or any other CfD Document.

58.3 Condition 58.1 shall not apply in respect of the calculation of any QCiL Compensation or QCiL True-Up Compensation, or the obligation of either Party to pay any QCiL Compensation or QCiL True-Up Compensation to the other Party, in each case in accordance with Part 8 (*Changes in Law*).

58.4 Condition 58.1 shall not apply in respect of the calculation of the Termination Amount, or the obligation of the Generator to pay the Termination Amount to the CfD Counterparty, in each case in accordance with Condition 46.4, it being agreed that the Termination Amount is reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages upon early termination of the Contract for Difference.

***Transmission System Operator, Transmission Licensee or Licensed Distributor actions***

58.5 Subject to the payment of Curtailment Compensation in accordance with Part 11 (*Curtailment*), payments to the Generator in respect of or pursuant to:

- (A) instructions issued by any Transmission System Operator, Transmission Licensee or a Licensed Distributor, as the case may be; or
- (B) directions given or actions taken pursuant to the Fuel Security Code (as such term is defined in the Transmission Licence),

shall not be calculated or made pursuant to the terms of the Contract for Difference, and the CfD Counterparty shall have no liability pursuant to the Contract for Difference to pay or compensate the Generator in respect of any resulting lost output.

## **59. NO WAIVER**

59.1 No waiver by either Party of any breach by the other Party of the Contract for Difference or any other CfD Document shall operate unless expressly made in writing, and no such waiver shall be construed as a waiver of any other breach.

59.2 No delay or omission by either Party in exercising any right, power or remedy provided by law or pursuant to the Contract for Difference or any other CfD Document shall:

(A) affect that right, power or remedy; or

(B) operate as a waiver of it.

59.3 The single or partial exercise by either Party of any right, power or remedy provided by law or pursuant to the Contract for Difference or any other CfD Document shall not, unless otherwise expressly stated, preclude any other or further exercise of it or the exercise of any other right, power or remedy.

## **60. CONSENTS**

60.1 Any consents, confirmations, approvals, waivers or agreements to be given by the CfD Counterparty pursuant to the Contract for Difference or any other CfD Document:

(A) shall be effective only if given in writing; and

(B) may be given or withheld by the CfD Counterparty in its sole and absolute discretion and, if given, may be given on and subject to such terms and/or conditions as the CfD Counterparty may in its sole and absolute discretion determine.

60.2 The exercise of discretion by the CfD Counterparty (including in respect of the grant or withholding of any consent, confirmation, approval, waiver or agreement) shall in no way limit the manner in or extent to which that discretion may be exercised in future or give rise to any amendment or modification to the Contract for Difference or any other CfD Document.

## **61. ENTIRE AGREEMENT**

61.1 The Contract for Difference, together with the other CfD Documents, constitutes the entire agreement, understanding and representations of the Parties in respect of its subject matter and supersedes and extinguishes any agreements, understandings and/or representations previously given or made in respect thereof other than those included in the Contract for Difference or the other CfD Documents.

61.2 Each Party acknowledges that in entering into the Contract for Difference it has not relied on, and shall have no right or remedy in respect of, any draft, agreement,

undertaking, representation, warranty, promise, assurance, arrangement or public statement of any nature whatsoever, whether or not in writing, relating to the subject matter of the Contract for Difference or any other CfD Document made or given by or on behalf of either Party, the Secretary of State or the Delivery Body at any time prior to the Agreement Date (whether made negligently or innocently) other than as expressly set out in the Contract for Difference or any other CfD Document.

61.3 Nothing in this Condition 61 (*Entire agreement*) shall limit or exclude liability for fraud.

## **62. PAYMENT DISRUPTION EVENT**

### ***Relief due to Payment Disruption Event***

62.1 Subject to Condition 62.2, a Party affected by a Payment Disruption Event (a “**PDE Affected Party**”) shall be relieved from liability, and deemed not to be in breach of the Contract for Difference (and any other CfD Document), for:

- (A) any failure to pay (or delay in paying) to the other Party any sum due and payable pursuant to the Contract for Difference (or any other CfD Document) (whether pursuant to an obligation to pay, indemnity, costs reimbursement provision or otherwise); and
- (B) (in the case of the Generator) any failure to transfer, deliver, extend, renew or replace Acceptable Collateral in accordance with Part 13 (*Credit Support*), or any delay in doing so,

(such obligations “**PDE Obligations**”) in each case if and to the extent that such failure or delay is directly attributable to the occurrence and continuance of such Payment Disruption Event.

### ***Conditions to Payment Disruption Event relief***

62.2 The PDE Affected Party's relief from liability pursuant to Condition 62.1 is subject to and conditional upon:

- (A) the PDE Affected Party giving notice promptly to the other Party of the nature and extent of the Payment Disruption Event causing its failure or delay in performance; and
- (B) the PDE Affected Party using reasonable endeavours:
  - (i) to mitigate the effects of the Payment Disruption Event;
  - (ii) to carry out and perform its obligations under the Contract for Difference (and each other CfD Document) in any way that is reasonably practicable; and
  - (iii) to pay the sum due and payable or transfer, deliver, extend, renew or replace Acceptable Collateral in accordance with Part 13 (*Credit*

*Support*) (as relevant) immediately upon cessation of the Payment Disruption Event.

### **63. FORCE MAJEURE**

#### ***Relief due to Force Majeure***

- 63.1 Subject to the provisions of this Condition 63 (*Force Majeure*), a Party affected by Force Majeure (an “**FM Affected Party**”) shall be relieved from liability, and deemed not to be in breach of the Contract for Difference (and any other CfD Document), for any failure or delay in the performance of any of its obligations under the Contract for Difference (or any other CfD Document) if and to the extent such failure or delay is directly attributable to the occurrence and continuance of such Force Majeure
- 63.2 Nothing in this Condition 63 (*Force Majeure*) shall relieve either Party from its obligations to perform or comply with any PDE Obligations.

#### ***Conditions to Force Majeure relief***

- 63.3 The FM Affected Party’s relief from liability pursuant to Condition 63.1 is subject to and conditional upon:
- (A) the FM Affected Party giving notice promptly to the other Party of the nature and extent of the Force Majeure causing its failure or delay in performance; and
  - (B) the FM Affected Party using reasonable endeavours to mitigate the effects of the Force Majeure, to carry out its obligations under the Contract for Difference in any way that is reasonably practicable and to resume the performance of its obligations under the Contract for Difference as soon as reasonably practicable.

#### ***Provision of Force Majeure information***

- 63.4 In addition to its notification obligation pursuant to Condition 63.3, the FM Affected Party shall give notice promptly to the other Party (to the extent that such Information is available) of:
- (A) the steps being taken by the FM Affected Party to remove or mitigate the effect of the Force Majeure and to carry out its obligations under the Contract for Difference (or the relevant CfD Document);
  - (B) the anticipated date of resumption of performance of its obligations under the Contract for Difference (or the relevant CfD Document); and
  - (C) such other details relating to the Force Majeure and its effects as may be reasonably requested by the other Party,

and, to the extent that such Information is not available at the time a notice is given, the FM Affected Party shall provide such Information to the other Party as soon as it becomes available.

- 63.5 The FM Affected Party shall give notice to the other Party every twenty (20) Business Days of any update to the Information provided pursuant to Condition 63.4 and shall give notice promptly to the other Party upon it becoming aware of any material developments or additional material Information relating to the Force Majeure and its effects.

**64. SEVERABILITY**

If any provision or part of a provision of the Contract for Difference or any other CfD Document is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that shall not affect or impair:

- (A) the legality, validity or enforceability in that jurisdiction of any other provision of the Contract for Difference or any other CfD Document; or
- (B) the legality, validity or enforceability in other jurisdictions of that or any other provision of the Contract for Difference or any other CfD Document.

**65. LIMITED RECOURSE ARRANGEMENTS, UNDERTAKINGS AND ACKNOWLEDGEMENTS**

***CfD Counterparty payment undertakings***

- 65.1 For the purpose of Conditions 65.2 to 65.7, references in Conditions 65.2 to 65.5 to “liabilities” shall be construed as if the limited recourse provisions set out in Condition 65.6 do not apply.
- 65.2 The CfD Counterparty shall make appropriate requests to Electricity Suppliers on the basis provided for by the Supplier Obligation Regulations for the purpose of ensuring that it is in sufficient funds to meet its liabilities in full pursuant to the Contract for Difference.
- 65.3 The CfD Counterparty shall, to the extent consistent with the CfD Counterparty’s proper exercise of its functions and duties pursuant to the EA 2013, promptly:
- (A) take such steps as are necessary to recover from an Electricity Supplier any sum which the Electricity Supplier is required by virtue of the Supplier Obligation Regulations to pay to the CfD Counterparty and which has not been paid by the date on which it is required by virtue of the Supplier Obligation Regulations to be paid and which is necessary to ensure the CfD Counterparty can meet its liabilities in full pursuant to the Contract for Difference;
  - (B) at the times and otherwise in the manner prescribed by the Supplier Obligation Regulations, issue and enforce notices to Electricity Suppliers requiring the provision and/or payment of financial collateral to ensure the CfD Counterparty can meet its liabilities in full pursuant to the Contract for Difference;
  - (C) take such action (including the taking and prosecution of legal proceedings) against Electricity Suppliers as is necessary to ensure that the CfD

Counterparty can meet its liabilities in full pursuant to the Contract for Difference;

- (D) pursue any Electricity Supplier which has defaulted in making payment pursuant to the Supplier Obligation Regulations as a civil debtor unless, acting reasonably, the CfD Counterparty considers that there are more appropriate means of pursuing the defaulting Electricity Supplier or securing payment due to the Generator;
- (E) take such action (including the taking and prosecution of legal proceedings) to recover and receive from other sources of funds (if any) available to the CfD Counterparty, including:
  - (i) moneys standing to the credit of any designated risk, reserve or shortfall fund; and/or
  - (ii) moneys available by reason of any 'make whole', loss mutualisation or similar arrangements among Electricity Suppliers or others in respect of any shortfall in amounts due and owing but not paid by Electricity Suppliers to the CfD Counterparty for the purposes of enabling the CfD Counterparty to make payments pursuant to FiT Contracts for Difference,

as is necessary for the purpose of meeting its liabilities in full pursuant to the Contract for Difference; and

- (F) notify the Secretary of State if the CfD Counterparty has reason to believe that it will have insufficient funds available to make when due the totality of the payments to generators that are required pursuant to FiT Contracts for Difference.

65.4 The CfD Counterparty shall keep the Generator informed as to any call which the CfD Counterparty makes on any Electricity Supplier's insolvency reserve requirement (under the Supplier Obligation Regulations) for the purpose of meeting its liabilities in full pursuant to the Contract for Difference.

65.5 The CfD Counterparty agrees that in circumstances where the CfD Counterparty has failed to pay an amount on the due date therefor pursuant to the Contract for Difference:

- (A) damages alone would not be an adequate remedy for any breach by it of its obligations set out in paragraphs (A) to (E) (inclusive) of Condition 65.3;
- (B) accordingly, the Generator will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach by the CfD Counterparty of its obligations set out in paragraphs (A) to (E) (inclusive) of Condition 65.3; and
- (C) it will not raise any objection to an application by the Generator for any such remedies.

Without prejudice to Condition 65.6, the maximum liability of the CfD Counterparty in respect of breach by it of Condition 65.2, 65.3 or 65.4 shall be limited to an amount equivalent to the Default Interest on the amount which has not been paid by the CfD Counterparty to the Generator pursuant to the Contract for Difference by reason of the relevant breach for the period from what would have been the date of payment but for such breach to the date of actual payment, provided that the limit of liability in this Condition 65.5 shall not apply where the breach is caused by the gross negligence or wilful misconduct of the CfD Counterparty.

***Limited recourse***

65.6 Notwithstanding any other provision of the Contract for Difference:

- (A) the liability of the CfD Counterparty pursuant to the Contract for Difference shall not exceed the aggregate of:
  - (i) the amounts from time to time received and held by the CfD Counterparty, and allocated to the Contract for Difference, pursuant to the Supplier Obligation Regulations; and
  - (ii) any other funds of the type referred to in Condition 65.3(E) from time to time received and held by the CfD Counterparty, and allocated to the Contract for Difference, whether pursuant to the Supplier Obligation Regulations or otherwise; and
- (B) the CfD Counterparty shall not be in default pursuant to the Contract for Difference in not making any payment that is due and owing if and to the extent that it shall not have received the amounts and other funds referred to in Condition 65.6(A) which are necessary to make such payment, but if and to the extent that such payment is not made, the CfD Counterparty shall continue to owe an amount equal to the amount of the payment due and owing but not paid and shall make such payment promptly (and in any event within two (2) Business Days) after and to the extent of its receipt of such corresponding and allocated amounts and other funds.

***Damages for breach***

65.7 The Parties acknowledge and agree that:

- (A) the CfD Counterparty shall have full right and liberty to recover from the Generator any loss, damage, cost or expense suffered or incurred by the CfD Counterparty as a result of a breach by the Generator of the Contract for Difference or any CfD Document and for this purpose no regard shall be had to the right or ability (if any) of the CfD Counterparty to recover such loss, damage, cost or expense from all or any Electricity Suppliers or any other person pursuant to any regulations made pursuant to the EA 2013 (including the Supplier Obligation Regulations); and
- (B) to the extent that any such loss, damage, cost or expense is recovered by the CfD Counterparty from the Generator, it is the intent that the CfD Counterparty

will not keep those amounts but will pursuant to the regulations made pursuant to the EA 2013 (including the Supplier Obligation Regulations):

- (i) use such amounts to make good any loss, damage, cost or expense suffered or incurred by the CfD Counterparty;
- (ii) pass or return those amounts to the Electricity Supplier(s) or other persons entitled thereto pursuant to such regulations; and/or
- (iii) use such amounts for the benefit of such Electricity Supplier(s) or other person(s).

**Part 16**  
**Confidentiality, announcements and freedom of information**

**66. CONFIDENTIALITY**

***Confidentiality restrictions: application to the terms of the Contract for Difference***

66.1 Subject to Condition 67 (*Announcements*), the Parties agree that the provisions of the Contract for Difference shall not be treated as Confidential Information and may be disclosed without restriction.

***Generator Confidential Information: obligations of the CfD Counterparty***

66.2 The CfD Counterparty shall keep all Generator Confidential Information confidential and shall not disclose Generator Confidential Information without the prior written consent of the Generator, other than as permitted by Condition 66.4.

66.3 The CfD Counterparty shall not disclose or make use of any Generator Confidential Information otherwise than to fulfil the CfD Counterparty Permitted Purposes, except with the prior written consent of the Generator.

66.4 Condition 66.2 shall not prevent the disclosure of Generator Confidential Information by the CfD Counterparty:

(A) on a confidential basis:

- (i) to its Representatives to enable or assist the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes;
- (ii) to any Transferee to fulfil the CfD Counterparty Permitted Purposes;
- (iii) to any person engaged in providing services to the CfD Counterparty to enable or assist the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes;
- (iv) to any Government Entity (or to its Representatives or to any person engaged in providing services to such Government Entity) where the CfD Counterparty considers such disclosure is required to enable or assist:
  - (a) the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes; or
  - (b) such person to: (i) fulfil any of its functions arising out of or in connection with the Contract for Difference or any other FiT Contract for Difference; or (ii) perform any function ancillary or related to its functions arising out of or in connection with the Contract for Difference or any other FiT Contract for Difference;

- (v) to any Transmission System Operator, Transmission Licensee or Licensed Distributor, the CfD Settlement Services Provider, the Delivery Body, any BSC Company or any BSC Agent (or to their respective Representatives) to the extent that the CfD Counterparty considers such disclosure is required to enable or assist: (a) the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes; and (b) such person to fulfil or perform any of its functions, duties or obligations arising out of or in connection with the Contract for Difference or any other FiT Contract for Difference or to fulfil or perform any ancillary or related function, duty or obligation (including any such functions, duties or obligations arising by virtue of or pursuant to the EA 2013),

provided that: (1) the CfD Counterparty shall use reasonable endeavours to inform the recipient of the Generator Confidential Information of the CfD Counterparty's obligations pursuant to Conditions 66.2 and 66.3; and (2) in the case of disclosure of Generator Confidential Information pursuant to Conditions 66.4(A)(i), 66.4(A)(ii) or 66.4(A)(iii), the CfD Counterparty shall ensure that the recipient of the Generator Confidential Information shall be subject to substantially the same obligation of confidentiality as contained in Conditions 66.2 and 66.3;

- (B) to enable a Dispute to be instigated, progressed, settled or determined pursuant to and in accordance with the Dispute Resolution Procedure (except where the relevant Generator Confidential Information has been provided on a "without prejudice" or "without prejudice save as to costs" basis);
- (C) to enable a Metering Dispute to be instigated, progressed, settled or determined in accordance with the provisions of the BSC;
- (D) (subject to Condition 66.5) to Parliament or to any Parliamentary committee, but only if and to the extent that the CfD Counterparty considers such disclosure is required to enable or assist it to fulfil any CfD Counterparty Permitted Purpose;
- (E) (subject to Condition 66.5) to the Secretary of State to enable or assist the Secretary of State to make a disclosure to Parliament or to any Parliamentary committee, but only if and to the extent that the Secretary of State has notified the CfD Counterparty that such disclosure is required to enable or assist the Secretary of State to fulfil its functions;
- (F) (subject to Condition 66.5) to the Secretary of State to enable or assist the Secretary of State to make a disclosure to the European Commission or other Competent Authority, but only if and to the extent that the CfD Counterparty considers (or the Secretary of State has notified the CfD Counterparty that) such disclosure is required in connection with the application of the State Aid Rules or in connection with any European Commission decision relating to those rules;
- (G) (subject to Condition 66.5) to the European Commission or other Competent Authority, but only if and to the extent that the CfD Counterparty considers such disclosure is necessary in connection with the application of the State Aid Rules

or in connection with any European Commission decision relating to those rules;

- (H) (subject to Condition 66.5) which is required to comply with any Law or Directive having the force of law or, if not having the force of law, compliance with which is in accordance with the general practice of the CfD Counterparty;
- (I) (subject to Condition 68 (*Freedom of information*)) which is required:
  - (i) by the FoIA; or
  - (ii) by the EIR;
- (J) to which the Generator has agreed in writing in advance; or
- (K) that is otherwise expressly permitted pursuant to the terms, or required for the operation or fulfilment, of the Contract for Difference or any other CfD Document.

66.5 Prior to any disclosure of Generator Confidential Information by the CfD Counterparty pursuant to any of Conditions 66.4(D), 66.4(E), 66.4(F), 66.4(G) and 66.4(H), the CfD Counterparty shall use reasonable endeavours to give notice to the Generator of the Generator Confidential Information to be disclosed, provided that:

- (A) it is lawful and reasonably practicable in the circumstances to do so; and
- (B) in the case of any disclosure pursuant to Condition 66.4(D) or 66.4(E), it is not inconsistent with Parliamentary convention.

***CfD Counterparty: insider dealing and market abuse***

66.6 The Generator shall consult with the CfD Counterparty in good faith, from time to time upon request by the CfD Counterparty, in relation to whether Generator Confidential Information held by the CfD Counterparty (or its Representatives) constitutes at that time Inside Information. Nothing in this Condition 66.6 is intended to or shall result in the Generator or any of its Representatives: (i) incurring any liability whatsoever under or in respect of the CfD Counterparty's (or any of its Representatives') obligations and responsibilities pursuant to FSMA or the CJA or (ii) being obliged to consult with the CfD Counterparty on Generator Confidential Information to be provided to the CfD Counterparty which constitutes (or may constitute) "inside information" (within the meaning of section 118C of FSMA or section 56 of the CJA) in respect of any person other than the Generator or any group members of the Generator.

***CfD Counterparty: liability for Representatives and service providers***

66.7 The CfD Counterparty shall be responsible for:

- (A) any failure by its Representatives, former Representatives or any person to whom Generator Confidential Information is disclosed pursuant to Condition

66.4(A)(ii) or 66.4(A)(iii) to comply with Condition 66.2 as if they were subject to it; and

- (B) any use by its Representatives, former Representatives or any person to whom Generator Confidential Information is disclosed pursuant to Condition 66.4(A)(ii) or 66.4(A)(iii), of any Generator Confidential Information in breach of Condition 66.3, as if they were subject to it.

***CfD Counterparty Confidential Information: obligations of the Generator***

66.8 The Generator shall keep all CfD Counterparty Confidential Information confidential and shall not disclose CfD Counterparty Confidential Information without the prior written consent of the CfD Counterparty, other than as permitted by Condition 66.10.

66.9 The Generator shall not disclose or make use of any CfD Counterparty Confidential Information otherwise than to fulfil the Generator Permitted Purpose, except with the prior written consent of the CfD Counterparty.

66.10 Condition 66.8 shall not prevent the disclosure of CfD Counterparty Confidential Information by the Generator:

- (A) on a confidential basis:
- (i) to its Representatives to enable or assist the Generator to fulfil the Generator Permitted Purpose;
  - (ii) to members of its Group (and their respective Representatives) to enable or assist the Generator to fulfil the Generator Permitted Purpose;
  - (iii) to any Transferee to fulfil the Generator Permitted Purpose;
  - (iv) to providers or prospective providers to the Generator of debt financing, refinancing or credit support and their professional advisers, provided that such disclosure is restricted to Information necessary for the purposes of assessing the provision or potential provision of such financing, refinancing or credit support;
  - (v) to *bona fide* prospective purchasers of the Facility, provided that such disclosure is restricted to Information necessary for the purpose of assessing such potential purchase;
  - (vi) to any Transmission System Operator, Transmission Licensee or Licensed Distributor, the CfD Settlement Services Provider, the Delivery Body, any BSC Company or any BSC Agent (or to their respective Representatives) to the extent that the Generator considers such disclosure is required to enable or assist: (a) the Generator to fulfil the Generator Permitted Purpose; and (b) such person to fulfil or perform any of its functions, duties or obligations arising out of or in connection with the Contract for Difference or any other FiT Contract for Difference

or to fulfil or perform any ancillary or related function, duty or obligation (including any such functions, duties or obligations arising by virtue of or pursuant to the EA 2013);

- (vii) for the purposes of:
  - (a) the examination and certification of the Generator's accounts; or
  - (b) complying with a proper request from the Generator's insurance adviser or insurer on placing or renewing any insurance policies,

provided that: (1) the Generator shall use reasonable endeavours to inform the recipient of the CfD Counterparty Confidential Information of the Generator's obligations pursuant to Conditions 66.8 and 66.9; and (2) in the case of disclosure of CfD Counterparty Confidential Information pursuant to Condition 66.10(A)(i), 66.10(A)(ii), 66.10(A)(iii), 66.10(A)(iv) or 66.10(A)(v), the Generator shall ensure that the recipient of the CfD Counterparty Confidential Information shall be subject to substantially the same obligation of confidentiality as contained in Conditions 66.8 and 66.9;

- (B) to enable a Dispute to be instigated, progressed, settled or determined pursuant to and in accordance with the Dispute Resolution Procedure (except where the relevant CfD Counterparty Confidential Information has been provided on a "without prejudice" or "without prejudice save as to costs" basis);
- (C) to enable a Metering Dispute to be instigated, progressed, settled or determined in accordance with the provisions of the BSC;
- (D) (subject to Condition 66.11) which is required to comply with any Law or Directive (including the rules of any securities exchange, clearing system or regulatory body) having the force of law or, if not having the force of law, compliance with which is in accordance with the general practice of the Generator;
- (E) to which the CfD Counterparty has agreed in writing in advance; or
- (F) that is otherwise expressly permitted pursuant to the terms, or required for the operation or fulfilment, of the Contract for Difference or any other CfD Document.

66.11 Prior to any disclosure of CfD Counterparty Confidential Information by the Generator pursuant to and of Condition 66.10(D), the Generator shall use reasonable endeavours to give notice to the CfD Counterparty of the CfD Counterparty Confidential Information to be disclosed, provided that it is lawful and reasonably practicable in the circumstances to do so.

**Generator: liability for Representatives and service providers**

66.12 The Generator shall be responsible for:

- (A) any failure by its Representatives, former Representatives or any person to whom CfD Counterparty Confidential Information is disclosed pursuant to Condition 66.10(A)(ii), 66.10(A)(iii), 66.10(A)(iv) or 66.10(A)(v) to comply with Condition 66.8 as if they were subject to it; and
- (B) any use by its Representatives, former Representatives or any person to whom CfD Counterparty Confidential Information is disclosed pursuant to Condition 66.10(A)(ii) or 66.10(A)(iii), of any CfD Counterparty Confidential Information in breach of Condition 66.9 as if they were subject to it; and
- (C) any failure by any person to whom CfD Counterparty Confidential Information is disclosed pursuant to Condition 66.10(A)(iv) or 66.10(A)(v) to comply with the restrictions on usage of CfD Counterparty Confidential Information provided for in such Conditions.

**No licence**

66.13 No right or licence is granted to any person in relation to any Confidential Information save as explicitly set out in this Condition 66 (*Confidentiality*).

**67. ANNOUNCEMENTS****No announcements**

67.1 The Generator:

- (A) shall not, and shall ensure that its directors, officers and employees do not; and
- (B) shall use reasonable endeavours to ensure that each of its other Representatives and each member of its Group (and their respective Representatives) do not,

make, publish, issue or release any announcement or public statement in relation to, or which refers to, the Contract for Difference or any other CfD Document or any related or ancillary matter, without the express prior consent of the CfD Counterparty (such consent not to be unreasonably withheld or delayed).

**Generator permitted announcements**

67.2 Notwithstanding Condition 67.1, the Generator (and its directors, officers and employees) may make, publish, issue or release any announcement or public statement in relation to, or which refers to, the Contract for Difference or any other CfD Document or any related or ancillary matter if and to the extent required by any Law or Directive (including the rules of any securities exchange, clearing system or regulatory body) having the force of law or, if not having the force of law, compliance with which is in accordance with the general practice of the Generator, provided the Generator shall use

(and shall procure that its directors, officers and employees shall use) reasonable endeavours to agree the contents of such announcement or public statement with the CfD Counterparty before it is made, published, issued or released (such consent not to be unreasonably withheld or delayed) or, if the contents of such announcement or public statement are not able to be agreed before the making, publishing, issuing or releasing of such announcement or public statement, notify the CfD Counterparty of such announcement or public statement immediately following its being made, published, issued or released.

***CfD Counterparty permitted announcements***

67.3 The CfD Counterparty may make, publish, issue or release any announcement or public statement in relation to, or which refers to, the Contract for Difference or any other CfD Document or any related or ancillary matter that it considers to be necessary, desirable or appropriate (acting reasonably), provided that, if and to the extent that such announcement or statement contains any Generator Confidential Information, the making, publication, issue or release of such announcement or public statement does not breach Condition 66.2, 66.3 or 66.5.

**68. FREEDOM OF INFORMATION**

***Generator acknowledgements and undertakings***

68.1 The Generator acknowledges that:

- (A) the CfD Counterparty:
  - (i) is subject to the requirements of the FoIA and the EIR;
  - (ii) may, acting in accordance with the Code of Practice on the discharge of public authorities' functions pursuant to Part 1 of the FoIA (issued under section 45 of the FoIA) or the Code of Practice on the discharge of the obligations of public authorities pursuant to the EIR (issued pursuant to Regulation 16 of the EIR), be obliged pursuant to the FoIA or the EIR to disclose Information unless an exemption applies;
  - (iii) may, at its discretion, consult the Generator with regard to whether the FoIA or the EIR applies to a Request for Information and whether an exemption applies; and
  - (iv) shall be responsible for determining in its sole and absolute discretion, and notwithstanding any other provision in the Contract for Difference or any other CfD Document, whether the Information it holds (or that is held on its behalf) that is the subject of a Request for Information:
    - (a) is exempt or excepted from disclosure pursuant to the FoIA or the EIR, as appropriate; and
    - (b) is to be disclosed in response to a Request for Information,

and, for the purposes of this Condition 68.1(A)(iv) any notification to the CfD Counterparty which identifies Information as being Generator Confidential Information is of indicative value only and the CfD Counterparty may nevertheless be obliged to disclose such Information in accordance with the requirements of the FoIA and the EIR; and

- (B) in no event shall the Generator respond directly to a Request for Information unless expressly authorised to do so in writing by the CfD Counterparty.

68.2 The Generator undertakes to assist and co-operate with the CfD Counterparty, at the Generator's cost, to enable the CfD Counterparty to comply with its obligations pursuant to the FoIA and the EIR.

***Requests for Information: procedure***

68.3 If the CfD Counterparty receives a Request for Information in relation to Information that the Generator is holding on behalf of the CfD Counterparty and which the CfD Counterparty does not hold itself, the CfD Counterparty shall refer to the Generator such Request for Information and the Generator shall:

- (A) provide the CfD Counterparty with a copy of all such Information in the form that the CfD Counterparty requests as soon as reasonably practicable and in any event within five (5) Business Days, or such longer period as is specified by the CfD Counterparty, of the CfD Counterparty's request; and
- (B) provide all assistance reasonably requested by the CfD Counterparty in respect of any such Information to enable the CfD Counterparty to respond to a Request for Information within the time for compliance set out in section 10 of the FoIA or regulation 5 of the EIR.

68.4 The Generator shall ensure that all Information held on behalf of the CfD Counterparty is retained for disclosure and shall permit the CfD Counterparty to inspect such Information as requested from time to time.

68.5 If the Generator receives a Request for Information in relation to the CfD Counterparty or in connection with the Contract for Difference, the Generator shall forward such Request for Information to the CfD Counterparty as soon as reasonably practicable after receipt and in any event within two (2) Business Days, and this Condition 68 (*Freedom of information*) shall apply as if the Request for Information had been received by the CfD Counterparty.

***Publication schemes***

68.6 Nothing in this Condition 68 (*Freedom of information*) shall restrict or prevent the publication by the CfD Counterparty of any Information in accordance with:

- (A) any publication scheme (as defined in the FoIA) adopted and maintained by the CfD Counterparty in accordance with the FoIA; or

- (B) any model publication scheme (as defined in the FoIA) applicable to the CfD Counterparty as may be published from time to time by the Information Commissioner,

provided that, in deciding whether to publish Generator Confidential Information in accordance with any such publication scheme or model publication scheme, the CfD Counterparty shall take account of whether such Generator Confidential Information would be exempt from disclosure pursuant to the FoIA.

