

DATED [●]

[]

and

[]¹

(collectively as the **GENERATOR**)

and

LOW CARBON CONTRACTS COMPANY LTD
(as the **CFD COUNTERPARTY**)

CFD AGREEMENT FOR UNINCORPORATED JOINT VENTURES
RELATING TO [*name of Project*]

526396330

¹ Drafting note: add further UJV Parties if necessary.

CONTENTS

1.	Definitions and Interpretation	1
2.	Agreement	4
3.	Term	5
4.	Generation Technology Type	5
5.	Conditions Precedent and Milestone	7
6.	Accrual of Payments prior to State Aid approval	9
7.	Installed Capacity Estimate and Required Installed Capacity	12
8.	Changes in Law	13
9.	Payment Calculations: Strike Price	13
10.	Balancing System (BSUoS/RCRC) and TLM(D)	13
11.	Curtailment	13
12.	Notices	14
13.	Agent for Service of Process	14
	Annex 1 (Description of the Facility)	16
	Annex 2 (Modification Agreement)	17
	Annex 3 (Facility Generation Type)	18
	Annex 4 (Fuelling Criteria)	20
	Annex 5 (Project Commitments)	23
	Annex 6 (Conditional Start Date Notice)	35
	Annex 7 (Unincorporated Joint Venture Changes)	36

THIS CFD AGREEMENT is dated [●] (the “**Agreement Date**”) and made between:

- (1) [●] (“**UJV Party 1**”);
- (2) [●] (“**UJV Party 2**” and, together with UJV Party 1, the “**Generator**”); and²
- (3) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated under the laws of England and Wales whose registered office is Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX and whose company number is 08818711 (the “**CfD Counterparty**”).

BACKGROUND

- (A) This CfD Agreement is entered into following the applicable contract allocation or negotiation process established under or by virtue of the EA 2013.
- (B) The Generator has satisfied the Eligibility Criteria.
- (C) The CfD Counterparty is a company wholly owned by the UK Government and is entering into this CfD Agreement solely for the purpose of implementing the provisions of the EA 2013.
- (D) This CfD Agreement, together with the terms and conditions set out in version 1 of the document entitled “FiT Contract for Difference Standard Terms and Conditions” as at [date] 2015, constitute an agreement entered into on “standard terms” (as defined in section 11(1) of the EA 2013).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Except as expressly specified in this CfD Agreement, words and expressions defined in the Conditions shall have the same meanings when used in this CfD Agreement. Where a term is defined in both this CfD Agreement and in the Conditions, the definition in this CfD Agreement shall apply instead of the definition in the Conditions.

1.2 In this CfD Agreement and its recitals:

“**Agreement Date Provisions**” means Part 1 (*Introduction*), Part 2 (*Term*), Part 3 (*Conditions Precedent and Milestone Requirement*), Condition 8 (*Application*), Condition 9 (*Definitions: Part 5A*), Condition 14 (*Strike Price Adjustments*), Condition 16 (*Application*), Condition 17 (*Definitions: Part 5B*), Condition 20 (*Strike Price Adjustments*), Condition 24 (*Default Interest*), Condition 25 (*Set-off*), Condition 26 (*Deductions and withholdings*), Condition 27 (*Payment accounts*), Condition 28

² Drafting note: add further UJV Parties if necessary.

(*Generator representations and warranties*), Condition 29 (*CfD Counterparty representations and warranties*), Condition 30 (*Generator undertakings: General*), Condition 32 (*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*), paragraph 1 of Part A of Annex 7 (*FMS arrangements, Sustainability Criteria and RQM Calculation Methodology*) and Annex 8 (*Pro forma notices*) and Clause 6 (*Accrual of payments prior to State Aid approval*);

“**CfD Standard Terms Notice**” means a notice issued pursuant to regulation 9 of the Contracts for Difference (Standard Terms) Regulations 2014;

“**Conditions**” means the terms and conditions set out in version 2 of the document entitled “FiT Contract for Difference Standard Terms and Conditions” as at [date] 2015 (as amended, modified, supplemented or replaced by this CfD Agreement and as may be amended, modified, supplemented or replaced from time to time in accordance with the Conditions); and

“**Facility**” means [*the generating facility comprising all assets (including all Generating Units)*]:

- (A) *which are used (or intended to be used) to generate or deliver electricity;*
- (B) *which were taken into account by the Generator in determining the Initial Installed Capacity Estimate; and*
- (C) *which are (except as otherwise agreed in writing by the CfD Counterparty) situated within the area shaded on the map provided pursuant to paragraph (C)(ii) of Part A of Schedule 1 and which has the geographical coordinates specified in Annex 1 (Description of the Facility),*

adjusted where the context requires to take due account of any changes to the composition of such assets arising as a result of, or giving rise to:

- (i) *any reduction to the Installed Capacity Estimate pursuant to Condition 5 (Adjustment to Installed Capacity Estimate: Relevant Construction Event);*
- (ii) *any adjustment to the Installed Capacity Estimate pursuant to Condition 6 (Adjustment to Installed Capacity Estimate: Permitted reduction); and*
- (iii) *the agreement or determination of the Final Installed Capacity pursuant to Condition 7 (Final Installed Capacity; Maximum Contract Capacity),*

and otherwise excluding all assets forming part of the Transmission System or a Distribution System]³ / [the generating facility comprising:

- (A) *all assets (including all Generating Units):*
- (i) *which are used (or intended to be used) to generate or deliver electricity;*
 - (ii) *which were taken into account by the Generator in determining the Initial Installed Capacity Estimate; and*
 - (iii) *which are (except as otherwise agreed in writing by the CfD Counterparty) situated within the area shaded on the map provided pursuant to paragraph (C)(ii) of Part A of Schedule 1 and which has the geographical coordinates specified in Annex 1 (Description of the Facility),*

adjusted where the context requires to take due account of any changes to the composition of such assets arising as a result of, or giving rise to:

- (a) *any reduction to the Installed Capacity Estimate pursuant to Condition 5 (Adjustment to Installed Capacity Estimate: Relevant Construction Event);*
 - (b) *any adjustment to the Installed Capacity Estimate pursuant to Condition 6 (Adjustment to Installed Capacity Estimate: Permitted reduction); and*
 - (c) *the agreement or determination of the Final Installed Capacity pursuant to Condition 7 (Final Installed Capacity; Maximum Contract Capacity);*
- (B) *all assets owned by the Generator and comprised or to be comprised within the Offshore Transmission System of such generating facility except for the purposes of:*
- (i) *in Condition 1.1, the definitions of “Competent Authority”, “Curtailment”, “Defined Curtailment Compensation”, “Defined Partial Curtailment Compensation”, “Discriminatory Change in Law”, “Eligibility Criteria”, “Foreseeable Change in Law”, “Generation Tax Liability”, “Partial Curtailment”, “QCiL Capital Costs”, “QCiL Capital Savings”, “QCiL Construction Event”, “QCiL Construction Event Costs”, “QCiL Operations Cessation Event”, “Qualifying Curtailment”, “Qualifying Partial Curtailment”,*

³ Drafting note: Drafting to be retained only if the Facility Generation Technology is not Offshore Wind.

