

DATED [●]

[]
(as the **GENERATOR**)

and

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

CFD (PHASE 1) AGREEMENT (APPORTIONED METERING)
RELATING TO [*name of Project*]

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THIS CFD (PHASE 1) AGREEMENT is dated [●] (the “**Agreement Date**”) and made between:

- (1) [●] (the “**Generator**”); and
- (2) **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 (Phase 1) Agreement is entered into following the applicable contract allocation or negotiation process established under or by virtue of the EA 2013. It relates to the first phase of a Phased Project and [a] separate agreement[s] [is]/[are]¹ also entered into on or about the date of this agreement in respect of the other phase[s] of such Phased Project.
- (B) The Generator has satisfied the relevant Eligibility Criteria in relation to the Phased Project.
- (C) The CfD Counterparty is a company wholly owned by the UK Government and is entering into this CfD (Phase 1) Agreement solely for the purpose of implementing the provisions of the EA 2013.
- (D) This CfD (Phase 1) Agreement is a CfD Agreement for the purpose of the Conditions.
- (E) This CfD (Phase 1) Agreement, together with 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~~, 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 (Phase 1) Agreement, words and expressions defined in the Conditions shall have the same meanings when used in this CfD (Phase 1) Agreement. Where a term is defined both in this CfD (Phase 1) Agreement and in the Conditions, the definition in this CfD (Phase 1) Agreement shall apply instead of the definition in the Conditions.

1.2 In this CfD (Phase 1) Agreement and its recitals:

¹ Drafting note: Drafting to be selected depending on the number of phases in the Phased Project.

“Active Turbine” means, in relation to a Billing Period, an offshore wind turbine which exports electricity at any time during that Billing Period;

“Aggregate Installed Capacity Estimate” means the aggregate of the Installed Capacity Estimates specified in this CfD (Phase 1) Agreement [*and*]/[,], the CfD (Phase 2) Agreement [*and the CfD (Phase 3) Agreement*];

“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 (*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*), Annex 7 (*FMS arrangements, Sustainability Criteria and RQM Calculation Methodology*), Annex 8 (*Pro forma notices*) and Clauses 6.5 to 6.7, Clause 16.1 (*Termination*) and Clause 17 (*Transfers*);

“Apportionment Percentage” means the Phase 1 Apportionment Percentage[,]/[*or*] the Phase 2 Apportionment Percentage [*or the Phase 3 Apportionment Percentage*] as the context requires;

“CfD (Phase 2) Agreement” means a Contract for Difference between Project Company 2 and the CfD Counterparty entered into on or about the date of this CfD (Phase 1) Agreement in relation to the second phase of the Phased Project;

“CfD (Phase 3) Agreement” means a Contract for Difference between Project Company 3 and the CfD Counterparty entered into on or about the date of this CfD (Phase 1) Agreement in relation to the third phase of the Phased Project;

“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 (Phase 1) Agreement and as may be amended, modified, supplemented or replaced from time to time in accordance with the Conditions);

“Facility” means 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 (subject to paragraph (d)) 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*);
 - (c) the agreement or determination of the Final Installed Capacity pursuant to Condition 7 (*Final Installed Capacity; Maximum Contract Capacity*); and
 - (d) any turbine reallocation pursuant to Clause 6.5; and
- (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**”, “**Curtailement**”, “**Defined Curtailement Compensation**”, “**Defined Partial Curtailement Compensation**”, “**Discriminatory Change in Law**”, “**Eligibility Criteria**”, “**Foreseeable Change in Law**”, “**Generation Tax Liability**”, “**Partial Curtailement**”, “**QCIL Capital Costs**”, “**QCIL Capital Savings**”, “**QCIL Construction Event**”, “**QCIL Construction Event Costs**”, “**QCIL Operations Cessation Event**”, “**Qualifying Curtailement**”, “**Qualifying Partial Curtailement**”, “**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;

“Group Company” means, in respect of the Generator, any Wholly-owned Subsidiary of the Generator, any company of which the Generator is a Wholly-owned Subsidiary (a **“Parent Company”**) and any other Wholly-owned Subsidiary of any Parent Company;

“Information and Monitoring System” means a monitoring and control system in respect of the Facility[,][*and*] the Phase 2 Facility [*and the Phase 3 Facility*] that is capable of collecting an auditable record of Information and Monitoring System Data to enable the Information and Monitoring System Reports to be provided by the Generator to the CfD Counterparty;

“Information and Monitoring System Data” means all Supporting Information delivered or required to be delivered to the CfD Counterparty to enable and assist the CfD Counterparty to determine the Phase 1 Active Turbines[,][*and*] the Phase 2 Active Turbines[, *the Phase 3 Active Turbines*] and the Phased Project Active Turbines for each Billing Period, including by reference to each offshore wind turbine’s unique identifier, for the purpose of calculating the Apportionment Percentage applicable to such Billing Period;

“Information and Monitoring System Purposes” means enabling and assisting the CfD Counterparty (including by way of audit, check, examination or inspection):

- (A) to calculate the Apportionment Percentage; and
- (B) to verify that all the Information and Monitoring System Reports (including all of the Information and Metering System Data) used for the purposes of calculating the Apportionment Percentage for each Billing Period is accurate, complete and not misleading;

“Information and Monitoring System Report” means each report delivered or required to be delivered by the Generator to the CfD Counterparty, in such form as may be prescribed by the CfD Counterparty from time to time, in relation to the Information and Monitoring System and including all the Information and Monitoring System Data;

“Initial CP Provisions” means Part 4 (*Adjustments to Installed Capacity Estimate*) and Clause 6.4, Part 8 (*Changes in Law*), Part 9 (*Generation Tax*), Part 10 (*Balancing System (BSUoS/RCRC) and TLM(D)*), Part 11 (*Curtailment*), Annex 4 (*BMRP*) and Annex 5 (*IMRP*);

“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 Construction Event*), Condition 6 (*Adjustment to Installed Capacity Estimate: Permitted reduction*) and Clause 6.5 (*Turbine reallocation*);

“Maximum Project Capacity” means the aggregate of the Maximum Contract Capacity[,][*and*] the Phase 2 Maximum Contract Capacity [*and the Phase 3 Maximum Contract Capacity*];

“Offshore Transmission System” has the meaning given to that term in the Grid Code and shall include Offshore Transmission System Assets;

“Offshore Transmission System Assets” has the meaning given to that term in the Grid Code;

“Parent Entity” means a company which is a parent undertaking (within the meaning of section 1162(2) of the Companies Act 2006) of the Generator[,][*and*] Project Company 2 [*and Project Company 3*] (or such other entity as is acceptable to the CfD Counterparty);

“Phase 1 Active Turbines” means, in relation to a Billing Period, the Active Turbines in respect of the Facility;