**Part 17**  
**Miscellaneous**

**69. INTELLECTUAL PROPERTY RIGHTS**

***Retention of Intellectual Property Rights***

69.1 Each Party shall retain ownership of any Intellectual Property Rights developed by or on behalf of that Party, whether pursuant to or independently from the Contract for Difference, any other CfD Document or (in the case of the CfD Counterparty) any other FiT Contract for Difference.

***Licence of Intellectual Property Rights***

69.2 Each Party hereby grants to the other Party with effect from the Start Date and subject to Condition 69.3(B) for the duration of the Term, a licence of any Intellectual Property Rights that are created by it, or on its behalf, pursuant to the terms of the Contract for Difference, any other CfD Document or (in the case of the CfD Counterparty) any other FiT Contract for Difference that:

- (A) it owns; or
- (B) is licensed to it (but only to the extent that it has the right to sub-license such Intellectual Property Rights),

on a non-exclusive, royalty-free, non-transferable basis (and, subject to Condition 69.3(A), without the right to sub-license) solely for the CfD Counterparty Permitted Purpose (in the case of the CfD Counterparty) or the Generator Permitted Purpose (in the case of the Generator).

69.3 The licence granted pursuant to Condition 69.2 shall:

- (A) permit each Party to sub-license to the extent required for the CfD Counterparty Permitted Purposes (in the case of the CfD Counterparty) or the Generator Permitted Purpose (in the case of the Generator); and
- (B) permit each Party to use the Intellectual Property Rights after expiry or termination of the Contract for Difference, but only for the CfD Counterparty Permitted Purposes (in the case of the CfD Counterparty) or the Generator Permitted Purpose (in the case of the Generator).

***Indemnity for infringement of Intellectual Property Rights***

69.4 The Generator shall indemnify the CfD Counterparty, and keep the CfD Counterparty fully and effectively indemnified, against all liabilities, costs, expenses, damages and losses (including legal costs) incurred in respect of any actual infringement of third party Intellectual Property Rights arising from the use by the CfD Counterparty (or any entity that is sub-licensed in accordance with Condition 69.3(A)) of Intellectual Property Rights

licensed to the CfD Counterparty by the Generator pursuant to Condition 69.2, provided that such infringement has arisen from the use of such Intellectual Property Rights in accordance with the CfD Counterparty Permitted Purposes.

- 69.5 The CfD Counterparty shall indemnify the Generator, and keep the CfD Counterparty fully and effectively indemnified, against all liabilities, costs, expenses, damages and losses (including legal costs) incurred in respect of any actual infringement of third party Intellectual Property Rights arising from the use by the Generator (or any entity that is sub-licensed in accordance with Condition 69.3(A)) of Intellectual Property Rights licensed to the Generator by the CfD Counterparty pursuant to Condition 69.2, provided that such infringement has arisen from the use of such Intellectual Property Rights in accordance with the Generator Permitted Purpose.

## **70. GENERATOR CO-OPERATION: STATE AID RULES**

- 70.1 If the CfD Counterparty is notified or becomes aware that the European Commission or other Competent Authority has decided that the United Kingdom must recover any State aid granted or paid in relation to the Contract for Difference and that decision has not been annulled, the CfD Counterparty shall give notice promptly to the Generator of the sums to be repaid and any other actions necessary to ensure compliance with the European Commission or other Competent Authority's decision and the Generator shall repay or procure the repayment of the relevant sums so notified to the CfD Counterparty or as the CfD Counterparty directs and take any other necessary actions so notified without delay.
- 70.2 The Generator shall, on reasonable notice and at its own cost, provide the CfD Counterparty with the Information and assurances reasonably necessary for the United Kingdom to comply with the terms of any European Commission decision pursuant to the State Aid Rules in respect of the Contract for Difference and any other FIT Contracts for Difference.

## **71. GENERATOR ACKNOWLEDGEMENTS: GENERAL**

### ***Generator responsibility for advice and appraisal***

- 71.1 The Generator acknowledges and agrees that neither the CfD Counterparty, the CfD Settlement Services Provider, the Delivery Body nor the Secretary of State (nor any of their respective Representatives):
- (A) is:
    - (i) acting as a fiduciary of the Generator; or
    - (ii) advising the Generator (including as to any financial, legal, tax, investment, accounting or regulatory matters in any jurisdiction); or
  - (B) shall have any liability, duty, responsibility or obligation to the Generator with respect thereto.

**CfD Counterparty contracting as principal**

71.2 The Generator acknowledges and agrees that:

- (A) the CfD Counterparty is contracting as principal and not on behalf of or as an agent for the Secretary of State or the Delivery Body;
- (B) it shall not have or bring any claim or action against the Secretary of State or the Delivery Body (or their respective Representatives), or the Representatives of the CfD Counterparty, in respect of the Contract for Difference or any other CfD Document;
- (C) nothing in the Contract for Difference or any other CfD Document shall impute or impose any liability, duty, responsibility or obligation upon the CfD Counterparty (other than pursuant to and in accordance with the express terms of the Contract for Difference or any other CfD Document); and
- (D) it shall not hold itself out as having any authority to act for or represent the CfD Counterparty in any way, nor act in any way which confers on the Generator any express, implied or apparent authority to incur any obligation or liability on behalf of the CfD Counterparty.

**Generator's relationship with the CfD Settlement Services Provider**

71.3 The Generator acknowledges and agrees that it shall not have or bring any claim or action against the CfD Settlement Services Provider in respect of any breach of the Contract for Difference (or any other CfD Document) or any loss, damage, cost or expense suffered or incurred thereunder and that its sole recourse for any breach of the Contract for Difference (or any other CfD Document) or any loss, damage, cost or expense suffered or incurred thereunder shall be against the CfD Counterparty.

**72. NO PARTNERSHIP**

Nothing in the Contract for Difference or any other CfD Document and no action taken by the Parties pursuant to the Contract for Difference or any other CfD Document shall constitute a partnership, joint venture or agency relationship between the Parties.

**73. TRANSFERS*****Restriction on Transfers***

73.1 Save as expressly permitted by this Condition 73 (*Transfers*), neither Party may:

- (A) assign to any person all or any of its rights or benefits under the Contract for Difference or any other CfD Document;
- (B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any person all or any of its rights or benefits under the Contract for Difference or any other CfD Document; or

- (C) transfer (whether by way of novation, sub-contract, delegation or otherwise) to any person, or enter into an arrangement whereby any person is to perform, any or all of its obligations under the Contract for Difference or any other CfD Document,

(each, a “**Transfer**”, and “**Transferee**” shall be construed accordingly), without the prior written consent of the other Party.

***Permitted Transfers by the CfD Counterparty***

- 73.2 Notwithstanding Condition 73.1, the CfD Counterparty shall be entitled, without the consent of the Generator, to effect a Transfer to any person by or by virtue of a Transfer Scheme.

***Other permitted assignments by the CfD Counterparty***

- 73.3 Notwithstanding Condition 73.1, the CfD Counterparty shall be entitled, without the consent of the Generator, to assign to any person all or any of its rights or benefits under the Contract for Difference and any other CfD Document on such terms as the CfD Counterparty considers appropriate.

***Permitted delegation by the CfD Counterparty***

- 73.4 Notwithstanding Condition 73.1, the CfD Counterparty shall be entitled, without the consent of the Generator, to sub-contract or delegate to any person, or enter into an arrangement whereby any person is to perform, any or all of its obligations under the Contract for Difference and any other CfD Document on such terms as the CfD Counterparty considers appropriate, provided that the CfD Counterparty shall not be relieved of any of its obligations under the Contract for Difference and any other CfD Document and shall be liable for the acts and omissions of any person to whom it sub-contracts or delegates or with whom it enters into an arrangement to perform any or all of its obligations under the Contract for Difference and any other CfD Document.

***General provisions relating to permitted transfers***

- 73.5 (A) If the CfD Counterparty effects or proposes to effect a Transfer referred to in Conditions 73.2, 73.3 or 73.4, the Generator shall enter into such further agreements and do all such other things as are necessary to substitute the relevant Transferee for the CfD Counterparty in respect of the rights, benefits, obligations or liabilities that are, or are to be, the subject of the Transfer (the “**Transferring Rights and Obligations**”) and to give effect to any consequential amendments to the Contract for Difference (or other relevant CfD Document) that are necessary to give effect to such transfer.
- (B) To the extent practicable, the CfD Counterparty shall give the Generator not less than ten (10) Business Days’ prior written notice specifying the identity of the Transferee and the Transferring Rights and Obligations, provided that no such prior written notice shall be required in respect of any Transfer: (i) by or by virtue of a Transfer Scheme; or (ii) pursuant to Condition 73.4.

**Permitted assignment by the Generator**

- 73.6 (A) Notwithstanding Condition 73.1, the Generator shall be entitled, without the consent of the CfD Counterparty, to assign all (but not part) of its rights and benefits under the Contract for Difference and any other CfD Document by way of security to or in favour of any bank or financial institution (including an agent or security trustee on its behalf but excluding affiliates of the Generator) which provide debt financing or refinancing in relation to the Facility secured at least by first ranking security over all or substantially all of the assets of the Generator (including its rights in respect of the Facility and under the Contract for Difference) (a “**Lender**”). The Generator shall give the CfD Counterparty not less than ten (10) Business Days’ written notice prior to effecting an assignment pursuant to this Condition 73.6(A) and shall specify in such notice the identity of the assignee and provide such details in relation to such assignee as the CfD Counterparty may reasonably request having received such notification.
- (B) At the request of any Lender in whose favour the Generator assigns its rights under the Contract for Difference and any other CfD Document in accordance with Condition 73.6(A), the CfD Counterparty shall enter into a Direct Agreement with such Lender.

**Other Transfers by the Generator; Stapling obligation**

- 73.7 If the consent of the CfD Counterparty to the transfer by the Generator of all or substantially all of the Generator’s rights, benefits and obligations under the Contract for Difference and any other CfD Document to a Transferee is required and is given, the Generator shall transfer ownership of the Facility to the same Transferee contemporaneously with the Transfer. Any Transfer effected, or purported to be effected, in breach of this Condition 73.7 shall be ineffective and void.

**74. NOTICES****Form of notices**

- 74.1 Any notice to be given pursuant to the Contract for Difference, or any other CfD Document, shall be effective only if it is in writing and is in English. Faxes are not permitted and, unless otherwise expressly stated, emails are not permitted.

**Notice details**

- 74.2 The notice details of the Parties as at the Agreement Date are set out in the CfD Agreement.

**Changes to notice details**

- 74.3 A Party may change its notice details on giving notice to the other Party in accordance with this Condition 74 (*Notices*). Such notice shall be effective only from:
- (A) the date specified in such notice (being not less than three (3) Business Days after the date of delivery or deemed delivery of such notice); or

- (B) (if no date is specified in such notice or the date specified is fewer than three (3) Business Days after the date of delivery or deemed delivery of such notice) the date falling three (3) Business Days after the notification has been received.

***Deemed delivery***

74.4 Any notice given pursuant to the Contract for Difference or any other CfD Document shall, without evidence of earlier receipt, be deemed to have been received:

- (A) if delivered by hand, on the Business Day of delivery or, if delivered on a day other than a Business Day, on the next Business Day after the date of delivery;
- (B) if sent by first class post within the United Kingdom, on the third (3<sup>rd</sup>) Business Day after the day of posting;
- (C) if sent from one country to another, on the fifth (5<sup>th</sup>) Business Day after the day of posting; or
- (D) if sent by email (where such notice is expressly permitted by email), when sent except that an email shall be deemed not to have been sent if the sender receives a delivery failure notification,

provided that any notice given outside Working Hours in the place to which it is addressed (or, in the case of a notice sent by email, the location of the person to whom it is addressed) shall be deemed not to have been given until the start of the next period of Working Hours in such place.

***Notice requirements***

74.5 Except where expressly stated to the contrary, each notice given by the CfD Counterparty to the Generator, or by the Generator to the CfD Counterparty, pursuant to the Contract for Difference or any other CfD Document must be duly signed:

- (A) in the manner, and by the person, specified in the relevant provision of the Contract for Difference or CfD Document; or
- (B) (where no such requirement is specified) by an authorised signatory of the relevant Party.

***Disapplication of notice provisions***

74.6 This Condition 74 (*Notices*) shall not apply in relation to any document relating to service of process (including in respect of the service of Service Documents).

***Emails permitted***

74.7 The CfD Counterparty may deliver any Billing Statement to the Generator pursuant to Condition 20.1 by email.

- 74.8 The CfD Counterparty may deliver any Balancing System Charges Report to the Generator pursuant to Condition 40.2 by email.
- 74.9 The CfD Counterparty may deliver any TLM Charges Report to the Generator pursuant to Condition 41.2 by email.
- 74.10 Either Party may give any notice required to be given pursuant to Part A of Annex 4 (*BMRP*) or Part A of Annex 5 (*IMRP*), as applicable, by email.

## 75. COSTS

- 75.1 Subject to Condition 75.2, each Party shall bear all costs and expenses incurred by it in connection with the entry into the Contract for Difference and each other CfD Document, including all costs and expenses incurred in connection with the negotiation, preparation, execution, performance and carrying into effect of, and compliance with, the Contract for Difference and each other CfD Document.
- 75.2 Condition 75.1 is subject to any provision of the Contract for Difference or any other CfD Document which expressly provides for the Generator to bear the costs and expenses of the CfD Counterparty (or to pay or reimburse or indemnify the CfD Counterparty in respect of such costs and expenses) in respect of which such costs and expenses shall comprise all out-of-pocket costs and expenses (including all legal and other advisory and consultants' fees) properly incurred by the CfD Counterparty in relation to the relevant matter. Where such costs and expenses are required to be apportioned between the Generator and one or more other CfD Generators, the CfD Counterparty shall apportion such costs between the Generator and such other CfD Generators in such proportion as the CfD Counterparty (acting reasonably) deems fair and equitable.

## 76. FURTHER ASSURANCE

Each Party shall at its own cost do or procure the doing of all things and execute or procure the execution of all further documents necessary to give full force and effect to and securing to the other Party the full benefit of the rights, powers and benefits conferred upon it under or pursuant to the Contract for Difference and all other CfD Documents save that the CfD Counterparty shall not be required pursuant to this Condition 76 (*Further assurance*) to exercise or perform any statutory power or duty.

## 77. THIRD PARTY RIGHTS

### *Third Party Provisions*

- 77.1 Conditions 71.1, 71.2 and 71.3 confer benefits on the CfD Settlement Services Provider, the Secretary of State, the Delivery Body and their respective Representatives (each, a "**Third Party**") (such Conditions being "**Third Party Provisions**").
- 77.2 Subject to the remaining provisions of this Condition 77 (*Third party rights*), the Third Party Provisions are intended to be enforceable by the Third Parties by virtue of the C(RTP) Act.

77.3 The Parties do not intend that any term of the Contract for Difference, other than the Third Party Provisions, should be enforceable, by virtue of the C(RTP) Act, by any person who is not a Party.

77.4 Notwithstanding this Condition 77 (*Third party rights*), the Contract for Difference may be varied in any way and at any time by the Parties without the consent of any Third Party.

## **78. NO VARIATION**

Subject to the Change Control Procedure, paragraphs 1.7, 1.8, 2.12 and 3.2 of Part A of Annex 4 (*BMRP*) and paragraph 1.12 of Part A of Annex 5 (*IMRP*), no variation to the provisions of the Contract for Difference shall be valid unless it is in writing and signed by each Party.

## **79. COUNTERPARTS**

The Contract for Difference may be executed in any number of counterparts and by the Parties to it on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original but all of the counterparts together shall constitute one and the same instrument.

## **80. GOVERNING LAW AND JURISDICTION**

80.1 The Contract for Difference, the other CfD Documents and any matter, claim or dispute arising out of or in connection with them (including any Dispute) shall be governed by and construed in accordance with English law.

80.2 Any Dispute shall be finally determined or resolved in accordance with the Dispute Resolution Procedure.

80.3 Any Metering Dispute shall be finally determined or resolved in accordance with Condition 57 (*Metering Disputes*).

## **81. AGENT FOR SERVICE OF PROCESS**

### ***Application***

81.1 This Condition 81 (*Agent for service of process*) shall apply to the Contract for Difference only if it is expressed to apply to the Contract for Difference in the CfD Agreement.

### ***Service Agent***

81.2 The Generator irrevocably appoints the Service Agent to be its agent for the receipt of Service Documents and claim forms, application notices, orders, judgments and any other documents relating to any Metering Dispute. It agrees that any Service Document and any claim form, application notice, order, judgment or other document relating to any Metering Dispute may be effectively served on it in England and Wales by service on its Service Agent effected in any manner permitted by the Civil Procedure Rules.

**Replacement**

- 81.3 If the Service Agent at any time ceases for any reason to act as such, the Generator shall appoint a replacement agent for the receipt of Service Documents and claim forms, application notices, orders, judgments and any other documents relating to any Metering Dispute having an address for service in England or Wales and shall notify the CfD Counterparty of the name and address of the replacement agent. Failing such appointment and notification, the CfD Counterparty shall be entitled by notice to the Generator to appoint a replacement agent to act on behalf of the Generator for the receipt of Service Documents and claim forms, application notices, orders, judgments and any other documents relating to any Metering Dispute. The provisions of this Condition 81 (*Agent for service of process*) applying to service on a Service Agent apply equally to service on a replacement agent.

**Service of process**

- 81.4 A copy of any Service Document or any claim form, application notice, order, judgment or other document relating to any Metering Dispute served on an agent shall be sent by post to the Generator. Failure or delay in so doing shall not prejudice the effectiveness of service of the relevant document.

**82. LANGUAGE****English language**

- 82.1 All Information provided by the Generator to the CfD Counterparty pursuant to the Contract for Difference or any other CfD Document shall be in English unless otherwise agreed by the CfD Counterparty.

**Translations**

- 82.2 In the case of any Information which is translated into English, prior to its being delivered to the CfD Counterparty pursuant to the Contract for Difference or any other CfD Document, the Generator shall ensure that any such translation is carried out (at the Generator's cost) by a recognised and appropriately qualified and skilled translation agent.
- 82.3 The CfD Counterparty shall be entitled to assume the accuracy of and rely upon the English translation of any Information provided pursuant to Condition 82.2 and the English translation shall prevail.

**Schedule 1**  
**Conditions Precedent**

**Part A**  
**Initial Conditions Precedent**

Delivery to the CfD Counterparty of a legal opinion addressed to the CfD Counterparty, in form and content reasonably satisfactory to the CfD Counterparty, from the legal advisers to the Generator confirming that the Generator:

- (A) is duly formed and validly existing under the laws of the jurisdiction of formation;
- (B) has the power to own its assets and carry on its business as it is currently being conducted and as contemplated by the Contract for Difference and the other CfD Documents; and
- (C) has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, the Contract for Difference and the other CfD Documents.

**Part B**  
**Further Conditions Precedent**

1. Delivery to the CfD Counterparty of the following:
  - (A) written confirmation from the CfD Settlement Services Provider that:
    - (i) it has received the CfD Settlement Required Information which is required from the Generator prior to the Start Date; and
    - (ii) the Generator has in place the systems and processes which are necessary for the continued provision of the CfD Settlement Required Information;
  - (B) evidence, in form and content reasonably satisfactory to the CfD Counterparty, that the Generator has Commissioned an Installed Capacity of not less than ninety-five per cent. (95%) of the Installed Capacity Estimate;
  - (C) evidence, in form and content reasonably satisfactory to the CfD Counterparty, that the Generator is complying in full with the Metering Compliance Obligations;
  - (D) a date and time stamped copy of the electrical schematic diagram, certified as being correct and up-to-date by a director of the Generator and showing the locations of the Facility Metering Equipment associated with all relevant assets owned and used by the Facility (including details on the type of BSC-approved metering and information technology systems installed in compliance with the Metering Compliance Obligation and any relevant MSID); and
  - (E) evidence, in form and content reasonably satisfactory to the CfD Counterparty, that all information technology systems relating to Facility Metering Equipment are satisfactorily installed, commissioned, configured, operational, maintained, tested and are fully compliant with the BSC.
2. Delivery to the CfD Counterparty of a copy of: (i) a valid CHPQA Certificate; and (ii) a valid CHPQA Guidance Note 44 Certificate, each certified as being correct and up-to-date by a director of the Generator (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement).
3. The FMS Procedures having been documented and agreed between the CfD Counterparty and the Generator (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement).

**Annex 1**  
**Calculation of Termination Amount**

**1. DEFINITIONS: ANNEX 1**

In this Annex 1 (*Calculation of Termination Amount*):

“**Estimated Facility Generation**” shall be an amount (expressed in MWh) which is the product of:

- (A) the lesser of: (i) the Maximum Contract Capacity; and (ii) the Installed Capacity;
- (B) the number of hours in period;
- (C) the Assumed RQM (but only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement);
- (D) the CHP Qualifying Multiplier (but only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement); and
- (E) the Assumed Load Factor;

“**The Green Book**” means “The Green Book: Appraisal and Evaluation in Central Government” published by HM Treasury, as updated or reissued from time to time; and

“**Updated Energy and Emissions Projections**” means the regular updated projections of energy demand, supply and greenhouse gas emissions produced and published by DECC.

**2. TERMINATION AMOUNT CALCULATION**

***Termination Amount calculation***

2.1 The “**Termination Amount**” shall be calculated in accordance with the following formula:

$$\text{Termination Amount} = \text{MAX} \left[ 0, \sum_{i=1}^n \left\{ (RP_i - SP) \times \frac{Gen_i}{(1+d)^{i-1}} \right\} \right]$$

where:

*i* is a whole number integer from 1 to *n*; such integers referring to distinct time periods as follows:

- the 1st period (*i* =1) covers the period from the Termination Date to 31 December in the year of termination;

- the 2nd to the (n-1)th periods ( $2 \leq i < n$ ) are consecutive periods of one calendar year length each; and
- the nth period ( $i = n$ ) is the period starting on 01 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date.

$RP_i$  is the estimate (expressed in £/MWh) of the energy prices for period (i) determined by the CfD Counterparty as at the Termination Date, having regard to the matters set out in paragraph 2.2;

$SP$  is the Strike Price as at the Termination Date;

$Gen_i$  is the Estimated Facility Generation in period (i); and

$d$  is the discount rate calculated in accordance with The Green Book.

2.2 Without prejudice to its right to determine  $RP_i$  the CfD Counterparty shall, when determining  $RP_i$ , have regard to:

- (A) the market price for energy in the system into which electricity is delivered by the Facility;
- (B) the Facility Generation Technology;
- (C) the liquidity of the market referred to in paragraph 2.2(A);
- (D) the level of quoted wholesale energy prices on the Termination Date for delivery for a period of up to two (2) years following the Termination Date;
- (E) the wholesale electricity price projections corresponding to the central scenario of DECC's most recently issued Updated Energy and Emissions Projections (or equivalent) if available; and
- (F) any recent changes or announced changes in the electricity market which are reasonably likely to have a material effect on the estimate of the wholesale market energy prices.

## **Annex 2**

### **Change Control Procedure**

#### **1. INTERPRETATION: ANNEX 2**

##### ***Interpretation***

1.1 In this Annex 2 (*Change Control Procedure*), any reference to an “amendment” (or grammatical variation thereof or any analogous term) in respect of any Proposed Amendment shall be deemed to include any change, replacement, deletion or supplement to or of any provision of:

- (A) the Contract for Difference;
- (B) FiT Contracts for Difference; or
- (C) FiT Contracts for Difference of a particular category.

#### **2. CHANGE CONTROL PROCEDURE**

##### ***Amendment Notifications***

2.1 The CfD Counterparty may at any time give a notice to the Generator proposing an amendment to the Contract for Difference (an “**Amendment Notification**”). Each Amendment Notification shall:

- (A) be substantially in the form set out in Part TT of Annex 8 (*Pro forma notices*);
- (B) set out the proposed amendment(s) (the “**Proposed Amendment**”);
- (C) specify the date on which the Proposed Amendment is proposed to become effective (the “**Proposed Amendment Effective Date**”);
- (D) state whether the CfD Counterparty considers the Proposed Amendment to be a Material Amendment or a Technical Amendment;
- (E) if the CfD Counterparty considers the Proposed Amendment to be a Technical Amendment, state whether the Proposed Amendment is a General Amendment;
- (F) if the Proposed Amendment is a General Amendment, state whether it applies to all FiT Contracts for Difference or only to those of a specified category or categories and, if the latter, set out those categories; and
- (G) contain such Supporting Information as the CfD Counterparty considers necessary to enable the Generator to evaluate the Proposed Amendment.

**Material Amendments: process**

- 2.2 If the Amendment Notification specifies that the Proposed Amendment is a Material Amendment, the Generator shall, within ten (10) Business Days of the Amendment Notification having been given to it by the CfD Counterparty, either:
- (A) confirm by notice in writing to the CfD Counterparty that it agrees with the Proposed Amendment and the Proposed Amendment Effective Date; or
  - (B) specify, by notice in writing to the CfD Counterparty (a “**Material Amendment Response Notification**”), any objections which the Generator has to:
    - (i) the Proposed Amendment, any such notification to include details of:
      - (a) any proposal by the Generator to address the matters identified in the Amendment Notification by means of an alternative amendment; and
      - (b) any consequential matters arising from the Proposed Amendment which the Generator considers have not been identified in the Amendment Notification; or
    - (ii) the Proposed Amendment Effective Date.
- 2.3 Any Material Amendment Response Notification shall also include such Supporting Information as the Generator considers necessary to enable the CfD Counterparty to evaluate the matters covered in such notification.
- 2.4 Within ten (10) Business Days of receipt by the CfD Counterparty of a Material Amendment Response Notification, the Parties shall meet and negotiate in good faith to agree:
- (A) whether to effect the Proposed Amendment;
  - (B) the date on which the Proposed Amendment shall become effective (which need not be the Proposed Amendment Effective Date); and
  - (C) if effected:
    - (i) the terms of the Proposed Amendment; and
    - (ii) what, if any, consequential amendments need to be made to the Contract for Difference.

**Material Amendments: implementation**

- 2.5 A Material Amendment shall not become effective unless and until documented in writing and signed by each Party (a “**Material Amendment Agreement**”). Any Material Amendment Agreement shall:

- (A) set out the amendment which is to be effected;
- (B) state the effective date of the amendment; and
- (C) detail any consequential amendments to be made (whether or not identified in the Amendment Notification).

***Technical Amendments (bilateral Proposed Amendments): process***

2.6 If an Amendment Notification:

- (A) specifies that the Proposed Amendment is a Technical Amendment; and
- (B) does not specify that it is a General Amendment,

the Generator shall, within ten (10) Business Days of the Amendment Notification having been given to it by the CfD Counterparty (the “**Technical Amendment Response Period**”), either:

- (i) confirm by notice in writing to the CfD Counterparty that it agrees with the Proposed Amendment and the Proposed Amendment Effective Date; or
- (ii) specify, by notice in writing to the CfD Counterparty (a “**Technical Amendment Response Notification**”), any objections which the Generator has to:
  - (a) the classification of the Proposed Amendment as a Technical Amendment (including reasonable details of the Generator’s reasons for such objections) (a “**Classification Objection**”);
  - (b) the Proposed Amendment, any such notification to include details of:
    - (1) any proposal by the Generator to address the matters identified in the Amendment Notification by means of an alternative amendment; and
    - (2) any consequential matters arising from the Proposed Amendment which the Generator considers have not been identified in the Amendment Notification; or
  - (c) the Proposed Amendment Effective Date.

2.7 Any Technical Amendment Response Notification shall also include such Supporting Information as the Generator considers necessary to enable the CfD Counterparty to evaluate the matters covered in such notification.

2.8 If the Generator:

- (A) does not give the CfD Counterparty a Technical Amendment Response Notification within the Technical Amendment Response Period, the Proposed

Amendment shall be binding on the Parties with effect from the Proposed Amendment Effective Date; or

(B) gives the CfD Counterparty a Technical Amendment Response Notification within the Technical Amendment Response Period, then the following provisions shall apply:

(i) if the Technical Amendment Response Notification included a Classification Objection, then:

(a) the Technical Amendment Response Notification shall constitute a Dispute Notice and the resulting Dispute shall be subject to the Dispute Resolution Procedure; and

(b) if, pursuant to the Dispute Resolution Procedure, either of the Parties agrees (whether by means of a Senior Representatives Settlement or otherwise) that the Proposed Amendment is a Material Amendment or it is otherwise determined or resolved pursuant to the Dispute Resolution Procedure that the Proposed Amendment is a Material Amendment, then the Proposed Amendment shall not become effective between the Parties unless and until a Material Amendment Agreement is entered into; and

(ii) if either:

(a) the Technical Amendment Response Notification did not include a Classification Objection; or

(b) (pursuant to the Dispute Resolution Procedure) the Parties agree (whether by means of a Senior Representatives Settlement or otherwise) that the Proposed Amendment is a Technical Amendment or it is otherwise determined or resolved pursuant to the Dispute Resolution Procedure that the Proposed Amendment is a Technical Amendment,

then:

(1) the CfD Counterparty shall consider the objections of the Generator set out in the Technical Amendment Response Notification and may make such amendments to the Proposed Amendment as it deems appropriate having regard to such objections; and

(2) the Proposed Amendment (as amended if the CfD Counterparty elects to so amend pursuant to paragraph 2.8(B)(ii)(b)(1)) shall become binding on the Parties with effect from the Proposed Amendment Effective Date.

**Technical Amendments (General Amendments): process**

- 2.9 If an Amendment Notification specifies that the Proposed Amendment is a Technical Amendment and is a General Amendment, then paragraphs 2.6 to 2.8 shall be applied, *mutatis mutandis*, on the following basis:
- (A) the confirmation provided for in paragraph 2.6(B)(i) shall be deemed to have been given by the Generator, and the Proposed Amendment shall (subject to paragraph 2.9(C)) be binding on the Generator with effect from the Proposed Amendment Effective Date, unless seventy-five per cent. (75%) in number of all CCP Affected Parties give a Technical Amendment Response Notification to the CfD Counterparty within the Technical Amendment Response Period;
  - (B) if more than seventy-five per cent. (75%) in number of the CCP Affected Parties deliver a Technical Amendment Response Notification within the Technical Amendment Response Period then the procedure provided for in paragraph 2.8(B) shall be applied; and
  - (C) if the Generator gives a Technical Amendment Response Notification within the Technical Amendment Response Period which includes a Classification Objection, then the Proposed Amendment shall only become binding on the Generator in accordance with the provisions of paragraph 2.8(B).