“Qualifying Shutdown Event”, “Required Authorisation” and “Specific Change in Law”;

- (ii) *Conditions 28.2(A), 30.1(E), 31.13, 36.1, 48.2 and 50.1; and*
- (iii) *paragraph 9.3 of Annex 3 (Form of Direct Agreement) to the Conditions, and otherwise excluding all other assets forming part of the Transmission System or a Distribution System;*⁴

“UJV Parties”⁵ means UJV Party 1 and UJV Party 2 and **“UJV Party”** shall be construed accordingly; and

“UJV Representative means UJV Party [●] acting as representative for and on behalf of the UJV Parties, or such other UJV Party as is nominated from time to time by all of the UJV Parties in writing to the CfD Counterparty in accordance with Condition 80, as amended by Annex 7 (*Unincorporated Joint Venture Changes*).

2. AGREEMENT

The Generator

- 2.1 The Generator shall, as from the Agreement Date, comply with this CfD Agreement (including the Conditions) as the **“Generator”** and agrees that the Conditions are hereby incorporated into this CfD Agreement as if they were clauses of this CfD Agreement.

The CfD Counterparty

- 2.2 The CfD Counterparty shall, as from the Agreement Date, comply with this CfD Agreement (including the Conditions) as the **“CfD Counterparty”** and agrees that the Conditions are hereby incorporated into this CfD Agreement as if they were clauses of this CfD Agreement.

Specific terms

- 2.3 [*The Parties have agreed to amend the Conditions as set out in Annex 2 (Modification Agreement).*⁶]

⁴ Drafting note: Drafting to be retained only if the Facility Generation Technology is Offshore Wind.

⁵ Drafting note: add further UJV Parties if necessary..

⁶ Drafting note: Clause to be retained only if specific amendments to any given Contract for Difference are agreed to be made pursuant to Part 3 of The Contract for Difference (Standard Terms) Regulations 2014.

- 2.4 The Parties have agreed to amend the Conditions as set out in Annex 7 (*Unincorporated Joint Venture Changes*).
- 2.5 The Parties agree that, for the purposes of this Contract for Difference, the Conditions shall be amended, modified, supplemented or replaced in accordance with the terms of this CfD Agreement.

3. TERM

The “**Specified Expiry Date**” applicable to this Contract for Difference is: *[the 15th anniversary of the earlier of the Start Date and the last day of the Target Commissioning Window]/[31 March, 2027]*.⁷

4. GENERATION TECHNOLOGY TYPE

Facility Generation Technology

- 4.1 The Facility Generation Technology applicable to this Contract for Difference is *[●]*⁸, *provided that for the purposes of paragraph (A) of the definition of Specific Change in Law or paragraphs (B) or (C) of the definition of Other Change in Law, Offshore Wind and Onshore Wind may be deemed to be one Facility Generation Technology*.⁹

- 4.2 The Facility Generation Technology is a *[Baseload]/[Intermittent]*¹⁰ Technology.

*[Baseload Technology]/[Intermittent Technology]*¹¹

- 4.3 The Parts and Annexes to the Conditions referenced in Part *[A]/[B]*¹² of Annex 3 (*Facility Generation Type*) shall apply to this Contract for Difference.

⁷ Drafting note: 31 March, 2027 will apply as the specified Expiry Date only if the Facility Generation Technology is Biomass Conversion. Delete as applicable.

⁸ Drafting note: This shall be the facility generation technology notified to the Delivery Body in the Generator's FiT CfD Application as the type of eligible generating station and being one of the facility generation technologies in Table A of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

⁹ Drafting note: Proviso to be retained only if the Facility Generation Technology is Offshore Wind or Onshore Wind.

¹⁰ Drafting note: Baseload to be retained for generation technologies identified as being baseload in Table B of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change. Intermittent to be retained for generation technologies identified as being intermittent in such Table B.

¹¹ Drafting note: Baseload to be retained for generation technologies identified as being baseload in Table B of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change. Intermittent to be retained for generation technologies identified as being intermittent in such Table B.

¹² Drafting note: Part A shall apply if the generation technology is Baseload, Part B if it is Intermittent. Delete as applicable.

Renewable Qualifying Multiplier

4.4 The Renewable Qualifying Multiplier [*does not apply*]/[*applies*]¹³ to this Contract for Difference.

4.5 [*The “Assumed RQM” applicable to this Contract for Difference is [to be specified]*^{14, 15}]

CHP Qualifying Multiplier

4.6 The CHP Qualifying Multiplier [*does not apply*]/[*applies*]¹⁶ to this Contract for Difference.

Fuelling Criteria

4.7 For the purposes of this Contract for Difference, the “**Fuelling Criteria**” means the criteria specified in Annex 4 (*Fuelling Criteria*) in relation to the Facility Generation Technology. If Annex 4 (*Fuelling Criteria*) does not specify any Fuelling Criteria in relation to the Facility Generation Technology, such definition shall be deemed to be inapplicable to the Contract for Difference.

4.8 [*Paragraph 7 (Failure to comply with Fuelling Criteria) of Part E of Annex 7 (FMS arrangements, Sustainability Criteria and RQM Calculation Methodology) to the Conditions shall, for the purposes of this Contract for Difference, be substituted with the following Condition:*

“Subject to paragraph 5 (Deemed RQM: Strike Price below Market Reference Price), if the Generator fails to comply with paragraph (A) 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 basis that the Renewable Qualifying Multiplier may be deemed to be zero (0).”¹⁷

¹³ Drafting note: This is to apply where it is specified to apply in Table C of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

¹⁴ Drafting note: The frequency will be that which is specified to apply in Table D of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

¹⁵ Drafting note: Clause to be retained and completed only if the Renewable Qualifying Multiplier applies to the Contract for Difference.

¹⁶ Drafting note: This is to apply where it is specified to apply in Table E of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

¹⁷ Drafting note: Clause to be retained if the Facility Generation Technology is Advanced Conversion Technology with CHP, Advanced Conversion Technology without CHP, Anaerobic Digestion with CHP, Anaerobic Digestion without CHP, Landfill Gas or Sewage Gas.

Sustainability Criteria

4.9 The Sustainability Criteria *[do]/[do not]*¹⁸ apply to this Contract for Difference.

[Baseload]/[Intermittent] Dual Scheme Facility

4.10 *The Facility is [a Baseload]/[an Intermittent] Dual Scheme Facility.*¹⁹

[Eligible Low Capacity Facility

4.11 *The Facility [is]/[is not] an Eligible Low Capacity Facility.]*²⁰

5. CONDITIONS PRECEDENT AND MILESTONE***Interpretation***

5.1 The “**Initial Target Commissioning Window**” applicable to this Contract for Difference shall be *[●]*²¹, such period commencing on *[●]*²².

5.2 The “**Target Commissioning Date**” applicable to this Contract for Difference shall be *[●]*²³.

5.3 The “**Longstop Period**” applicable to this Contract for Difference shall be *[●]*²⁴.

¹⁸ Drafting note: This is to apply where it is specified to apply in Table F of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

¹⁹ Drafting note: The Facility is a Baseload Dual Scheme Facility if: (i) it forms part of a Generating Station which includes one (1) or more other Generating Units which are not part of the Facility; (ii) the Facility Metering Equipment does not determine the Imported Input Electricity consumed exclusively by the Facility; and (iii) Part A of Annex 3 (*Facility Generation Type*) applies. The Facility is an Intermittent Dual Scheme Facility if (i) it forms part of a Generating Station which includes one (1) or more other Generating Units which are not part of the Facility; (ii) the Facility Metering Equipment does not determine the Imported Input Electricity consumed exclusively by the Facility; and (iii) Part B of Annex 3 (*Facility Generation Type*) applies. Delete this paragraph if the Facility is not a Baseload Dual Scheme Facility or an Intermittent Dual Scheme Facility.