“Phase 1 Apportionment Percentage” means, in respect of each Settlement Unit within a Billing Period, provided that the sum of the Phase 1 Apportionment Percentage[,][*and*] the Phase 2 Apportionment Percentage [*and the Phase 3 Apportionment Percentage*] shall not exceed one hundred (100) per cent. at any time:

$$\text{Phase 1 Apportionment Percentage} = \frac{\sum \text{TIC}_{\text{P1AT}}}{\sum \text{TIC}_{\text{PPAT}}} \times 100$$

where:

$\sum \text{TIC}_{\text{P1AT}}$ is the sum of the Turbine Installed Capacity of each of the Phase 1 Active Turbines; and

$\sum \text{TIC}_{\text{PPAT}}$ is the sum of the Turbine Installed Capacity of each of the Phased Project Active Turbines;

“Phase 2 Active Turbines” means, in relation to a Billing Period, the Active Turbines in respect of the Phase 2 Facility;

“Phase 2 Apportionment Percentage” has the meaning given to that term in the CfD (Phase 2) Agreement;

“Phase 2 Facility” has the meaning given to the term **“Facility”** in the CfD (Phase 2) Agreement;

“Phase 2 ICE Adjustment Notice” has the meaning given to that term in Clause 6.4 (*Adjustment to Installed Capacity Estimate: Permitted reduction*);

“Phase 2 Installed Capacity Estimate” has the meaning given to the term **“Installed Capacity Estimate”** in the CfD (Phase 2) Agreement;

“Phase 2 Longstop Date” has the meaning given to the term **“Longstop Date”** in the CfD (Phase 2) Agreement;

“Phase 2 Maximum Contract Capacity” has the meaning given to the term “Maximum Contract Capacity” in the CfD (Phase 2) Agreement;

“Phase 2 Project” has the meaning given to the term **“Project”** in the CfD (Phase 2) Agreement;

“Phase 2 Turbine Reallocation Notice” has the meaning given to that term in Clause 6.5(B);

[“Phase 3 Active Turbines” means, in relation to a Billing Period, the Active Turbines in respect of the Phase 3 Facility;

“Phase 3 Apportionment Percentage” has the meaning given to that term in the CfD (Phase 3) Agreement;

*“Phase 3 Facility” has the meaning given to the term **“Facility”** in the CfD (Phase 3) Agreement;*

“Phase 3 ICE Adjustment Notice” has the meaning given to that term in Clause 6.4 (Adjustment to Installed Capacity Estimate: Permitted Reduction);

*“Phase 3 Installed Capacity Estimate” has the meaning given to the term **“Installed Capacity Estimate”** in the CfD (Phase 3) Agreement;*

*“Phase 3 Longstop Date” has the meaning given to the term **“Longstop Date”** in the CfD (Phase 3) Agreement;*

*“Phase 3 Maximum Contract Capacity” has the meaning given to the term **“Maximum Contract Capacity”** in the CfD (Phase 3) Agreement;*

*“Phase 3 Project” has the meaning given to the term **“Project”** in the CfD (Phase 3) Agreement;*

“Phase 3 Turbine Reallocation Notice” has the meaning given to that term in Clause 6.5(B);]

“Phased Project” means an offshore wind electricity generation project consisting of the Project ~~and at least one other phase, in respect of which: (i) the Project and each such other phase~~[,] [and] the Project (as defined in the CfD (Phase 2 Agreement) [and the Project (as defined in the CfD (Phase 3) Agreement)], each of which has a separate target commissioning date~~;~~; and ~~(ii) for which~~ a joint application for a Contract for Difference has been submitted to the Delivery Body;

“Phased Project Active Turbines” means, in relation to a Billing Period, the Phase 1 Active Turbines[,] [and] the Phase 2 Active Turbines [and the Phase 3 Active Turbines] within such Billing Period;

“Project Company 2” means [legal name of company];

[**“Project Company 3”** means [legal name of company];]

“Required ICE Threshold” means 25 per cent. (25%) of the aggregate of:

- (A) the Installed Capacity Estimate (for these purposes only taking into account any adjustment to the Initial Installed Capacity Estimate as a result of an ICE Adjustment Notice having been given by the Generator to the CfD Counterparty but disregarding any adjustment to the Installed Capacity Estimate resulting from the operation of Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Construction Event*)); [and]
- (B) the Phase 2 Installed Capacity Estimate (for these purposes only taking into account any adjustment to the Phase 2 Installed Capacity Estimate as a result of a Phase 2 ICE Adjustment Notice having been given by Project Company 2 to the CfD Counterparty but disregarding any adjustment to the Phase 2 Installed Capacity Estimate resulting from the operation of Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Construction Event*) to the CfD (Phase 2) Agreement)[.][; and]
- (C) *the Phase 3 Installed Capacity Estimate (for these purposes only taking into account any adjustment to the Phase 3 Installed Capacity Estimate as a result of a Phase 3 ICE Adjustment Notice having been given by Project Company 3 to the CfD Counterparty but disregarding any adjustment to the Phase 3 Installed Capacity Estimate resulting from the operation of Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Construction Event*) to the CfD (Phase 3) Agreement);]*

“Turbine Installed Capacity” means the capacity (expressed in MW) applicable to a turbine comprised within a facility 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), the aggregate of the Turbine Installed Capacity for each such turbines within the Facility being the Maximum Contract Capacity and the aggregate of the Turbine Installed Capacity for each such turbines within the Phased Project being the Maximum Project Capacity; and

“Wholly-owned Subsidiary” has the meaning given to it in section 1159(2) of the Companies Act 2006.

1.3 For the purposes of:

- (A) Conditions 4.2 and 4.3, as amended by Clause 5.8 of this CfD (Phase 1) Agreement; and
- (B) Annex 3 (*Project Commitments*) to this CfD (Phase 1) Agreement,

the reference to the Generator in the definition of “Directors’ Certificate” in Condition 1 shall be deemed to refer to the company on whose behalf the Directors’ Certificate is required, by that provision, to be given.

2. AGREEMENT

The Generator

- 2.1 The Generator shall, as from the Agreement Date, comply with this CfD (Phase 1) Agreement (including the Conditions) as the “**Generator**” and agrees that the Conditions are hereby incorporated into this CfD (Phase 1) Agreement as if they were clauses of this CfD (Phase 1) Agreement.

The CfD Counterparty

- 2.2 The CfD Counterparty shall, as from the Agreement Date, comply with this CfD (Phase 1) Agreement (including the Conditions) as the “**CfD Counterparty**” and agrees that the Conditions are hereby incorporated into this CfD (Phase 1) Agreement as if they were clauses of this CfD (Phase 1) Agreement.

Specific terms

- 2.3 [*The Parties have agreed to amend the Conditions as set out in Annex 2 (Modification Agreement).*]²
- 2.4 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 (Phase 1) 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.

² Drafting note: Drafting 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.