**Technical Amendments: implementation**

- 2.10 Where any Technical Amendment is to take effect in accordance with this Change Control Procedure, the Generator shall, if requested by the CfD Counterparty, promptly sign an agreement (a “**Technical Amendment Agreement**”) which:
- (A) sets out the amendment which is to be effected;
  - (B) states the effective date of the amendment; and
  - (C) details any consequential amendments to be made (whether or not identified in the Amendment Notification)

in each case as agreed, determined or resolved in accordance with the relevant provisions of paragraphs 2.6 to 2.9 (inclusive).

- 2.11 Any failure or refusal by the Generator to sign a Technical Amendment Agreement shall not operate so as to prevent the relevant Technical Amendment being binding on the Parties with effect from the relevant Proposed Amendment Effective Date in accordance with the provisions of paragraph 2.8(B)(ii) or 2.9(A) (as appropriate).

**Miscellaneous**

- 2.12 The categorisation of any Proposed Amendment as a Technical Amendment (irrespective of whether it is a General Amendment) or a Material Amendment shall not operate so as to prevent the provisions of Condition 55 (*Consolidation of Connected Disputes*) applying to any Dispute arising in respect of that Proposed Amendment.

**Annex 3**  
**Form of Direct Agreement**

DATED [●]

**CFD COUNTERPARTY COMPANY LIMITED**

as CfD Counterparty

and

[●]

as Security Trustee

and

[●]

as Generator

---

**DIRECT AGREEMENT**

in relation to a Contract for Difference for *[insert details of generating asset]*

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**THIS DIRECT AGREEMENT** (this “**Deed**”) is made as a deed on [●]

**BETWEEN:**

- (1) **CFD COUNTERPARTY COMPANY LIMITED**, a company incorporated under the laws of England and Wales whose registered office is [●] and whose company number is [●] (the “**CfD Counterparty**”);
- (1) [*insert name and details of the security trustee*] as security trustee for and on behalf of the Secured Creditors (the “**Security Trustee**”); and
- (3) [*insert name and details of the generator*], a company incorporated under the laws of [England and Wales] whose registered office is [●] and whose company number is [●] (the “**Generator**”).

**BACKGROUND**

- (A) The CfD Counterparty has entered into the Contract with the Generator.
- (B) [The Generator has entered into the Facilities Agreement with, amongst others, the Security Trustee and the Lenders pursuant to which the Lenders have agreed, on and subject to the terms and conditions of the Facilities Agreement, to make available the loan facilities specified therein.
- (C) It is a condition precedent to the availability of funding under the Facilities Agreement that the Parties enter into this Deed.
- (D) The Security Trustee is entering into this Deed as [agent for the Secured Creditors and as trustee and holder of the security created by the Generator in favour of the Secured Creditors]/[security trustee for the Secured Creditors].]<sup>1</sup>
- (E) The Parties intend this document to take effect as a deed.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed, unless otherwise defined herein or the context requires otherwise:

“**Affiliate**” means, in relation to a Party, any holding company or subsidiary company of the relevant Party from time to time or any company which is a subsidiary company of a

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<sup>1</sup> Note to draft: Recitals and related definitions to conform to underlying funding arrangements.

holding company of that Party from time to time (and the expressions "holding company" and "subsidiary" shall have the meanings respectively ascribed to them by section 1159 of the Companies Act 2006);

**"Appointed Representative"** means the Representative identified in the Step-In Notice;

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

**"CfD Counterparty Enforcement Action"** means:

- (a) the termination or revocation of the Contract by the CfD Counterparty (including the giving of any notice under or pursuant to Condition 45.1 (*Pre-Start Date termination*), 45.4 (*Default Termination*) or 45.6 (*Qualifying Change in Law termination*) of the Contract by the CfD Counterparty to the Generator terminating the Contract);
- (b) the suspension or withholding (as applicable) by the CfD Counterparty of payments under or pursuant to Condition 29.9 (*Failure to comply with Electrical Schematic Obligation*) or 29.14 (*Failure to provide Metering Access Right*) or 28.2 (*Failure to comply with Eligibility Criteria undertaking*) of the Contract or paragraph 3.4 (*Failure to comply with FMS Audit Right*) of Part A of Annex 7 to the Contract; or
- (c) the commencement by the CfD Counterparty of any proceedings for, or the petitioning by the CfD Counterparty for, the winding-up, administration, dissolution or liquidation of the Generator (or the equivalent procedure under the law of the jurisdiction in which the Generator is incorporated, domiciled or resident or carries on business or has assets);

**"CfD Counterparty Enforcement Notice"** means a notice given by the CfD Counterparty to the Security Trustee specifying the CfD Counterparty Enforcement Action which the CfD Counterparty intends to take and, in reasonable detail, the grounds for such intended action;

**"CfD Documents"** has the meaning given to that term in the Contract;

**"CfD Settlement Agent"** has the meaning given to that term in the Contract;

**"CfD Settlement Required Information"** has the meaning given to that term in the Contract;

**"Contract"** means the contract for difference dated [[●]]/[on or around the date of this Deed]] and made between the CfD Counterparty and the Generator in relation to the Facility;

**"Eligibility Criteria"** has the meaning given to that term in the Contract;

**"Enforcement Notice"** means each of a CfD Counterparty Enforcement Notice and a Lender Enforcement Notice;

**“Event of Default”** means any event or circumstance the occurrence of which is treated as an event of default under the Facilities Agreement;

**“Facilities Agreement”** means the facilities agreement dated [[●]/[on or around the date of this Deed]] between, amongst others, the Lenders, the Security Trustee, the Facility Agent and the Generator;

**“Facility”** has the meaning given to that term in the Contract;

**“Facility Agent”** means the Facility Agent appointed under the Facilities Agreement;

**“Finance Documents”** has the meaning given to such term in the Facilities Agreement;

**“Finance Party Discharge Date”** means the date on which all of the debt under the Facilities Agreement has been fully and irrevocably paid or discharged and no further debt under the Facilities Agreement is capable of becoming outstanding;

**“Generator’s Proceeds Account”** means the account [called “[●]”] held by the Generator at [*insert name of bank*] with the account number [●] and sort code [●] or such other account and bank as the Generator and the Security Trustee may notify to the CfD Counterparty from time to time;

**“Lender Enforcement Notice”** means a notice given by or on behalf of the Lenders to the Generator consequent upon an Event of Default:

- (a) cancelling the commitments of the Lenders under the Facilities Agreement;
- (b) demanding that all or part of the borrowings under the Facilities Agreement be immediately due and payable; and/or
- (c) demanding that all or part of the borrowings under the Facilities Agreement be payable on demand;

**“Lenders”** means each Lender under the Facilities Agreement;

**“Novation Agreement”** means a novation agreement entered into pursuant to Clause 9.3 (*Substitution Procedure*) between the CfD Counterparty, the Generator and the Substitute substantially in the form set out in Annex 2 (*Form of Novation Agreement*);

**“Novation Date”** has the meaning given to that term in Clause 9.3(b) (*Substitution Procedure*);

**“Novation Notice”** means a notice given by the Security Trustee to the CfD Counterparty pursuant to Clause 9.1 (*Proposed Substitution*) specifying:

- (a) the identity of the proposed Substitute; and
- (b) the Proposed Novation Date;

**“Party”** means a party to this Deed;

**“Proposed Novation Date”** means the date proposed by the Security Trustee in a Novation Notice for the novation to a Substitute of the Generator’s rights and obligations under the Contract;

**“Proposed Step-In Date”** means the date proposed by the Security Trustee in a Step-In Notice upon which the Appointed Representative shall issue a Step-In Undertaking;

**“Representative”** means:

- (a) the Facility Agent, the Security Trustee, any Secured Creditor and/or any of their Affiliates;
- (b) an administrative receiver, receiver or receiver and manager of the Generator and/or any or all of its assets appointed under the Finance Documents;
- (c) an administrator of the Generator;
- (d) a person directly or indirectly owned or controlled by the Facility Agent, the Security Trustee and/or the Secured Creditors or any of them; or
- (e) any other person approved by the CfD Counterparty;

**“Secured Creditors”** means the parties with the benefit of security under the Security Documents and **“Secured Creditor”** means any of them;

**“Security Documents”** means any documents creating or evidencing any existing or future security interest granted by the Generator to the Security Trustee to secure the payment and discharge of any or all obligations owed to the Secured Creditors in connection with the Finance Documents;

**“Step-In Date”** means the date on which the Appointed Representative gives a Step-In Undertaking to the CfD Counterparty as contemplated by Clause 6.3 (*Step-In Undertaking*);

**“Step-In Decision Period”** means a period commencing on the earlier of:

- (a) the date of receipt by the Security Trustee from the CfD Counterparty of any CfD Counterparty Enforcement Notice; and
- (b) the date of receipt by the CfD Counterparty from the Security Trustee of notification of service of a Lender Enforcement Notice,

and ending on the first to occur of the Step-In Date, the Novation Date and the date falling one hundred and twenty (120) days after the commencement of the Step-In Decision Period;

**“Step-In Notice”** has the meaning given to that term in Clause 6.1 (*Step-In Notice*);

**“Step-In Period”** means the period from the Step-In Date to and including the first to occur of:

- (a) the expiry of the notice period in any notice given under Clause 8 (*Step-Out*);
- (b) the Novation Date;
- (c) the Finance Party Discharge Date; and
- (d) the date of any termination or revocation of the Contract by the CfD Counterparty in accordance with this Deed and the Contract;

**“Step-In Undertaking”** means an undertaking substantially in the form set out in Annex 1 (*Form of Step-In Undertaking*) given by the Appointed Representative;

**“Step-Out Date”** means the date upon which a Step-In Period ends;

**“Step-Out Notice”** has the meaning given to that term in Clause 8(a) (*Step-Out*); and

**“Substitute”** means a person nominated by the Security Trustee pursuant to Clause 9.1 (*Proposed Substitution*) or Clause 9.2 (*Objection to Substitute*), as the case may be, as the transferee of the Generator’s rights and obligations under the Contract.

## 1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
  - (i) the **“CfD Counterparty”**, the **“Security Trustee”**, the **“Generator”**, any **“Lender”**, any **“Secured Creditor”** or any **“Appointed Representative”** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) an agreement includes a deed and instrument;
  - (iii) an agreement is a reference to it as amended, supplemented, restated, novated or replaced from time to time;
  - (iv) a provision of law is a reference to that provision as amended, extended or re-enacted and includes all laws and official requirements made under or deriving validity from it;
  - (v) any **“obligation”** of any person under this Deed or any other agreement or document shall be construed as a reference to an obligation expressed to be assumed by or imposed on it under this Deed or, as the case may be, that other agreement or document (and **“due”**, **“owing”** and **“payable”** shall be similarly construed);
  - (vi) a **“Clause”**, **“paragraph”** or **“Annex”** is a reference to a clause or paragraph of, or an annex to, this Deed;
  - (vii) a **“person”** includes any individual, firm, company, corporation, unincorporated organisation, government, state or agency of a state or

any association, trust or partnership (whether or not having separate legal personality) or any other entity;

- (viii) time is a reference to time in London, England; and
  - (ix) words in the singular shall be interpreted as including the plural, and *vice versa*.
- (b) The words “**include**” and “**including**” shall be construed without limitation to the generality of the preceding words.
  - (c) Headings are for ease of reference only.

## 2. CONSENT TO SECURITY AND PAYMENT INSTRUCTIONS

### 2.1 Consent to Security

- (a) The Generator hereby gives notice to the CfD Counterparty that, under or pursuant to the Security Documents, the Generator has assigned or charged by way of security to the Security Trustee its rights, title and interest in and to the Contract.
- (b) The CfD Counterparty acknowledges receipt of notice of, and consents to, the grant of the security interests referred to in paragraph (a) above.
- (c) The CfD Counterparty acknowledges that neither the Security Trustee nor any Secured Creditor shall have any obligations or liabilities to the CfD Counterparty (whether in place of the Generator or otherwise) in respect of the Contract as a result of any security interest created under the Security Documents except to the extent that the Security Trustee or such Secured Creditor incurs such obligations or liabilities pursuant to Clause 6 (*Step-In*), Clause 7 (*Step-In Period*), Clause 8 (*Step-Out*) or Clause 9 (*Novation*).

### 2.2 [No other Security Interests

The CfD Counterparty confirms that, as at the date of this Deed, it has not received notice of any other security interest granted over the Generator's rights, title and interest in and to the Contract.]<sup>2</sup> The CfD Counterparty agrees to notify the Security Trustee as soon as reasonably practicable if it receives any such notice.

### 2.3 Payment of Monies

- (a) Each of the Generator and the Security Trustee authorises and instructs the CfD Counterparty, and the CfD Counterparty agrees, to pay the full amount of

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<sup>2</sup> Note to draft: to be included if this is in fact the case.

each sum which it is obliged at any time to pay to the Generator under or in respect of the Contract (whether before or after termination of the Contract) to the Generator's Proceeds Account or, following the commencement of a Step-In Decision Period, to such other account in the United Kingdom that the Security Trustee may direct in writing to the CfD Counterparty on not less than ten (10) Business Days' notice.

- (b) Each payment made in accordance with paragraph (a) above shall constitute a good discharge *pro tanto* of the obligation of the CfD Counterparty to make the relevant payment to the Generator.
- (c) Each of the Parties agrees that the authority and instructions set out in paragraph (a) above shall not be revoked or varied by the Generator without the prior written consent of the Security Trustee, copied to the CfD Counterparty.

### **3. NOTICE OF ENFORCEMENT BY CFD COUNTERPARTY**

#### **3.1 Notification of Default**

- (a) The CfD Counterparty shall, as soon as reasonably practicable, send to the Security Trustee a copy of any notice of default under the Contract served by the CfD Counterparty on the Generator.
- (b) The CfD Counterparty shall have no obligation to notify the Security Trustee of a default under the Contract where the CfD Counterparty has not served a notice of default on the Generator.

#### **3.2 CfD Counterparty Enforcement Action**

Subject to Clause 7.2 (*CfD Counterparty Enforcement Action during a Step-In Period*), the CfD Counterparty shall not take any CfD Counterparty Enforcement Action without first giving a CfD Counterparty Enforcement Notice to the Security Trustee.

#### **3.3 No Waiver**

The provisions of this Clause 3 shall not constitute any waiver as against the Generator of the grounds for the intended exercise of the CfD Counterparty's rights to take any CfD Counterparty Enforcement Action or any of its other rights regarding such CfD Counterparty Enforcement Action and the giving of a CfD Counterparty Enforcement Notice shall not release the Generator from its obligations or liabilities under the Contract.

### **4. NOTIFICATION BY THE SECURITY TRUSTEE**

#### **4.1 Lender Enforcement Notice**

The Security Trustee shall, as soon as reasonably practicable, notify the CfD Counterparty after serving a Lender Enforcement Notice on the Generator and shall specify in such notice the date on which the Lender Enforcement Notice was served on the Generator. The CfD Counterparty may treat the certification of the Security Trustee

in that Lender Enforcement Notice that an Event of Default has occurred as conclusive evidence of the occurrence of the Event of Default.

#### **4.2 Notices from the Security Trustee**

After receiving notification of a Lender Enforcement Notice from the Security Trustee, the CfD Counterparty shall accept as validly given by the Generator any notices or demands pursuant to and in accordance with the Contract given or made by the Security Trustee provided, in each case, such notice or demand would have been validly given had it been given by the Generator itself. The Generator consents to the giving of such notices or demands and acknowledges and agrees that the service of such notices or demands by the Security Trustee shall not affect the rights and remedies of the CfD Counterparty under the Contract.

#### **4.3 Performance by the Security Trustee**

After receiving notification of a Lender Enforcement Notice from the Security Trustee, the CfD Counterparty shall accept performance by or on behalf of the Security Trustee and/or the Secured Creditors (or any of them) of any of the obligations of the Generator under the Contract as performance by the Generator.

### **5. STEP-IN DECISION PERIOD**

#### **5.1 Suspension of Rights and Remedial Action**

During a Step-In Decision Period:

- (a) the CfD Counterparty shall not take any CfD Counterparty Enforcement Action; and
- (b) the Security Trustee may, where applicable, procure remedial action consistent with the terms of the Contract as may be necessary to remedy the effects of the event or circumstance which has given rise to the CfD Counterparty Enforcement Notice and the CfD Counterparty agrees that any such action shall, to the extent of such remedy, constitute a valid discharge of the Generator's obligations under the Contract in relation to the event or circumstance which gave rise to the CfD Counterparty Enforcement Notice.

#### **5.2 Statement of Amounts Due**

- (a) As soon as reasonably practicable after the commencement of a Step-In Decision Period, the CfD Counterparty shall give the Security Trustee a statement of any amounts owed by the Generator to the CfD Counterparty and any outstanding performance obligations of the Generator under the Contract of which the CfD Counterparty is aware, in each case as at the date of the relevant Enforcement Notice.
- (b) For the avoidance of doubt, a failure by the CfD Counterparty to include in any such statement an amount owed or a performance obligation outstanding under the Contract shall not limit in any way the obligations or liabilities of the

Generator under the Contract or the obligations or liabilities of the Security Trustee or any Appointed Representative or Substitute under or pursuant to this Deed.

### 5.3 Revival of Remedies

If a CfD Counterparty Enforcement Notice has been given and:

- (a) neither the Step-In Date nor the Novation Date has occurred before expiry of the Step-In Decision Period; or
- (b) the Step-In Date has occurred before expiry of the Step-In Decision Period but a Step-Out Date has subsequently occurred without there being a Novation Date,

the CfD Counterparty shall be entitled to take CfD Counterparty Enforcement Action without serving a further CfD Counterparty Enforcement Notice if the default, event or circumstance in respect of which the CfD Counterparty gave the CfD Counterparty Enforcement Notice is subsisting or has not been remedied or cured (including by, or as procured by, the Security Trustee pursuant to Clause 5.1(b) (*Suspension of Rights and Remedial Action*)).

## 6. STEP-IN

### 6.1 Step-In Notice

- (a) At any time during a Step-In Decision Period, the Security Trustee may give notice to the CfD Counterparty (a “**Step-In Notice**”) specifying:
  - (A) the Appointed Representative who will give a Step-In Undertaking to the CfD Counterparty; and
  - (B) the Proposed Step-In Date (which shall be a date no earlier than five (5) Business Days after the date of the Step-In Notice).
- (b) The Proposed Step-In Date must fall on or prior to the expiry of the Step-In Decision Period.
- (c) The Security Trustee may revoke a Step-In Notice at any time prior to the Step-In Date by notice to the CfD Counterparty, provided that the relevant Step-In Decision Period shall be deemed to have expired on delivery of such notice to the CfD Counterparty.
- (d) The CfD Counterparty agrees to the appointment of the Appointed Representative, subject only to challenge by the CfD Counterparty in accordance with Clause 6.2 (*Approval of Appointed Representative*).

### 6.2 Approval of Appointed Representative

The CfD Counterparty may only object to the identity of a proposed Appointed Representative if:

- (a) the person proposed does not fall within paragraphs (a) to (d) of the definition of Representative in Clause 1.1 (*Definitions*); and
- (b) the CfD Counterparty gives notice of its objection to the Security Trustee within five (5) Business Days of receipt by the CfD Counterparty of the Step-In Notice,

in which case the Security Trustee shall propose an alternative Appointed Representative.

### **6.3 Step-In Undertaking**

The Security Trustee shall procure that the Appointed Representative gives a Step-In Undertaking to the CfD Counterparty on the Proposed Step-In Date.

## **7. STEP-IN PERIOD**

### **7.1 Step-In Period**

During the Step-In Period:

- (a) the CfD Counterparty shall deal only with the Appointed Representative and not the Generator and the CfD Counterparty shall have no liability to the Generator for compliance with the instructions of the Appointed Representative or the Security Trustee in priority to those of the Generator; and
- (b) the CfD Counterparty agrees that payment by the Appointed Representative to the CfD Counterparty of any sums due under the Contract, or performance by the Appointed Representative of any other of the Generator's obligations under the Contract, shall comprise good discharge *pro tanto* of the Generator's payment and other obligations under the Contract.

### **7.2 CfD Counterparty Enforcement Action during a Step-In Period**

- (a) During the Step-In Period, the CfD Counterparty shall be entitled to take CfD Counterparty Enforcement Action if:
  - (i) the Appointed Representative breaches the terms of the Step-In Undertaking; and
  - (ii) such breach would, save for the terms of Clause 5.1 (*Suspension of Rights and Remedial Action*), entitle the CfD Counterparty to take the relevant CfD Counterparty Enforcement Action under or in connection with the Contract.
- (b) The provisions of Clause 3.2 (*CfD Counterparty Enforcement Action*) shall not apply to any CfD Counterparty Enforcement Action taken pursuant to this Clause 7.2.

## 8. STEP-OUT

- (a) The Appointed Representative or the Security Trustee shall give the CfD Counterparty at least ten (10) Business Days' prior written notice of the date on which the Appointed Representative will step out (a "**Step-Out Notice**").
- (b) Upon the Step-Out Date (howsoever occurring):
  - (i) all of the Appointed Representative's obligations and liabilities to the CfD Counterparty under the Step-In Undertaking will be cancelled, other than those for which the Appointed Representative is liable under the Step-In Undertaking and which arose or accrued prior to the Step-Out Date;
  - (ii) all of the Appointed Representative's rights against the CfD Counterparty under the Step-In Undertaking will be cancelled, other than those which arose or accrued prior to the Step-Out Date; and
  - (iii) without prejudice to sub-paragraph (i) above, the Appointed Representative will be released from all obligations and liabilities to the CfD Counterparty under the Contract and this Deed.
- (c) The Generator shall continue to be bound by the terms of the Contract notwithstanding the occurrence of the Step-Out Date and the CfD Counterparty shall continue to be entitled to exercise and enforce all of its rights and remedies under the Contract as against the Generator.

## 9. NOVATION

### 9.1 Proposed Substitution

- (a) Subject to paragraph (b) below, at any time:
  - (i) during a Step-In Decision Period or a Step-In Period; or
  - (ii) during which an Event of Default is subsisting,

the Security Trustee may give a Novation Notice to the CfD Counterparty.
- (b) The Security Trustee shall give the CfD Counterparty not less than fifteen (15) Business Days' notice of the Proposed Novation Date.

### 9.2 Objection to Substitute

The CfD Counterparty may only object to a proposed Substitute if the entry into a Novation Agreement or the Contract with the proposed Substitute would be unenforceable or illegal and the CfD Counterparty gives notice of its objection to the Security Trustee within ten (10) Business Days of receipt by the CfD Counterparty of the Novation Notice, in which case the Security Trustee may propose an alternative Substitute.

### 9.3 Substitution Procedure

- (a) On the Proposed Novation Date or such later date (if any) as the identity of the Substitute is determined pursuant to Clause 9.2 (*Objection to Substitute*) the CfD Counterparty and the Generator shall each enter into a Novation Agreement with the Substitute.
- (b) The novation of the Generator's rights and obligations under the Contract pursuant to a Novation Agreement shall be effective from the date (the "**Novation Date**") which is the latest of the Proposed Novation Date, such later date (if any) as the identity of the Substitute is determined pursuant to Clause 9.2 (*Objection to Substitute*) and the date upon which each of the following conditions is satisfied, namely:
  - (i) the CfD Counterparty having received evidence, in form and content reasonably satisfactory to the CfD Counterparty, of compliance by the Substitute with the following Eligibility Criteria, namely:
    - (A) a certified copy of the constitutional documents and certificate of incorporation and any certificate of incorporation on change of name of the Substitute; and
    - (B) "know your customer" or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by the Novation Agreement, the Contract and the other CfD Documents; and
  - (ii) the CfD Counterparty having received a legal opinion addressed to the CfD Counterparty, in form and content reasonably satisfactory to the CfD Counterparty, from the legal advisers to the Substitute confirming that the Substitute:
    - (A) is duly formed and validly existing under the laws of the jurisdiction of its formation;
    - (B) has the power to own its assets and carry on its business as it is currently being conducted and as contemplated by the Contract and the other CfD Documents; and
    - (C) has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, the Contract and the other CfD Documents; and
  - (iii) the CfD Counterparty having received written confirmation from the CfD Settlement Agent that:
    - (A) it has received the CfD Settlement Required Information which is required from the Substitute prior to the Proposed Novation Date or such later date, as the case may be; and

- (B) the Substitute has in place the systems and processes which are necessary for the continued provision of the CfD Settlement Required Information,

in each case including with respect to the calculation, invoicing, reconciliation and settlement of payments under the Contract;

- (iv) the Substitute being or having become the legal and beneficial owner of the Facility, subject only to such rights and benefits under the Contract as have been assigned by way of security to or in favour of any bank or financial institution (or an agent or security trustee on its behalf); and
  - (v) any collateral required to be in place under Condition 49 (*Collateral requirement*) or 50 (*Acceptable Collateral*) of the Contract having been provided by or on behalf of the Substitute.
- (c) At the Security Trustee's cost, the CfD Counterparty shall, subject to and in accordance with Condition 73.6(B) (*Permitted assignment by the Generator*) of the Contract, enter into a direct agreement with the Security Trustee (or such other representative of the lenders lending to such Substitute) and the Substitute on substantially the same terms as this Deed and effective from the Novation Date.

## 10. DURATION

This Deed shall commence on the date hereof and shall continue in full force and effect until the first to occur of:

- (a) the Finance Party Discharge Date;
- (b) expiry of the term of the Contract; and
- (c) the termination or revocation of the Contract (in accordance with the Contract and this Deed),

in each case without prejudice to any accrued rights and obligations arising pursuant to this Deed existing at the date of termination. The Security Trustee shall promptly notify the CfD Counterparty of the occurrence of the Finance Party Discharge Date.

## 11. CHANGES TO PARTIES

### 11.1 Benefit of Deed

This Deed shall benefit and be binding on the Parties, their respective successors and any permitted assignee or transferee of all or some of a Party's rights and obligations under this Deed.

## 11.2 Assignment

Save as provided in Clause 9 (*Novation*) or Clause 11.3 (*Assignment by the Security Trustee*), neither the Security Trustee nor the Generator may assign, transfer, novate or otherwise dispose of all or any of their respective rights, benefits or obligations under this Deed without the prior consent of the other Parties.

## 11.3 Assignment by the Security Trustee

The Security Trustee may assign or transfer its rights under this Deed to any successor Security Trustee without the consent of the CfD Counterparty.

## 11.4 Generator's Acknowledgement

The Generator joins in this Deed to acknowledge and consent to the arrangements set out in it and agrees not knowingly to do or omit to do anything that may prevent either of the other Parties from enforcing its rights under this Deed.

## 12. NOTICES

### 12.1 Communications in Writing

Any communications to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

### 12.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is as follows:

(a) **CfD Counterparty**

Address: [●]

Fax No: [●]

Attention: [●]

(b) **Security Trustee**

Address: [●]

Fax No: [●]

Attention: [●]

(c) **Generator**

Address: [●]

Fax No: [●]

Attention: [●]

or any substitute address, fax number or department or officer as the Party may notify to the other Parties on not less than five (5) Business Days' notice.

### **12.3 Delivery**

Any communication or document made or delivered to a Party under or in connection with this Deed will only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post (postage prepaid) in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 12.2 (*Addresses*), if addressed to that department or officer.

## **13. MISCELLANEOUS**

### **13.1 Amendments and Waivers**

This Deed may not be amended, waived, supplemented or otherwise varied unless in writing and signed by or on behalf of all of the Parties.

### **13.2 Remedies and Waivers**

No failure to exercise, nor any delay in exercising, any power, right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

### **13.3 Partial Invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

### **13.4 No Partnership**

Neither this Deed nor any other agreement or arrangement of which it forms part, nor the performance by the Parties of their respective obligations under any such agreement or arrangement, shall constitute a partnership between the Parties.

### 13.5 Counterparts

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

### 13.6 Third Party Beneficiaries

- (a) Save as provided in paragraph (b) below, this Deed is intended for the sole and exclusive benefit of the Parties.
- (b) The Contracts (Rights of Third Parties) Act 1999 is expressly excluded save for:
  - (i) any rights of any Appointed Representative on and after the issue of a Step-In Undertaking by that Appointed Representative; or
  - (ii) any rights of any Substitute on and after any Novation Date under or in connection with Clause 9 (*Novation*),

in each case, as if they were a party to this Deed.
- (c) This Deed may be varied in any way and at any time by the Parties without the consent of any third party.

### 13.7 Entire Agreement

This Deed and the Contract constitute the entire agreement between the Parties with respect to the subject matter of this Deed.

### 13.8 Effect of this Deed

- (a) The Parties acknowledge and agree that the express or implied terms and conditions of this Deed shall, in the event of any inconsistency or conflict with the express or implied terms and conditions of the Contract, prevail over the relevant terms and conditions of the Contract.
- (b) Nothing in this Deed or the arrangements contemplated hereby shall prejudice the rights of any of the Secured Creditors under the Facilities Agreement or any Security Documents or shall be construed as obliging the Security Trustee to exercise any of its rights under the Security Documents or under this Deed.

## 14. GOVERNING LAW AND JURISDICTION

- (a) This Deed and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England.
- (b) The Parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed

or any non-contractual obligations arising out of or in connection with this Deed).

**IN WITNESS WHEREOF** this Deed has been duly executed and delivered as a deed on the date stated at the beginning of this Deed.<sup>3</sup>

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<sup>3</sup> Note to draft: signature blocks to be amended as appropriate.

**CfD Counterparty**

**EXECUTED** and delivered as a **DEED** by )  
**CFD COUNTERPARTY COMPANY LIMITED** )  
acting by its director/duly appointed attorney ) .....  
Director/Attorney

in the presence of

Signature: .....

Print Name: .....

Address: .....

Occupation: .....

**Security Trustee**

**EXECUTED** and delivered as a **DEED** by )  
**[•]** )  
acting by its director/duly appointed attorney ) .....  
Director/Attorney

in the presence of

Signature: .....

Print Name: .....

Address: .....

Occupation: .....

**Generator**

**EXECUTED** and delivered as a **DEED** by )  
 [•] )  
 acting by its director/duly appointed attorney ) .....  
 Director/Attorney

in the presence of

Signature: .....

Print Name: .....

Address: .....

Occupation: .....