²⁰ Drafting note: Clause to be retained only if the Facility is an Eligible Low Capacity Facility.

²¹ Drafting note: This is to be equal to the Target Commissioning Window period applicable to the Facility Generation Technology listed in Table G of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

²² Drafting note: This shall be the date notified to the Delivery Body in the Generator’s FIT CfD Application as the start of the Target Commissioning Window.

²³ Drafting note: This shall be the date notified to the Delivery Body in the Generator’s FIT CfD Application as its “Target Commissioning Date” and will be a date falling within the Initial Target Commissioning Window.

Further Conditions Precedent

5.4 The following shall be added as an additional Further Condition Precedent applicable to this Contract for Difference after paragraph 2.5 of Part B (*Further Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) to the Conditions:

“2.6 The Generator having delivered to the CfD Counterparty [*a certified copy of the Interim Operational Notification issued by the Transmission System Operator under the Grid Code*²⁵] / [(i) *written confirmation from the relevant Licensed Distributor or, if no such confirmation is applicable, evidence (in form and content reasonably satisfactory to the CfD Counterparty) that the Distribution Code compliance process for connection to and export to the Distribution System has been satisfied; and (ii) if applicable, the Interim Operational Notification issued by the Transmission System Operator under the Grid Code*²⁶.] [*For the purpose of this paragraph, pursuant to the “Offshore Electricity Transmission: Decision on implementation of the Generator Commissioning Clause in the Energy Act 2013” dated 2 April 2014, the reference in this paragraph to the Interim Operational Notification shall be to ION B.*²⁷]

Milestone

5.5 The “**Initial Milestone Delivery Date**” applicable to this Contract for Difference shall be twelve (12) months after the Agreement Date.

5.6 The “**Total Project Pre-Commissioning Costs**” applicable to this Contract for Difference shall be £[●]²⁸ per MW of the Installed Capacity Estimate.

5.7 The “**Project Commitments**” applicable to this Contract for Difference shall be the requirements provided for in:

(A) Part A of Annex 5 (*Project Commitments*); and

²⁴ Drafting note: This is to be equal to the Longstop Period applicable to the Facility Generation Technology listed in Table H of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

²⁵ Drafting note: Drafting to be retained if the relevant Facility is connected directly to the Transmission System.

²⁶ Drafting note: Drafting to be retained if the relevant Facility is not connected directly to the Transmission System.

²⁷ Drafting note: Drafting to be retained only if the Facility Generation Technology is Offshore Wind.

²⁸ Drafting note: This is to be equal to the Total Project Pre-Commissioning Costs applicable to the Facility Generation Technology listed in Table I of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

- (B) the section of Part B of Annex 5 (*Project Commitments*) which is expressed to apply to the Facility Generation Technology.
- 5.8 [In addition to the requirements set out in Condition 4.1(B) of the Conditions, for the purposes of Condition 4.1(A) and Condition 4.1(B), the Project shall exclude the assets comprised or to be comprised within the Offshore Transmission System of the Facility.]²⁹
- 5.9 [In relation to the Facility's *[turbines]/[generation engines]*:
- (A) in addition to the requirements set out in Condition 4.1 of the Conditions, the Milestone Requirements Notice must include the size or anticipated estimated size (expressed in MW) of each of the Facility's *[turbines]/[generation engines]*; and
- (B) the Generator shall, acting to a Reasonable and Prudent Standard, notify the CfD Counterparty of the size or anticipated estimated size (expressed in MW) of each of the Facility's *[turbines]/[generation engines]* if any change to the size of any *[turbine]/[generation engine]* is proposed to be made. Such notification shall be given promptly and no later than ten (10) Business Days after the Generator effects or decides to effect the relevant change.]³⁰

6. ACCRUAL OF PAYMENTS PRIOR TO STATE AID APPROVAL

- 6.1 This Clause 6 (*Accrual of Payments prior to State Aid approval*) applies only if the Facility Generation Technology is Biomass Conversion and the Initial Installed Capacity Estimate is 250MW or more.
- 6.2 In the event that the CfD Counterparty shall determine that:
- (A) all of the Operational Conditions Precedent have been satisfied (or waived by the CfD Counterparty); but
- (B) the State Aid Condition Precedent has not been satisfied

the CfD Counterparty shall, within ten (10) Business Days of having so determined, give notice to the Generator of such determination (an “**Operational CP Fulfilment Notice**”).

²⁹ Drafting note: Clause to be retained only if the Facility Generation Technology is Offshore Wind.

³⁰ Drafting note: Clause, and reference to turbines, to be retained if the Facility Generation Technology is Onshore Wind or Offshore Wind. Clause, and reference to generation engines, to be retained if the Facility Generation Technology is Tidal Range, Tidal Stream or Wave.

- 6.3 No later than ten (10) Business Days following receipt of the Operational CP Fulfilment Notice, the Generator may give a notice to the CfD Counterparty (a “**Conditional Start Date Notice**”). A Conditional Start Date Notice shall:
- (A) be substantially in the form set out in Annex 6 (*Conditional Start Date Notice*); and
 - (B) specify the date that the Generator proposes to be the Conditional 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 Conditional 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 1 April 2015,(the date so notified being, subject to Clause 6.6, the “**Conditional Start Date**”).
- 6.4 Each Conditional Start Date Notice shall be accompanied by a Directors’ Certificate certifying that the information specified in Clause 6.6(B) is, as at the date of such notice, true, complete and accurate in all material respects and not misleading, in each case by reference to the facts and circumstances then existing.
- 6.5 On the Conditional Start Date, the Generator shall deliver to the CfD Counterparty a Directors’ Certificate certifying that the information specified in Clause 6.6(B) is, as at that date, true, complete and accurate in all material respects and is not misleading, in each case by reference to the facts and circumstances then existing.
- 6.6 A Conditional Start Date Notice shall be effective in determining the Conditional Start Date only if:
- (A) the Generator complies with its obligations pursuant to Clauses 6.4 and 6.5; and
 - (B) on the date such Conditional Start Date Notice is given and on the proposed Conditional Start Date specified in the Conditional 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 28.1(G) and 28.2 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 3.26; and
 - (iv) all Conditions Precedent (except the State Aid Condition Precedent and any Conditions Precedent waived by the CfD Counterparty in accordance with Condition 3.26) continue to be fulfilled.
- 6.7 If the Generator gives a Conditional Start Date Notice to the CfD Counterparty and such notice is, pursuant to Clause 6.6, ineffective, this shall not, subject to Part 12 (*Termination*) of the Conditions, preclude the Generator from giving a further Conditional Start Date Notice to the CfD Counterparty. This Clause 6 shall apply, mutatis mutandis, to any such further Conditional Start Date Notice.
- 6.8 The Conditional Start Date shall be treated as the Start Date for all purposes relating to the calculation of amounts payable and delivery of Billing Statements under Part 6 of the Conditions (including Annex 7 of the Conditions), save that pending satisfaction of the State Aid Condition Precedent:
- (A) Condition 3.20 shall apply and accordingly no amounts shall be paid to the Generator prior to the State Aid Condition Precedent being fulfilled; and
 - (B) the Net Payable Amount in respect of each Billing Period commencing on 00:00 on the Conditional Start Date shall not be payable but instead shall be accrued on an aggregate net basis and credited (or, as the case may be debited) to a notional non-interest-bearing suspense account (the “**Pre-State Aid Accrual Account**”);
- 6.9 If this Contract for Difference is terminated for any reason prior to the State Aid Condition Precedent being fulfilled no amounts accrued under Clause 6.8(B) shall be payable and the amount standing to the credit of the Pre-State Aid Accrual Account shall be written off.
- 6.10 If the State Aid Condition Precedent is satisfied after the Conditional Start Date but before the Longstop Date and before this Contract for Difference is terminated then:
- (A) the CfD Counterparty shall promptly give notice to the Generator that the State Aid Condition Precedent has been satisfied;
 - (B) the Start Date shall fall ten Business Days after the date of such notice;
 - (C) Conditions 3.21 to 3.25 shall not apply;
 - (D) Clause 6.8 shall cease to apply from 00.00 on the Start Date;
 - (E) the amount standing to the credit of the Pre-State Aid Accrual Account shall, within ten (10) Business Days after the Start Date, be payable by the CfD