4. GENERATION TECHNOLOGY TYPE

Facility Generation Technology

- 4.1 The Facility Generation Technology applicable to this Contract for Difference is Offshore Wind, 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.
- 4.2 The Facility Generation Technology is an Intermittent Technology and accordingly:
- (A) Part 5B (*Payment calculations: Intermittent Technologies*) to the Conditions shall apply to this Contract for Difference;
 - (B) Annex 5 (*IMRP*) to the Conditions shall apply to this Contract for Difference; and
 - (C) in this Contract for Difference, “**Settlement Unit**” means each hour in a day divided into hour-long periods starting at 00:00 on such day.

Renewable Qualifying Multiplier

- 4.3 The Renewable Qualifying Multiplier shall not apply to this Contract for Difference.

CHP Qualifying Multiplier

- 4.4 The CHP Qualifying Multiplier shall not apply to this Contract for Difference.

Fuelling Criteria

- 4.5 There are no Fuelling Criteria applicable to this Contract for Difference.

Sustainability Criteria

- 4.6 The Sustainability Criteria do not apply to this Contract for Difference.

Intermittent Dual Scheme Facility

- 4.7 For the purposes of Conditions 1.18, 32.1 and 72.10(A)(v), the Facility shall be deemed to be an Intermittent Dual Scheme Facility.

5. CONDITIONS PRECEDENT AND MILESTONE

Interpretation

- 5.1 The “**Initial Target Commissioning Window**” applicable to this Contract for Difference shall be one year, such period commencing on [*insert date*]³.
- 5.2 The “**Target Commissioning Date**” applicable to this Contract for Difference shall be [*•*]⁴.
- 5.3 The “**Longstop Period**” applicable to this Contract for Difference shall be two (2) years.

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. 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.*”

Milestone

- 5.5 The “**Initial Milestone Delivery Date**” applicable to this Contract for Difference shall be ~~to~~⁵ twelve (12) months after the Agreement Date.
- 5.6 The “**Total Project Pre-Commissioning Costs**” applicable to this Contract for Difference shall be £2,050,000.00 per MW of Aggregate Installed Capacity Estimate.

³ 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.

⁴ 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.

⁵ ~~Drafting note: This will be a specified date which will be before the Target Commissioning Window and there will only be one such date for the whole Project. The date to be included here shall be no later than 12 months after the Agreement Date.~~

- 5.7 The “**Project Commitments**” applicable to this Contract for Difference shall be the requirements set out in Parts (A) and (B) of Annex 3 to this CfD (Phase 1) Agreement (*Project Commitments*).
- 5.8 Condition 4 (*Milestone Requirement*) of the Conditions shall be deleted and replaced by the following provision:

“~~Milestone Requirements~~ Notice

4.1 No later than the Milestone Delivery Date, the Generator shall procure that the Generator~~,~~[and] Project Company 2 [and Project Company 3] shall jointly give a notice to the CfD Counterparty (a “**Milestone Requirements Notice**”) that they consider that ~~the~~a Milestone Requirements ~~have~~s been complied with and fulfilled. ~~The~~A Milestone Requirements Notice shall include either:

- (A) such invoices, payment receipts and other Supporting Information with respect to the Phased Project as they consider relevant to evidence that they and, in each case, their direct shareholders have in aggregate spent ten per cent. (10%) or more of the Total Project Pre-Commissioning Costs on the Phased Project; or
- (B) such Information as is specified, identified or listed as the Project Commitments and such Supporting Information as they consider relevant to evidence compliance with or fulfilment of the Project Commitments; (and for this purpose, where the Project Commitments relate to Material Equipment, taking into consideration the need to demonstrate to the CfD Counterparty's satisfaction that contracts, agreements and purchase orders relating to such Material Equipment constitute significant financial commitments which are real, genuine and made in good faith).

~~(either of which shall be the~~each a “**Milestone Requirements**”).

For the purposes of paragraph (A) above:

- (i) money spent by a direct shareholder of the Generator~~,~~[or] Project Company 2 [or Project Company 3] to acquire an interest in the Generator~~,~~[or] Project Company 2 [or Project Company 3] may be taken into account but only to the extent that the consideration paid for the acquisition exceeds the amount spent on the Phased Project by the Generator~~and its~~[,] [or] Project Company 2 [or Project Company 3] and, in each case, their direct shareholders in the period prior to the time at which such acquisition took place; ~~and~~
- (ii) the Phased Project shall exclude the assets comprised or to be comprised within the Offshore Transmission System of the ~~Facility~~. Phased Project; and

(iii) money spent by the Generator,]/[or] Project Company 2 [or Project Company 3] for the purpose of connecting the Facility to any relevant Transmission System or Distribution System may be taken into account, notwithstanding that assets comprised or to be comprised within any Transmission System or Distribution System do not form part of the Phased Project.

- 4.2 ~~The~~A Milestone Requirements Notice shall be accompanied by a Directors' Certificate on behalf of each of the Generator,]/[and] Project Company 2 [and Project Company 3] ~~certifying that~~in relation to the information relating to that body corporate 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~~Requirement Notice.
- 4.3 At the option of the Generator, a Milestone Requirements Notice pursuant to Condition 4.1 may be given by a Parent Entity on behalf of each of the Generator,]/[and] Project Company 2 [and Project Company 3], in which case the Directors' Certificate under Condition 4.2 shall be given on behalf of that Parent Entity.
- 4.4 The CfD Counterparty shall, no later than twenty (20) Business Days after receipt of a Milestone Requirements Notice, give a notice to the Generator,]/[and] Project Company 2 [and Project Company 3] or, if applicable, to a Parent Entity (a "**Milestone Assessment Response Notice**"). A Milestone Assessment Response Notice shall:
- (A) be addressed to the Generator,]/[and] Project Company 2 [and Project Company 3] or, if applicable, a Parent Entity; and
 - (B) specify whether the CfD Counterparty considers that:
 - (i) ~~the~~a Milestone Requirements ~~have~~s been complied with and fulfilled; or
 - (ii) it has not been provided with sufficient Supporting Information to determine whether ~~the~~a Milestone Requirements ~~have~~s been complied with and fulfilled and, if so, details of the additional Supporting Information which the CfD Counterparty requires to determine whether ~~the~~a Milestone Requirements ~~have~~s been complied with and fulfilled (the "**Requested Milestone Supporting Information**").
- 4.5 If the CfD Counterparty states in ~~the~~a Milestone Assessment Response Notice that:
- (A) ~~the~~a Milestone Requirements ~~have~~s been complied with and fulfilled, then the Milestone Requirements ~~will~~ be deemed to have been

complied with and fulfilled for the purposes of the Contract for Difference; ~~or~~

(B) a Milestone Requirement has not been complied with and fulfilled, then the Milestone Requirement will be deemed not to have been complied with and fulfilled for the purposes of the Contract for Difference unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or

(C) the CfD Counterparty has not been provided with sufficient Supporting Information to determine whether ~~the~~a Milestone Requirements ~~have~~s been complied with and fulfilled:

(i) the Generator shall procure that the Requested Milestone Supporting Information is provided as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of ~~the~~a 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 no later than twenty (20) Business Days after receipt of such Requested Milestone Supporting Information, give a further Milestone Assessment Response Notice to the Generator, ~~and~~ Project Company 2 ~~and Project Company 3~~ or, if applicable, to a Parent Entity (the “**Further Milestone Assessment Response Notice**”). A Further Milestone Assessment Response Notice shall:

(a) be addressed to the Generator, ~~and~~ Project Company 2 ~~and Project Company 3~~ or, if applicable, a Parent Entity; and

(b) specify whether the CfD Counterparty considers that ~~the~~a Milestone Requirements ~~have~~s or ~~have~~s not been complied with and fulfilled.