**Annex 1**  
**Form of Step-In Undertaking**

*[From the Appointed Representative]*

CfD Counterparty Company Limited  
**[insert address]**

For the attention of:     the Directors

**[Date]**

Dear Sirs,

**DIRECT AGREEMENT (the “Agreement”)**

1. In accordance with clause 6 (*Step-In*) of the Agreement, we undertake to you that we will:
  - (a) pay, or procure payment, to you within three (3) Business Days of the date hereof any sum that is due and payable to you by the Generator but unpaid as of the date hereof;
  - (b) pay, or procure payment, to you any sum which becomes due and payable by the Generator to you pursuant to the terms of the Contract during the Step-In Period which is not paid by the Generator on the due date;
  - (c) perform or discharge, or procure the performance or discharge of, all outstanding performance obligations of the Generator which have arisen or fallen due prior to the date hereof:
    - (i) within ten (10) Business Days of the date hereof; or
    - (ii) if the performance or discharge of any obligation is being disputed pursuant to the provisions of the Contract, within ten (10) Business Days of the same being agreed or finally determined; and
  - (f) perform or discharge, or procure the performance or discharge of, any performance obligations of the Generator under the Contract which arise during the Step-In Period,

in each case in accordance with and subject to the terms of the Contract as if we were a party to the Contract in place of the Generator.

2. This Step-In Undertaking may be terminated by the giving of a Step-Out Notice to you in accordance with clause 8 (*Step-Out*) of the Agreement and shall automatically terminate upon the Step-Out Date, save that we shall continue to be liable to you for outstanding obligations and liabilities arising prior to termination in accordance with clause 8(b) (*Step-Out*) of the Agreement.

3. All capitalised terms used in this letter shall have the meanings given them in the Agreement.

Yours faithfully,

.....  
For and on behalf of  
[Appointed Representative]

**Annex 2**  
**Form of Novation Agreement**

**THIS NOVATION AGREEMENT** is made as a deed on [●]

**BETWEEN:**

- (1) **CFD COUNTERPARTY COMPANY LIMITED**, a company incorporated under the laws of England and Wales whose registered office is [●] and whose company number is [●] (the “**CfD Counterparty**”);
- (2) [*insert name and details of the generator*], a company incorporated under the laws of [England and Wales] whose registered office is [●] and whose company number is [●] (the “**Generator**”); and
- (3) [*insert name and details of the substitute*], a company incorporated under the laws of [England and Wales] whose registered office is [●] and whose company number is [●] (the “**Substitute**”)

(together referred to as the “**Parties**”).

**BACKGROUND**

- (A) The Generator, the CfD Counterparty and the Security Trustee have entered into an agreement (the “**Direct Agreement**”) dated [●] pursuant to which the Security Trustee has the right to require the rights and obligations of the Generator under the Contract to be novated to a Substitute.
- (B) The Substitute has been identified as the Substitute for the purposes of clause 9 (*Novation*) of the Direct Agreement.
- (C) This is the Novation Agreement referred to in clause 9.3 (*Substitution Procedure*) of the Direct Agreement.

**IT IS AGREED** as follows:

**1. Definitions and Interpretation**

Unless a contrary indication appears, words and expressions defined, or defined by reference, in the Direct Agreement have the same meanings in this Agreement.

**2. CfD Counterparty Release and Discharge**

With effect from the Novation Date, the CfD Counterparty releases and discharges the Generator from all liabilities, duties and obligations of every description, whether

deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or disputed, owing to the CfD Counterparty and arising out of or in respect of the Contract, save for the Generator's obligations under Condition 66 (*Confidentiality*) of the Contract<sup>4</sup>.

### **3. Generator Release and Discharge**

With effect from the Novation Date, the Generator releases and discharges the CfD Counterparty from all liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or disputed, owing to the Generator and arising out of or in respect of the Contract.

### **4. Substitute Assumption of Liabilities**

The Substitute undertakes to assume all the liabilities, duties and obligations of the Generator of every description contained in the Contract, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or unascertained or disputed, and agrees to perform all the duties and to discharge all the liabilities and obligations of the Generator under the Contract and to be bound by their terms and conditions in every way as if the Substitute were named in the Contract as a party in place of the Generator from the date of the Contract.

### **5. CfD Counterparty Agreement to Perform**

The CfD Counterparty agrees to perform all its duties and to discharge all its obligations under the Contract and to be bound by all the terms and conditions of the Contract in every way as if the Substitute were named in the Contract as a party in place of the Generator from the date of the Contract.

### **6. Replacement of Generator by Substitute**

As from the Novation Date, reference to the Generator (by whatsoever name known) in the Contract shall be deleted and replaced by reference to the Substitute.

### **7. Outstanding CfD Counterparty Claims**

The CfD Counterparty shall not take any CfD Counterparty Enforcement Action by reason of any event notified in a CfD Counterparty Enforcement Notice or any act or omission by the Security Trustee, any Appointed Representative and/or the Generator occurring prior to the Novation Date provided that the foregoing shall be without prejudice to the CfD Counterparty's remedies (including without limitation the right to take CfD Counterparty Enforcement Action) in respect of:

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<sup>4</sup> Note to draft: cross-reference relevant confidentiality provisions of the Contract.

- (A) outstanding amounts properly due and payable to the CfD Counterparty on the Novation Date and which remain unpaid on the expiry of three (3) Business Days' notice from the CfD Counterparty to the Substitute that such amounts are due and payable; and
- (B) to the extent not covered by paragraph (A) above, any breach of a Step-In Undertaking or the Contract by an Appointed Representative, the Generator or the Security Trustee occurring prior to the Novation Date which has not been remedied upon the expiry of ten (10) Business Days' notice from the CfD Counterparty to the Substitute that such breach has not been remedied.

**8. Continuance of the Contract**

It is hereby agreed and declared that the Contract shall continue in full force and effect and that, as from the Novation Date, the terms and conditions of the Contract have only changed to the extent set out in this Agreement.

**9. Further Assurance**

The Parties shall perform such further acts and execute and deliver such further documents as may be required by law or reasonably requested by each other to implement the purposes of and to perfect this Agreement.

**10. Contract (Rights of Third Parties) Act 1999**

This Agreement does not create any rights under the Contract (Rights of Third Parties) Act 1999 enforceable by any person who is not a party to it.

**11. Variations**

No variation of this Agreement shall be effective unless it is in writing and is signed by or on behalf of each of the parties to this Agreement.

**12. Notices**

Any notices to be served on the Substitute pursuant to the Contract shall be served in accordance with Condition 74 (*Notices*) of the Contract and to:

*[insert Substitute contact details]*

**13. Counterparts**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original but all the counterparts together shall constitute one and the same instrument.

**14. Governing Law and Jurisdiction**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England and the Parties hereby submit to the exclusive jurisdiction of the courts of England.

**IN WITNESS WHEREOF** this Agreement has been executed and delivered as a deed on the date first stated above.<sup>5</sup>

**CfD Counterparty**

**EXECUTED** and delivered as a **DEED** by )  
**CFD COUNTERPARTY COMPANY LIMITED** )  
acting by its director/duly appointed attorney ) .....  
Director/Attorney

in the presence of

Signature: .....

Print Name: .....

Address: .....

Occupation: .....

**Generator**

**EXECUTED** and delivered as a **DEED** by )  
**[•]** )  
acting by its director/duly appointed attorney ) .....  
Director/Attorney

in the presence of

---

<sup>5</sup> Note to draft: signature blocks to be amended as appropriate.

Signature: .....

Print Name: .....

Address: .....

Occupation: .....

**Substitute**

**EXECUTED** and delivered as a **DEED** by )  
 [•] )  
 acting by its director/duly appointed attorney ) .....  
 Director/Attorney

in the presence of

Signature: .....

Print Name: .....

Address: .....

Occupation: .....

## **Annex 4 BMRP**

### **1. APPLICATION**

This Annex 4 (*BMRP*) shall apply to the Contract for Difference only if it is expressed to apply to the Contract for Difference in the CfD Agreement.

### **2. DEFINITIONS: ANNEX 4**

#### **2.1** In this Annex 4 (*BMRP*):

**“5-TD Sample Period”** means a period of five (5) consecutive Trading Days;

**“5-TD Trade Number Percentage”** means, in respect of a price source, the number of trades in respect of electricity to be delivered within Great Britain reflected in such price source in a 5-TD Sample Period expressed as a percentage of the total number of trades in respect of electricity to be delivered within Great Britain reflected in all of the Calculation Price Sources during such 5-TD Sample Period;

**“5-TD Volume Percentage”** means, in respect of a price source, the volume (expressed in MWh) of trades in respect of electricity to be delivered within Great Britain reflected in such price source in a 5-TD Sample Period expressed as a percentage of the volume (expressed in MWh) of trades in respect of electricity to be delivered within Great Britain reflected in all of the Calculation Price Sources during such 5-TD Sample Period;

**“Baseload CfD”** means a FiT Contract for Difference in respect of a generating facility which deploys a Baseload Technology (but excluding any such FiT Contract for Difference which has expired or been terminated) and **“Baseload CfDs”** shall be construed accordingly;

**“Baseload Forward Season Contract”** means a contract providing for delivery of a firm volume of energy in each Settlement Unit within the Season immediately following the Season in which such contract is entered into;

**“Baseload Forward Season Contract Price”** means the price (expressed in £/MWh) for the delivery of a firm volume of energy pursuant to a Baseload Forward Season Contract as reflected in a Baseload Price Source or the Baseload Price Sources (as the context requires);

**“Baseload Forward Season Index”** means an index of Baseload Forward Season Contract Prices or another source of Baseload Forward Season Contract Prices;

**“Baseload Forward Season Trades”** means trades effected pursuant to a Baseload Forward Season Contract;

**“Baseload Generator”** means, at the relevant time, an Eligible Generator party to a Baseload CfD and **“Baseload Generators”** shall be construed accordingly;

**“Baseload Market Reference Price”** has the meaning given to that term in Condition 14.2;

**“Baseload Price Sources”** means the Baseload Forward Season Indices to be used in the calculation of the Baseload Market Reference Price, being the Initial BMRP Indices or such other replacement or supplementary Baseload Forward Season Indices which are required to be so used as a result of the operation of the provisions of Part A, and **“Baseload Price Source”** shall be construed accordingly.

**“Baseload Technology”** means a technology to which the Baseload Market Reference Price applies in accordance with the EA 2013 Regulations;

**“BMRP Annual Review”** means a review of the BMRP Review Price Sources conducted by the CfD Counterparty pursuant to, and within the parameters specified in, paragraph 1 (*BMRP Annual Reviews*) of Part A;

**“BMRP Annual Review Cut-Off Date”** means, in relation to each BMRP Annual Review, 20 September in the calendar year in which the BMRP Review Commencement Date occurs;

**“BMRP Annual Review Dispute Notice”** has the meaning given to that term in paragraph 4.1(A) of Part A;

**“BMRP Annual Review Implementation Date”** has the meaning given to that term in paragraph 1.6(D) of Part A;

**“BMRP Annual Review Outcome Notice”** has the meaning given to that term in paragraph 1.6 of Part A;

**“BMRP Dispute”** means a BMRP Price Source Dispute or a BMRP Principles Review Dispute;

**“BMRP Dispute Generator”** has the meaning given to that term in paragraph 4.1 of Part A;

**“BMRP Dispute Notice”** has the meaning given to that term in paragraph 4.1 of Part A;

**“BMRP Dispute Threshold Criterion”** has the meaning given to that term in paragraph 4.13 of Part A;

**“BMRP Dispute Validity Notice”** has the meaning given to that term in paragraph 4.3 of Part A;

**“BMRP Inclusion Criteria”** in respect of a price source, means that:

- (A) the 5-TD Trade Number Percentage in respect of such price source in each 5-TD Sample Period during the BMRP Review Calculation Period is at least five per cent. (5%);

- (B) the 5-TD Volume Percentage in respect of such price source in each 5-TD Sample Period during the BMRP Review Calculation Period is at least five per cent. (5%);
- (C) such price source has at all times during the BMRP Review Calculation Period, no fewer than ten (10) registered market participants; and
- (D) such price source contains Baseload Forward Season Contract Prices in respect of each 5-TD Sample Period during the BMRP Review Calculation Period,

and “**BMRP Inclusion Criterion**” shall be construed accordingly;

“**BMRP Mechanism Amendment**” has the meaning given to that term in paragraph 2.6 of Part A;

“**BMRP Price Source Dispute**” means a Dispute relating to the outcome of a BMRP Annual Review;

“**BMRP Principles**” means the principles set out in paragraph 1 (*BMRP Principles*) of Part B;

“**BMRP Principles Prioritisation**” means the prioritisation of the BMRP Principles provided for in paragraph 2 (*Prioritisation of BMRP Principles*) of Part B;

“**BMRP Principles Request Criterion**” has the meaning given to that term in paragraph 2.3 of Part A;

“**BMRP Principles Request Notice**” has the meaning given to that term in paragraph 2.2 of Part A;

“**BMRP Principles Request Validity Notice**” has the meaning given to that term in paragraph 2.5 of Part A;

“**BMRP Principles Review**” means a review conducted by the CfD Counterparty pursuant to, and within the parameters specified in, paragraph 2 (*BMRP Principles Reviews*) of Part A;

“**BMRP Principles Review Dispute**” means a Dispute in relation to the outcome of a BMRP Principles Review;

“**BMRP Principles Review Dispute Notice**” has the meaning given to that term in paragraph 4.1(B) of Part A;

“**BMRP Principles Review Implementation Date**” has the meaning given to that term in paragraph 2.12(C) of Part A;

“**BMRP Principles Review Notice**” has the meaning given to that term in paragraph 2.8 of Part A;

“**BMRP Principles Review Outcome Notice**” has the meaning given to that term in paragraph 2.12 of Part A;

“**BMRP Principles Review Proposals**” has the meaning given to that term in paragraph 2.12(B) of Part A;

“**BMRP Principles Review Response Deadline**” has the meaning given to that term in paragraph 2.8(C) of Part A;

“**BMRP Principles Review Response Notice**” has the meaning given to that term in paragraph 2.9 of Part A;

“**BMRP Principles Review Trigger**” has the meaning given to that term in paragraph 2.1 of Part A;

“**BMRP Quality Criteria**” in respect of a price source, means the CfD Counterparty having determined that, as at the BMRP Review Commencement Date (in the case of a BMRP Annual Review) or as at the BMRP Principles Review Response Deadline (in the case of a BMRP Principles Review):

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

and “**BMRP Quality Criterion**” shall be construed accordingly;

“**BMRP Review**” means a BMRP Annual Review or a BMRP Principles Review (as the context requires) and “**BMRP Reviews**” shall be construed accordingly;

“**BMRP Review Calculation Period**” means:

- (A) in respect of each BMRP Annual Review, the twelve (12) month period ending on (and including) the day immediately prior to the BMRP Review Commencement Date; and
- (B) in respect of each BMRP Principles Review, the twelve (12) month period ending on (and including) the day immediately prior to the BMRP Principles Review Response Deadline;

“**BMRP Review Commencement Date**” has the meaning given to that term in paragraph 1.2 of Part A;

“**BMRP Review Price Sources**” has the meaning given to that term in paragraph 1.9 of Part A;

“**Calculation Price Source**” means a price source which is determined pursuant to a BMRP Review to have met the BMRP Quality Criteria;

“**Calculation Season**” means a Season for which the Baseload Market Reference Price is calculated;

“**Excluded 5-TD Sample Period**” has the meaning given to that term in paragraph 1.6(C)(ii)(b) of Part A;

“**Expert Appointment Threshold**” has the meaning given to that term in paragraph 4.9 of Part A;

“**Fallback Baseload Price**” means a Baseload Forward Season Contract Price calculated in accordance with the methodology contained in Part C;

“**Initial BMRP Indices**” means the LEBA Baseload Index and the NASDAQ Baseload Index;

“**LEBA Baseload Index**” means the Baseload Forward Season Index published by the London Energy Brokers’ Association;

“**NASDAQ Baseload Index**” means the Baseload Forward Season Index published by NASDAQ OMX Commodities A.S.;

“**Proposed BMRP Expert**” has the meaning given to that term in paragraph 4.3(B) of Part A;

“**Reference Price Sample Period**” means each Trading Day falling within the Season before the Calculation Season;

“**Trading Day**” has the meaning given to that term in Condition 9 (*Definitions: Part 5A*);

**“Year-Ahead Basis”** has the meaning given to that term in paragraph 3.1(A) of Part A;

**“Year-Ahead Switch Effective Date”** has the meaning given to that term in paragraph 3.1(B)(ii) of Part A; and

**“Year-Ahead Switch Notice”** has the meaning given to that term in paragraph 3.1 of Part A.

**Part A**  
**BMRP Review Procedures**

**1. BMRP ANNUAL REVIEWS**

***Requirement to undertake BMRP Annual Reviews***

- 1.1 Subject to paragraphs 1.3 and 1.4, the CfD Counterparty shall conduct a BMRP Annual Review in each year during the Term.
- 1.2 Subject to paragraph 1.3, the CfD Counterparty shall commence each BMRP Annual Review on 01 October (or, if such date is not a Business Day, the first Business Day thereafter) (the “**BMRP Review Commencement Date**”).
- 1.3 The CfD Counterparty shall not be required to perform a BMRP Annual Review before 01 October 2016.
- 1.4 The CfD Counterparty shall not be required to conduct a BMRP Annual Review pursuant to paragraph 1.1 if, as at the BMRP Review Commencement Date, a BMRP Principles Review is being conducted.

***Purpose of a BMRP Annual Review***

- 1.5 The purpose of each BMRP Annual Review shall be for the CfD Counterparty to determine whether:
- (A) the BMRP Quality Criteria are met in respect of each BMRP Review Price Source; and
  - (B) the BMRP Inclusion Criteria are met in respect of each BMRP Review Price Source which meets the BMRP Quality Criteria.

***Notification of outcome of BMRP Annual Review***

- 1.6 The CfD Counterparty shall, no later than 01 January in the year immediately following the relevant BMRP Review Commencement Date, notify the Generator of the outcome of the BMRP Annual Review (a “**BMRP Annual Review Outcome Notice**”). Each BMRP Annual Review Outcome Notice shall:
- (A) be substantially in the form set out in Part UU of Annex 8 (*Pro forma notices*);
  - (B) (i) identify each BMRP Review Price Source which is, subject to and in accordance with paragraphs 1.7 and 1.8, to be a Baseload Price Source; or (ii) if the CfD Counterparty has determined that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria, contain a statement to that effect;

- (C) set out:
- (i) in respect of each BMRP Review Price Source, either:
    - (a) a statement that such price source meets the BMRP Quality Criteria; or
    - (b) a summary of the reasons for the CfD Counterparty having determined that such price source does not meet all or any of the BMRP Quality Criteria;
  - (ii) in respect of each BMRP Review Price Source that meets the BMRP Quality Criteria:
    - (a) a statement that such price source meets the BMRP Inclusion Criteria; or
    - (b) (i) a list of the 5-TD Sample Periods in respect of which such price source has not met all or any of the BMRP Inclusion Criteria (each such 5-TD Sample Period being an “**Excluded 5-TD Sample Period**”); (ii) (if such price source did not meet the BMRP Inclusion Criterion in paragraph (A) of the definition thereof) the 5-TD Trade Number Percentage in each Excluded 5-TD Sample Period; (iii) (if such price source did not meet the BMRP Inclusion Criterion in paragraph (B) of the definition thereof) the 5-TD Volume Percentage in each Excluded 5-TD Sample Period; and (iv) (if such price source did not meet the BMRP Inclusion Criterion in paragraph (C) or (D) of the definition thereof) a statement to that effect; and
- (D) set out the date on which any changes to the Baseload Price Sources resulting from the BMRP Annual Review shall become effective, such date being the first day of the Season commencing immediately after the BMRP Review Commencement Date (a “**BMRP Annual Review Implementation Date**”).

***Implementation of outcome of BMRP Annual Review***

- 1.7 Each BMRP Review Price Source which is, pursuant to a BMRP Annual Review, determined by the CfD Counterparty to meet the BMRP Inclusion Criteria and the BMRP Quality Criteria shall, with effect from the relevant BMRP Annual Review Implementation Date, be a Baseload Price Source.
- 1.8 Each BMRP Review Price Source which is, pursuant to a BMRP Annual Review, determined by the CfD Counterparty not to have met (or to have ceased to meet) the BMRP Inclusion Criteria or the BMRP Quality Criteria shall, with effect from the BMRP Annual Review Implementation Date, cease to be used as a Baseload Price Source, provided that if this paragraph 1.8 would result in there being no Baseload Price Source:

- (A) (subject to paragraph (B)) the Baseload Price Sources prior to the commencement of the relevant BMRP Annual Review shall remain unamended pending the outcome of a BMRP Principles Review; or
- (B) if a BMRP Principles Review Trigger falling within paragraph 2.1(A)(iii) has occurred, the Fallback Baseload Price shall be used as the Baseload Price Source for the purposes of calculating the Baseload Market Reference Price pending the outcome of a BMRP Principles Review.

***The BMRP Review Price Sources***

1.9 Subject to paragraph 1.10, the “**BMRP Review Price Sources**” shall be:

- (A) the Baseload Price Sources as at the relevant BMRP Review Commencement Date; and
- (B) all other Baseload Forward Season Indices of which the CfD Counterparty is aware at the BMRP Review Commencement Date (including any such index or price source notified by the Generator to the CfD Counterparty no later than the BMRP Annual Review Cut-Off Date).

1.10 The CfD Counterparty may elect to exclude any index or price source as a BMRP Review Price Source if:

- (A) the Generator notifies the CfD Counterparty of a Baseload Forward Season Index which it wishes the CfD Counterparty to assess as part of a BMRP Annual Review but such notification is received (or deemed to have been received) by the CfD Counterparty after the BMRP Annual Review Cut-Off Date;
- (B) the CfD Counterparty considers that the fees which would be payable by the CfD Counterparty to the person administering, maintaining, operating, producing or publishing such Baseload Forward Season Index, either:
  - (i) for the purposes of conducting the BMRP Annual Review (including in connection with the CfD Counterparty’s assessment of whether such index or price source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria); or
  - (ii) (subject to the outcome of the BMRP Annual Review) for the utilisation of such index or price source as a Baseload Price Source,

are commercially unreasonable;

- (C) the CfD Counterparty, having used reasonable endeavours to do so, is unable to access the data and Information necessary to enable the CfD Counterparty to assess whether such Baseload Forward Season Index fulfils the BMRP Inclusion Criteria and the BMRP Quality Criteria; or
- (D) the CfD Counterparty considers that it will not, using reasonable endeavours, be able to ensure that the CfD Settlement Services Provider has sufficiently robust,

regular and timely access to the data of the Baseload Forward Season Index to permit its use in the calculation of the Baseload Market Reference Price.

***BMRP Annual Review: Disputes***

1.11 Paragraph 4 (*BMRP Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 1 (*BMRP Annual Reviews*).

**2. BMRP PRINCIPLES REVIEWS**

***Requirement to undertake BMRP Principles Reviews***

2.1 The CfD Counterparty:

- (A) shall conduct a BMRP Principles Review if:
  - (i) either: (a) the CfD Counterparty determines as part of a BMRP Annual Review that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria; or (b) (if there is a valid Dispute relating to the outcome of a BMRP Annual Review) an Expert determines that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria;
  - (ii) the splitting of electricity markets has been proposed or effected;
  - (iii) the volume (in MWh) of Baseload Forward Season Trades in respect of electricity to be delivered within Great Britain reflected in each Baseload Price Source is nil in any 5-TD Sample Period; or
  - (iv) the BMRP Principles Request Criterion is met; and
- (B) may conduct a BMRP Principles Review if it determines that the Baseload Market Reference Price does not reflect the market price for the sale of electricity delivered within Great Britain,

(each a “**BMRP Principles Review Trigger**”).

2.2 If the Generator considers that the calculation of the Baseload Market Reference Price does not comply with all of the BMRP Principles, the Generator may give a notice to the CfD Counterparty requesting the CfD Counterparty to undertake a BMRP Principles Review (a “**BMRP Principles Request Notice**”). A BMRP Principles Request Notice:

- (A) shall be substantially in the form set out in Part VV of Annex 8 (*Pro forma notices*);
- (B) shall specify which of the BMRP Principles the Generator believes the calculation of the Baseload Market Reference Price does not comply with;
- (C) may include proposals from the Generator with respect to the manner in which the non-compliance with the BMRP Principles should be addressed (including

any proposals regarding BMRP Mechanism Amendments which the Generator considers should be effected); and

- (D) shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the matters in paragraphs (B) and (C).

2.3 For the purposes of paragraph 2.1(A)(iv), the “**BMRP Principles Request Criterion**” is that thirty per cent. (30%) or more of Baseload Generators, by volume or number, have given the CfD Counterparty a BMRP Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the BMRP Principles Request Criterion is met, the CfD Counterparty shall calculate:

- (A) the number of Baseload Generators which have given a BMRP Principles Request Notice as a percentage of the total number of Baseload Generators; and
- (B) the volume attributable to Baseload CfDs to which Baseload Generators which have given a BMRP Principles Request Notice are party as a percentage of the total volume attributable to Baseload CfDs (and, for this purpose, “**volume**” shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Baseload CfD).

***Validity of BMRP Principles Request Notices***

2.4 The Generator acknowledges and agrees that all BMRP Principles Request Notices shall be invalid and of no effect if the BMRP Principles Request Criterion is not met.

2.5 The CfD Counterparty shall notify the Generator within ten (10) Business Days of the BMRP Principles Request Criterion having been met (a “**BMRP Principles Request Validity Notice**”). A BMRP Principles Request Validity Notice shall be substantially in the form set out in Part WW of Annex 8 (*Pro forma notices*);

***Purpose of BMRP Principles Review***

2.6 If the CfD Counterparty is required or elects to undertake a BMRP Principles Review pursuant to paragraph 2.1, then the purpose of such BMRP Principles Review shall be to assess the extent to which:

- (A) the calculation of the Baseload Market Reference Price in accordance with Condition 14 (*Baseload Market Reference Price*) (including the components of the formula in Condition 14.2) is compliant with the BMRP Principles and, if the calculation of the Baseload Market Reference Price in accordance with Condition 14 (*Baseload Market Reference Price*) is not compliant with the BMRP Principles, the changes to Condition 14 (*Baseload Market Reference Price*) which the CfD Counterparty considers to be necessary to ensure compliance with all of the BMRP Principles; and

- (B) any of the following would ensure compliance with all of the BMRP Principles:
- (i) an amendment or supplement to, or replacement or removal of, the Baseload Price Sources;
  - (ii) the application of any weighting (whether by volume or number of trades) with respect to any price sources used in the calculation of the Baseload Market Reference Price;
  - (iii) a change to the Season-ahead methodology for calculating the Baseload Market Reference Price; or
  - (iv) a change to the Reference Price Sample Period,

including any consequential changes to Condition 14 (*Baseload Market Reference Price*), Part 5A (*Payment calculations: Baseload Technologies*) and Annex 4 (*BMRP*) which are necessary to give effect to any of the foregoing,

(each such change, or any combination of such changes, a “**BMRP Mechanism Amendment**”).

- 2.7 If the CfD Counterparty considers that it is not possible to effect any BMRP Mechanism Amendment in a manner which will be compliant with all of the BMRP Principles, the CfD Counterparty shall assess which BMRP Mechanism Amendment should be effected in order to comply with the greatest number of BMRP Principles in accordance with the BMRP Principles Prioritisation.

***Notification of BMRP Principles Review***

- 2.8 If the CfD Counterparty is required or elects to undertake a BMRP Principles Review pursuant to paragraph 2.1, the CfD Counterparty shall give a notice to the Generator (a “**BMRP Principles Review Notice**”). A BMRP Principles Review Notice shall:

- (A) be substantially in the form set out in Part XX of Annex 8 (*Pro forma notices*);
- (B) specify the BMRP Principles Review Trigger which has occurred; and
- (C) specify a deadline by which the Generator must provide a BMRP Principles Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the BMRP Principles Review Notice is received (or deemed to have been received) by the Generator (the “**BMRP Principles Review Response Deadline**”).

- 2.9 The Generator shall, as soon as reasonably practicable and not later than the BMRP Principles Review Response Deadline, give a notice to the CfD Counterparty (the “**BMRP Principles Review Response Notice**”). A BMRP Principles Review Response Notice:

- (A) shall:
  - (i) be substantially in the form set out in Part YY of Annex 8 (*Pro forma notices*); and
  - (ii) include all of the Supporting Information which the Generator wishes the CfD Counterparty to take account of in undertaking the BMRP Principles Review; and
- (B) may include proposals from the Generator with respect to the manner in which the BMRP Principles Review Trigger should be addressed (including any proposals regarding BMRP Mechanism Amendments which the Generator considers should be effected).

2.10 The CfD Counterparty may disregard any BMRP Principles Review Response Notice received (or deemed to have been received) by the CfD Counterparty after the BMRP Principles Review Response Deadline.

***Baseload Price Sources during BMRP Principles Review***

- 2.11 From the date on which the BMRP Principles Review Notice is given or deemed to have been given:
- (A) (subject to paragraph (B)) the Baseload Price Sources prior to the commencement of the relevant BMRP Principles Review shall remain unamended pending the outcome of a BMRP Principles Review; or
  - (B) if a BMRP Principles Review Trigger falling within paragraph 2.1(A)(iii) has occurred, the Fallback Baseload Price shall be used as the Baseload Price Source for the purposes of calculating the Baseload Market Reference Price, pending the outcome of a BMRP Principles Review.

***Notification of outcome of BMRP Principles Review***

- 2.12 The CfD Counterparty shall give a notice to the Generator of the outcome of a BMRP Principles Review (a “**BMRP Principles Review Outcome Notice**”) as soon as reasonably practicable following the conclusion of a BMRP Principles Review. A BMRP Principles Review Outcome Notice shall:
- (A) be substantially in the form set out in Part ZZ of Annex 8 (*Pro forma notices*);
  - (B) set out the outcome of the BMRP Principles Review (including the details of any BMRP Mechanism Amendments which the CfD Counterparty proposes to effect) (the “**BMRP Principles Review Proposals**”) and, if paragraph 2.7 applies:
    - (i) a summary of the reasons for the CfD Counterparty having determined that it is not possible to effect any BMRP Mechanism Amendment in a manner which complies with all of the BMRP Principles; and

- (ii) the BMRP Principles which the CfD Counterparty considers will be complied with by virtue of the BMRP Mechanism Amendments being effected; and
- (C) specify the date from which any BMRP Mechanism Amendments are to take effect, such date being no earlier than three (3) months after the date on which the BMRP Principles Review Outcome Notice is given or deemed to have been given and, where the CfD Counterparty considers it appropriate to do so, to coincide with the start of a Season (the “**BMRP Principles Review Implementation Date**”).