Counterparty to the Generator (or if in debit, by the Generator to the CfD Counterparty); and

- (F) no interest shall accrue in respect of the amount standing to the credit or debit of the Pre-State Aid Accrual Account.

6.11 If the Generator gives an effective Conditional Start Date Notice under Clause 6.3:

- (A) Condition 3.26 shall apply as though references to “**Start Date Notice**” and “**Start Date**” referred also to “**Conditional Start Date Notice**” and “**Conditional Start Date**” respectively;
- (B) references in Conditions 28.2, 28.3, 29, 30.1(E), to the Start Date shall be deemed to refer to the Conditional Start Date;
- (C) references to the Start Date in the definition of QCiL Construction Event, the definition of QCiL Operations Cessation Date and Condition 34 shall be deemed to refer to the Conditional Start Date; and
- (D) references to the Start Date in the definition of Contract Year shall be deemed to refer to the Conditional Start Date.

7. **INSTALLED CAPACITY ESTIMATE AND REQUIRED INSTALLED CAPACITY**

7.1 The “**Initial Installed Capacity Estimate**” applicable to this Contract for Difference is: [●]³¹ MW.

7.2 The “**Required Installed Capacity**” applicable to this Contract for Difference is: *[the lower of (a)]³² [eighty-five per cent. (85%) of the Installed Capacity Estimate]³³ / [ninety-five per cent. (95%) of the Installed Capacity Estimate]³⁴ / [or (b) the Installed Capacity Estimate less the size (expressed in MW) of one of the Facility's [turbines]/[generation engines]]³⁵.*

³¹ Drafting note: This shall be either (a) the capacity notified by the Delivery Body in the Generator's FiT CfD Application as the capacity in megawatts, or (b) if the Allocation Round in which the Generator is participating requires them to submit a sealed bid, then the capacity for which successful allocation has taken place under the Allocation Round.

³² Drafting note: Drafting to be retained only if the Facility is an Eligible Low Capacity Facility.

³³ Drafting note: Drafting to be retained only if the Facility Generation Technology is Offshore Wind.

³⁴ Drafting note: Drafting to be retained only if the Facility Generation Technology is not Offshore Wind.

³⁵ Drafting note: Drafting to be retained only if the Facility is an Eligible Low Capacity Facility, subject to the following: (i) clause, and reference to turbines, to be retained if the Facility Generation Technology is Onshore Wind or Offshore Wind; and (ii) clause, and reference to generation engines, to be retained if the Facility Generation Technology is Tidal Range, Tidal Stream or Wave.

8. CHANGES IN LAW

- 8.1 The “**Assumed Load Factor**” applicable to this Contract for Difference is [●]³⁶.
- 8.2 The “**Post-Tax Real Discount Rate**” applicable to this Contract for Difference is [●]³⁷.

9. PAYMENT CALCULATIONS: STRIKE PRICE

- 9.1 The “**Base Year**” applicable to this Contract for Difference is 2012.
- 9.2 The “**Initial Strike Price**” applicable to this Contract for Difference is £[●] per MWh³⁸.

10. BALANCING SYSTEM (BSUOS/RCRC) AND TLM(D)

- 10.1 Part 10 (*Balancing System (BSUoS/RCRC) and TLM(D)*) of the Conditions [*does not apply*]/[*applies*] to this Contract for Difference³⁹.
- 10.2 [The “**Initial Balancing System Charge**” is £[●] per MWh⁴⁰.
- 10.3 The “**Initial Balancing System Charge Window**” is [●]⁴¹.
- 10.4 The “**Initial TLM(D) Charge**” for each calendar year from (and including) the Agreement Date to the end of the Term is that set out in the CfD Standard Terms Notice published most recently prior to the date of this Contract for Difference.

11. CURTAILMENT

- 11.1 Part 11 (*Curtailment*) of the Conditions applies to this Contract for Difference.⁴²

³⁶ Drafting note: This is to be equal to the “Assumed Load Factor” applicable to the Facility Generation Technology listed in Table J of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

³⁷ Drafting note: This is to be equal to the “Post-Tax Real Discount Rate” applicable to the Facility Generation Technology listed in Table K of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

³⁸ Drafting note: The Initial Strike Price will be provided by the Delivery Body following the Allocation Round.

³⁹ Drafting note: Delete as applicable.

⁴⁰ Drafting note: This is to be equal to the “Initial Balancing System Charge” applicable to the Facility Generation Technology listed in Table L of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

⁴¹ Drafting note: This is to be equal to the “Initial Balancing System Charge Window” applicable to the Facility Generation Technology listed in Table M of the CfD Standard Terms Notice issued on 15 August 2014 by the Secretary of State for Energy and Climate Change.

12. NOTICES

12.1 The address and (where such communication is expressly permitted by email) email address of each Party for any notice to be given under this Contract for Difference, and the department or officer (if any) for whose attention the notice is to be made, is:

(A) in the case of the Generator:

	UJV Party 1	UJV Party 2 ⁴³
Address:		
Email address:		
For the attention of:		

(B) in the case of the CfD Counterparty:

Address:	
Email address:	
For the attention of:	

13. AGENT FOR SERVICE OF PROCESS

13.1 *[Condition 87 (Agent for service of process) shall not apply to this Contract for Difference and there shall be no Service Agent.]**[Condition 87 (Agent for service of process) shall apply to this Contract for Difference and the Service Agent(s) will be as follows:*

UJV Party	Service Agent
UJV Party 1	[•] of [•]

⁴² Drafting note: This will apply in all circumstances in which this agreement applies.

⁴³ Drafting note: add further UJV Parties if necessary.

UJV Party 2 ⁴⁴	[•] of [•]
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⁴⁴ Drafting note: add further UJV Parties if necessary.

⁴⁵ Drafting note: Delete as applicable. This shall be the agent notified to the Delivery Body in the Generator's FiT CfD Application as its agent for service of process, where the Applicant is not based in England/Wales.

Annex 1
(Description of the Facility)

[Drafting note: Description of the Facility to be populated using information provided in the [FiT CfD Application] and to include the unique geographical coordinates of the Facility.]