4.6 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~~a Milestone Requirements ~~have~~s been complied with and fulfilled unless the CfD Counterparty is satisfied of the same.

Waiver of Milestone Requirements

- 4.7 The CfD Counterparty may agree by notice to the Generator[,]/[and] Project Company 2 [and Project Company 3] or, if applicable, a Parent Entity to waive any ~~of the~~ Milestone Requirements.
- 4.8 Conditions 65 (No waiver) and 66 (Consents) shall apply to any waiver given by the CfD Counterparty pursuant to Condition 4.7."

Effectiveness of a Milestone Requirement Notice

- 4.9 If the Generator[,]/[and] Project Company 2 [and Project Company 3] give or, if applicable, a Parent Entity gives a Milestone Requirement Notice to the CfD Counterparty and such notice is ineffective, this shall not, subject to Part 12 (Termination), preclude the Generator[,]/[and] Project Company 2 [and Project Company 3] or, if applicable, a Parent Entity from giving a further Milestone Requirement Notice to the CfD Counterparty.
- 4.10 Without limitation, a Milestone Requirement Notice shall be deemed to be ineffective if:
- (A) it does not include the information specified in Condition 4.1(A) or 4.1(B);
 - (B) it is not accompanied by a Directors' Certificate in accordance with Condition 4.2; or
 - (C) the CfD Counterparty states in the Milestone Assessment Response Notice that the Milestone Requirement has not been complied with and fulfilled."

5.9 In relation to the Phased Project's turbines:

- (A) in addition to the requirements set out in Condition 4.1 of the Conditions, a Milestone Requirement Notice must include the size or anticipated estimated size (expressed in MW) of each of the Phased Project's turbines; and
- (B) the Generator shall, [and shall procure that Project Company 2 [and Project Company 3] or, if applicable, a Parent Entity 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 Phased Project's turbines if any change to the size of any turbine is proposed to be made. Such notification shall be given promptly and no later than ten (10) Business Days after the relevant change is effected or a decision is taken to effect the relevant change.

6. ADJUSTMENTS TO INSTALLED CAPACITY ESTIMATE AND REQUIRED INSTALLED CAPACITY

Interpretation

- 6.1 The “**Initial Installed Capacity Estimate**” applicable to this Contract for Difference is [●] MW⁶⁵.
- 6.2 For the purposes of this CfD (Phase 1) Agreement, the “**Installed Capacity Estimate**” shall mean 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 Construction Event*), Condition 6 (*Adjustment to Installed Capacity Estimate: Permitted reduction*) and/or Clause 6.5 (*Turbine reallocation*) of this CfD (Phase 1) Agreement.
- 6.3 The “**Required Installed Capacity**” applicable to this Contract for Difference is 85% of the Installed Capacity Estimate.

Adjustment to Installed Capacity Estimate: Permitted reduction

- 6.4 An ICE Adjustment Notice given pursuant to Condition 6.1 of the Conditions shall be invalid and of no effect unless and until a valid notice has been given to the CfD Counterparty pursuant to Condition 6.1 of the CfD (Phase 2) Agreement (a “**Phase 2 ICE Adjustment Notice**”) [*and Condition 6.1 of the CfD (Phase 3) Agreement (a “Phase 3 ICE Adjustment Notice”)*].

Turbine reallocation

- 6.5 The Generator may give a notice to the CfD Counterparty at any time prior to the first day of the Target Commissioning Window (a “**Turbine Reallocation Notice**”). A Turbine Reallocation Notice shall:
- (A) be given jointly by the Generator [*and*]/[,] Project Company 2 [*and Project Company 3*] in relation to their respective Contract for Differences in respect of the Phased Project except in relation to any of them whose Contract for Difference in respect of the Phased Project has been terminated;
 - (B) constitute a notice given by Project Company 2 under Clause 6.5 of the CfD (Phase 2) Agreement (a “**Phase 2 Turbine Reallocation Notice**”) [*and a notice given by Project Company 3 under Clause 6.5 of the CfD (Phase 3) Agreement (a “Phase 3 Turbine Reallocation Notice”)*];

⁶⁵ 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.

- (C) specify the proposed reallocation of the offshore wind turbines comprised within the Facility [*between*]/[*among*] this CfD (Phase 1) Agreement [*and*]/[.] the CfD (Phase 2) Agreement [*and the CfD (Phase 3) Agreement*] from the effective date of such Turbine Reallocation Notice;
- (D) include details of any change in assets comprising the Facility;
- (E) if the Generator has provided the CfD Counterparty with a Further CP Notice in respect of the Further Conditions Precedent listed at Paragraph 2.1 of Part B of Schedule 1 (*Conditions Precedent*) prior to the date of the Turbine Reallocation Notice and there has been a change to the electrical schematic diagram, include an updated 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 assets comprised within the Facility; and
- (F) include such Supporting Information as the Generator considers relevant to evidence the turbine reallocation.

6.6 Any Turbine Reallocation Notice shall be invalid and of no effect unless each of the Installed Capacity Estimate[,]/[*and*] the Phase 2 Installed Capacity Estimate [*and the Phase 3 Installed Capacity Estimate*] in the Turbine Reallocation Notice is no greater than it was immediately prior to the Turbine Reallocation Notice.