### ***BMRP Principles Review: Disputes***

- 2.13 Paragraph 4 (*BMRP Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 2 (*BMRP Principles Reviews*).
- 2.14 Subject to paragraph 4.12, the BMRP Mechanism Amendments set out in the BMRP Principles Review Outcome Notice shall take effect on the BMRP Principles Review Implementation Date.

## **3. BMRP YEAR-AHEAD MIGRATION**

- 3.1 If:
  - (A) the Secretary of State has publicly announced that Baseload Generators will be able to enter into FiT Contracts for Difference pursuant to which the Baseload Market Reference Price is to be calculated using prices quoted on Trading Days that fall before the Season immediately prior to the Season in respect of which the market reference price is being calculated (a “**Year-Ahead Basis**”); and
  - (B) the Baseload Market Reference Price is at that time not calculated on a Year-Ahead Basis,

then the Generator may at any time serve a notice on the CfD Counterparty (a “**Year-Ahead Switch Notice**”). A Year-Ahead Switch Notice shall:

- (i) be substantially in the form set out in Part AAA of Annex 8 (*Pro forma notices*); and
  - (ii) specify the date (which must be the first Trading Day of a Season and not less than twenty (20) Business Days from the date of delivery of the Year-Ahead Switch Notice) from which the Generator wishes the calculation of the Baseload Market Reference Price to be conducted on a Year-Ahead Basis (the “**Year-Ahead Switch Effective Date**”).
- 3.2 Upon receipt of a Year-Ahead Switch Notice:
    - (A) the Generator shall be deemed to unconditionally accept the provisions in the FiT Contracts for Difference referred to in paragraph 3.1(A) which effect the calculation of the Baseload Market Reference Price on a Year-Ahead Basis; and

- (B) the Year-Ahead Basis shall apply to the calculation of the Baseload Market Reference Price in the Contract for Difference with effect from the later of: (i) the Year-Ahead Switch Effective Date; and (ii) the first day of the first Season that immediately follows the date upon which the FiT Contracts for Difference set out in paragraph 3.1(A) come into effect.

#### 4. BMRP REVIEWS: DISPUTE PROCESS

##### *Procedure for raising a Dispute*

4.1 The Generator may, within twenty (20) Business Days after receipt of:

- (A) a BMRP Annual Review Outcome Notice, give a notice to the CfD Counterparty that it wishes to raise a Dispute in relation to the outcome of such BMRP Annual Review (a “**BMRP Annual Review Dispute Notice**”); or
- (B) a BMRP Principles Review Outcome Notice, give a notice to the CfD Counterparty that it wishes to raise a Dispute in relation to the outcome of such BMRP Principles Review (a “**BMRP Principles Review Dispute Notice**”),

(a BMRP Annual Review Dispute Notice and a BMRP Principles Review Dispute Notice each being a “**BMRP Dispute Notice**” and any such Generator, a “**BMRP Dispute Generator**”). Each BMRP Dispute Notice shall:

- (i) be substantially in the form set out in Part BBB of Annex 8 (*Pro forma notices*); and
- (ii) comply with the requirements of a Dispute Notice as specified in Condition 51.3(B) to 51.3(G) (inclusive).

##### *Validity of BMRP Dispute Notices*

4.2 The Generator acknowledges and agrees that all BMRP Dispute Notices shall be invalid and of no effect if the BMRP Dispute Threshold Criterion in respect of the relevant BMRP Dispute is not met.

4.3 The CfD Counterparty shall notify the Generator within ten (10) Business Days of the BMRP Dispute Threshold Criterion having been met (irrespective of whether or not the Generator is a BMRP Dispute Generator) (a “**BMRP Dispute Validity Notice**”). A BMRP Dispute Validity Notice shall:

- (A) be substantially in the form set out in Part CCC of Annex 8 (*Pro forma notices*);
- (B) include a proposal as to the identity, and terms of reference, of an Expert to determine the BMRP Dispute (the “**Proposed BMRP Expert**”) and details of the relevant expertise that the CfD Counterparty considers qualifies him to determine such BMRP Dispute (being a person fulfilling the requirements of Condition 53.2 and having no conflict of interest which prevents him from determining the BMRP Dispute);

- (C) comply with the requirements of an Expert Determination Notice as specified in Condition 53.1; and
- (D) comply with the requirements of a Consolidation Notice as specified in Condition 55.2.

***Permitted bases of Dispute: BMRP Annual Review***

- 4.4 For the purposes of paragraph 4.1(A), the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any BMRP Annual Review if there is a manifest error or fraud in any determination by the CfD Counterparty as to whether or not a BMRP Review Price Source meets the BMRP Quality Criteria or the BMRP Inclusion Criteria and that any BMRP Annual Review Dispute Notice which is based upon grounds other than those specified in this paragraph 4.4 shall be invalid and of no effect.

***Permitted bases of Dispute: BMRP Principles Review***

- 4.5 For the purposes of paragraph 4.1(B), the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any BMRP Principles Review if:
- (A) the CfD Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Generator requested the CfD Counterparty to take account of in undertaking the BMRP Principles Review (as set out in its BMRP Principles Review Response Notice);
  - (B) the CfD Counterparty has proposed to effect a BMRP Mechanism Amendment which was stated in the BMRP Principles Review Outcome Notice to be compliant with all of the BMRP Principles and the Generator considers that such BMRP Mechanism Amendment contravenes one or more of the BMRP Principles; or
  - (C) the CfD Counterparty has proposed to effect a BMRP Mechanism Amendment on the basis contemplated by paragraph 2.7 and the Generator considers that either:
    - (i) one or more of the proposed BMRP Mechanism Amendments contravenes one of the BMRP Principles which the CfD Counterparty considers would be complied with by virtue of such BMRP Mechanism Amendment being effected; or
    - (ii) an alternative BMRP Mechanism Amendment complies with a greater number of BMRP Principles (in accordance with the BMRP Principles Prioritisation) than the BMRP Mechanism Amendments contained within the BMRP Principles Review Proposals,

and any BMRP Principles Review Dispute Notice which is based upon grounds other than those specified in this paragraph 4.5 shall be invalid and of no effect.

**Resolution of valid BMRP Disputes**

4.6 If:

- (A) the BMRP Dispute Threshold Criterion is met in respect of the relevant BMRP Dispute; and
- (B) the relevant BMRP Dispute complies with paragraph 4.4 (in respect of any BMRP Annual Review Dispute Notice) or 4.5 (in respect of any BMRP Principles Review Dispute Notice) (as the context requires),

then such BMRP Dispute shall be finally resolved in accordance with paragraphs 4.7 and 4.8.

4.7 If paragraph 4.6 applies to any BMRP Dispute:

- (A) Condition 52 (*Resolution by Senior Representatives*) shall not apply to such BMRP Dispute;
- (B) no agreement between the Generator and the CfD Counterparty to settle the relevant BMRP Dispute shall be valid and binding unless such resolution is agreed with all Baseload Generators;
- (C) the Arbitration Procedure shall not apply to such BMRP Dispute;
- (D) the Generator agrees not to raise any objection to the consolidation of such BMRP Dispute in accordance with Condition 55 (*Consolidation of Connected Disputes*);
- (E) the Expert Determination Procedure shall apply to such BMRP Dispute on the basis that:
  - (i) (if the Expert Appointment Threshold is met) the CfD Counterparty shall be deemed to have satisfied the requirements of, and have given an Expert Determination Notice pursuant to, Condition 53.1 and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed BMRP Expert;
  - (ii) (if the Expert Appointment Threshold is not met) the CfD Counterparty may within ten (10) Business Days, either:
    - (a) make an alternative proposal as to the identity, and terms of reference, of an Expert to determine the BMRP Dispute, in which case paragraphs 4.3(B) and 4.7(E)(i), and this paragraph 4.7(E)(ii), shall apply to such proposed Expert as if he were a Proposed BMRP Expert; or

- (b) request the LCIA to:
  - (1) nominate an Expert for the purposes of determining the BMRP Dispute in accordance with Condition 53.4; and
  - (2) determine the terms of reference of the Expert in accordance with Condition 53.5;
- (iii) if the CfD Counterparty and the Baseload Generators fail to agree on the terms of appointment of the Expert within ten (10) Business Days of the parties agreeing the identity and terms of reference of an Expert in accordance with paragraph 4.7(E)(i) or 4.7(E)(ii), as applicable, the CfD Counterparty may request the LCIA to determine the terms of appointment of the Expert in accordance with Condition 53.6;
- (iv) Condition 53.7 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 Generator to the Expert in consequence of, or in respect of, his appointment as the Expert to any other Baseload Generator or the CfD Counterparty; or
  - (b) the CfD Counterparty in consequence of, or in respect of, his appointment as the Expert to any Baseload Generator (including the Generator);
- (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the BMRP Dispute, to afford the Generator an opportunity to make submissions in respect of the BMRP Dispute irrespective of whether or not the Generator is a BMRP Dispute Generator;
- (vi) if the circumstances described in Condition 53.10 arise, paragraphs 4.3(B), 4.7(E)(i) and 4.7(E)(ii) shall apply, *mutatis mutandis*, to the appointment of a replacement Expert;
- (vii) for the purposes of Condition 53.13, the Expert shall be: (i) required to include in his determination provision for the allocation of his fees and the costs and expenses of the CfD Counterparty amongst each of the BMRP Dispute Generators in such manner as he, in his absolute discretion, determines is fair and equitable if he makes a determination against the BMRP Dispute Generators; and (ii) permitted to allocate his fees and the costs and expenses of the CfD Counterparty in such manner as he determines is fair and equitable if he makes a determination in favour of the BMRP Dispute Generators; 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 Baseload CfDs; and
  - (F) the Generator acknowledges and agrees that the determination of the Expert in any BMRP Dispute shall be applied to all Baseload CfDs, irrespective of whether the Generator was a party to the BMRP Dispute giving rise to that determination.
- 4.8 If the BMRP Dispute is a BMRP Principles Review Dispute, the following additional provisions shall apply:
- (A) If the BMRP Principles Review Dispute falls within paragraph 4.5(A), 4.5(B) or 4.5(C)(i), the Expert shall be instructed to determine whether the BMRP Mechanism Amendments contravene the BMRP Principles (or such of the BMRP Principles as were specified by the CfD Counterparty as being complied with by virtue of the proposed implementation of the BMRP Mechanism Amendments) and, if the Expert finds in favour of the Generator, to include within his determination: (i) a BMRP Mechanism Amendment which will comply with all of the BMRP Principles; or (ii) (if the Expert considers that it is not possible to effect any BMRP Mechanism Amendment in a manner which will be compliant with all of the BMRP Principles) the BMRP Mechanism Amendment which will comply with the greatest number of BMRP Principles in accordance with the BMRP Principles Prioritisation.
  - (B) If the BMRP Principles Review Dispute falls within paragraph 4.5(C)(ii), the Expert shall be instructed to determine whether the BMRP Mechanism Amendments proposed by the Generator would result in compliance with a greater number of BMRP Principles (in accordance with the BMRP Principles Prioritisation) than the BMRP Mechanism Amendments contained within the BMRP Principles Review Proposals and, if the Expert finds in favour of the Generator, to stipulate the BMRP Mechanism Amendments which will comply with the greatest number of BMRP Principles in accordance with the BMRP Principles Prioritisation.
  - (C) Notwithstanding paragraphs 4.8(A) and 4.8(B), the Expert shall not be permitted to include within his determination any alternative BMRP Mechanism Amendments to those contained within the BMRP Principles Review Proposals unless such proposals contravene one or more principles and the Expert has determined that there is a BMRP Mechanism Amendment which will comply with a greater number of BMRP Principles (in accordance with the BMRP Principles Prioritisation) than the BMRP Principles Review Proposals and, as such, the Expert's role shall not extend to an assessment of whether the BMRP Principles Review Proposals represent an optimal solution in the context of the parameters contemplated by the BMRP Principles.

***Expert Appointment Threshold***

- 4.9 For the purposes of paragraphs 4.7(E)(i) and 4.7(E)(ii), the “**Expert Appointment Threshold**” is that thirty per cent. (30%) or more of Baseload Generators, by volume or

number, have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed BMRP Expert. For the purposes of determining whether the Expert Appointment Threshold is met, the CfD Counterparty shall calculate:

- (A) the number of Baseload Generators which have consented or have been deemed to have consented to the Proposed BMRP Expert as a percentage of the total number of Baseload Generators; and
- (B) the volume attributable to Baseload CfDs to which Baseload Generators which have consented or have been deemed to have consented to the Proposed BMRP Expert as a percentage of the total volume attributable to Baseload CfDs (and, for this purpose, “**volume**” shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Baseload CfD).

***Provisions applying pending resolution of a BMRP Dispute***

4.10 If there is a valid BMRP Dispute requiring resolution in accordance with the provisions of paragraphs 4.6 to 4.8 then, pending resolution of such BMRP Dispute, paragraphs 4.11 and 4.12 shall apply.

4.11 If there is a valid BMRP Dispute relating to a BMRP Annual Review:

- (A) the relevant BMRP Annual Review Outcome Notice shall be deemed to be valid and effective and paragraphs 1.7 and 1.8 shall be applied for the purposes of determining the Baseload Price Sources with effect from the BMRP Annual Review Implementation Date; and
- (B) if the Expert determines that a BMRP Review Price Source:
  - (i) meets the BMRP Inclusion Criteria and the BMRP Quality Criteria, such BMRP Review Price Source shall be a Baseload Price Source with effect from the first day of the Season immediately following the date falling three (3) months after the date on which the Expert has made his determination; or
  - (ii) does not meet the BMRP Inclusion Criteria and the BMRP Quality Criteria, then (subject to the operation of the provisos contained in paragraphs 1.8(A) and 1.8(B)), such BMRP Review Price Source shall not be used as a Baseload Price Source with effect from the first day of the Season immediately following the date falling three (3) months after the date on which the Expert has made his determination.

4.12 If there is a valid BMRP Dispute relating to a BMRP Principles Review:

- (A) the relevant BMRP Principles Review Outcome Notice shall be deemed to be valid and effective and the BMRP Principles Review Proposals shall apply with effect from the BMRP Principles Review Implementation Date; and
- (B) if the Expert finds in favour of the Generator, the BMRP Mechanism Amendments provided for in the determination of such Expert shall be

implemented on a date falling no earlier than three (3) months after the date on which the Expert has made his determination and, where the Expert considers it appropriate to do so, shall coincide with the start of a Season.

***BMRP Dispute Threshold Criterion***

- 4.13 For the purposes of this paragraph 4 (*BMRP Reviews: Dispute Process*), the “**BMRP Dispute Threshold Criterion**” is that thirty per cent. (30%) or more of Baseload Generators, by volume or number, have given the CfD Counterparty a BMRP Dispute Notice in respect of any given BMRP Dispute prior to the date specified in paragraph 4.1. For the purposes of determining whether the BMRP Dispute Threshold Criterion is met, the CfD Counterparty shall calculate:
- (A) the number of Baseload Generators which have given a BMRP Dispute Notice as a percentage of the total number of Baseload Generators; and
  - (B) the volume attributable to Baseload CfDs to which Baseload Generators which have given a BMRP Dispute Notice are party as a percentage of the total volume attributable to Baseload CfDs (and, for this purpose, “**volume**” shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Baseload CfD).

**Part B**  
**BMRP Principles**

**1. BMRP PRINCIPLES**

The following are the “**BMRP Principles**”:

- (A) Save in respect of a BMRP Principles Review Trigger pursuant to paragraph 2.1(A)(ii) of Part A, the calculation of the Baseload Market Reference Price shall be the same for all Baseload CfDs (provided that if the circumstances contemplated by paragraph 3.1(A) of Part A have arisen, the calculation of the Baseload Market Reference Price shall be the same for, on the one hand, all Baseload CfDs in respect of which the Baseload Market Reference Price is being calculated on a Year-Ahead Basis and, on the other hand, all other Baseload CfDs).
- (B) The calculation of the Baseload Market Reference Price shall reflect the market price for the sale of electricity within Great Britain or, in the event of a BMRP Principles Review Trigger pursuant to paragraph 2.1(A)(ii) of Part A the relevant part of Great Britain.
- (C) The Baseload Market Reference Price shall be calculated using price sources for baseload contracts relating to the delivery of energy over as long as possible a period up to a Season (or a year where the Baseload Market Reference Price is being calculated on a Year-Ahead Basis), provided that, for this purpose, the Baseload Market Reference Price calculation shall exclude days that are further back from the Calculation Season (or a year where the Baseload Market Reference Price is being calculated on a Year-Ahead Basis) than the period to which such baseload contracts relate.
- (D) The Baseload Market Reference Price shall be calculated so as to reflect a reasonable volume of trades from a reasonable number and diverse range of market participants and/or aggregators.
- (E) The Baseload Market Reference Price shall be calculated so as not to unduly dampen, dilute, disrupt or otherwise distort components of the energy market in Great Britain that would, absent the existence of FiT Contracts for Difference, contribute to the operational behaviour of the energy market in Great Britain and the pricing thereof.
- (F) The Baseload Market Reference Price calculation is to utilise price sources which satisfy the BMRP Quality Criteria.
- (G) The Baseload Market Reference Price calculation is to utilise price sources which satisfy the BMRP Inclusion Criteria.
- (H) If a BMRP Principles Review Trigger falling within paragraph 2.1(A)(ii) of Part A occurs or has occurred, the Baseload Market Reference Price calculation shall

pay regard to the physical location of the Facility and the extent to which such physical location and constraints on the delivery of energy into the market thereby imposed may have on the price for the sale of its electricity delivered within Great Britain or the relevant part of Great Britain.

## **2. PRIORITISATION OF BMRP PRINCIPLES**

If:

- (A) the application of any combination of the BMRP Principles gives rise to a conflict; or
- (B) it is not possible for a methodology for calculating the Baseload Market Reference Price to satisfy all of the BMRP Principles,

the BMRP Principle first appearing in the list in paragraph 1 (*BMRP Principles*) shall be afforded priority.

**Part C**  
**Fallback Baseload Price Methodology**

1. The CfD Counterparty will, in relation to each Trading Day, source five (5) arm's length quotes from five brokers (each broker to be from a different broking house) for delivery of 5MWh in the Calculation Season pursuant to a Baseload Forward Season Contract.
2. The CfD Counterparty will, in relation to each quote, seek to obtain a bid and offer price.
3. If: (i) a broker supplies a bid and offer price, the mean of the bid price and offer price will be the input price; (ii) a broker supplies a bid price but not an offer price, such bid price will be used; and (iii) a broker does not supply a bid price, the input price will be zero.
4. The CfD Counterparty will calculate the arithmetic mean of the input prices for the relevant Trading Day, having excluded from this calculation any input price which is more than ten per cent. (10%) higher or lower than the median input price.

## **Annex 5 IMRP**

### **1. APPLICATION**

This Annex 5 (*IMRP*) shall apply to the Contract for Difference only if it is expressed to apply to the Contract for Difference in the CfD Agreement.

### **2. DEFINITIONS: ANNEX 5**

#### 2.1 In this Annex 5 (*IMRP*):

“**5-TD Sample Period**” means a period of five (5) consecutive Trading Days;

“**APX Intermittent Index**” means the APX Power UK Auction index, as administered by APX Holding B.V. (either directly or through one or more of its subsidiaries);

“**Day Ahead Hourly Price**” means the price (expressed in £/MWh) for the delivery of a firm volume of energy pursuant to an Intermittent Day Ahead Contract as reflected in an Intermittent Day Ahead Index or the Intermittent Day Ahead Indices (as the context requires);

“**Expert Appointment Threshold**” has the meaning given to that term in paragraph 2.7 of Part A;

“**IMRP Dispute**” means a Dispute in relation to the outcome of an IMRP Principles Review;

“**IMRP Dispute Generator**” has the meaning given to that term in paragraph 2.1 of Part A;

“**IMRP Dispute Notice**” has the meaning given to that term in paragraph 2.1 of Part A;

“**IMRP Dispute Threshold Criterion**” has the meaning given to that term in paragraph 2.10 of Part A;

“**IMRP Dispute Validity Notice**” has the meaning given to that term in paragraph 2.3 of Part A;

“**IMRP Mechanism Amendment**” has the meaning given to that term in paragraph 1.6 of Part A;

“**IMRP Principles**” means the principles set out in paragraph 1 (*IMRP Principles*) of Part B;

“**IMRP Principles Prioritisation**” means the prioritisation of the IMRP Principles provided for in paragraph 2 (*Prioritisation of IMRP Principles*) of Part B;

**“IMRP Principles Request Criterion”** has the meaning given to that term in paragraph 1.3 of Part A;

**“IMRP Principles Request Notice”** has the meaning given to that term in paragraph 1.2 of Part A;

**“IMRP Principles Request Validity Notice”** has the meaning given to that term in paragraph 1.5 of Part A;

**“IMRP Principles Review”** means a review conducted by the CfD Counterparty pursuant to, and within the parameters specified in, paragraph 1 (*IMRP Principles Reviews*) of Part A;

**“IMRP Principles Review Implementation Date”** has the meaning given to that term in paragraph 1.12(C) of Part A;

**“IMRP Principles Review Notice”** has the meaning given to that term in paragraph 1.8 of Part A;

**“IMRP Principles Review Outcome Notice”** has the meaning given to that term in paragraph 1.12 of Part A;

**“IMRP Principles Review Proposals”** has the meaning given to that term in paragraph 1.12(B) of Part A;

**“IMRP Principles Review Response Deadline”** has the meaning given to that term in paragraph 1.8(C) of Part A;

**“IMRP Principles Review Response Notice”** has the meaning given to that term in paragraph 1.9 of Part A;

**“IMRP Principles Review Trigger”** has the meaning given to that term in paragraph 1.1 of Part A;

**“IMRP Quality Criteria”** in respect of a price source, means the CfD Counterparty having determined that, as at the IMRP Principles Review Response Deadline:

- (A) the underlying data used to compile or prepare such price source:
- (i) is subject to reasonable procedures to ensure its accuracy and completeness;
  - (ii) is subject to reasonable procedures to ensure its retention by the administrator for a period of at least two (2) years such that it is capable of audit; and
  - (iii) consists only of verifiable transaction data and does not include data which is the product of a subjective judgement;

- (B) the methodology used by the administrator to prepare and compile such price source:
- (i) is appropriately documented;
  - (ii) is not subject to subjective judgement; and
  - (iii) may only be changed in accordance with documented change control procedures which provide adequate protection against conflicts of interest which exist or are reasonably likely to arise in connection with such methodology; and
- (C) the administrator of such price source and the submitters to such price source have effective organisational and administrative arrangements in place to identify and manage conflicts of interest and to protect commercial confidentiality,

and “**IMRP Quality Criterion**” shall be construed accordingly;

“**Initial IMRP Indices**” means the APX Intermittent Index and the N2Ex Intermittent Index;

“**Intermittent CfD**” means a FiT Contract for Difference in respect of a generating facility which deploys an Intermittent Technology (but excluding any such FiT Contract for Difference which has expired or been terminated) and “**Intermittent CfDs**” shall be construed accordingly;

“**Intermittent Day Ahead Contract**” means a contract providing for delivery of a firm volume of energy in a specified Settlement Unit within a specified day, entered into in the Trading Day preceding such day (or, in respect of the last Settlement Unit of any day which is also the first Settlement Unit of a Trading Day, entered into on such Trading Day);

“**Intermittent Day Ahead Index**” means an index of Day Ahead Hourly Prices or another source of Day Ahead Hourly Prices and “**Intermittent Day Ahead Indices**” shall be construed accordingly;

“**Intermittent Day Ahead Trades**” means trades effected pursuant to an Intermittent Day Ahead Contract;

“**Intermittent Generator**” means, at the relevant time, an Eligible Generator party to an Intermittent CfD and “**Intermittent Generators**” shall be construed accordingly;

“**Intermittent Market Reference Price**” has the meaning given to that term in Condition 19.2;

“**Intermittent Price Sources**” means the Intermittent Day Ahead Indices to be used in the calculation of the Intermittent Market Reference Price, being the Initial IMRP Indices or such other replacement or supplementary Intermittent Day Ahead Indices which are

required to be so used as a result of the operation of the provisions of Part A, and “**Intermittent Price Source**” shall be construed accordingly;

“**Intermittent Technology**” means a technology to which the Intermittent Market Reference Price applies in accordance with the EA 2013 Regulations;

“**N2Ex Intermittent Index**” means the N2Ex Day-Ahead Auction Market index for physical delivery jointly operated by N2Ex OMX Commodities A.S. and Nord Pool Spot A.S.;

“**Proposed IMRP Expert**” has the meaning given to that term in paragraph 2.3(B) of Part A; and

“**Trading Day**” has the meaning given to that term in Condition 16 (*Definitions: Part 5B*).

**Part A**  
**IMRP Principles Review Procedures**

**1. IMRP PRINCIPLES REVIEWS**

***Requirement to undertake IMRP Principles Reviews***

1.1 The CfD Counterparty:

- (A) shall conduct an IMRP Principles Review if:
  - (i) the Intermittent Price Sources cease to publish a “GB Day Ahead Hourly Price”;
  - (ii) the splitting of electricity markets has been proposed or effected;
  - (iii) the volume (in MWh) of Intermittent Day Ahead Trades in respect of electricity to be delivered within Great Britain reflected in each Intermittent Price Source is nil in any 5-TD Sample Period; or
  - (iv) the IMRP Principles Request Criterion is met; and
- (B) may conduct an IMRP Principles Review if it determines that the Intermittent Market Reference Price does not reflect the market price for the sale of electricity delivered within Great Britain,

(each an “**IMRP Principles Review Trigger**”).

1.2 If the Generator considers that the calculation of the Intermittent Market Reference Price does not comply with all of the IMRP Principles, the Generator may give a notice to the CfD Counterparty requesting the CfD Counterparty to undertake an IMRP Principles Review (an “**IMRP Principles Request Notice**”). An IMRP Principles Request Notice:

- (A) shall be substantially in the form set out in Part DDD of Annex 8 (*Pro forma notices*);
- (B) shall specify which of the IMRP Principles the Generator believes the calculation of the Intermittent Market Reference Price does not comply with;
- (C) may include proposals from the Generator with respect to the manner in which the non-compliance with the IMRP Principles should be addressed (including any proposals regarding IMRP Mechanism Amendments which the Generator considers should be effected); and
- (D) shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the matters in paragraphs 1.2(B) and 1.2(C).

- 1.3 For the purposes of paragraph 1.1(A)(iv), the “**IMRP Principles Request Criterion**” is that thirty per cent. (30%) or more of Intermittent Generators, by volume or number, have given the CfD Counterparty an IMRP Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the IMRP Principles Request Criterion is met, the CfD Counterparty shall calculate:
- (A) the number of Intermittent Generators which have given an IMRP Principles Request Notice as a percentage of the total number of Intermittent Generators; and
  - (B) the volume attributable to Intermittent CfDs to which Intermittent Generators which have given an IMRP Principles Request Notice are party as a percentage of the total volume attributable to Intermittent CfDs (and, for this purpose, “**volume**” shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Intermittent CfD).

***Validity of IMRP Principles Request Notices***

- 1.4 The Generator acknowledges and agrees that all IMRP Principles Request Notices shall be invalid and of no effect if the IMRP Principles Request Criterion is not met.
- 1.5 The CfD Counterparty shall notify the Generator within ten (10) Business Days of the IMRP Principles Request Criterion having been met (an “**IMRP Principles Request Validity Notice**”). An IMRP Principles Request Validity Notice shall be substantially in the form set out in Part EEE of Annex 8 (*Pro forma notices*).

***Purpose of IMRP Principles Review***

- 1.6 If the CfD Counterparty is required or elects to undertake an IMRP Principles Review pursuant to paragraph 1.1, then the purpose of such IMRP Principles Review shall be to assess the extent to which:
- (A) the calculation of the Intermittent Market Reference Price in accordance with Condition 19 (*Intermittent Market Reference Price*) (including the components of the formula in Condition 19.2) is compliant with the IMRP Principles and, if the calculation of the Intermittent Market Reference Price in accordance with Condition 19 (*Intermittent Market Reference Price*) is not compliant with the IMRP Principles, the changes to Condition 19 (*Intermittent Market Reference Price*) which the CfD Counterparty considers to be necessary to ensure compliance with all of the IMRP Principles; and
  - (B) any of the following would ensure compliance with all of the IMRP Principles:
    - (i) an amendment or supplement to, or replacement or removal of, the Intermittent Price Sources;
    - (ii) the application of any weighting (whether by volume or number of trades) with respect to any price sources used in the calculation of the Intermittent Market Reference Price; or

- (iii) a change to the day-ahead methodology for calculating the Intermittent Market Reference Price;

including any consequential changes to Condition 19 (*Intermittent Market Reference Price*), Part 5B (*Payment calculations: Intermittent Technologies*) and Annex 5 (*IMRP*) which are necessary to give effect to any of the foregoing,

(each such change, or any combination of such changes, “**IMRP Mechanism Amendment**”).

- 1.7 If the CfD Counterparty considers that it is not possible to effect any IMRP Mechanism Amendment in a manner which will be compliant with all of the IMRP Principles, the CfD Counterparty shall assess which IMRP Mechanism Amendment should be effected in order to comply with the greatest number of IMRP Principles in accordance with the IMRP Principles Prioritisation.

#### **Notification of IMRP Principles Review**

- 1.8 If the CfD Counterparty is required or elects to undertake an IMRP Principles Review pursuant to paragraph 1.1, the CfD Counterparty shall give a notice to the Generator (an “**IMRP Principles Review Notice**”). An IMRP Principles Review Notice shall:

- (A) be substantially in the form set out in Part FFF of Annex 8 (*Pro forma notices*);
- (B) specify the IMRP Principles Review Trigger which has occurred; and
- (C) specify a deadline by which the Generator must provide an IMRP Principles Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the IMRP Principles Review Notice is received (or deemed to have been received) by the Generator (the “**IMRP Principles Review Response Deadline**”).