Annex 2
(Modification Agreement)

Annex 3
(Facility Generation Type)

Part A
(Baseload Technologies)

1. The following definition shall apply to this Contract for Difference:

 “**Settlement Unit**” means each half hour period in a day divided into half hour-long periods starting at 00:00 on such day.

2. The following Parts and Annexes of the Conditions shall apply to this Contract for Difference:
 - (A) Part 5A (*Payment calculations: Baseload Technologies*); and
 - (B) Annex 4 (*BMRP*).

Part B
(Intermittent Technologies)

1. The following definition shall apply to this Contract for Difference:

“**Settlement Unit**” means each hour period in a day divided into hour-long periods starting at 00:00 on such day.

2. The following Parts and Annexes of the Conditions shall apply to this Contract for Difference:
 - (A) Part 5B (*Payment calculations: Intermittent Technologies*); and
 - (B) Annex 5 (*IMRP*).

Annex 4 (Fuelling Criteria)

1. DEFINITIONS AND INTERPRETATION

Definitions

1.1 For the purposes of this Annex 4 (*Fuelling Criteria*):

“Advanced Fuels” means a gaseous or liquid fuel which is produced directly or indirectly from the Gasification or the Pyrolysis of: (i) Waste; or (ii) Biomass, provided that, in the case only of a gaseous fuel, such fuel must have a gross calorific value (when measured at 25 degrees Celsius and 0.1 megapascals at the inlet to the Facility) which is at least 2 megajoules per cubic metre;

“Biomass” means material, other than Fossil Fuel or peat, which is, or is derived directly or indirectly from, plant matter, animal matter, fungi, algae or bacteria (and includes any such material contained in Waste);

“Excluded Biomass” means: (i) sewage; and (ii) material in a landfill;

“Fossil Fuel” means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum or petrol products;

“Gasification” means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture containing two or more of the following: (i) oxides of carbon; (ii) methane; and (iii) hydrogen;

“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;

“Pyrolysis” means the thermal degradation of a substance in the absence of any oxidising agent, which does not form part of the substance itself, to produce char and gas and/or liquid; and

“Waste” has the meaning given to that term in the 2008 Waste Framework Directive 2008/98/EC.

Interpretation

1.2 Where, in this Annex 4 (*Fuelling Criteria*) the **“Permitted Ancillary Activity Exception”** is expressed to apply, the relevant Fuelling Criterion (or Fuelling Criteria) which apply to the Facility Generation Technology shall not be breached solely by virtue of Fossil Fuels being used for Permitted Ancillary Activities if the Energy Content of all Fossil Fuels used by the Facility for such Permitted Ancillary Activities does not exceed ten per cent.

(10%) of the Energy Content of all fuels used by the Facility whether to generate electricity or for Permitted Ancillary Activities.

- 1.3 Any assessment as to whether the Fuelling Criteria are met by the Facility shall be determined by reference to the entirety of an RQM Calculation Month.

2. Advanced Conversion Technology; Advanced Conversion Technology with CHP

- (A) Subject to paragraph (B), the Facility generates electricity using solely Advanced Fuels.
- (B) The Permitted Ancillary Activity Exception applies.
- (C) No Fossil Fuel is used at the Facility for the express purpose of it being used as a fuel (other than to undertake Permitted Ancillary Activities), unless it forms part of Waste from which the fuel is produced.

3. Anaerobic Digestion; Anaerobic Digestion with CHP

- (A) Subject to paragraph (B), the Facility generates electricity solely from gas formed during the anaerobic digestion of Biomass (other than Excluded Biomass).
- (B) The Permitted Ancillary Activity Exception applies.
- (C) No Fossil Fuel is used at the Facility for the express purpose of it being used as a fuel (other than to undertake Permitted Ancillary Activities), unless it forms part of Waste from which the fuel is produced.

4. Biomass Conversion

- (A) Subject to paragraph (B), the Facility generates electricity solely from fuel the Energy Content of which is at least 90 per cent. (90%) solid Biomass.
- (B) The Permitted Ancillary Activity Exception applies.
- (C) No Fossil Fuel is used at the Facility for the express purpose of it being used as a fuel (other than to undertake Permitted Ancillary Activities).

5. Dedicated Biomass with CHP

- (A) Subject to paragraph (B), the Facility generates electricity solely from fuel the Energy Content of which is at least 90 per cent. (90%) solid Biomass.
- (B) The Permitted Ancillary Activity Exception applies.
- (C) No Fossil Fuel is used at the Facility for the express purpose of it being used as a fuel (other than to undertake Permitted Ancillary Activities).

6. Energy from Waste with CHP

- (A) The Facility:
 - (i) (subject to paragraph (B)) generates electricity solely from Waste, Biomass or a combination thereof; and
 - (ii) only uses Biomass, Waste or a combination thereof in respect of which the Energy Content constituting Fossil Fuel (excluding any Fossil Fuel used to undertake Permitted Ancillary Activities) as a percentage of all fuels used by the Facility, is more than ten per cent. (10%).
- (B) The Permitted Ancillary Activity Exception applies.
- (C) No Fossil Fuel is used at the Facility for the express purpose of it being used as a fuel (other than to undertake Permitted Ancillary Activities), unless it forms part of Waste from which the fuel is produced.

7. Landfill Gas

- (A) Subject to paragraph (B), the Facility generates electricity solely from gas formed by the digestion of material in a landfill.
- (B) The Permitted Ancillary Activity Exception applies.
- (C) No Fossil Fuel is used at the Facility for the express purpose of it being used as a fuel (other than to undertake Permitted Ancillary Activities), unless it forms part of Waste from which the gas is produced.

8. Sewage Gas

- (A) Subject to paragraph (B), the Facility generates electricity solely from gas formed by the anaerobic digestion of sewage (including sewage which has been treated or processed).
- (B) The Permitted Ancillary Activity Exception applies.
- (C) No Fossil Fuel is used at the Facility for the express purpose of it being used as a fuel (other than to undertake Permitted Ancillary Activities), unless it forms part of Waste from which the gas is produced.

Annex 5
(Project Commitments)

Part A: General Project Commitments

Delivery to the CfD Counterparty of the following:

- (A) a copy of a resolution of each UJV Party's board of directors (or an equivalent management committee or body) to:
 - (i) undertake the Project;
 - (ii) approve the total financial commitments to be made by that UJV Party in relation to the commissioning of the Project and to confirm that the Generator has the total financial commitments required to commission the Project (the "**Total Project Spend**"); and
 - (iii) approve a timetable for undertaking the Project which demonstrates that the Facility can reasonably be expected to be commissioned no later than the Longstop Date;

- (B) a Directors' Certificate from each UJV Party certifying that:
 - (i) the Generator has, or will have, sufficient financial resources to meet the Total Project Spend; and
 - (ii) any contract entered into and provided as Supporting Information pursuant to the Milestone Requirements Notice, in the reasonable opinion of that UJV Party by reference to the facts and circumstances then existing, is:
 - (a) legal, valid and binding; and
 - (b) entered into with one or more counterparties who are each able to perform their obligations under such contract;
 - (iii) the Generator has a leasehold or freehold interest in the site where the Facility is based (the "**Facility Site**") or a contract to obtain the same;
 - (iv) the Facility Site is not subject to any covenants, restrictions, agreements, planning obligations, estate contracts, options, rights of way or other encumbrances which materially inhibit the use of the Facility Site for the purposes of the Project;
 - (v) there are available to the Facility Site such rights, easements and services as are necessary to undertake the Project and operate the Facility;
 - (vi) the Generator has identified all necessary consents and planning permissions to undertake the Project (the "**Necessary Consents**"); and

- (vii) there is a credible strategy in place to obtain the Necessary Consents and the Necessary Consents are not subject to any condition for which there does not exist a plan approved by that UJV Party's or another UJV Party's board of directors to satisfy that condition, such that that UJV Party is not aware of any necessary consents and planning permissions which cannot be obtained or complied with,

((iii) to (vii), together the "**Facility Requirements**");

- (C) Supporting Information evidencing (i) that the Generator has, or will have, sufficient financial resources to meet the Total Project Spend and (ii) the Facility Requirements.