6.7 Any Turbine Reallocation Notice shall be irrevocable.

7. METERED OUTPUT

7.1 The definition of “**Facility Metering Equipment**” shall be deleted and replaced by the following definition:

*“**Facility Metering Equipment**” means the Metering Equipment measuring the flows of electricity associated with the Facility[,]/[*and*] the Phase 2 Facility [*and the Phase 3 Facility*], their Metering Systems, its associated BM Units and the Information and Monitoring System;”.*

7.2 The definition of “**Generating Station**” shall be deleted and replaced by the following definition:

*“**Generating Station**” means the Facility[,]/[*and*] the Phase 2 Facility [*and the Phase 3 Facility*];”.*

7.3 The definition of “**Loss Adjusted Metered Output**” shall be deleted and replaced by the following definition:

*“**Loss Adjusted Metered Output**” means the BM Unit Metered Volume for the Facility[,]/[*and*] the Phase 2 Facility [*and the Phase 3 Facility*] in respect of a Settlement Unit as measured by the Facility Metering Equipment less the total Imported Input*

Electricity (expressed in MW) used by the Generating Station in that Settlement Unit, such net amount being 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;”

- 7.4 Condition 18.1 (*Metered Output calculation*) shall be deleted and replaced by the following provision:

“18.1 *The CfD Counterparty shall calculate the Metered Output in respect of each Settlement Unit. The “Metered Output” shall be (subject to Conditions 18.2 to 18.6) 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 the Phase 1 Apportionment Percentage (expressed as a decimal) applicable to that Settlement Unit.*”

8. BILLING STATEMENTS

- 8.1 Condition 22.4 (*Contents of Billing Statement*) of the Conditions shall be amended so that Condition 22.4(~~N1~~) is deleted and replaced by the following provisions:

Phase 1 Apportionment Percentage

(~~N1~~) *the Phase 1 Apportionment Percentage in respect of each Settlement Unit falling in the Relevant Billing Period; and*”

9. SETTLEMENT

- 9.1 A new Condition 23.5A shall be inserted before Condition 23.6 of the Conditions:

“23.5A *Any dispute or part of a dispute pursuant to Condition 23.3 which relates to the Apportionment Percentage shall be resolved in accordance with the Dispute Resolution Procedure and not as a Trading Dispute pursuant to the BSC.*”

10. METERING UNDERTAKINGS

- 10.1 New Conditions 31.6A to 31.6C shall be inserted below Condition 31.6 of the Conditions with the heading “***Undertakings: Information and Monitoring System***”:

“31.6A *With effect from the Start Date, the Generator shall procure that:*

(A) *the Information and Monitoring System accurately records the Phase 1 Active Turbines[,]/[and] the Phase 2 Active Turbines[, the Phase 3 Active Turbines] and the Phased Project Active Turbines in respect of each Billing Period; and*

(B) *in relation to each Billing Period, the Information Monitoring Reports are provided to the CfD Counterparty by the Generator, or by [one of]*

Project Company 2 [or Project Company 3] on its behalf no later than one Business Day after each Billing Period,

*(the “**Information and Monitoring System Obligation**”).*

31.6B If the Generator is in breach of the Information and Monitoring System Obligation, the CfD Counterparty shall 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 the CfD Counterparty shall notify the Generator of the suspension of payment of any Net Payable Amounts promptly at the beginning of any such suspension period.

31.6C If the Generator subsequently complies with its Information and Monitoring System Obligation, then the CfD Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 31.6B. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 31.6C.”

11. INFORMATION AND MONITORING SYSTEM AUDIT RIGHT

Scope of Information and Monitoring System Audit Right

11.1 The Generator shall grant or shall procure that the CfD Counterparty and any suitably-qualified persons nominated by the CfD Counterparty shall have access to:

- (A) (i) the Facility; (ii) the Facility Metering Equipment (including the Information and Monitoring System); (iii) any plant, machinery, processing or storage facility associated with the Facility; and (iv) any other location site, plant, machinery, processing or other facility where the Information and Monitoring System is located, including the Offshore Transmission System, in each case where the Generator can lawfully grant access;
- (B) the books and records of the Generator;
- (C) the directors, officers and employees of the Generator (who will be instructed to give promptly all Supporting Information reasonably requested by CfD Counterparty (and any suitable qualified persons nominated by it),

in each case as the CfD Counterparty considers to be reasonably necessary for the CfD Counterparty to fulfil the Information and Monitoring System Purposes (the “**Information and Monitoring System Audit Right**”).

11.2 If the CfD Counterparty intends to exercise the Information and Monitoring System Audit Right it shall give a notice to the Generator[,]/[and] Project Company 2 [and Project Company 3] (the “**Information and Monitoring System Audit Notice**”). An Information and Monitoring System Audit Notice shall:

- (A) specify that the CfD Counterparty (or suitably qualified persons nominated by it) intends to exercise the Information and Monitoring System Audit Right; and
- (B) specify the date by which the Generator shall permit, or procure, the exercise of the Information and Monitoring System Audit Right.

11.3 On receipt of an Information and Monitoring System Audit Notice, the Generator shall permit or procure that the CfD Counterparty is permitted to exercise the Information and Monitoring System 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 Information and Monitoring System Audit Notice.

Failure to comply with the Information and Monitoring System Audit Right

11.4 If the Generator fails to comply with its obligation to permit, or to procure that Project Company 2 [*or Project Company 3*] permits, the CfD Counterparty to exercise the Information and Monitoring System 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[,]/[*or*] Project Company 2 [*or Project Company 3*] 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 Net Payable Amounts; and (ii) the date from which it proposes to effect such suspension.

11.5 If the Generator subsequently complies with its obligation, or procures the compliance of Project Company 2 [*or Project Company 3*], to permit the CfD Counterparty to exercise the Information and Monitoring System Audit Right, then the CfD Counterparty shall pay any amounts which would have been payable but for the operation of Clause 11.4. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Clause 11.5.

12. CHANGES IN LAW

12.1 The “**Assumed Load Factor**” applicable to this Contract for Difference is [~~76~~].

12.2 The “**Post-Tax Real Discount Rate**” applicable to this Contract for Difference is [~~87~~].

13. PAYMENT CALCULATIONS: STRIKE PRICE

⁷⁶ 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.

⁸⁷ 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.

- 13.1 The “**Base Year**” applicable to this Contract for Difference is 2012.
- 13.2 The “**Initial Strike Price**” applicable to this Contract for Difference is £[●] per MWh⁹⁸.
- 14. BALANCING SYSTEM (BSUOS/RCRC) AND TLM(D)**
- 14.1 Part 10 (*Balancing System (BSUoS/RCRC) and TLM(D)*) of the Conditions [*does not apply*]/[*applies*] to this CfD Agreement¹⁰⁹.
- 14.2 The “**Initial Balancing System Charge**” is: £[●] per MWh¹⁴⁰.
- 14.3 The “**Initial Balancing System Charge Window**” is [●]¹²¹.
- 14.4 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.
- 15. CURTAILMENT**
- 15.1 Part 11 (*Curtailment*) of the Conditions applies to this Contract for Difference.¹³²
- 16. TERMINATION**
- 16.1 If the Installed Capacity Estimate (for these purposes only taking into account any adjustment to the Initial Installed Capacity as a result of an ICE Adjustment Notice having been given by the Generator to the CfD Counterparty but disregarding any adjustment to the Installed Capacity Estimate resulting from the operation of Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Construction Event*)) is lower than the Required ICE Threshold, the CfD Counterparty shall have the right but not the obligation to give the Generator a Pre-Start Date Termination Notice in accordance with Condition 51 (*Termination*) of the Conditions.