- 1.9 The Generator shall, as soon as reasonably practicable and not later than the IMRP Principles Review Response Deadline, give a notice to the CfD Counterparty (the “**IMRP Principles Review Response Notice**”). An IMRP Principles Review Response Notice:

- (A) shall:
  - (i) be substantially in the form set out in Part GGG of Annex 8 (*Pro forma notices*); and
  - (ii) include all of the Supporting Information which the Generator wishes the CfD Counterparty to take account of in undertaking the IMRP Principles Review; and
- (B) may include proposals from the Generator with respect to the manner in which the IMRP Principles Review Trigger should be addressed (including any proposals regarding IMRP Mechanism Amendments which the Generator considers should be effected).

- 1.10 The CfD Counterparty may disregard any IMRP Principles Review Response Notice received (or deemed to have been received) by the CfD Counterparty after the IMRP Principles Review Response Deadline.

***Intermittent Price Sources during IMRP Principles Review***

- 1.11 From the date on which the IMRP Principles Review Notice is given or deemed to have been given the Intermittent Price Sources prior to the commencement of the relevant IMRP Principles Review shall remain unamended pending the outcome of an IMRP Principles Review.

***Notification of outcome of IMRP Principles Review***

- 1.12 The CfD Counterparty shall give a notice to the Generator of the outcome of an IMRP Principles Review (an “**IMRP Principles Review Outcome Notice**”) as soon as reasonably practicable following the conclusion of an IMRP Principles Review. An IMRP Principles Review Outcome Notice shall:

- (A) be substantially in the form set out in Part HHH of Annex 8 (*Pro forma notices*);
- (B) set out the outcome of the IMRP Principles Review (including the details of any IMRP Mechanism Amendments which the CfD Counterparty proposes to effect) (the “**IMRP Principles Review Proposals**”) and, if paragraph 1.7 applies:
  - (i) a summary of the reasons for the CfD Counterparty having determined that it is not possible to effect any IMRP Mechanism Amendment in a manner which complies with all of the IMRP Principles; and
  - (ii) the IMRP Principles which the CfD Counterparty considers will be complied with by virtue of the IMRP Mechanism Amendments being effected; and
- (C) specify the date from which any IMRP Mechanism Amendments are to take effect, such date being no earlier than three (3) months after the date on which the IMRP Principles Review Outcome Notice is given or deemed to have been given and, where the CfD Counterparty considers it appropriate to do so, to coincide with the start of a Season (the “**IMRP Principles Review Implementation Date**”).

***IMRP Principles Review: Disputes***

- 1.13 Paragraph 2 (*IMRP Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 1 (*IMRP Principles Reviews*).
- 1.14 Subject to paragraphs 2.8 and 2.9, the IMRP Mechanism Amendments set out in the IMRP Principles Review Outcome Notice shall take effect on the IMRP Principles Review Implementation Date.

## 2. IMRP REVIEWS: DISPUTE PROCESS

### *Procedure for raising a Dispute*

- 2.1 The Generator may, within twenty (20) Business Days after receipt of an IMRP Principles Review Outcome Notice, give a notice to the CfD Counterparty that it wishes to raise a Dispute in relation to the outcome of such IMRP Principles Review (being an “**IMRP Dispute Notice**” and any such Generator, an “**IMRP Dispute Generator**”). Each IMRP Dispute Notice shall:
- (A) be substantially in the form set out in Part III of Annex 8 (*Pro forma notices*); and
  - (B) comply with the requirements of a Dispute Notice as specified in Condition 51.3(B) to 51.3(G) (inclusive).

### *Validity of IMRP Dispute Notices*

- 2.2 The Generator acknowledges and agrees that all IMRP Dispute Notices shall be invalid and of no effect if the IMRP Dispute Threshold Criterion in respect of the relevant BMRP Dispute is not met.
- 2.3 The CfD Counterparty shall notify the Generator within ten (10) Business Days of the IMRP Dispute Threshold Criterion having been met (irrespective of whether or not the Generator is an IMRP Dispute Generator) (an “**IMRP Dispute Validity Notice**”). An IMRP Dispute Validity Notice shall:
- (A) be substantially in the form set out in Part JJJ of Annex 8 (*Pro forma notices*);
  - (B) include a proposal as to the identity, and terms of reference of an Expert to determine the IMRP Dispute (the “**Proposed IMRP Expert**”) and details of the relevant expertise that the CfD Counterparty considers qualifies him to determine such IMRP Dispute (being a person fulfilling the requirements of Condition 53.2 and having no conflict of interest which prevents him from determining the IMRP Dispute);
  - (C) comply with the requirements of an Expert Determination Notice as specified in Condition 53.1; and
  - (D) comply with the requirements of a Consolidation Notice as specified in Condition 55.2.

### *Permitted bases of Dispute: IMRP Principles Review*

- 2.4 For the purposes of paragraph 2.1, the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any IMRP Principles Review if:
- (A) the CfD Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Generator requested the CfD Counterparty to

take account of in undertaking the IMRP Principles Review (as set out in its IMRP Principles Review Response Notice);

- (B) the CfD Counterparty has proposed to effect an IMRP Mechanism Amendment which was stated in the IMRP Principles Review Outcome Notice to be compliant with all of the IMRP Principles and the Generator considers that such IMRP Mechanism Amendment contravenes one or more of the IMRP Principles; or
- (C) the CfD Counterparty has proposed to effect an IMRP Mechanism Amendment on the basis contemplated by paragraph 1.7 and the Generator considers that either:
  - (i) one or more of the proposed IMRP Mechanism Amendments contravenes one of the IMRP Principles which the CfD Counterparty considers would be complied with by virtue of such IMRP Mechanism Amendment being effected; or
  - (ii) an alternative IMRP Mechanism Amendment complies with a greater number of IMRP Principles (in accordance with the IMRP Principles Prioritisation) than the IMRP Mechanism Amendments contained within the IMRP Principles Review Proposals,

and any IMRP Dispute Notice which is based upon grounds other than those specified in this paragraph 2.4 shall be invalid and of no effect.

***Resolution of valid IMRP Disputes***

2.5 If:

- (A) the IMRP Dispute Threshold Criterion is met in respect of any IMRP Dispute; and
- (B) the relevant IMRP Dispute complies with paragraph 2.4,

then such IMRP Dispute shall be finally resolved in accordance with paragraph 2.6.

2.6 If paragraph 2.5 applies to any IMRP Dispute:

- (A) Condition 52 (*Resolution by Senior Representatives*) shall not apply to such IMRP Dispute;
- (B) no agreement between the Generator and the CfD Counterparty to resolve the relevant IMRP Dispute shall be valid and binding unless such resolution is agreed with all Intermittent Generators;
- (C) the Arbitration Procedure shall not apply to such IMRP Dispute;

- (D) the Generator agrees not to raise any objection to the consolidation of such IMRP Dispute in accordance with Condition 55 (*Consolidation of Connected Disputes*);
- (E) the Expert Determination Procedure shall apply to such IMRP Dispute on the basis that:
  - (i) (if the Expert Appointment Threshold is met) the CfD Counterparty shall be deemed to have satisfied the requirements of, and have given an Expert Determination Notice pursuant to, Condition 53.1 and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed IMRP Expert;
  - (ii) (if the Expert Appointment Threshold is not met) the CfD Counterparty may within ten (10) Business Days, either:
    - (a) make an alternative proposal as to the identity, and terms of reference, of an Expert to determine the IMRP Dispute, in which case paragraphs 2.3(B) and 2.6(E)(i), and this paragraph 2.6(E)(ii), shall apply to such proposed Expert as if he were a Proposed IMRP Expert; or
    - (b) request the LCIA to:
      - (1) nominate an Expert for the purposes of determining the IMRP Dispute in accordance with Condition 53.4; and
      - (2) determine the terms of reference of the Expert in accordance with Condition 53.5;
  - (iii) if the CfD Counterparty and the Intermittent Generators fail to agree on the terms of appointment of the expert within ten (10) Business Days of the parties agreeing the identity and terms of reference of an Expert in accordance with paragraph 2.6(E)(i) or 2.6(E)(ii), as applicable, the CfD Counterparty may request the LCIA to determine the terms of appointment of the Expert in accordance with Condition 53.6;
  - (iv) Condition 53.7 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 Generator to the Expert in consequence of, or in respect of, his appointment as the Expert to any other Intermittent Generator or the CfD Counterparty; or
    - (b) the CfD Counterparty in consequence of, or in respect of, his appointment as the Expert to any Intermittent Generator (including the Generator);

- (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the IMRP Dispute, to afford the Generator an opportunity to make submissions in respect of the IMRP Dispute irrespective of whether or not the Generator is an IMRP Dispute Generator;
  - (vi) if the circumstances described in Condition 53.10 arise, paragraphs 2.3(B), 2.6(E)(i) and 2.6(E)(ii) shall apply, *mutatis mutandis*, to the appointment of a replacement Expert;
  - (vii) for the purposes of Condition 53.13, the Expert shall be: (i) required to include in his determination provision for the allocation of his fees and the costs and expenses of the CfD Counterparty amongst each of the IMRP Dispute Generators in such manner as he, in his absolute discretion, determines is fair and equitable if he makes a determination against the IMRP Dispute Generators; and (ii) permitted to allocate his fees and the costs and expenses of the CfD Counterparty in such manner as he determines is fair and equitable if he makes a determination in favour of the IMRP Dispute Generators; 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 Intermittent CfDs.
- (F) the Generator acknowledges and agrees that the determination of the Expert in any IMRP Dispute shall be applied to all Intermittent CfDs, irrespective of whether the Generator was a party to the IMRP Dispute giving rise to that determination.
- (G) If the IMRP Dispute falls within paragraph 2.4(A), 2.4(B) or 2.4(C)(i), the Expert shall be instructed to determine whether the IMRP Mechanism Amendments contravene the IMRP Principles (or such of the IMRP Principles as were specified by the CfD Counterparty as being complied with by virtue of the proposed implementation of the IMRP Mechanism Amendments) and, if the Expert finds in favour of the Generator, to include within his determination: (i) an IMRP Mechanism Amendment which will comply with all of the IMRP Principles; or (ii) (if the Expert considers that it is not possible to effect any IMRP Mechanism Amendment in a manner which will be compliant with all of the IMRP Principles) the IMRP Mechanism Amendment which will comply with the greatest number of IMRP Principles in accordance with the IMRP Principles Prioritisation.
- (H) If the IMRP Dispute falls within paragraph 2.4(C)(ii) the Expert shall be instructed to determine whether the IMRP Mechanism Amendments proposed by the Generator would result in compliance with a greater number of IMRP Principles (in accordance with the IMRP Principles Prioritisation) than the IMRP Mechanism Amendments contained within the IMRP Principles Review Proposals and, if the Expert finds in favour of the Generator, to stipulate the IMRP Mechanism Amendments which will comply with the greatest number of IMRP Principles in accordance with the IMRP Principles Prioritisation.

- (l) Notwithstanding paragraphs 2.6(G) and 2.6(H), the Expert shall not be permitted to include within his determination any alternative IMRP Mechanism Amendments to those contained within the IMRP Principles Review Proposals unless such proposals contravene one or more principles and the Expert has determined that there is an IMRP Mechanism Amendment which will comply with a greater number of IMRP Principles (in accordance with the IMRP Principles Prioritisation) than the IMRP Principles Review Proposals and, as such, the Expert's role shall not extend to an assessment of whether the IMRP Principles Review Proposals represent an optimal solution in the context of the parameters contemplated by the IMRP Principles.

***Expert Appointment Threshold***

2.7 For the purposes of paragraphs 2.6(E)(i) and 2.6(E)(ii), the “**Expert Appointment Threshold**” is that thirty per cent. (30%) or more of Intermittent Generators, by volume or number, have consented, or not objected in writing, to both the identity and terms of reference of the Proposed IMRP Expert. For the purposes of determining whether the Expert Appointment Threshold is met, the CfD Counterparty shall calculate:

- (A) the number of Intermittent Generators which have consented or have been deemed to have consented to the Proposed IMRP Expert as a percentage of the total number of Intermittent Generators; and
- (B) the volume attributable to Intermittent CfDs to which Intermittent Generators which have consented or have been deemed to have consented to the Proposed IMRP Expert as a percentage of the total volume attributable to Intermittent CfDs (and, for this purpose, “**volume**” shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Intermittent CfD).

***Provisions applying pending resolution of an IMRP Dispute***

2.8 If there is a valid IMRP Dispute requiring resolution in accordance with the provisions of paragraphs 2.5 and 2.6 then, pending resolution of such IMRP Dispute, paragraph 2.9 shall apply.

2.9 If there is a valid IMRP Dispute relating to an IMRP Principles Review:

- (A) the relevant IMRP Principles Review Outcome Notice shall be deemed to be valid and effective and the IMRP Principles Review Proposals shall apply with effect from the IMRP Principles Review Implementation Date; and
- (B) if the Expert finds in favour of the Generator, the IMRP Mechanism Amendments provided for in the determination of such Expert shall be implemented on a date falling no earlier than three (3) months after the date on which the Expert has made his determination and, where the Expert considers it appropriate to do so, shall coincide with the start of a Season.

***IMRP Dispute Threshold Criterion***

2.10 For the purposes of this paragraph 2 (*IMRP Reviews: Dispute Process*), the “**IMRP Dispute Threshold Criterion**” is that thirty per cent. (30%) or more of Intermittent Generators, by volume or number, have given the CfD Counterparty an IMRP Dispute Notice in respect of any given IMRP Dispute prior to the date specified in paragraph 2.1. For the purposes of determining whether the IMRP Dispute Threshold Criterion is met the CfD Counterparty shall calculate:

- (A) the number of Intermittent Generators which have given an IMRP Dispute Notice as a percentage of the total number of Intermittent Generators; and
- (B) the volume attributable to Intermittent CfDs to which Intermittent Generators which have given an IMRP Dispute Notice are party as a percentage of the total volume attributable to Intermittent CfDs (and, for this purpose, “**volume**” shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Intermittent CfD).

**Part B**  
**IMRP Principles**

**1. IMRP PRINCIPLES**

The following are the “**IMRP Principles**” for the purposes of the Contract for Difference:

- (A) Save in respect of an IMRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii) of Part A, the calculation of the Intermittent Market Reference Price shall be the same for all Intermittent CfDs.
- (B) The calculation of the Intermittent Market Reference Price shall reflect the market price for the sale of electricity within Great Britain or, in the event of an IMRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii) of Part A, the relevant part of Great Britain.
- (C) The Intermittent Market Reference Price shall be calculated using prices in respect of contracts quoted as far in advance of the delivery of energy pursuant to such contracts as possible, provided that, for this purpose, the Intermittent Market Reference Price calculation shall not include prices that are quoted further in advance than Intermittent Day Ahead Contracts.
- (D) The Intermittent Market Reference Price shall be calculated so as to reflect a reasonable volume of trades from a reasonable number and diverse range of market participants and/or aggregators.
- (E) The Intermittent Market Reference Price shall be calculated so as not to unduly dampen, dilute, disrupt or otherwise distort components of the energy market in Great Britain that would, absent the existence of FiT Contracts for Difference, contribute to the operational behaviour of the energy market in Great Britain and the pricing thereof.
- (F) The Intermittent Market Reference Price calculation is to utilise price sources which satisfy the IMRP Quality Criteria.
- (G) If an IMRP Principles Review Trigger falling within paragraph 1.1(A)(ii) of Part A occurs or has occurred, the Intermittent Market Reference Price calculation shall pay regard to the physical location of the Facility and the extent to which such physical location and constraints on the delivery of energy into the market thereby imposed may have on the price for the sale of its electricity delivered within Great Britain or the relevant part of Great Britain.

**2. PRIORITISATION OF IMRP PRINCIPLES**

If:

- (A) the application of any combination of the IMRP Principles gives rise to a conflict;  
or

(B) it is not possible for a methodology for calculating the Intermittent Market Reference Price to satisfy all of the IMRP Principles,

the IMRP Principle first appearing in the list in paragraph 1 (*IMRP Principles*) shall be afforded priority.

**Annex 6**  
**CHPQM Calculation Methodology**

**1. APPLICATION**

This Annex 6 (*CHPQM Calculation Methodology*) shall apply to the Contract for Difference only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement.

**2. CHP QUALIFYING MULTIPLIER**

- 2.1 The “**CHP Qualifying Multiplier**” means, in respect of any Settlement Unit: (i) the decimal fraction identified as such multiplier in a valid CHPQA Guidance Note 44 Certificate or (ii) if the Facility does not have a valid CHPQA Guidance Note 44 Certificate, zero (0).
- 2.2 If a revised, updated, amended or new CHPQA Guidance Note 44 Certificate is issued in relation to the Facility, the Generator shall supply a copy of such CHPQA Guidance Note 44 Certificate to the CfD Counterparty as soon as reasonably practicable.

**Annex 7**  
**FMS arrangements and RQM Calculation Methodology**

**1. APPLICATION**

This Annex 7 (*FMS arrangements and RQM Calculation Methodology*) shall only apply to the Contract for Difference if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement.

**2. DEFINITIONS: ANNEX 7**

In this Annex 7 (*FMS arrangements and RQM Calculation Methodology*):

**“Ancillary Reporting Obligations”** has the meaning given to that term in paragraph 2.5 of Part A;

**“Applicable FMS Procedures”** means whichever of: (i) the Full FMS Procedures; or (ii) the FMS Exempted Procedures are determined to be applicable to the Generator (and the Facility) from time to time in accordance with Part A;

**“Energy Content”** means, in relation to any substance, the energy contained within that substance (whether measured by a calorimeter or determined in some other way), expressed in terms of the substance’s “gross calorific value” within the meaning of British Standard BS 7420:1991 (as such standard may be amended, supplemented, restated or replaced from time to time);

**“FMS Audit Notice”** has the meaning given to that term in paragraph 3.2 of Part A;

**“FMS Audit Right”** has the meaning given to that term in paragraph 3.1 of Part A;

**“FMS Data”** means all Supporting Information delivered and required to be delivered to the CfD Counterparty pursuant to the FMS Procedures to enable and assist the CfD Counterparty:

(A) to calculate the Renewable Qualifying Multiplier in accordance with:

- (i) Condition 11 (*Renewable Qualifying Multiplier*); and
- (ii) Part B; and

(B) to assess compliance or non-compliance:

- (i) by the Generator and the Facility with the FMS Exemption Criteria (where relevant);
- (ii) of the Facility with the Fuelling Criteria;
- (iii) of the Facility with any applicable sustainability criteria; and

- (iv) by the Generator with Part A (including with respect to the FMS Procedures);

**“FMS Exempted Generator”** means the Generator at any time when it and the Facility are deemed pursuant to the operation of Part A to meet the FMS Exemption Criteria;

**“FMS Exempted Procedures”** means such of the FMS Procedures as are expressed to apply to the Generator and the Facility if and for so long as the Generator is an FMS Exempted Generator, being FMS Procedures which shall be limited to those necessary to verify whether the Generator and the Facility are complying with the FMS Exemption Criteria;

**“FMS Exemption Criteria”** means:

- (A) the Facility either: (i) does not use any Fuel with Variable Renewable Content for the generation of electricity; or (ii) uses only Qualifying Waste for the generation of electricity;
- (B) no Fossil Fuel is used at the Facility to generate electricity (whether for Permitted Ancillary Activities or otherwise); and
- (C) the Generator is not required to report against or comply with any sustainability criteria with respect to any fuel used at the Facility to generate electricity;<sup>5</sup>

**“FMS Exemption Non-Compliance Notice”** has the meaning given to that term in paragraph 4.2 of Part A;

**“FMS Procedures”** means the fuel measurement and sampling procedures to be documented and agreed between the CfD Counterparty and the Generator pursuant to paragraph 1 (*Agreement of FMS Procedures*) of Part A, for the purposes of, amongst other things, fulfilling the FMS Purposes, as such procedures and tests may be varied from time to time by agreement between the Generator and the CfD Counterparty;

**“FMS Proposals Notice”** has the meaning given to that term in paragraph 1.1 of Part A;

**“FMS Proposals Response Notice”** has the meaning given to that term in paragraph 1.4 of Part A;

**“FMS Proposals Supporting Information”** has the meaning given to that term in paragraph 1.4 of Part A;

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<sup>5</sup> Note to Generator: Please refer to the policy statement published alongside this document entitled “Electricity Market Reform: Update on Terms for the Contract for Difference”.

**“FMS Purposes”** means enabling and assisting the CfD Counterparty (including by way of audit, check, examination, inspection or stocktake):

- (A) to calculate the Renewable Qualifying Multiplier in accordance with:
  - (i) Condition 11 (*Renewable Qualifying Multiplier*); and
  - (ii) Part B; and
- (B) to verify that all FMS Reports (including all of the FMS Data) used for the purposes of calculating the Renewable Qualifying Multiplier are accurate, complete and not misleading; and
- (C) to assess compliance or non-compliance:
  - (i) by the Generator and the Facility with the FMS Exemption Criteria;
  - (ii) of the Facility with the Fuelling Criteria;
  - (iii) of the Facility with any applicable sustainability criteria; and
  - (iv) by the Generator with Part A (including with respect to the FMS Procedures);

**“FMS Report”** means the report to be supplied to the CfD Counterparty on a monthly basis pursuant to and in accordance with the Applicable FMS Procedures, and including all the FMS Data;

**“Fossil Fuel”** has the meaning given to that term in the CfD Agreement;

**“Fuel with Variable Renewable Content”** means fuel composed wholly or partially of renewable material whose Energy Content can vary over time;

**“Fuelling Criteria”** means the fuel criteria applicable to the Facility, as set out in the CfD Agreement;

**“Full FMS Procedures”** means all FMS Procedures except the FMS Exempted Procedures;

**“Full FMS Procedures Effective Date”** has the meaning given to that term in paragraph 4.3 of Part A;

**“Generator FMS Proposals”** has the meaning given to that term in paragraph 1.3(B) of Part A;

**“Permitted Ancillary Activities”** means the cleansing of other fuels from the Facility’s combustion system prior to using Fossil Fuel or Waste to heat the combustion system to its normal temperature, the heating of the Facility’s combustion system to its normal operating temperature or the maintenance of that temperature, the ignition of fuels of

low or variable calorific value, emission control, standby generation or the testing of standby generation capacity, corrosion control or fouling reduction;

**“Qualifying Waste”** means unprocessed, municipal Waste which meets the Waste Qualification Criteria;

**“Relevant Waste Proportion”** or **“RWP”** means: (i) any amount (expressed as a decimal as may be agreed from time to time between the Parties to be the Relevant Waste Proportion; (ii) (if paragraph (i) does not apply) such other amount (expressed as a decimal) as is determined to be the Relevant Waste Proportion in accordance with Part B; and (iii) (if neither paragraph (i) nor paragraph (ii) applies) 0.5;

**“Renewable Qualifying Multiplier Formula”** means the following formula:

$$\text{Renewable Qualifying Multiplier} = \frac{A}{B}$$

where:

- A* is the Energy Content of all of the Fuels with Variable Renewable Content used in generating that Facility’s gross output during the relevant RQM Calculation Month, less the Energy Content of any Fossil Fuel from which those Fuels with Variable Renewable Content are in part composed; and
- B* is the Energy Content of all of the fuels used in generating that Facility’s gross output during that RQM Calculation Month;

**“RQM Calculation Month”** means each calendar month during the Term for which the Renewable Qualifying Multiplier is required to be calculated, provided that: (i) if the Start Date occurs other than on the first day of a calendar month, the first RQM Calculation Month shall be deemed to mean the period from and including the Start Date to and including the last day of the calendar month in which the Start Date occurs; and (ii) if the Specified Expiry Date (or the Termination Date) occurs other than on the last day of a calendar month, the last RQM Calculation Month shall be deemed to mean the period from and including the first day of the calendar month in which the Specified Expiry Date (or Termination Date) occurs to and including the Specified Expiry Date (or Termination Date);

**“RQM Submission Deadline”** means, in relation to each RQM Calculation Month, the final Business Day of the second calendar month falling immediately after such RQM Calculation Month;

**“RWP Variation Effective Date”** has the meaning given to that term in paragraph 4.2(C) of Part B;

**“RWP Variation Notice”** has the meaning given to that term in paragraph 4.2 of Part B;

**“Third Party FMS Contractor”** means any third party engaged in respect of or otherwise involved with the carrying out or implementation of the FMS Procedures, including the operator or owner of any laboratory or provider of any testing equipment;

**“Waste”** has the meaning given to that term in the CfD Agreement; and

**“Waste Qualification Criteria”** shall be deemed to have been met in respect of Waste used at the Facility in any RQM Calculation Month if the CfD Counterparty (in its sole discretion) determines that the proportion of that Waste which during that RQM Calculation Month is (or is derived from) Fossil Fuels does not exceed the Relevant Waste Proportion.

**Part A**  
**FMS arrangements**

**1. AGREEMENT OF FMS PROCEDURES**

***FMS Proposals Notice***

- 1.1 As soon as reasonably practicable following the Agreement Date, the Generator shall give a notice to the CfD Counterparty (an “**FMS Proposals Notice**”) outlining the FMS Procedures which it proposes be adopted for the purposes of the Contract for Difference.
- 1.2 The Generator may, if it considers that it (and the Facility) will or is reasonably likely to comply with the FMS Exemption Criteria (either with effect from the Start Date or otherwise during the Term), include FMS Exempted Procedures within the proposed FMS Procedures.
- 1.3 The FMS Proposals Notice shall:
- (A) be substantially in the form set out in Part KKK of Annex 8 (*Pro forma notices*); and
  - (B) include a proposal for the FMS Procedures (which, if paragraph 1.2 applies, shall include a proposal in respect of FMS Exempted Procedures in addition to the Generator’s proposals for the Full FMS Procedures) (the “**Generator FMS Proposals**”).

***FMS Proposals Response Notice***

- 1.4 The CfD Counterparty shall, within twenty (20) Business Days of receipt of the FMS Proposals Notice, give a notice to the Generator (an “**FMS Proposals Response Notice**”). An FMS Proposals Response Notice shall:
- (A) be substantially in the form set out in Part LLL of Annex 8 (*Pro forma notices*); and
  - (B) specify whether the CfD Counterparty:
    - (i) consents to the Generator FMS Proposals;
    - (ii) does not consent to the Generator FMS Proposals, in which case the CfD Counterparty shall summarise its reasons for not consenting to the Generator FMS Proposals; or
    - (iii) considers that it has not been provided with sufficient Supporting Information to determine whether to consent to the Generator FMS Proposals (and, in such circumstances, the CfD Counterparty may request further Supporting Information from the Generator in connection

with: (a) the Generator, the Facility and the Generator FMS Proposals; and (b) any potential amendments, modifications, supplements or replacements the CfD Counterparty may require to be made to the FMS Procedures contained within the Generator FMS Proposals) (the “**FMS Proposals Supporting Information**”).

***Agreement between the Parties in respect of Generator FMS Proposals***

1.5 If the CfD Counterparty states in the FMS Proposals Response Notice that it consents to the Generator FMS Proposals:

- (A) such proposals shall be adopted for the purposes of the Contract for Difference, as the FMS Procedures; and
- (B) the Further Condition Precedent set out in paragraph 3 of Part B of Schedule 1 (*Conditions Precedent*) shall be deemed to have been fulfilled (and, as such, Conditions 3.7 to 3.13 shall not apply in respect thereto).

1.6 If the CfD Counterparty states in the FMS Proposals Response Notice that: (i) it does not consent to the Generator FMS Proposals; or (ii) it requires the Generator to provide FMS Proposals Supporting Information to enable it to assess whether to consent to the Generator FMS Proposals, the Parties shall, as soon as reasonably practicable, and in any event within fifteen (15) Business Days of:

- (A) the CfD Counterparty giving an FMS Proposals Response Notice to the Generator; or
- (B) (if the CfD Counterparty has requested the Generator to provide FMS Proposals Supporting Information to the CfD Counterparty in its FMS Proposals Response Notice) the Generator having provided such FMS Proposals Supporting Information to the CfD Counterparty,

meet and, in good faith, seek to agree upon the FMS Procedures which the CfD Counterparty is willing to consent to and to be adopted for the purposes of the Contract for Difference as the FMS Procedures

1.7 Nothing in this paragraph 1 (*Agreement of FMS Procedures*) shall require the CfD Counterparty to consent to the adoption of any Generator FMS Proposals (or any amended, modified, supplement or replaced proposals) as the FMS Procedures for the purposes of the Contract for Difference unless and until the CfD Counterparty determines that any such proposals are appropriate to enable and assist the CfD Counterparty:

- (A) to calculate the Renewable Qualifying Multiplier in accordance with:
  - (i) Condition 11 (*Renewable Qualifying Multiplier*); and
  - (ii) Part B; and

- (B) to assess compliance or non-compliance:
- (i) by the Generator and the Facility with the FMS Exemption Criteria (where relevant);
  - (ii) of the Facility with the Fuelling Criteria;
  - (iii) of the Facility with any applicable sustainability criteria; and
  - (iv) by the Generator with this Part A (including with respect to the FMS Procedures).

## **2. GENERATOR'S FMS OBLIGATIONS**

### ***Conduct of FMS Procedures***

- 2.1 The Generator shall, with effect on and from the Start Date, carry out and implement the Applicable FMS Procedures (or, subject to paragraph 2.3, procure the carrying out and implementation of the Applicable FMS Procedures).
- 2.2 If, at any time, the Generator fails to carry out or implement the Applicable FMS Procedures in full, it shall remedy such non-compliance (or, subject to paragraph 2.3, procure the remedy of such non-compliance) as soon as reasonably practicable.
- 2.3 Without prejudice to the generality of Condition 73 (*Transfers*), the Generator may not sub-contract or delegate any of its obligations to carry out and implement the Applicable FMS Procedures without the prior consent of the CfD Counterparty and, if the Generator effects such a Transfer, it shall ensure that the terms upon which the Third Party FMS Contractor is engaged require it to deliver copies of all FMS Data (including each FMS Report) directly to the Generator and the CfD Counterparty.

### ***Provision of FMS Report***

- 2.4 The Generator shall, with effect from the Start Date, submit an FMS Report (or procure that an FMS Report is submitted) to the CfD Counterparty in respect of each RQM Calculation Month, no later than the relevant RQM Submission Deadline.

### ***Ancillary Reporting Obligations***

- 2.5 The Generator shall, with effect on and from the Start Date:
- (A) provide the CfD Counterparty with all Information requested by the CfD Counterparty for the FMS Purposes, such Information to be provided promptly, and no later than ten (10) Business Days, or such longer period as is specified by the CfD Counterparty, after the Information is requested;
  - (B) submit to the CfD Counterparty such Information as it is required to submit to any relevant body for the purposes of reporting against or meeting sustainability criteria; and

- (C) inform the CfD Counterparty as soon as reasonably practicable if it becomes aware that it (or any Third Party FMS Contractor) has failed to comply with any of the FMS Procedures and provide details of the nature of such non-compliance and any remedial action that the Generator is taking or proposes to take,

(together, the “**Ancillary Reporting Obligations**”).