Part B: Technology Specific Project Commitments

1. Advanced Conversion Technology

Delivery to the CfD Counterparty of Supporting Information evidencing any one of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

"Material Equipment" means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the gasifier and the pyrolyser.

2. Advanced Conversion Technology with CHP

Delivery to the CfD Counterparty of Supporting Information evidencing paragraph (A) and any one of paragraphs (B), (C) and (D).

- (A) (i) Entry by a UJV Party or the UJV Parties into a framework contract for the supply of heat; or (ii) if the Generator proposes to use heat on-site, completion

of a detailed feasibility study for the Project, including an energy consumption profile.

- (B) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility providing for the supply and installation of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (D) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the gasifier and the pyrolyser.

3. Anaerobic Digestion

Delivery to the CfD Counterparty of Supporting Information evidencing any one of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the anaerobic digester.

4. Anaerobic Digestion with CHP

Delivery to the CfD Counterparty of Supporting Information evidencing paragraph (A) and any one of paragraphs (B), (C) and (D).

- (A) (i) Entry by a UJV Party or the UJV Parties into a framework contract for the supply of heat; or (ii) if the Generator proposes to use heat on-site, completion of a detailed feasibility study for the Project, including an energy consumption profile.
- (B) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility providing for the supply and installation of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (D) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the anaerobic digester.

5. Biomass Conversion

Delivery to the CfD Counterparty of Supporting Information evidencing paragraph (A) and any one of paragraphs (B), (C) and (D).

- (A) Entry by a UJV Party or the UJV Parties into a framework contract for supply of sufficient sustainable biomass feedstock for the Facility to operate at the Installed Capacity Estimate.
- (B) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.

- (D) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include all material plant, machinery and equipment necessary for the planned conversion of the existing plant at the Facility.

6. Dedicated Biomass with CHP

Delivery to the CfD Counterparty of Supporting Information evidencing paragraph (A), paragraph (B) and any one of paragraphs (C), (D) and (E).

- (A) (i) Entry by a UJV Party or the UJV Parties into a framework contract for the supply of heat; or (ii) if the Generator proposes to use heat on-site, completion of a detailed feasibility study for the Project, including an energy consumption profile.
- (B) Entry by a UJV Party or the UJV Parties into a framework contract for the supply of sufficient sustainable biomass feedstock for the Facility to operate at the Installed Capacity Estimate.
- (C) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (D) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (E) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the furnace and boiler island.

7. Energy from Waste with CHP

Delivery to the CfD Counterparty of Supporting Information evidencing paragraph (A), paragraph (B) and any one of paragraphs (C), (D) and (E).

- (A) (i) Entry by a UJV Party or the UJV Parties into a framework contract for the supply of heat; or (ii) if the Generator proposes to use heat on-site, completion of a detailed feasibility study of the Project, including an energy consumption profile.
- (B) (i) Entry by a UJV Party or the UJV Parties into a contract for the disposal of waste generated by the Facility in the course of its energy generating activities; or (ii) entry by a UJV Party or the UJV Parties into contracts for the provision of Solid Recovered Fuel (“**SRF**”) or Municipal Solid Waste (“**MSW**”) to the Facility.
- (C) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (D) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (E) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“**Material Equipment**” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the furnace and boiler island.

8. Geothermal

Delivery to the CfD Counterparty of Supporting Information evidencing entry by a UJV Party or the UJV Parties into a contract to drill the Facility’s first well.

9. Geothermal with CHP

Delivery to the CfD Counterparty of Supporting Information evidencing paragraphs (A) and (B).

- (A) (i) Entry by a UJV Party or the UJV Parties into a framework contract for the supply of heat; or (ii) if the Generator proposes to use heat on-site, completion

of a detailed feasibility study of the Project, including an energy consumption profile.

(B) Entry by a UJV Party or the UJV Parties into a contract to drill the Facility's first well.

10. Hydroelectricity

Delivery to the CfD Counterparty of Supporting Information evidencing any one of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the civil works to be undertaken in respect of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into a civil works contract to be undertaken in respect of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the civil works to be undertaken in respect of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

"Material Equipment" means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the major scheme components.

11. Landfill Gas

Delivery to the CfD Counterparty of Supporting Information evidencing any one of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the electricity generating engines.

12. Offshore Wind

Delivery to the CfD Counterparty of Supporting Information evidencing any one of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include wind turbines

13. Onshore Wind

Delivery to the CfD Counterparty of Supporting Information evidencing any one of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.

- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include wind turbines.

14. Sewage Gas

Delivery to the CfD Counterparty of Supporting Information evidencing any of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the electricity generating engines.

15. Solar Photovoltaic

Delivery to the CfD Counterparty of Supporting Information evidencing any of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.

- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the photovoltaic panels.

16. Tidal Range

Delivery to the CfD Counterparty of Supporting Information evidencing any of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the civil works to be undertaken in respect of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into a civil works contract to be undertaken in respect of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the civil works to be undertaken in respect of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the major scheme components.

17. Tidal Stream

Delivery to the CfD Counterparty of Supporting Information evidencing any of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the Target Commissioning Date, and in any event, such equipment shall include the turbines.

18. Wave

Delivery to the CfD Counterparty of Supporting Information evidencing any of the following:

- (A) Entry by a UJV Party or the UJV Parties into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment.
- (B) Entry by a UJV Party or the UJV Parties into an agreement for the supply of the Material Equipment.
- (C) Entry by a UJV Party or the UJV Parties into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this Contract for Difference:

“Material Equipment” means such equipment, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have *[ordered]/[concluded a supply agreement in respect of]* in accordance with the

Target Commissioning Date, and in any event, such equipment shall include the wave energy converter or generation engines.