⁹⁸ Drafting note: The Initial Strike Price will be provided by the Delivery Body following the Allocation Round.

¹⁰⁹ Drafting note: Delete as applicable.

¹⁴⁰ 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.

¹²¹ 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.

¹³² Drafting note: This will apply in all circumstances in which this agreement applies.

- 16.2 Condition 51.12 of the Conditions shall be deleted and replaced with the following provision:

“51.12 The termination rights in this Condition 51 (Termination) or in the CfD Agreement are the only rights that either Party has to terminate the Contract for Difference.”

17. TRANSFERS

- 17.1 Notwithstanding Condition 79.1 of the Conditions, the CfD Counterparty shall not withhold its consent to the novation of the rights, benefits, obligations and liabilities of the Generator under this Contract for Difference provided that:

- (A) no Default has arisen and is continuing;
- (B) the rights, benefits, obligations and liabilities of the Generator under this Contract for Difference are transferred to and assumed by a Group Company;
- (C) the Generator shall have given to the CfD Counterparty not less than ten (10) Business Days written notice prior to any such novation specifying the identity of the relevant Group Company to which it intends to transfer its rights, benefits, obligations and liabilities and shall have provided such details in relation to that Group Company as the CfD Counterparty may reasonably request having received such notification;
- (D) the novation relates to all (and not part only) of the rights, benefits, obligations and liabilities of the Generator under this Contract for Difference;
- (E) such novation takes effect prior to the Start Date;
- (F) the rights, benefits, obligations and liabilities of the Generator under all other CfD Documents are also transferred to and assumed by the same Group Company at the same time;
- (G) the Transferee is an Eligible Generator; and
- (H) the novation is entered into in the form set out in Annex 4 (*Novation Agreement*), with such amendments as the CfD Counterparty may agree.

- 17.2 Where the CfD Counterparty consents to a novation pursuant to Clause 17.1 it shall enter into a novation agreement in the form described in Clause 17.1(H) with the Generator and the Group Company to which the rights, benefits, obligations and liabilities of the Generator are to be novated.

18. PRO FORMA NOTICES

Where this Agreement permits, or requires, either Party to give a notice to the other Party and the form of such notice is not set out in Annex 8 (*Pro forma notices*), such

notice shall be in substantially the form set out in the relevant annex to this Agreement. The foregoing: (i) shall be without prejudice to the requirement for the relevant notice to include such content as may be prescribed by the relevant Clause; and (ii) shall apply only if the form of the notice in respect of the relevant Clause is contained in an annex to this Agreement.

19. NOTICES

19.1 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:

Address:	
Email address:	
For the attention of:	

(B) in the case of the CfD Counterparty:

Address:	
Email address:	
For the attention of:	

20. AGENT FOR SERVICE OF PROCESS

20.1 *[Condition 87 (Agent for service of process) shall not apply to this Contract for Difference and there shall be no Service Agent.] I [Condition 87 (Agent for service of process) shall apply to this Contract for Difference and the Service Agent shall be [●] of [●].]* ¹⁴³

¹⁴³ 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
(Project Commitments)

Part A: General Project Commitments

Delivery to the CfD Counterparty of the following:

- (A) a copy of a resolution of the board of directors of the Generator (or an equivalent management committee or body) resolving to:
- (i) undertake the Project;
 - (ii) approve the total financial commitments required to commission the Project (the “**Total Phase 1 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 copy of a resolution of the board of directors of Project Company 2 (or an equivalent management committee or body) resolving to:
- (i) undertake the Phase 2 Project;
 - (ii) approve the total financial commitments required to commission the Phase 2 Project (the “**Total Phase 2 Project Spend**”); and
 - (iii) approve a timetable for undertaking the Phase 2 Project which demonstrates that the Phase 2 Facility can reasonably be expected to be commissioned no later than the Phase 2 Longstop Date;
- (C) *[a copy of a resolution of the board of directors of Project Company 3 (or an equivalent management committee or body) resolving to:*
- (i) undertake the Phase 3 Project;*
 - (ii) approve the total financial commitments required to commission the Phase 3 Project (the “**Total Phase 3 Project Spend**”); and*
 - (iii) approve a timetable for undertaking the Phase 3 Project, which demonstrates that the Phase 3 Facility can reasonably be expected to be commissioned no later than the Phase 3 Longstop Date;]*
- (D) a Directors’ Certificate from either:
- (i) the Generator certifying that:

- (a) it has, or will have, sufficient financial resources to meet the Total Phase 1 Project Spend;
 - (b) any contract entered into by the Generator and provided as Supporting Information pursuant to the Milestone Requirements Notice is, in its reasonable opinion, by reference to the facts and circumstances then existing:
 - (1) legal, valid and binding; and
 - (2) entered into with one or more counterparties each of whom is able to perform its obligations under such contract;
 - (c) it has a leasehold or freehold interest in the site where the Facility is based (the “**Facility 1 Site**”) or a contract to obtain the same;
 - (d) the Facility 1 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 1 Site for the purposes of the Project;
 - (e) there are available to the Facility 1 Site such rights, easements and services as are necessary to undertake the Project and operate the Facility;
 - (f) it has identified all necessary consents and planning permissions to undertake the Project (the “**Phase 1 Necessary Consents**”); and
 - (g) there is a credible strategy in place to obtain the Phase 1 Necessary Consents and the Phase 1 Necessary Consents are not subject to any condition for which there does not exist a plan approved by its board of directors to satisfy that condition, such that it is not aware of any necessary consents or planning permissions which cannot be obtained or complied with
- ((c) to (g), together the “**Phase 1 Facility Requirements**”); and
- (ii) Project Company 2 certifying that:
 - (a) it has, or will have, sufficient financial resources to meet the Total Phase 2 Project Spend;
 - (b) any contract entered into by Project Company 2 and provided as Supporting Information pursuant to the Milestone Requirements Notice, is, in its reasonable opinion, by reference to the facts and circumstances then existing:
 - (1) legal, valid and binding; and