- 2.6 The Generator shall ensure that all Information provided to the CfD Counterparty pursuant to paragraph 2.5, including each FMS Report and all FMS Data submitted by it or any Third Party FMS Contractor to the CfD Counterparty, is true, complete and accurate in all material respects and is not misleading.

### 3. ACCESS RIGHTS

#### ***Scope of FMS Audit Right***

- 3.1 The Generator shall grant the CfD Counterparty and any suitably-qualified persons nominated by the CfD Counterparty access to:

- (A) (i) the Facility; (ii) any plant, machinery, processing or storage facility associated with the Facility; and (iii) any location at which fuel used or to be used at the Facility is located, in each case owned, occupied or controlled by the Generator and to which the Generator can lawfully grant access;
- (B) the books and records of the Generator, insofar as they relate to matters pertinent to the FMS Purposes; and
- (C) the directors, officers and employees of the Generator (who will be instructed to give promptly all Supporting Information reasonably requested by the CfD Counterparty (and any suitably-qualified persons nominated by it)),

in each case as the CfD Counterparty considers to be reasonably necessary for the CfD Counterparty to fulfil the FMS Purposes (the “**FMS Audit Right**”).

- 3.2 If the CfD Counterparty intends to exercise the FMS Audit Right it shall give a notice to the Generator (an “**FMS Audit Notice**”). An FMS Audit Notice shall:

- (A) be substantially in the form set out in Part MMM of Annex 8 (*Pro forma notices*);
- (B) specify that the CfD Counterparty (or suitably-qualified persons nominated by it) intends to exercise the FMS Audit Right; and
- (C) specify the date by which the Generator must, in accordance with paragraph 3.3, permit the exercise of the FMS Audit Right.

- 3.3 On receipt of an FMS Audit Notice the Generator shall permit the CfD Counterparty to exercise the FMS Audit Right at such time as the CfD Counterparty may nominate, provided that it is no earlier than one (1) Business Day after receipt of the FMS Audit Notice.

**Failure to comply with FMS Audit Right**

- 3.4 If the Generator fails to comply with its obligation to permit the CfD Counterparty to exercise the FMS Audit Right, the CfD Counterparty may elect to suspend payment of any Net Payable Amounts which would otherwise be payable by the CfD Counterparty to the Generator in any period during which the Generator is in non-compliance with such obligation, provided that, prior to effecting any such suspension, the CfD Counterparty shall notify the Generator of: (i) its intention to suspend payment of any Net Payable Amounts; and (ii) the date from which it proposes to effect such suspension.
- 3.5 If the Generator subsequently complies with its obligation to permit the CfD Counterparty to exercise the FMS Audit Right, then the CfD Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of paragraph 3.4. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this paragraph 3.5.

**4. FULFILMENT OF FMS EXEMPTION CRITERIA**

- 4.1 If the Generator or the Facility is not satisfying the FMS Exemption Criteria at any time during which the Generator is relying upon the satisfaction of the FMS Exemption Criteria to carry out and implement the FMS Exempted Procedures rather than the Full FMS Procedures, the Generator shall notify the CfD Counterparty immediately of the same.
- 4.2 If the CfD Counterparty determines that the Generator or the Facility (as relevant) is not satisfying the FMS Exemption Criteria at any time during which the Generator is relying upon the satisfaction of the FMS Exemption Criteria to carry out and implement the FMS Exempted Procedures rather than the Full FMS Procedures (irrespective of whether or not such determination is made as a result of a notification having been given by the Generator to the CfD Counterparty pursuant to paragraph 4.1), the CfD Counterparty may give a notice to the Generator (an “**FMS Exemption Non-Compliance Notice**”). An FMS Exemption Non-Compliance Notice shall:
- (A) be substantially in the form set out in Part NNN of Annex 8 (*Pro forma notices*);
  - (B) contain a statement that the Generator or the Facility (as relevant) is not complying with the FMS Exemption Criteria;
  - (C) summarise the CfD Counterparty’s reasons for concluding that the Generator or the Facility (as relevant) is not complying with the FMS Exemption Criteria; and
  - (D) specify the date from which the CfD Counterparty has determined that the Generator or the Facility (as relevant) has ceased to comply with the FMS Exemption Criteria.
- 4.3 The Generator may not dispute the validity of any FMS Exemption Non-Compliance Notice and shall, on receipt of an FMS Exemption Non-Compliance Notice, comply with the Full FMS Procedures with effect from the start of the first RQM Calculation Month

after such FMS Exemption Non-Compliance Notice was received (or deemed to have been received) (the “**Full FMS Procedures Effective Date**”).

- 4.4 If the CfD Counterparty gives the Generator an FMS Exemption Non-Compliance Notice, the Generator may not subsequently revert to the carrying out and implementation of the FMS Exempted Procedures without the prior written consent of the CfD Counterparty.

## 5. SUSTAINABILITY CRITERIA

/●/<sup>6</sup>

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<sup>6</sup> Note to Generator: DECC intends that the FiT Contracts for Difference awarded pursuant to the First Delivery Plan period for Electricity Market Reform (i.e. 2014/15-2018/19) will follow the same approach as the sustainability standards set under the Existing Scheme, taking into account the contractual nature of the FiT Contracts for Difference.

**Part B**  
**RQM calculations**

**1. CALCULATION OF RENEWABLE QUALIFYING MULTIPLIER**

***Basis of calculation***

- 1.1 The “**Renewable Qualifying Multiplier**” for each RQM Calculation Month shall be the multiplier (expressed as a decimal) calculated in respect of that RQM Calculation Month in accordance with the methodology set out in this paragraph 1 (*Calculation of Renewable Qualifying Multiplier*).
- 1.2 The Renewable Qualifying Multiplier shall, except as expressly provided in this Part B, be the same for every Settlement Unit falling within an RQM Calculation Month.

***Calculation methodology***

- 1.3 Subject to paragraph 1.4, and paragraphs 5 (*Failure to comply with Fuelling Criteria*) and 6 (*Failure to comply with Generator’s FMS obligations*), the Renewable Qualifying Multiplier in each RQM Calculation Month shall be:
- (A) if paragraph 2 (*Deemed RQM: FMS Exempted Generator*) applies, the Renewable Qualifying Multiplier specified in that paragraph;
  - (B) if: (i) paragraph 2 (*Deemed RQM: FMS Exempted Generator*) does not apply; and (ii) paragraph 3 (*Deemed RQM: Strike Price below Market Reference Price*) applies, the Renewable Qualifying Multiplier specified in paragraph 3 (*Deemed RQM: Strike Price below Market Reference Price*);
  - (C) if: (i) neither paragraph 2 (*Deemed RQM: FMS Exempted Generator*) nor paragraph 3 (*Deemed RQM: Strike Price below Market Reference Price*) applies; and (ii) paragraph 4 (*Deemed RQM: Utilisation of Qualifying Waste*) applies, the Renewable Qualifying Multiplier calculated in accordance with the provisions of paragraph 4 (*Deemed RQM: Utilisation of Qualifying Waste*);
  - (D) if none of paragraphs 2 (*Deemed RQM: FMS Exempted Generator*), 3 (*Deemed RQM: Strike Price below Market Reference Price*) or 4 (*Deemed RQM: Utilisation of Qualifying Waste*) applies, and:
    - (i) the FMS Report relating to such RQM Calculation Month has been delivered to the CfD Counterparty, the Renewable Qualifying Multiplier as calculated by the application of the Renewable Qualifying Multiplier Formula to the FMS Data;
    - (ii) the FMS Report relating to such RQM Calculation Month has not been delivered to the CfD Counterparty, the Renewable Qualifying Multiplier as calculated by the application of the Renewable Qualifying Multiplier

Formula to the FMS Data contained in the FMS Report most recently received by the CfD Counterparty; or

- (iii) the CfD Counterparty has not received any FMS Reports (or in any other circumstance agreed between the Parties), such other Renewable Qualifying Multiplier as may be agreed between the CfD Counterparty and the Generator from time to time or, in the absence of such agreement, the Assumed RQM.

### **Recalculations**

1.4 If, in respect of any RQM Calculation Month, the CfD Counterparty has calculated a Renewable Qualifying Multiplier in accordance with paragraph 1.3, the CfD Counterparty may or, where specified in this Part B, shall recalculate the Renewable Qualifying Multiplier in circumstances in which:

- (A) revised or updated FMS Data for that month is provided or becomes available to the CfD Counterparty including, in particular:
  - (i) where an FMS Report (including the FMS Data) is provided to the CfD Counterparty for an RQM Calculation Month (either before or after the RQM Submission Deadline), in which case the Renewable Qualifying Multiplier for that RQM Calculation Month shall be calculated in accordance with paragraph 1.3(D)(i) (in substitution for the calculation methodology provided for in paragraph 1.3(D)(ii) or 1.3(D)(iii)); or
  - (ii) as a result of the exercise by the CfD Counterparty of the FMS Audit Right;
- (B) paragraph 5 (*Failure to comply with Fuelling Criteria*) applies to the calculation of the Renewable Qualifying Multiplier in respect of that RQM Calculation Month;
- (C) paragraph 6 (*Failure to comply with Generator's FMS obligations*) applies to the calculation of the Renewable Qualifying Multiplier in respect of that RQM Calculation Month;
- (D) the Renewable Qualifying Multiplier has been calculated by the CfD Counterparty in accordance with either:
  - (i) paragraph 2 (*Deemed RQM: FMS Exempted Generator*); or
  - (ii) paragraph 4 (*Deemed RQM: Utilisation of Qualifying Waste*),

and: (a) the conditions to the application of the relevant paragraph are subsequently agreed or determined not to have been met; and (b) the CfD Counterparty receives FMS Data which enables it to calculate the Renewable Qualifying Multiplier without reliance upon the deemed Renewable Qualifying Multiplier value provided for in the relevant paragraph; or

(E) the Renewable Qualifying Multiplier has been calculated by the CfD Counterparty in accordance with paragraph 3 (*Deemed RQM: Strike Price below Market Reference Price*) and the conditions to the application of the relevant paragraph are subsequently agreed or determined not to have been met.

1.5 If the Renewable Qualifying Multiplier for any RQM Calculation Month is recalculated in accordance with paragraph 1.4, Condition 11 (*Renewable Qualifying Multiplier*) shall be applied by the CfD Counterparty for the purposes of determining the appropriate RQM Adjustment Amount.

## **2. DEEMED RQM: FMS EXEMPTED GENERATOR**

The Renewable Qualifying Multiplier shall, in relation to each RQM Calculation Month in respect of which the Generator has notified the CfD Counterparty that it wishes to be treated as, and the FMS Data evidences that the Generator is, an FMS Exempted Generator, be one (1), unless the provisions in paragraph 4 (*Deemed RQM: Utilisation of Qualifying Waste*) apply.

## **3. DEEMED RQM: STRIKE PRICE BELOW MARKET REFERENCE PRICE**

3.1 Subject to paragraph 3.2 if, in any RQM Calculation Month, the Strike Price is lower than the Market Reference Price in any one or more Settlement Units during that RQM Calculation Month:

(A) the CfD Counterparty may, at its election, deem the Renewable Qualifying Multiplier to be either one (1) or, alternatively, the Assumed RQM; and

(B) (if an election is made by the CfD Counterparty pursuant to paragraph (A)) the CfD Counterparty may, at its election, apply the deemed Renewable Qualifying Multiplier either to:

(i) each Settlement Unit in respect of which the Strike Price is lower than the Market Reference Price; or

(ii) all of the Settlement Units in such RQM Calculation Month.

3.2 The CfD Counterparty may only make an election to deem the Renewable Qualifying Multiplier as provided for in paragraph 3.1 if the Generator:

(A) does not comply with any of the Fuelling Criteria in the relevant RQM Calculation Month;

(B) does not comply with any of the Applicable FMS Procedures in respect of the relevant RQM Calculation Month; or

(C) fails to provide the FMS Report (including the FMS Data) in respect of the relevant RQM Calculation Month.

#### 4. DEEMED RQM: UTILISATION OF QUALIFYING WASTE

##### ***Deemed Renewable Qualifying Multiplier value***

- 4.1 If, in any RQM Calculation Month, the only fuel used for the generation of electricity at the Facility is Qualifying Waste, the Renewable Qualifying Multiplier shall be deemed to be the Relevant Waste Proportion.

##### ***Variation of deemed Renewable Qualifying Multiplier value***

- 4.2 The CfD Counterparty may give notice to the Generator (a “**RWP Variation Notice**”) which shall:
- (A) be substantially in the form set out in Part 000 of Annex 8 (*Pro forma notices*);
  - (B) specify a revised Relevant Waste Proportion; and
  - (C) specify the date, such date to be not less than thirty (30) Business Days following the receipt (or deemed receipt) of the RWP Variation Notice, from which the revised Relevant Waste Proportion shall be effective (the “**RWP Variation Effective Date**”).
- 4.3 On receipt of a RWP Variation Notice, the Generator shall notify the CfD Counterparty (no later than ten (10) Business Days after receipt of the RWP Variation Notice) that either:
- (A) it consents to the revised Relevant Waste Proportion applying with effect from the RWP Variation Effective Date, in which case paragraph 4.1 shall, subject to the requirements of that paragraph, continue to apply for the purposes of calculating the Renewable Qualifying Multiplier; or
  - (B) it does not consent to the revised Relevant Waste Proportion applying with effect from the RWP Variation Effective Date, in which case paragraph 4.1 shall cease to apply for the purposes of calculating the Renewable Qualifying Multiplier.

If the Generator fails to notify the CfD Counterparty whether it consents to the revised Relevant Waste Proportion specified in the RWP Variation Notice within the period specified in this paragraph 4.3, it shall be deemed not to have consented to the revised Relevant Waste Proportion and paragraph 4.3(B) shall apply.

#### 5. FAILURE TO COMPLY WITH FUELLING CRITERIA

- 5.1 Subject to paragraph 3 (*Deemed RQM: Strike Price below Market Reference Price*), if the Generator fails to comply with any of the Fuelling Criteria in any RQM Calculation Month, then the CfD Counterparty may elect to calculate or recalculate the Renewable Qualifying Multiplier for that RQM Calculation Month on the following basis.
- (A) If the non-compliance is the only incidence of non-compliance with the Fuelling Criteria in any twelve (12) month period, the Renewable Qualifying Multiplier

which would otherwise apply in the RQM Calculation Month in which such non-compliance occurred in accordance with paragraph 1 (*Calculation of Renewable Qualifying Multiplier*) may be multiplied by 0.9.

- (B) If the non-compliance is the second incidence of non-compliance with the Fuelling Criteria in any twelve (12) month period, the Renewable Qualifying Multiplier which would otherwise apply in the RQM Calculation Month in which such second non-compliance occurred in accordance with paragraph 1 (*Calculation of Renewable Qualifying Multiplier*) may be multiplied by 0.8.
- (C) If there have been more than two incidences of non-compliance with the Fuelling Criteria in any twelve (12) month period, the Renewable Qualifying Multiplier which would otherwise apply in the RQM Calculation Month in which such third or subsequent non-compliance occurred in accordance with paragraph 1 (*Calculation of Renewable Qualifying Multiplier*) may be deemed to be zero (0).

## **6. FAILURE TO COMPLY WITH GENERATOR'S FMS OBLIGATIONS**

### ***Failure to comply with FMS Procedures***

6.1 Subject to paragraph 3 (*Deemed RQM: Strike Price below Market Reference Price*), if the Generator fails to carry out and implement the Applicable FMS Procedures (or, subject to paragraph 2.3 of Part A, procure the carrying out and implementation of the Applicable FMS Procedures) in respect of any RQM Calculation Month, then the CfD Counterparty may elect to calculate or recalculate the Renewable Qualifying Multiplier for that RQM Calculation Month on the following basis.

- (A) If the non-compliance with the Applicable FMS Procedures is of a minor or inadvertent nature, and the CfD Counterparty otherwise determines that such non-compliance did not have a material impact on the calculation of the Renewable Qualifying Multiplier, then:
  - (i) if the non-compliance is the only incidence of non-compliance with the Applicable FMS Procedures in any twelve (12) month period, the Renewable Qualifying Multiplier which would otherwise apply in the RQM Calculation Month in which such non-compliance occurred in accordance with paragraph 1 (*Calculation of Renewable Qualifying Multiplier*) may be multiplied by 0.9;
  - (ii) if the non-compliance is the second incidence of non-compliance with the Applicable FMS Procedures in any twelve (12) month period, the Renewable Qualifying Multiplier which would otherwise apply in the RQM Calculation Month in which such second non-compliance occurred in accordance with paragraph 1 (*Calculation of Renewable Qualifying Multiplier*) may be multiplied by 0.8; or
  - (iii) if there have been more than two incidences of non-compliance with the Applicable FMS Procedures in any twelve (12) month period, the Renewable Qualifying Multiplier which would otherwise apply in the

RQM Calculation Month in which such third or subsequent non-compliance occurred in accordance with paragraph 1 (*Calculation of Renewable Qualifying Multiplier*) may be deemed to be zero (0).

- (B) If the non-compliance with the Applicable FMS Procedures does not fall within paragraph 6.1(A), then the Renewable Qualifying Multiplier may be deemed to be zero (0). Any failure by the Generator to carry out and implement the Full FMS Procedures (or, subject to paragraph 2.3 of Part A, procure the carrying out and implementation of the Full FMS Procedures) with effect from the Full FMS Procedures Effective Date shall, without limitation, be deemed to fall within this paragraph 6.1(B).
- 6.2 If the Generator subsequently remedies any failure to comply with its obligations to carry out and implement the Applicable FMS Procedures (or, subject to paragraph 2.3 of Part A, procure the carrying out and implementation of the Applicable FMS Procedures) in respect of an RQM Calculation Month to which paragraph 6.1 applies, then the CfD Counterparty shall recalculate the Renewable Qualifying Multiplier. No Compensatory Interest or Default Interest shall be payable in respect of any resulting RQM Adjustment Amount.

***Failure to deliver FMS Report***

- 6.3 Subject to paragraph 3 (*Deemed RQM: Strike Price below Market Reference Price*), if the Generator fails to provide the CfD Counterparty with the FMS Report (including the FMS Data) in respect of any RQM Calculation Month on or prior to the corresponding RQM Submission Deadline, the CfD Counterparty may deem the Renewable Qualifying Multiplier to be zero (0).
- 6.4 If the Generator subsequently delivers the FMS Report (including the FMS Data) to the CfD Counterparty (or procures that the FMS Reports (including the FMS Data) is delivered to the CfD Counterparty by a Third Party FMS Contractor) in respect of an RQM Calculation Month to which paragraph 6.3 applies, then the CfD Counterparty shall recalculate the Renewable Qualifying Multiplier. No Compensatory Interest or Default Interest shall be payable in respect of any resulting RQM Adjustment Amount.

***Non-compliance with sustainability criteria***

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<sup>7</sup> Note to Generator: DECC intends that the FiT Contracts for Difference awarded pursuant to the First Delivery Plan period for Electricity Market Reform (i.e. 2014/15-2018/19) will follow the same approach as the sustainability standards set under the Existing Scheme, taking into account the contractual nature of the FiT Contracts for Difference.

**Annex 8  
Pro forma notices**

**Part A  
Directors' Certificate**

***[Company Name]***  
***[Unique Reference Number: [●]]***  
**(the "Company")**

**CONTRACT FOR DIFFERENCE – DIRECTORS' CERTIFICATE**

To: ***[●]*** (the "CfD Counterparty")

I, ***[●]***, being a Director of the Company, refer to the contract for difference entered into by the Company and the CfD Counterparty on ***[●]*** (the "**Agreement**"). Terms defined in or incorporated into the Agreement have the same meanings when used in this Certificate.

I hereby certify that, having made all due and careful enquiries ***[to insert description of matters being certified]***.

This Certificate is governed by and construed in accordance with English law.

.....  
Name:  
Position:  
Dated: ***[●]***

**Part B**  
**Further CP Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FURTHER CP NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.7(B).
3. This is a Further CP Notice.
4. We consider that the following Further Condition Precedent has been fulfilled: [●].
5. We enclose Supporting Information we consider to be relevant to evidence the fulfilment of the Further Condition Precedent.
6. We enclose a Directors’ Certificate certifying that the information in, and enclosed with, this Further CP Notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part C**  
**Further CP Non-Compliance Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FURTHER CP NON-COMPLIANCE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.9.
3. This is a Further CP Non-Compliance Notice.
4. The Affected Further CP is: [●].
5. ***[The Affected Further CP [[will not]/[is not reasonably likely to] be fulfilled by the Longstop Date.]/[, which we previously notified to you as fulfilled, is no longer fulfilled.]***
6. We enclose Supporting Information which we consider to be relevant to this notice.
7. We ***[have taken]/[are proposing to take]*** the following remedial action: [●].
8. We enclose a Directors’ Certificate certifying that the information in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part D**  
**CP Response Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – CP RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition [3.11(B)(i)]/[3.11(B)(ii)].
3. This is a CP Response Notice in relation to the Further CP Notice dated [●].
4. *[We consider that the Further Condition Precedent to which the Further CP Notice relates has been fulfilled.]/[We have not been provided with sufficient Supporting Information to determine whether the Further Condition Precedent to which the Further CP Notice relates has been fulfilled and require the following Further Condition Precedent Evidence: [●].]*

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part E**  
**Further CP Response Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FURTHER CP RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.12(B)(ii).
3. This is a Further CP Response Notice in relation to the CP Response Notice dated [●].
4. We consider that you have **[not]** fulfilled the Further Condition Precedent.

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part F**  
**CP Fulfilment Notice**

**To:** [●] (the “Generator”)  
*[Unique reference number: [●]]*

**From:** [●] (the “CfD Counterparty”)  
*[Address]*

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – CP FULFILMENT NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.13.
3. This is a CP Fulfilment Notice.
4. We hereby confirm to you that all the Further Conditions Precedent have been satisfied[, **except [●] which [has]/[have] been waived**].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part G**  
**Start Date Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – START DATE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.15.
3. This is a Start Date Notice.
4. We propose that the Start Date shall be: [●].
5. We enclose a Directors’ Certificate certifying that the information in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part H**  
**Milestone Requirements Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – MILESTONE REQUIREMENTS NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 4.1.
3. This is a Milestone Requirements Notice.
4. *[We enclose invoices, payment receipts and other Supporting Information which we consider to be relevant to evidence expenditure of ten per cent. (10%) or more of the Total Project Costs, being £[●].]/[We enclose information as is listed as the Project Commitments and the following Supporting Information which we consider to be relevant to evidence compliance or fulfilment of the Project Commitments: [●].]*
5. We enclose a Directors’ Certificate certifying that the information in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part I**  
**Milestone Assessment Response Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – MILESTONE ASSESSMENT RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition [4.3(B)(i)]/[4.3(B)(ii)].
3. This is a Milestone Assessment Response Notice in relation to the Milestone Requirements Notice dated [●].
4. ***[We consider that the Milestone Requirements have been complied with and fulfilled.]/[We have not been provided with sufficient Supporting Information to determine whether you have complied with and fulfilled the Milestone Requirements and require the following Requested Milestone Supporting Information: [●].]***

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part J**  
**Further Milestone Assessment Response Notice**

To: [●] (the “Generator”)  
[Unique reference number: [●]]

From: [●] (the “CfD Counterparty”)  
[Address]

Dated: [●]

**CONTRACT FOR DIFFERENCE – FURTHER MILESTONE ASSESSMENT RESPONSE  
NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 4.4(B)(ii).
3. This is a Further Milestone Assessment Response Notice in relation to the Milestone Requirements Notice dated [●] and the Milestone Assessment Response Notice dated [●].
4. We consider that you have [*not*] complied with and fulfilled the Milestone Requirements.

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part K**  
**RGI Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – RGI NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 5.1.
3. This is an RGI Notice.
4. The amount by which the Installed Capacity Estimate should be reduced to take into account the Relevant Geological Issue is [●]MW and the RGI-Adjusted Installed Capacity Estimate is [●]MW.
5. We enclose the following Supporting Information which we consider to be relevant to evidence:
  - (i) the existence or occurrence of the Geological Issue and our basis for concluding that the Geological Issue constitutes a Relevant Geological Issue; and
  - (ii) our basis for concluding that, as a result of the existence or occurrence of the Relevant Geological Issue, the Installed Capacity Estimate is required to be reduced to the RGI-Adjusted Installed Capacity Estimate: [●].

6. We enclose a Directors' Certificate certifying that the information in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part L**  
**RGI Response Notice**

**To:** [●] (the “Generator”)  
*[Unique reference number: [●]]*

**From:** [●] (the “CfD Counterparty”)  
*[Address]*

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – RGI RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 5.3.
3. This is an RGI Response Notice.
4. *[We consider that a Relevant Geological Issue has occurred. We [do not] accept the RGI-Adjusted Installed Capacity Estimate specified in the RGI Notice dated [●].]/[We do not consider that a Relevant Geological Issue has occurred.]*
5. *[We have not been provided with sufficient Supporting Information to determine [whether a Relevant Geological Issue has occurred]/[whether to accept the RGI-Adjusted Installed Capacity Estimate], and we require the following RGI Supporting Information: [●]]*

Yours faithfully,

.....

For and on behalf of  
the **CfD Counterparty**

**Part M**  
**ICE Adjustment Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – ICE ADJUSTMENT NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 6.1.
3. This is an ICE Adjustment Notice.
4. The Installed Capacity will be lower than the Installed Capacity Estimate by: [●]MW.
5. The Revised ICE is: [●]MW.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part N**  
**Final Installed Capacity Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FINAL INSTALLED CAPACITY NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7.1.
3. This is a Final Installed Capacity Notice.
4. The Final Installed Capacity was [●]MW.
5. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the Final Installed Capacity.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part O**  
**Final Installed Capacity Response Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FINAL INSTALLED CAPACITY RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition [7.2(B)(i)]/[7.2(B)(ii)].
3. This is a Final Installed Capacity Response Notice.
4. ***[We agree with the Final Installed Capacity specified in the Final Installed Capacity Notice dated [●].]/[We have not been provided with sufficient Supporting Information to determine the Final Installed Capacity. We require the following Final Installed Capacity Supporting Information: [●].]***

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part P**  
**Billing Statement Dispute Notice**

To: [●]

From: [●]

Dated: [●]

**CONTRACT FOR DIFFERENCE – BILLING STATEMENT DISPUTE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between [●] as the CfD Counterparty and [●] as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 21.3.
3. This is a Billing Statement Dispute Notice. The Billing Statement[**s**] to which the dispute relates [**is**]/[**are**] [●].
4. Our [**name**]/[**unique identifier**] is [●].
5. The [**name**]/[**unique identifier**] of the Facility is [●].
6. The Billing Statement items to which the dispute relates are [●].
7. The amount in dispute is [●]. The apportionment of this amount in relation to the relevant Billing Statement items is [●].
8. [**We consider that the following Billing Statement dispute should be [consolidated with]/[joined to] this dispute: [●].**]
9. We believe the correct position is [●]. Our reasons for believing this is the correct position are [●].
10. We intend to rely on the following Supporting Information, copies of which are enclosed: [●].