**Annex 6
(Conditional Start Date Notice)**

To: [●] (the “CfD Counterparty”)
[Address]

From: [●] (the “UJV Representative”) for and on behalf of the Generator
[Unique reference number: [●]]

Dated: [●]

CONTRACT FOR DIFFERENCE – CONDITIONAL START DATE NOTICE

Dear Sirs,

1. We refer to Clause 6.3 of 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.
3. This is a Conditional Start Date Notice.
4. We propose that the Conditional Start Date shall be [●].
5. The date of this notice falls within ten (10) Business Days of our receipt of the Operational CP Fulfilment Notice.
6. We enclose a Directors’ Certificate certifying that the information specified in Clause 6.6(B) of the Agreement is, as at the date of this notice, true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of

the Generator

Annex 7
(Unincorporated Joint Venture Changes)

A. GENERAL

1. Unless otherwise expressly stated to the contrary, any and all duties, functions, liabilities, obligations and responsibilities arising out of or in connection with the Contract for Difference which bind or apply to the Generator (or which are required to be fulfilled, performed or satisfied by the Generator) are assumed by the UJV Parties on a joint and several basis.
2. Unless otherwise expressly stated to the contrary, any and all references to a breach, default or failure by the Generator shall be deemed to refer to a breach, default or failure by any of the UJV Parties (and terms and expressions which are analogous to “breach”, “default” or “failure” shall be construed accordingly).
3. The UJV Representative shall have full authority to bind the UJV Parties for the purposes of this Contract for Difference and all other CfD Documents. Each of the UJV Parties acknowledges and agrees that signature of this CfD Agreement by it constitutes a representation and warranty to the CfD Counterparty that the UJV Representative is so authorised to act on its behalf and its undertaking, at the CfD Counterparty’s request, to ratify any and all steps taken or commitments made by the UJV Representative on the relevant UJV Party’s behalf.
4. Unless otherwise expressly stated to the contrary, any and all rights and powers of the Generator arising out of or in connection with this Contract for Difference (and any and all discretions exercisable by the Generator pursuant to this Contract for Difference) may only be exercised by the UJV Representative and may not be exercised by any other UJV Party. Where the UJV Representative exercises any such right, power or discretion, it shall be deemed to have been exercised on behalf of all of the UJV Parties.
5. Any notice which is given to the CfD Counterparty by any UJV Party (other than the UJV Representative) shall be deemed to be invalid and of no effect unless: (a) such notice is also signed by the UJV Representative; or (b) this Contract for Difference expressly provides for, or permits, such notice to be given by the relevant UJV Party.
6. Any notice which is required pursuant to this Contract for Difference to be given by the CfD Counterparty to the Generator shall be deemed to have been validly given if it is given to the UJV Representative.

B. CONDITIONS

1. Part 1: Introduction

- (A) In the definition of “**Affected Person**”, the words “the Generator” shall be deleted and replaced with the words “a UJV Party”.

- (B) The definition of “**Contractor**” shall be deleted and replaced with the following: “means any contractor, sub-contractor, consultant or adviser of or to any UJV Party but excludes any Transmission System Operator, Transmission Licensee, Licensed Distributor, OFTO or, in the case of one UJV Party, another UJV Party;”.
- (C) The definition of “**Directors’ Certificate**” shall be deleted and replaced with the following: “means a certificate signed by two (2) directors of each UJV Party or, for each UJV Party, one (1) director of that UJV Party in the presence of a witness who attests the signature, all of 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 information set out in such certificate (or set out in the notice, or enclosures or appendices to the notice, which such certificate is accompanying) and certifying that such information is in all material respects true, complete, accurate and not misleading, in each case by reference to the facts and circumstances then existing, provided that where any such information is provided by a third party that is not a holding company or subsidiary of a UJV Party or a Representative of any such party or a UJV Party and is marked as such, the certification of the director or directors (as applicable) of that information shall only extend to the certification that that information is in all material respects true, complete, accurate and not misleading to the best of his or their knowledge and belief having made all due and careful enquiries;”.
- (D) The definition of “**Force Majeure**” shall be deleted and replaced with the following: “any event or circumstance (including (i) any Change in Law (which expression shall, for the purposes of this definition, in the period to the Start Date include any change after the Agreement Date in the policy or guidance of any Competent Authority); and (ii) any event or circumstance resulting from any action or omission by or of any CfD Settlement Services Provider, any BSC Agent or a BSC Company) that is beyond the reasonable control of the FM Affected Party (or, if the FM Affected Party is the Generator, any UJV Party) or, if relevant, its Representatives (in the case of the Generator and its Representatives, acting and having acted in accordance with a Reasonable and Prudent Standard) which could not reasonably have avoided or overcome and which is not due to the FM Affected Party's (or, if the FM Affected Party is the Generator, any UJV Party's) fault or negligence (or that of its Representatives);”.
- (E) In the definition of “**Generator Confidential Information**”, references to “the Generator” shall be deleted and replaced with references to “a UJV Party”.
- (F) In the definition of “**Lender**”, the words “the Generator” shall be deleted and replaced with the words “a UJV Party”.
- (G) The definition of “**Party**” shall be deleted and replaced with the following: “means the CfD Counterparty, on the one hand, and, on the other, the Generator;”.

- (H) The definition of “**Payment Disruption Event**” shall be deleted and replaced with the following: “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 (or, if the PDE Affect Party is the Generator, any UJV Party) or, if relevant, its Representatives could not reasonably have avoided or overcome and which is not due to the PDE Affected Party's (or, if the PDE Affected Party is the Generator, any UJV Party's) fault or negligence (or that of its Representatives);”.
- (I) References to the directors, officers, employees, senior managers, agents, consultants or advisers of the Generator shall be deemed to refer to the directors, officers, employees, senior managers, agents, consultants or advisers of any UJV Party.
- (J) Any and all references to the knowledge or awareness of the Generator (and any cognate expressions) shall be deemed to refer to the knowledge or awareness of any of the UJV Parties.
- (K) Any and all references to “on demand to the Generator by the CfD Counterparty” (and analogous expressions) shall be deemed to refer to “on demand to the UJV Representative by the CfD Counterparty”. Any and all references to “on demand to the CfD Counterparty by the Generator” (and analogous expressions) shall be deemed to refer to “on demand to the CfD Counterparty by the UJV Representative”.
- (L) Any and all references to the waiver by or delay, omission, approval or consent of the Generator shall be deemed to refer to the waiver by or delay, omission, approval or consent of the UJV Representative only.

2. Part 6 (Billing and Payment)

- (A) The references to the “Generator” in Conditions 22.1 and 22.2 shall be deemed to be deleted and replaced with references to the “UJV Representative”.
- (B) Condition 27 (*Payment Accounts*) shall be deleted and replaced with the following:

“27 PAYMENT ACCOUNTS

27.1 Any payments made pursuant to or in connection with the Contract for Difference and made to:

- (A) the CfD Counterparty shall be made to such account as may be notified to the UJV Representative 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 UJV Representative from time to time.

27.2 Any payment made by the CfD Counterparty to the account notified by the UJV Representative to the CfD Counterparty pursuant to Condition 27.1 shall be in full and final satisfaction of the relevant payment due to the Generator pursuant to or in connection with the Contract for Difference”

3. Part 7 (Representations, warranties and undertakings)

Condition 28 (*Generator Representations and Warranties*) will be replaced with the following:

“28. GENERATOR REPRESENTATIONS AND WARRANTIES

Agreement Date representations

28.1 Each UJV Party represents and warrants to the CfD Counterparty that, as at the Agreement Date, the following statements are true, accurate and not misleading:

- (A) *Status*: It:
- (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, in conjunction with the other UJV Parties, as contemplated by the Contract for Difference and the other CfD Documents.
- (B) *Power and authority*: It 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 it 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 it 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, which are required to be obtained by that UJV Party on or before the date on which this representation and warranty is made or deemed to be repeated by the Generator 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 by that UJV Party on or before the date on which this representation and warranty is made or deemed to be repeated by each UJV Party 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 it or 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:
- (i) current;
 - (ii) pending before any court, arbitral or other tribunal, administrative or regulatory body or, as the case may be, expert; or
 - (iii) so far as the Generator is aware, by reason of receipt of a letter before action or similar, threatened against the Generator,

and which, if adversely determined, would have or would reasonably be expected to have a material adverse effect on its or the Generator's ability to perform or comply with its obligations under the Contract for Difference or any other CfD Document.