- (2) entered into with one or more counterparties each of whom is able to perform its obligations under such contract;
 - (c) it has a leasehold or freehold interest in the site where the Phase 2 Facility is based (“**Facility 2 Site**”) or a contract to obtain the same;
 - (d) the Facility 2 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 2 Site for the purposes of the Phase 2 Project;
 - (e) there are available to the Facility 2 Site such rights, easements and services as are necessary to undertake the Phase 2 Project and operate the Phase 2 Facility;
 - (f) it has identified all necessary consents and planning permissions to undertake the Phase 2 Project (the “**Phase 2 Necessary Consents**”); and
 - (g) there is a credible strategy in place to obtain the Phase 2 Necessary Consents and the Phase 2 Necessary Consents are not subject to any condition for which there does not exist a plan approved by its board of directors to satisfy that condition, such that it is not aware of any necessary consents or planning permissions which cannot be obtained or complied with;
- ((c) to (g), together the “**Phase 2 Facility Requirements**”); and
- (iii) [*Project Company 3 certifying that:*
 - (a) *it has, or will have, sufficient financial resources to meet the Total Phase 3 Project Spend;*
 - (b) *any contract entered into by the Project Company 3 and provided as Supporting Information pursuant to the Milestone Requirements Notice, is, in its reasonable opinion, by reference to the facts and circumstances then existing:*
 - (1) *legal, valid and binding; and*
 - (2) *entered into with one or more counterparties each of whom is able to perform its obligations under such contract;*
 - (c) *it has a leasehold or freehold interest in the site where the Phase 3 Facility is based (the “**Facility 3 Site**”) or a contract to obtain the same;*
 - (d) *the Facility 3 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 3 Site for the purposes of the Phase 3 Project;

- (e) *there are available to the Facility 3 Site such rights, easements and services as are necessary to undertake the Phase 3 Project and operate the Phase 3 Facility;*
- (f) *it has identified all necessary consents and planning permissions to undertake the Phase 3 Project (the “**Phase 3 Necessary Consents**”); and*
- (g) *there is a credible strategy in place to obtain the Phase 3 Necessary Consents and the Phase 3 Necessary Consents are not subject to any condition for which there does not exist a plan approved by its board of directors to satisfy that condition, such that it is not aware of any necessary consents or planning permissions which cannot be obtained or complied with;*

*((c) to (g), together the “**Phase 3 Facility Requirements**”);]*

or

- (iv) a Parent Entity certifying the matters described in paragraphs (i),(ii) and (iii) of this paragraph (D) on behalf of the Generator [*and*[,] Project Company 2 [*and Project 3*]; and
- (E) Supporting Information evidencing:
 - (i) that:
 - (a) the Generator has, or will have, sufficient financial resources to meet the Total Phase 1 Project Spend;
 - (b) the Phase 2 Company has, or will have, sufficient financial resources to meet the Total Phase 2 Project Spend; [*and*
 - (c) *the Phase 3 Company has, or will have, sufficient financial resources to meet the Total Phase 3 Project Spend;*] and
 - (ii) the Phase 1 Facility Requirements [*and*[,] the Phase 2 Facility Requirements [*and the Phase 3 Facility Requirements*].

Part B: Technology Specific Project Commitments

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

- (A) entry by each of the Generator[,]/[and] Project Company 2 [and Project Company 3] into an engineering, procurement and construction contract providing for the supply and installation of the Material Equipment.
- (B) entry by each of the Generator[,]/[and] Project Company 2 [and Project Company 3] into an agreement for the supply of the Material Equipment.
- (C) entry by each of the Generator[,]/[and] Project Company 2 [and Project Company 3] 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 2 of Part B, “**Material Equipment**” means, in respect of the Facility [or]/[,], the Phase 2 Facility [or the Phase 3 Facility] ~~all equipment necessary for electricity generation at that facility and includes the wind turbine groups,~~ 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.

**Annex 4
(Milestone Requirements Notice)**

To: [●] (the "CfD Counterparty")
[Address]

From: [[●] ("Project Company 1")
[●] ("Project Company 2")
[[●] ("Project Company 3")]]/

OR

[[●] (the "Parent Entity")]
[Unique reference number[s]: [●]]

Dated: [●]

CONTRACT FOR DIFFERENCE – MILESTONE REQUIREMENTS NOTICE

Dear Sirs,

1. We refer to the agreement dated [●] between you as the CfD Counterparty and Project Company 1 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 [*and Condition 4.3*].
3. This is a Milestone Requirements Notice [*provided by us on behalf of each of the Generator[,]/[and] Project Company 2 [and Project Company 3]*].
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 Pre-Commissioning Costs [by Project Company 1,]/[and/or] Project Company 2 [and/or Project Company 3], being £[●].*]/[*We enclose such information as is listed as the Project Commitments and the following Supporting Information which we consider relevant to evidence compliance with or fulfilment of the Project Commitments: [●].*]
5. [We enclose:
 - (a) a Directors' Certificate on behalf of Project Company 1 ~~certifying that~~in relation to the information in, and enclosed with, this notice ~~in respect of it is true, complete and accurate in all material respects and is not misleading;~~ [and]
 - (b) a Directors' Certificate on behalf of Project Company 2 ~~certifying that~~in relation to the information in, and enclosed with, this notice ~~in respect of it is true, complete and accurate in all material respects and is not misleading.~~]/[; and

- (c) a Directors' Certificate on behalf of Project Company 3 ~~certifying that~~in relation to the information in, and enclosed with, this notice ~~in respect of it is true, complete and accurate in all material respects and is not misleading.~~ OR

[In our capacity as Parent Entity, we enclose a Directors' Certificate ~~certifying that~~in relation to 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
[Project Company 1
Project Company 2
[Project Company 3]] OR [the Parent Entity]

**Annex 5
(Turbine Reallocation Notice)**

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

From: [●] (“Project Company 1”)
[●] (“Project Company 2”)
[[●] (“Project Company 3”)]
[Unique reference number(s): [●]]

Date: [●]

CONTRACT FOR DIFFERENCE – TURBINE REALLOCATION NOTICE

Dear Sirs,

1. We refer to the following agreements between you as the CfD Counterparty and us as the Generator (the “**Agreements**”):

- (A) the agreement between the CfD Counterparty and Project Company 1 dated [●];
[and]
- (B) the agreement between the CfD Counterparty and Project Company 2 dated [●].]; and
- (C) *the agreement between the CfD Counterparty and Project Company 3 dated [●].*

Terms and expressions defined in or incorporated into the Agreements have the same meanings when used in this notice.

2. We further refer you to Clause 6.5 of each of the Agreements.

3. This is a Turbine Reallocation Notice.

4. The proposed reallocation of offshore wind turbines [*between*]/[*among*] the Agreements is [●] and the effect of this reallocation is:

- (A) Phase 1 Installed Capacity Estimate: []
- (B) Phase 2 Installed Capacity Estimate: []
- (C) [*Phase 3 Installed Capacity Estimate:*[]].

5. We enclose evidence of a change in the assets comprising the Facility arising in connection with this turbine reallocation.

6. We enclose such Supporting Information as we consider relevant to evidence this reallocation.

Yours faithfully,

.....

For and on behalf of
Project Company 1
Project Company 2
[Project Company 3]

**Annex 6
(Novation Agreement)**

THIS NOVATION AGREEMENT (the “**Agreement**”) is dated [●] and made as a deed

BETWEEN:

- (1) [insert name and details of the generator] (the “**Transferor**”);
- (2) [insert name and details of the transferee] (the “**Transferee**”); and
- (3) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated under the laws of England and Wales whose registered office is 3 Whitehall Place, London SW1A 2AW and whose company number is 08818711 (the “**CfD Counterparty**”),

(each a “**Party**” and together the “**Parties**”).