11. We enclose the following additional Information which we consider relevant in relation to the dispute: [●].

Yours faithfully,

.....  
For and on behalf of  
[●]

**Part Q**  
**Metering Breach Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – METERING BREACH NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 29.2.
3. This is a Metering Breach Notice.
4. We consider that you are in breach of the following Metering Compliance Obligation: [●].
5. We enclose the following Supporting Information as evidence of the breach of such Metering Compliance Obligation: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part R**  
**Metering Breach Response Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – METERING BREACH RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition [29.3(B)(i)]/[29.3(B)(ii)].
3. This is a Metering Breach Response Notice.
4. We [**do not**] accept that there has been a breach of the Metering Compliance Obligation as specified in the Metering Breach Notice dated [●].
5. [**There has been a breach of the relevant Metering Compliance Obligation from the following date: [●].**]

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part S**  
**Metering Inspection Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – METERING INSPECTION NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 29.12.
3. This is a Metering Inspection Notice.
4. We [*intend*]/[*nominate* [●]] to exercise the Metering Access Right.
5. The date by which you must, in accordance with Condition 29.13, permit the exercise of the Metering Access Right is [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part T**  
**CfD Counterparty QCiL Notice**

To: **[•]** (the “Generator”)  
**[Unique reference number: [•]]**

From: **[•]** (the “CfD Counterparty”)  
**[Address]**

Dated: **[•]**

**CONTRACT FOR DIFFERENCE – CFD COUNTERPARTY QCIL NOTICE**

Dear Sirs,

1. We refer to the agreement dated **[•]** between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 31.1.
3. This is a CfD Counterparty QCiL Notice.
4. We enclose reasonable details of the Qualifying Change in Law which we consider **[has been implemented, occurred or become effective]/[is shortly to be implemented, occur or become effective]**.
5. The **[QCIL Effective Date]/[Expected QCIL Effective Date]** is **[•]**.
6. We believe the Change in Law **[constitutes]/[will constitute]** a Qualifying Change in Law for the following reasons: **[•]**. We consider the Qualifying Change in Law to be **[a Discriminatory]/[a Specific]/[an Other]** Change in Law.
7. **[We consider that the Notified Change in Law will give rise to or result in QCIL Operating [Costs]/[Savings].]**
8. **[We consider that the Notified Change in Law will give rise to or result in QCIL Capital [Costs]/[Savings].]**
9. **[We consider that the Notified Change in Law will give rise to or result in an Adjusted Output Period. Our AOP Estimate is [•].]**
10. **[We consider that the Notified Change in Law will give rise to or result in a QCIL Construction Event.]**

11. ***[We consider that the Notified Change in Law will give rise to or result in a QCiL Operations Cessation Event.]***

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part U**  
**Generator QCiL Response Notice**

To: [●] (the "CfD Counterparty")  
[Address]

From: [●] (the "Generator")  
[Unique reference number: [●]]

Dated: [●]

**CONTRACT FOR DIFFERENCE – GENERATOR QCIL RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 31.2.
3. This is a Generator QCiL Response Notice in response to the CfD Counterparty QCiL Notice dated [●].
4. *[We consider that the Notified Change in Law [is]/[will be] a Qualifying Change in Law.]/[We do not consider that the Notified Change in Law [is]/[will be] a Qualifying Change in Law and enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of that conclusion.]*
5. *[We agree with the [QCIL Effective Date]/[Expected QCIL Effective Date] specified in the CfD Counterparty QCiL Notice.]/[We do not agree with the [QCIL Effective Date]/[Expected QCIL Effective Date] specified in the CfD Counterparty QCiL Notice and we consider the [QCIL Effective Date]/[Expected QCIL Effective Date] to be [●].]*
6. *[We consider that the Notified Change in Law will give rise to or result in QCiL Operating [Costs]/[Savings]. Our good faith estimate of the QCiL Operating [Costs]/[Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Operating [Costs]/[Savings] are [●]. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
7. *[We consider that the Notified Change in Law will give rise to or result in QCiL Capital [Costs]/[Savings]. Our good faith estimate of the QCiL Capital [Costs]/[Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Capital [Costs]/[Savings] are [●]. We enclose*

*Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*

8. *[We consider that the Notified Change in Law will give rise to or result in an Adjusted Output Period. Our AOP Estimate is [●] and our good faith estimate of the impact of the Notified Change in Law on the Estimated Facility Generation is [●]. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
9. *[We consider that the Notified Change in Law will give rise to or result in a QCiL Construction Event. Our good faith estimate of the QCiL Construction Event Costs and QCiL Construction Event Savings is [●] and [●] respectively. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
10. *[We consider that the Notified Change in Law will give rise to or result in a QCiL Operations Cessation Event. Our good faith estimate of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings is [●] and [●] respectively. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
11. We enclose Supporting Information evidencing, in reasonable detail, the steps that we **[have taken]/[and]/[propose to take]** to comply with the QCiL Mitigation Obligation and the Reasonable and Prudent Standard.
12. We enclose a Directors' Certificate certifying the matters specified in Condition 31.4.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part V**  
**Generator QCiL Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – GENERATOR QCIL NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 31.5.
3. This is a Generator QCiL Notice.
4. We enclose reasonable details of the Qualifying Change in Law which we consider *[has been implemented, occurred or become effective]/[is shortly to be implemented, occur or become effective]*.
5. The *[QCIL Effective Date]/[Expected QCIL Effective Date]* is [●].
6. We believe the Notified Change in Law *[constitutes]/[will constitute]* a Qualifying Change in Law for the following reasons: [●]. We consider the Qualifying Change in Law to be *[a Discriminatory]/[a Specific]/[an Other]* Change in Law. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of that conclusion.
7. *[We consider that the Notified Change in Law will give rise to or result in QCiL Operating [Costs]/[Savings]. Our good faith estimate of the QCiL Operating [Costs]/[Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Operating [Costs]/[Savings] are [●]. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
8. *[We consider that the Notified Change in Law will give rise to or result in QCiL Capital [Costs]/[Savings]. Our good faith estimate of the QCiL Capital [Costs]/[Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Capital [Costs]/[Savings] are [●]. We enclose*

*Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*

9. *[We consider that the Notified Change in Law will give rise to or result in an Adjusted Output Period. Our AOP Estimate is [●] and our good faith estimate of the impact of the Notified Change in Law on the Estimated Facility Generation is [●]. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
10. *[We consider that the Notified Change in Law will give rise to or result in a QCiL Construction Event. Our good faith estimate of the QCiL Construction Event Costs and QCiL Construction Event Savings is [●] and [●] respectively. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
11. *[We consider that the Notified Change in Law will give rise to or result in a QCiL Operations Cessation Event. Our good faith estimate of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings is [●] and [●] respectively. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of these conclusions.]*
12. We enclose Supporting Information evidencing, in reasonable detail, the steps that we **[have taken]/[and]/[propose to take]** to comply with the QCiL Mitigation Obligation and the Reasonable and Prudent Standard.
13. We enclose a Directors' Certificate certifying the matters specified in Condition 31.6.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part W**  
**CfD Counterparty QCiL True-Up Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – CFD COUNTERPARTY QCIL TRUE-UP NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 34.2.
3. This is a CfD Counterparty QCiL True-Up Notice in respect of *[identify relevant Qualifying Change in Law]*.
4. We hereby require you to confirm the QCiL True-Up Information.

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part X**  
**QCIL True-Up Response Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – QCIL TRUE-UP RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 34.4.
3. This is a QCIL True-Up Response Notice in response to the CfD Counterparty QCIL True-Up Notice dated [●].
4. We enclose the QCIL True-Up Information.
5. We confirm that *[we are not entitled to recover and have not recovered any amount falling within the description in Condition 35.6 or 35.7]/[the amount of [●] has been recovered pursuant to Conditions 35.6 or 35.7].*
7. We enclose the following Supporting Information, in reasonable detail, as we consider to be relevant to and supportive of the information contained in or enclosed with this notice: [●].
8. We enclose a Directors’ Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part Y**  
**Generator QCiL True-Up Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – GENERATOR QCIL TRUE-UP NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 34.6.
3. This is Generator QCiL True-Up Notice in respect of *[identify Qualifying Change in Law]*.
4. We enclose the QCiL True-Up Information.
6. We confirm that *[we are not entitled to recover and have not recovered any amount falling within the description in Condition 35.6 or 35.7]/[the amount of [●] has been recovered pursuant to Condition 35.6 or 35.7]*.
7. We enclose such Supporting Information, in reasonable detail, as we consider to be relevant to and supportive of our conclusions in respect of Condition 34.6.
8. We enclose a Directors’ Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part Z**  
**Generator GT Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – GENERATOR GT NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 37.1.
3. This is a Generator GT Notice.
4. We consider that a Generation Tax Change in Law has been implemented, occurred or become effective, the relevant details of which are: [●].
5. The Generation Tax Effective Date is [●].
6. We enclose an explanation in reasonable detail, together with Supporting Information, of:
  - (a) the Generation Tax Liability we have incurred in, or in respect of, the twelve (12) months immediately after the applicable Generation Tax Effective Date (both in absolute terms and expressed in £/MWh);
  - (b) any Generation Tax Liability or change(s) in the Generation Tax Liability that we have incurred or saved, or estimates in good faith that we will incur or save, for each relevant period (both in absolute terms and expressed in £/MWh); and
  - (c) the change(s) or estimated change(s) to the Market Reference Price, expressed in £/MWh, for each relevant period by reason of electricity generators who are not party to FiT Contracts for Difference passing through all or some of the Generation Tax Liability to the wholesale price for electricity that is referable to the Market Reference Price.

7. We enclose a Directors' Certificate certifying that the information in, and enclosed with, this notice and the Supporting Information is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part AA**  
**CfD Counterparty GT Response Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – CFD COUNTERPARTY GT RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 37.6.
3. This is a CfD Counterparty GT Response Notice in response to the Generator GT Notice dated [●].
4. We *[agree]/[do not agree]* with *[all of the]/[the following]* Generation Tax Preliminary Matters set out in the Generator GT Notice[: [●]].
5. *[In respect of those Generation Tax Preliminary Matters set out in the Generator GT Notice with which we do not agree with the Generator, we enclose the following Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of our conclusions: [●].]*

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part BB**  
**CfD Counterparty GT Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – CFD COUNTERPARTY GT NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 37.7.
3. This is a CfD Counterparty GT Notice.
4. We enclose reasonable details of the Generation Tax Change in Law which we consider has been implemented, occurred or become effective.
5. The Generation Tax Effective Date is [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part CC**  
**Generator GT Claim Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – GENERATOR GT CLAIM NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 38.3.
3. This is a Generator GT Claim Notice.
4. We confirm that:
  - (A) we incurred and/or paid a Generation Tax Liability during the relevant period as a result of a Generation Tax Change in Law;
  - (B) the Generation Tax Liability we incurred and/or paid, and the computation thereof, in respect of the relevant period is [●];
  - (C) our Generation Tax Liability in respect of the relevant period that has otherwise been made good without cost to us is [●]; and
  - (D) the Metered Output in respect of each Settlement Unit in the relevant period is [●].
5. We enclose Supporting Information which we consider to be relevant to and supportive of the foregoing.

6. We enclose a Directors' Certificate certifying that the information in, and enclosed with, this notice and the Supporting Information is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part DD**  
**Balancing System Charges Report**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BALANCING SYSTEM CHARGES REPORT**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 40.2.
3. This is a Balancing System Charges Report in respect of the Balancing System Charges Review Date of [●].
4. The Actual Balancing System Charge in respect of the twelve (12) months immediately preceding the relevant Balancing System Charges Review Date, is [●].
5. The Indexed Initial Balancing System Charge is [●].
6. The Balancing System Charges Difference is [●].
7. The revised Strike Price that will apply with effect from the relevant Indexation Anniversary to give effect to the Balancing System Charges Difference calculated as at the Balancing System Charges Review Date is [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part EE**  
**TLM Charges Report**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – TLM CHARGES REPORT**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 41.2.
3. This is a TLM Charges Report.
4. The Actual TLM Charge, in respect of the twelve (12) months immediately preceding the relevant TLM Charges Review Date, is [●] per cent. ([●]%).
5. The Initial TLM Charge, as set out in the CfD Agreement, is [●] per cent. ([●]%).
6. The TLM Charges Percentage Difference is [●] percentage points.
7. The TLM Charges Difference is [●].
8. The revised Strike Price that will apply with effect from the relevant Indexation Anniversary to give effect to the TLM Charges Difference calculated as at the TLM Charges Review Date is [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part FF**  
**Preliminary Annual QCPC Report**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – PRELIMINARY ANNUAL QCPC REPORT**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 42.1.
3. This is a Preliminary Annual QCPC Report.
4. This Preliminary Annual QCPC Report relates to Contract Year [●].
5. The following Qualifying CPC Event[s] [has]/[have] occurred: [●].
6. In respect of [●] Qualifying CPC Event:
  - (A) the following circumstances gave rise to the Qualifying CPC Event: [●];
  - (B) limb[s] [●] of the definition of Qualifying CPC Event were satisfied on [●] for the following reasons: [●]; and
  - (C) the following output from the Facility was foregone by reason of the Qualifying CPC Event: [●]MWh.
7. ***[The following CPC Event[s] (not being [a] Qualifying CPC Event[s]) [has]/[have] occurred: [●].]***
8. ***[In respect of [●] CPC Event, the following output from the Facility was foregone by reason of that CPC Event: [●]MWh.]***

9. In respect of [●] Curtailment:
- (A) the Defined Curtailment Compensation was £[●];
  - (B) the Curtailment Compensation was £[●];
  - (C) the Curtailment Compensation *[Shortfall]/[Excess]* was £[●]; and
  - (D) the lump sum compensation (in reasonable detail) which we propose should be paid by *[you to us]/[us to you]* is: [●].
10. In respect of [●] Partial Curtailment:
- (A) the Defined Partial Curtailment Compensation was £[●];
  - (B) the Partial Curtailment Compensation was £[●];
  - (C) the Partial Curtailment Compensation *[Shortfall]/[Excess]* was £[●];
  - (D) the lump sum compensation (in reasonable detail) which we propose should be paid by *[you to us]/[us to you]* is: [●].
11. ***[In addition, we (or our nominee) [have received]/[are entitled to] the following compensation under the Contract for Difference or otherwise in respect of [●]: [●].]***
12. We enclose Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.
13. I, being a director of the Generator, certify to the best of my knowledge and belief (but without personal liability) that this Preliminary Annual QCPC Report is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part GG**  
**Pre-Start Date Termination Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – PRE-START DATE TERMINATION NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 45.1.
3. This is a Pre-Start Date Termination Notice.
4. The Pre-Start Date Termination Date is [●].
5. **[The following Termination Event has occurred: [●].]**

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part HH**  
**Default Termination Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – DEFAULT TERMINATION NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 45.4.
3. This is a Default Termination Notice.
4. The Designated Termination Date is [●].
5. The following Termination Event has occurred: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part II**  
**QCIL Termination Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – QCIL TERMINATION NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 45.6.
3. This is a QCIL Termination Notice.
4. The QCIL Termination Date is [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part JJ**  
**Termination Amount Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – TERMINATION AMOUNT NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 46.3(B).
3. This is a Termination Amount Notice.
4. The Termination Amount is [●].
5. The principal inputs used by us to calculate such Termination Amount were [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part KK  
Second CPP Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – SECOND CPP NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 49.1.
3. This is a Second CPP Notice.
4. We hereby give you notice that two Cure Period Payments have occurred in the past 12-month period, namely on [●] and [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part LL  
Collateral Posting Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – COLLATERAL POSTING NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 49.2.
3. This is a Collateral Posting Notice.
4. We hereby give you notice that there was a Payment Failure on three or more occasions in the past 12-month period.
5. The Billing Periods to which the Cure Period Payments relate are: [●].
6. The Collateral Amount is [●].
7. The Collateral Posting Date is [●].
8. The Initial Collateral Repayment Date is [●].
9. The details of the Reserve Account are as follows: [●]

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part MM**  
**Replacement Collateral Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – REPLACEMENT COLLATERAL NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 49.3.
3. This is a Replacement Collateral Notice.
4. We hereby give you notice that a Payment Failure occurred after the Collateral Posting Notice dated [●] and before the applicable Initial Collateral Repayment Date.
5. The Billing Periods to which the Cure Period Payments relate are: [●].
6. The Replacement Collateral Repayment Date shall be: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part NN**  
**Letter of Credit Details Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – LETTER OF CREDIT DETAILS NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 50.3(B).
3. **[We have delivered to you a Letter of Credit today]/[We intend to [deliver]/[renew] a [replacement] Letter of Credit on [●]]** and this is a Letter of Credit Details Notice.
4. We hereby notify you of the terms of such Letter of Credit:
  - (A) The Qualifying Issuer is: [●]
  - (B) The credit rating of the Qualifying Issuer is: [●]
  - (C) The relevant contact details for the Qualifying Issuer’s **[representative]/[relationship manager]** are: [●]
  - (D) The Letter of Credit is for an amount of: £ [●]
  - (E) The term of the **[renewed]/[delivered]/[replacement]** Letter of Credit is: [●]

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part OO**  
**Collateral Correction Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – COLLATERAL CORRECTION NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 50.5.
3. This is a Collateral Correction Notice.
4. The following Posted Collateral is not Acceptable Collateral: [●]. The reason(s) preventing such collateral from constituting Acceptable Collateral are: [●].
5. The Deficient Collateral Amount is [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part PP**  
**Dispute Notice**

To: [●]

From: [●]

Dated: [●]

**CONTRACT FOR DIFFERENCE – DISPUTE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between [●] as the CfD Counterparty and [●] as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 51.3.
3. This is a Dispute Notice.
4. The subject matter of the Dispute is [●]. The issues to be resolved are [●].
5. The relevant Condition to which the Dispute relates is [●].
6. We believe the correct position is [●]. Our reasons for believing this is the correct position are [●].
7. ***[We consider that the following dispute or claim relating to or arising out of another FiT Contract for Difference should be [consolidated with]/[joined to] this Dispute: [●].]***
8. ***[We intend to rely on the following Supporting Information, copies of which are provided: [●].]***
9. The ***[relief]/[determination]/[remedy]/[recourse]*** which we seek in relation to the Dispute is [●].
10. We ***[do not]*** believe the Dispute should (without a Senior Representatives Settlement being reached) be referred for ***[determination in accordance with the Expert Determination Procedure]/[resolution in accordance with the Arbitration Procedure]***.

11. Our Senior Representative is **[•]**.

Yours faithfully,

.....  
For and on behalf of  
**[•]**

**Part QQ**  
**Expert Determination Notice**

To: [●]

From: [●]

Dated: [●]

**CONTRACT FOR DIFFERENCE – EXPERT DETERMINATION NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between [●] as the CfD Counterparty and [●] as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 53.1.
3. This is an Expert Determination Notice.
4. The subject matter of the Dispute is [●].
5. The issues to be resolved are [●].
6. The relevant Condition to which the Dispute relates is [●].
7. We believe the correct position is [●]. Our reasons for believing this is the correct position are [●].
8. *[We consider that the following dispute or claim relating to or arising out of another FiT Contract for Difference should be [consolidated with]/[joined to] this Dispute: [●].]*
9. *[We intend to rely on the following Supporting Information, copies of which are provided: [●].]*
10. The [relief]/[determination]/[remedy]/[recourse] which we seek in relation to the Dispute is [●].

11. We propose that the Expert appointed be [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the proposed Expert has the relevant expertise which qualifies [him]/[her] to determine the relevant Expert Dispute for the following reasons: [●].

Yours faithfully,

.....  
For and on behalf of  
[●]

**Part RR**  
**Expert Determination Response Notice**

To: [●]

From: [●]

Dated: [●]

**CONTRACT FOR DIFFERENCE – EXPERT DETERMINATION RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between [●] as the CfD Counterparty and [●] as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 53.3.
3. This is an Expert Determination Response Notice.
4. We ***[do not]*** accept the Expert proposed in the Expert Determination Notice dated [●]. ***[We propose [●] as an alternative Expert.]***
5. We ***[do not]*** accept the terms of reference proposed in the Expert Determination Notice dated [●]. ***[We propose the following alternative terms of reference: [●].]***

Yours faithfully,

.....  
For and on behalf of  
[●]

**Part SS  
Consolidation Notice**

**To:** *[All the parties to a Connected Dispute]*

**From:** *[•]*

**Dated:** *[•]*

**CONTRACT FOR DIFFERENCE – CONSOLIDATION NOTICE**

Dear Sirs,

1. We refer to the agreement dated *[•]* between *[•]* as the CfD Counterparty and *[•]* as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 55.2.
3. This is a Consolidation Notice.
4. The subject matter of the Dispute is *[•]*.
5. We believe that the following dispute*[s]* *[is]/[are]* Connected Dispute*[s]*: *[•]*.
6. Our reasons for believing that the Dispute*[s]* should be consolidated with the Connected Dispute*[s]* are *[•]*.
7. ***[We intend to rely on the following Supporting Information, copies of which are provided: [•].]***
8. This notice *[is being]/[will be]* provided to the *[Expert]/[Arbitrator(s)]* of the Connected Dispute*[s]* ***[forthwith upon appointment of the [Expert]/[Arbitrator(s)]]***.

Yours faithfully,

.....  
For and on behalf of  
*[•]*

**Part TT  
Amendment Notification**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – AMENDMENT NOTIFICATION**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.1 of Annex 2 (*Change Control Procedure*).
3. This is an Amendment Notification.
4. The Proposed Amendment is [●].
5. The Proposed Amendment Effective Date is [●].
6. We consider the Proposed Amendment to be a **[Material Amendment]/[Technical Amendment]**.
7. **[We consider the Proposed Amendment to be a Technical Amendment and we [do not] believe the Proposed Amendment is a General Amendment.]/[We consider the Proposed Amendment to be a General Amendment and we [do not] believe it applies to all FIT Contracts for Difference [and believe it applies only to those of [a specified category]/[specified categories], being [●].]**
8. We enclose the following Supporting Information we consider necessary to enable you to evaluate the Proposed Amendment: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part UU**  
**BMRP Annual Review Outcome Notice**

**To:** [●] (the “Generator”)  
*[Unique reference number: [●]]*

**From:** [●] (the “CfD Counterparty”)  
*[Address]*

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP ANNUAL REVIEW OUTCOME NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.6 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP Annual Review Outcome Notice.
4. *[The following BMRP Review Price Source[s] [is]/[are] to be [a] Baseload Price Source[s]: [●].][We have determined that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria.]*
5. *[BMRP Review Price Source [●] meets the BMRP Quality Criteria.][We enclose a summary of the reasons for determining that BMRP Review Price Source [●] does not meet all or any of the BMRP Quality Criteria: [●].]*
6. *[BMRP Review Price Source [●] meets the BMRP Inclusion Criteria: [●].][BMRP Review Price Source [●] does not meet [all]/[any]of the BMRP Inclusion Criteria. [The Excluded 5-TD Sample Period[s] in respect of BMRP Review Price Source [●] [is]/[are] as follows: [●].][The 5-TD Trade Number Percentage in Excluded 5-TD Sample Period [●] was: [●].][The 5-TD Volume Percentage in Excluded 5-TD Sample Period [●] was: [●].][The BMRP Review Price Source [●] did not meet the BMRP Inclusion Criterion in paragraph (C) or (D) of the definition of BMRP Inclusion Criteria.]]*

8. The BMRP Annual Review Implementation Date is: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part VV**  
**BMRP Principles Request Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REQUEST NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.2 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP Principles Request Notice.
4. We believe the calculation of the Baseload Market Reference Price does not comply with the following BMRP Principle[s]: [●].
5. ***[We propose that the non-compliance with the BMRP Principle[s] should be addressed as follows: [●].]***
6. We enclose the following Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the matters in paragraph[s] 4 ***[and 5]*** above.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part WW**  
**BMRP Principles Request Validity Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REQUEST VALIDITY NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.5 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP Principles Request Validity Notice.
4. The BMRP Principles Request Criterion has been met.

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part XX**  
**BMRP Principles Review Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REVIEW NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.8 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP Principles Review Notice.
4. The following BMRP Principles Review Trigger has occurred: [●].
5. The BMRP Principles Review Response Deadline is: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part YY**  
**BMRP Principles Review Response Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REVIEW RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.9 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP Principles Review Response Notice in response to the BMRP Principles Review Notice dated [●].
4. We enclose the following Supporting Information which we wish you to take account of in undertaking the BMRP Principles Review: [●].
5. ***[We propose that the BMRP Principles Review Trigger should be addressed as follows: [●].]***

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part ZZ**  
**BMRP Principles Review Outcome Notice**

**To:** [●] (the “Generator”)  
*[Unique reference number: [●]]*

**From:** [●] (the “CfD Counterparty”)  
*[Address]*

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REVIEW OUTCOME NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.12 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP Principles Review Outcome Notice.
4. We enclose a summary of the outcome of the BMRP Principles Review. ***[The BMRP Principles Review Proposals are as follows: [●].]***
5. ***[We enclose a summary of the reasons for determining that it is not possible to effect any BMRP Mechanism Amendment (or combination of BMRP Mechanism Amendments) in a manner which complies with all of the BMRP Principles. We consider that the following BMRP Principles will be complied with by virtue of the BMRP Mechanism Amendments being effected: [●].]***
6. The BMRP Principles Review Implementation Date is: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part AAA**  
**Year-Ahead Switch Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – YEAR-AHEAD SWITCH NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 3.1 of Part A of Annex 4 (*BMRP*).
3. This is a Year-Ahead Switch Notice.
4. The Year-Ahead Switch Effective Date shall be: [●]

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part BBB**  
**BMRP Dispute Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP DISPUTE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.1 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP [*Annual Review*]/[*Principles Review*] Dispute Notice.
4. The subject matter of the Dispute is [●]. The issues to be resolved are [●].
5. The relevant [*Condition*]/[*paragraph*] to which the Dispute relates is [●].
6. We believe the correct position is [●]. Our reasons for believing this is the correct position are [●].
7. [*We intend to rely on the following Supporting Information, copies of which are provided: [●].*]
8. The [*relief*]/[*determination*]/[*remedy*]/[*recourse*] which we seek in relation to the Dispute is [●].

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part CCC**  
**BMRP Dispute Validity Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – BMRP DISPUTE VALIDITY NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.3 of Part A of Annex 4 (*BMRP*).
3. This is a BMRP Dispute Validity Notice in relation to the BMRP Dispute Notice dated [●].
4. The BMRP Dispute Threshold Criterion has been met.
5. We propose that the Proposed BMRP Expert appointed by [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the Proposed BMRP Expert has the relevant expertise which qualifies [him]/[her] to determine the relevant BMRP Dispute for the following reasons: [●].
6. We enclose a Consolidation Notice in relation to the BMRP Dispute.

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part DDD**  
**IMRP Principles Request Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – IMRP PRINCIPLES REQUEST NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.2 of Part A of Annex 5 (*IMRP*).
3. This is an IMRP Principles Request Notice.
4. We believe the calculation of the Intermittent Market Reference Price does not comply with the following IMRP Principle[s]: [●].
5. ***[We propose that the non-compliance with the IMRP Principle[s] should be addressed as follows: [●].]***
6. We enclose the following Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the matters in paragraph[s] 4 ***[and 5]*** above.

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part EEE**  
**IMRP Principles Request Validity Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – IMRP PRINCIPLES REQUEST VALIDITY NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.5 of Part A of Annex 5 (*IMRP*).
3. This is an IMRP Principles Request Validity Notice.
4. The IMRP Principles Request Criterion has been met.

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part FFF**  
**IMRP Principles Review Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – IMRP PRINCIPLES REVIEW NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.8 of Part A of Annex 5 (*IMRP*).
3. This is an IMRP Principles Review Notice.
4. The following IMRP Principles Review Trigger has occurred: [●].
5. The IMRP Principles Review Response Deadline is: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part GGG**  
**IMRP Principles Review Response Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – IMRP PRINCIPLES REVIEW RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.9 of Part A of Annex 5 (*IMRP*).
3. This is an IMRP Principles Review Response Notice in response to the IMRP Principles Review Notice dated [●].
4. We enclose the following Supporting Information which we wish you to take account of in undertaking the IMRP Principles Review.
5. ***[We propose that the IMRP Principles Review Trigger should be addressed as follows: [●].]***

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part HHH**  
**IMRP Principles Review Outcome Notice**

**To:** [●] (the “Generator”)  
*[Unique reference number: [●]]*

**From:** [●] (the “CfD Counterparty”)  
*[Address]*

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – IMRP PRINCIPLES REVIEW OUTCOME NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.12 of Part A of Annex 5 (*IMRP*).
3. This is an IMRP Principles Review Outcome Notice.
4. We enclose a summary of the outcome of the IMRP Principles Review. *[The IMRP Principles Review Proposals are as follows: [●].]*
5. *[We enclose a summary of the reasons for determining that it is not possible to effect any IMRP Mechanism Amendment (or combination of IMRP Mechanism Amendments) in a manner which complies with all of the IMRP Principles. We consider that the following IMRP Principles will be complied with by virtue of the IMRP Mechanism Amendments being effected: [●].]*
6. The IMRP Principles Review Implementation Date is: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part III**  
**IMRP Dispute Notice**

To: [●] (the “CfD Counterparty”)  
[Address]

From: [●] (the “Generator”)  
[Unique reference number: [●]]

Dated: [●]

**CONTRACT FOR DIFFERENCE – IMRP DISPUTE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.1 of Part A of Annex 5 (*IMRP*).
3. This is an IMRP Dispute Notice.
4. The subject matter of the Dispute is [●]. The issues to be resolved are [●].
5. The relevant [Condition][paragraph] to which the Dispute relates is [●].
6. We believe the correct position is [●]. Our reasons for believing this is the correct position are [●].
7. ***[We intend to rely on the following Supporting Information, copies of which are provided: [●].]***
8. *The [relief]/[determination]/[remedy]/[recourse] which we seek in relation to the Dispute is [●].*

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part JJJ**  
**IMRP Dispute Validity Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – IMRP DISPUTE VALIDITY NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.3 of Part A of Annex 5 (*IMRP*).
3. This is an IMRP Dispute Validity Notice in relation to the IMRP Dispute Notice dated [●].
4. The IMRP Dispute Threshold Criterion has been met.
5. We propose that the Proposed IMRP Expert appointed by [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the Proposed IMRP Expert has the relevant expertise which qualifies [him]/[her] to determine the relevant IMRP Dispute for the following reasons: [●].
6. We enclose a Consolidation Notice in relation to the IMRP Dispute.

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part KKK  
FMS Proposals Notice**

**To:** [●] (the “CfD Counterparty”)  
[Address]

**From:** [●] (the “Generator”)  
[Unique reference number: [●]]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FMS PROPOSALS NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and us as the Generator (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.1 of Part A of Annex 7 (*FMS arrangements and RQM Calculation Methodology*).
3. This is an FMS Proposals Notice.
4. ***[We consider that we (and the Facility) will or are reasonably likely to comply with the FMS Exemption Criteria.]***
5. Our Generator FMS Proposals ***[(including our proposals in respect of FMS Exempted Procedures)]*** are as follows: [●].

Yours faithfully,

.....  
For and on behalf of  
the **Generator**

**Part LLL**  
**FMS Proposals Response Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FMS PROPOSALS RESPONSE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.4 of Part A of Annex 7 (*FMS arrangements and RQM Calculation Methodology*).
3. This is an FMS Proposals Response Notice.
4. We **[do not]** consent to the Generator FMS Proposals set out in the FMS Proposals Notice dated [●]. **[Our reasons for not consenting to the Generator FMS Proposals are as follows: [●].]**
5. **[We have not been provided with sufficient Supporting Information to determine whether to consent to the Generator FMS Proposals [and we therefore request the following FMS Proposals Supporting Information: [●].]**

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part MMM**  
**FMS Audit Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FMS AUDIT NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 3.2 of Part A of Annex 7 (*FMS arrangements and RQM Calculation Methodology*).
3. This is an FMS Audit Notice.
4. We [*intend*]/[*nominate* [●]] to exercise the FMS Audit Right.
5. The date by which you must, in accordance with paragraph 3.3 of Part A of Annex 7 (*FMS arrangements and RQM Calculation Methodology*), permit the exercise of the FMS Audit Right is [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part NNN**  
**FMS Exemption Non-Compliance Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – FMS EXEMPTION NON-COMPLIANCE NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.2 of Part A of Annex 7 (*FMS arrangements and RQM Calculation Methodology*).
3. This is an FMS Exemption Non-Compliance Notice.
4. We have determined that [you]/[the Facility] are not complying with the FMS Exemption Criteria on the following basis: [●].
5. Our reasons for concluding that [you are]/[the Facility is] not complying with the FMS Exemption Criteria are as follows: [●].
6. We have determined that [you]/[the Facility] ceased to comply with the FMS Exemption Criteria from the following date: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

**Part 000**  
**RWP Variation Notice**

**To:** [●] (the “Generator”)  
[Unique reference number: [●]]

**From:** [●] (the “CfD Counterparty”)  
[Address]

**Dated:** [●]

**CONTRACT FOR DIFFERENCE – RWP VARIATION NOTICE**

Dear Sirs,

1. We refer to the agreement dated [●] between you as the Generator and us as the CfD Counterparty (the “**Agreement**”). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.2 of Part B of Annex 7 (*FMS arrangements and RQM Calculation Methodology*).
3. This is a RWP Variation Notice.
4. The revised Relevant Waste Proportion is: [●].
5. The RWP Variation Effective Date is: [●].

Yours faithfully,

.....  
For and on behalf of  
the **CfD Counterparty**

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