- (H) *No requirement to deduct or withhold*: It 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.
- (I) *Low Carbon Electricity Generation*: As far as it is aware (having made all due and careful enquiries), the electricity expected to be generated by the Facility will, with effect from the Start Date and throughout the remainder of the Term, contribute to a reduction in emissions of Greenhouse Gases (having regard to, among any other relevant factors, the potential effects on the carbon stock caused by the procurement and use of the fuel used by the Facility). This Condition 28.1(I) shall apply to the Contract for Difference only if the Sustainability Criteria are expressed to apply to the Contract for Difference in the CfD Agreement.

Start Date representation

28.2 Each UJV Party 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, Affected Person or parent undertaking of a UJV Party (or an agent or security trustee on its behalf) in accordance with Condition 79 (*Transfers*).
- (B) *Compliance with Eligibility Criteria*: The generation technology deployed by the Facility is the Facility Generation Technology.

Repeating representations

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

4. Part 10 (Balancing System (BSUoS/RCRC) and TLM(D))

The references to “the Generator” in Conditions 46.1 and 47.1 shall be deleted and replaced with references to “the UJV Representative”.

5. **Part 12 (Termination)**

- (A) In the first sentence of Condition 53.1 the words “(or, if the context requires, a UJV Party)” shall be deemed to have been inserted after the words “the Generator”.
- (B) Each reference to “The Generator” and “the Generator” in Condition 53.1(A) and Condition 53.1(C) shall be deleted and replaced with reference to “A UJV Party” or “a UJV Party” (as relevant).

6. **Part 17 (Miscellaneous)**

- (A) In Condition 79.1:
 - (i) the words “neither Party” shall be replaced with the words “neither the CfD Counterparty nor any UJV Party; and
 - (ii) the words “without the prior written consent of the other Party” shall be replaced with “without the prior written consent of, in the case of the CfD Counterparty, the UJV Representative or, in the case of a UJV Party, the CfD Counterparty”;
- (B) In Condition 79.6, both occurrences of the words “parent undertaking of the Generator” shall be replaced with “parent undertaking of a UJV Party”;
- (C) Condition 79.7 shall be deleted and replaced with the following:

“Other Transfers by the Generator; Stapling obligation

79.7 If the consent of the CfD Counterparty to the transfer by a UJV Party of all or substantially all of their rights, benefits and obligations under the Contract for Difference and any other CfD Document to a Transferee is required and is given, the transferring UJV Party shall transfer any ownership it may have of the Facility to either (i) another UJV Party or (ii) the same Transferee contemporaneously with the Transfer. Any Transfer effected, or purported to be effected, in breach of this Condition 79.7 shall be ineffective and void.”

- (D) Condition 80.6 shall include the following words at the end “provided that where notice is given by the Generator to the CfD Counterparty, the notice must be duly signed by an authorised signatory of the UJV Representative.”
- (E) The following shall be inserted stating after Condition 80.11:

“UJV Representative

“80.12 Any notice to be given to the Generator by the CfD Counterparty will only be validly served by the serving of notice on the UJV Representative.

80.13 Subject to Condition 80.14, any notice to be given to the CfD Counterparty by the Generator will be, and can only be, validly served by the UJV Representative.

80.14 Any substitution of the UJV Representative can only be effected by all of the UJV Parties notifying the CfD Counterparty of the identity of the replacement UJV Representative and the date on which such substitution is to take effect (provided that such date may not be prior to the date on which the relevant notice is given to the CfD Counterparty).

80.15 Where there is, for whatever reason, no UJV Representative, the CfD Counterparty may, by notice to all UJV Parties, nominate one of the UJV Parties to be the UJV Representative with effect from the delivery of that notice.”

(F) Condition 87.2 shall be deleted and replaced with the following:

“Each UJV Party named in Clause 13 of the CfD Agreement irrevocably appoints the Service Agent set out against its name in that Clause 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.”

(G) Condition 87.3 shall be deleted and replaced with the following:

“If a Service Agent at any time ceases for any reason to act as such in respect of the UJV Party against which its name is set out in Clause 13 of the CfD Agreement, that UJV Party 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 that UJV Party to appoint a replacement agent to act on behalf of that UJV Party 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 87.3 applying to service on a Service Agent apply equally to service on a replacement agent.”

7. Schedule 1 Conditions Precedent

In Part A (*Initial Conditions Precedent*), the first reference to “the Generator” is to be replaced with “one of the UJV Parties”, with the second and third references to “the Generator” to be replaced with “each UJV Party”.

8. **Annex 3 (Direct Agreement)**

The form of the Direct Agreement set out in Annex 3 (*Form of Direct Agreement*) to the Conditions shall be amended as follows:

- (A) all references to the word “Generator” are to be replaced with “UJV Representative”;
- (B) footnote 1 on the cover page shall be deleted and replaced with the following: “Note to draft: Parties to conform to underlying funding arrangements. This assumes that the UJV Representative will be the borrower under any future funding arrangements.”;
- (C) each UJV Party shall be added as a party to the Direct Agreement and they shall collectively be defined as the “UJV Parties”;
- (D) the following shall be included as a new clause 13.1:

“The CfD Counterparty (at the UJV Representative’s expense), the UJV Parties (each at their own expense) and the UJV Representative shall take whatever action the [Lenders(s)]/[Security Trustee], an Appointed Representative or a Substitute making a transfer or novation in accordance with Clause 9.1 may reasonably require for perfecting release under Clauses 8 and 9, including the execution of any transfer and the giving of any notice, order or direction and the making of any registration which, in each case, the [Lender(s)]/[Security Trustee], Appointed Representative or Substitute reasonably requires.”; and
- (E) each UJV Party shall be added as a party to the Novation Agreement at Annex 2 of the Direct Agreement.

9. **Annex 8 (Pro forma notices)**

The following amendments shall be made to all of the pro forma notices in Annex 8 (*Pro forma notices*) to the Conditions:

- (i) Where a pro forma notice is addressed to the Generator it shall state as follows: “**To:** [UJV Representative] (the “**UJV Representative**”, for and on behalf of the Generator)”.
- (ii) Where the Pro forma notice is from the Generator it shall state as follows: “**From:** [UJV Representative] (the “**UJV Representative**”, for and on behalf of the Generator)”.

EXECUTION PAGE

UJV PARTY 1

SIGNED BY)
 [*name of signatory*])
 for and on behalf of)
 [*name of the UJV Party 1*]) (Signature of named signatory)

UJV PARTY 2⁴⁶

SIGNED BY)
 [*name of signatory*])
 for and on behalf of)
 [*name of the UJV Party 2*]) (Signature of named signatory)

The CfD COUNTERPARTY

SIGNED BY)
 [*name of signatory*])
 for and on behalf of)
 Low Carbon Contracts Company) (Signature of named signatory)
 Ltd

URN:15D/098

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⁴⁶ Drafting note: add further UJV Parties if necessary.