BACKGROUND

- (A) The CfD Counterparty and the Transferor have entered into a contract for difference dated [●] (the “**Contract for Difference**”).
- (B) The CfD Counterparty has consented to a novation of the Contract for Difference and the other CfD Documents in favour of the Transferee under clause 17 (*Transfers*) of the Contract for Difference.
- (C) The parties to the Contract for Difference have therefore agreed that the Contract for Difference and the other CfD Documents shall be novated to the CfD Counterparty and the Transferee with effect from the Effective Date, subject to the terms of this Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement and the recitals:

“**CfD Documents**” means the Contract for Difference and each of the agreements entered into between the CfD Counterparty and the Transferor which are listed in Annex 1 to this Agreement;

“**Conditions Precedent**” means delivery to the CfD Counterparty of the following:

- (A) a legal opinion addressed to the CfD Counterparty, in form and content reasonably satisfactory to the CfD Counterparty, from the legal advisers to the Transferee confirming that the Transferee:

- (i) is duly formed and validly existing under the laws of the jurisdiction of formation; and
 - (ii) has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, this Agreement; and
- (B) evidence, in form and content satisfactory to the CfD Counterparty, acting reasonably, of compliance by the Transferee with “know your customer” or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by this Agreement; and
- (C) if the Generator has provided the CfD Counterparty with a Further CP Notice in respect of the Further Condition Precedent listed at Paragraph 2.1(A) of Part B of Schedule 1 (*Conditions Precedent*), the CfD Counterparty having received written confirmation from the CfD Settlement Services Provider that:
- (i) it has received the CfD Settlement Required Information which is required from the Transferee; and
 - (ii) the Transferee has in place the systems and processes which are necessary for the continued provision of the CfD Settlement Required Information; and

“**Effective Date**” means the date on which the CfD Counterparty notifies the Transferee that the CfD Counterparty considers that the Transferee has fulfilled the Conditions Precedent.

1.2 Unless a contrary indication appears:

- (A) words and expressions defined, or defined by reference, in the Contract for Difference have the same meanings in this Agreement and the recitals;
- (B) Conditions 1.3 and 1.4(A)-(B) of the Contract for Difference shall apply to this Agreement; and
- (C) any reference in this Agreement to a “**Clause**” is a reference to a Clause of this Agreement.

2. **CFD COUNTERPARTY RELEASE AND DISCHARGE**

With effect from the Effective Date, the CfD Counterparty releases and discharges the Transferor 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 CfD Documents.

3. **TRANSFEROR RELEASE AND DISCHARGE**

- 3.1 With effect from the Effective Date, the Transferor 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 Transferor and arising out of or in respect of the CfD Documents.
- 3.2 The Transferor's obligations under Condition 72 (*Confidentiality*) of the Contract for Difference shall continue in effect notwithstanding any other provision of this Agreement.

4. TRANSFEREE ASSUMPTION OF LIABILITIES

With effect from the Effective Date, the Transferee undertakes to assume all the liabilities, duties and obligations of the Transferor of every description contained in the CfD Documents, 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 Transferor under the CfD Documents and to be bound by their terms and conditions in every way as if the Transferee were named in each CfD Document as a party in place of the Transferor from the date of each such CfD Document.

5. CFD COUNTERPARTY AGREEMENT TO PERFORM

With effect from the Effective Date, the CfD Counterparty agrees to perform all its duties and to discharge all its obligations under the CfD Documents and to be bound by all the terms and conditions of the CfD Documents in every way as if the Transferee were named in each CfD Document as a party in place of the Transferor from the date of each CfD Document.

6. REPLACEMENT OF TRANSFEROR BY TRANSFEREE

As from the Effective Date, reference to the Transferor (by whatsoever name known) in each CfD Document shall be deleted and replaced by reference to the Transferee.

7. TRANSFEREE'S REPRESENTATIONS AND WARRANTIES

The Transferee shall on the Effective Date represent and warrant to the CfD Counterparty that:

- (A) as at the Effective Date, the representations and warranties set out at Conditions 28.1 and 28.2 of the Contract for Difference are, in respect of the Transferee, true, accurate and not misleading on the basis that references to the Generator shall be deemed to be references to the Transferee; and
- (B) it is an Eligible Generator.

8. CONTINUANCE OF THE CONTRACT FOR DIFFERENCE

It is hereby agreed and declared that the CfD Documents as novated shall continue in full force and effect and that, as from the Effective Date, the terms and conditions of the CfD Documents have only changed to the extent set out in this Agreement.

9. FURTHER ASSURANCE

With effect from the Effective Date, the Parties shall enter into such further agreements and do all such other things as are necessary to substitute the Transferee for the Transferor in respect of the rights, benefits, obligations or liabilities that are, or are to be, the subject of this Agreement and to give effect to any consequential amendments to the Contract for Difference or any other CfD Document that are necessary to give effect to 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 Transferee pursuant to this Agreement or the Contract for Difference shall be served in accordance with Condition 80 (*Notices*) of the Contract for Difference and to:

Address:	
Email address:	
For the attention of:	

13. COUNTERPARTS

This Agreement 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 Agreement.

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.

The TRANSFEROR

EXECUTED and delivered as a **DEED** by)
[name of Transferor])
acting by its director/duly appointed attorney)
Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:

The TRANSFEREE

EXECUTED and delivered as a **DEED** by)
[name of Transferee])
acting by its director/duly appointed attorney)
Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:

The CfD COUNTERPARTY

EXECUTED and delivered as a **DEED** by)
LOW CARBON CONTRACTS COMPANY LTD)
acting by its director/duly appointed attorney)
Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:

**Annex 1 to Novation Agreement
CfD Documents**

[List of other CfD Documents to be inserted here]

**Annex 7
(Information and Monitoring System Audit Notice)**

To: [•] (the “**Generator**”)
[Unique reference number: [•]]

From: [•] (the “**CfD Counterparty**”)
[Address]

Dated: [•]

**CONTRACT FOR DIFFERENCE –
INFORMATION AND MONITORING SYSTEM 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 refer you to Clause 11.2 of the Agreement.
3. This is an Information and Monitoring System Audit Notice.
4. We [*intend*]/[*nominate* [•]] to exercise the Information and Monitoring System Audit Right.
5. The date by which you must, in accordance with Clause 11.3 of the Agreement, permit the exercise of the Information and Monitoring System Audit Right is [•].

Yours faithfully

.....
For and on behalf of
the **CfD Counterparty**

Document comparison by Workshare Professional on 04 November 2015
15:40:42

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Legend:	
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Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Insertions	125
Deletions	124
Moved from	0
Moved to	0
Style change	0
Format changed	3
Total changes	252