

ENERGY

ELECTRICITY

**MODIFICATIONS TO STANDARD CONDITIONS OF ELECTRICITY
SUPPLY LICENCE**

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

ENERGY

ELECTRICITY

MODIFICATIONS TO STANDARD CONDITIONS OF ELECTRICITY SUPPLY LICENCE

The Secretary of State makes the following modifications to licences, in exercise of the powers conferred by sections 50 and 64(8), (9) and (13) of the Energy Act 2013 (“the Act”).

The Secretary of State has before making these modifications consulted in accordance with sections 54(2) of the Act.

A draft of these modifications has been laid before Parliament in accordance with section 64(2) of the Act. Neither House of Parliament resolved, within the 40-day period referred to in section 64(3) of the Act, that the Secretary of State should not make the modifications.

Modifications to the standard conditions of electricity supply licence

- 1 The standard conditions of electricity supply licences are modified in accordance with paragraph 2 below, with effect from 29 November 2014.
- 2 After Condition 38, insert:

“Condition 38A. Offtaker of Last Resort

Power Purchase Agreement Scheme – Participation by Licensed Electricity Suppliers

- 38A.1 Where the Authority issues an OLR Notice to the licensee and:
- (a) the licensee is a Mandatory Licensed Supplier, it must submit an OLR Auction Bid to the Authority in respect of each Backstop Power Purchase Agreement (**BPPA**) enclosed with the OLR Notice;
 - (b) the licensee is a Voluntary Licensed Supplier, it may submit an OLR Auction Bid to the Authority in respect of any BPPA enclosed with the OLR Notice.
- 38A.2 Where the licensee is a Mandatory Licensed Supplier, it is not required to comply with paragraph 38A.1(a) where the Authority has, after issuing the OLR Notice, issued a notice to the licensee in accordance with the PPA Scheme Regulations informing it that no BPPA is to be entered into in respect of the electricity generator.
- 38A.3 Where the licensee submits an OLR Auction Bid it may not subsequently withdraw, amend or revoke that OLR Auction Bid.

OLR Notice

- 38A.4 An OLR Notice is a notice given by the Authority to the licensee (and all other licensed electricity suppliers) in accordance with the PPA Scheme Regulations which will:

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

- (a) specify the form and manner in which, and date by which, an OLR Auction Bid is to be submitted to the Authority; and
- (b) be accompanied by:
 - (i) a copy of each BPPA (incorporating the Project Information Schedule), received by the Authority from the electricity generator, that the electricity generator is seeking to enter into; and
 - (ii) all of the other Project Information received by the Authority from the electricity generator but excluding the Statement of Confirmation.

OLR Auction Bid

38A.5 The licensee must in respect of each BPPA for which it submits an OLR Auction Bid ('the applicable BPPA'):

- (a) submit the OLR Auction Bid in the form and manner specified, and by the date specified, in the OLR Notice;
- (b) confirm in its OLR Auction Bid whether or not it has an Additional BM Unit registered in its name for the GSP Group to which the generating station is connected;
- (c) enclose two copies of the applicable BPPA which are signed by (or for and on behalf of) the licensee but are not dated;
- (d) where the licensee is a Voluntary OLR Licensee, specify whether or not the OLR Auction Bid may be considered, in accordance with the PPA Scheme Regulations, by the Authority as a reserve bid; and
- (e) specify the Management Fee it will apply in respect of the applicable BPPA should the Authority determine under the relevant BPPA Auction that the licensee's bid is the successful bid, or (as the case may be) the successful reserve bid, for the BPPA.

Status of OLR Auction Bid

38A.6 An OLR Auction Bid constitutes an offer by the licensee to enter into the applicable BPPA in the event the Authority determines, under the relevant BPPA Auction, the licensee's bid to be the successful bid or (as the case may be) the successful reserve bid.

38A.7 Where an OLR Auction Bid is submitted by:

- (a) a Voluntary OLR Licensee and the licensee specifies that the OLR Auction Bid:
 - (i) may not be considered by the Authority as a reserve bid, the OLR Auction Bid shall be capable of acceptance by the electricity generator at any time prior to the date which is 4 Working Days after the close of the auction in respect of the applicable BPPA;

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

- (ii) may be considered by the Authority as a reserve bid, the OLR Auction Bid shall be capable of acceptance by the electricity generator at any time prior to the date which is 10 Working Days after the commencement date of the applicable BPPA entered into between the electricity generator and the licensed electricity supplier that submitted the bid determined by the Authority (under the relevant BPPA Auction) as the successful bid;
- (b) a Mandatory OLR Licensee, the OLR Auction Bid shall be capable of acceptance by the electricity generator at any time prior to the date which is 10 Working Days after the commencement date of the applicable BPPA entered into between the electricity generator and the licensed electricity supplier that submitted the bid determined by the Authority (under the relevant BPPA Auction) as the successful bid.

Power Purchase Agreement Scheme – Participation by Electricity Generators

- 38A.8 For the purposes of this standard condition 38A, an electricity generator is eligible to enter into a BPPA under the Power Purchase Agreement Scheme in respect of a generating station (or a proportion of the capacity of a generating station) where:
- (a) the generating station is an Eligible Generating Station;
 - (b) the generating station is located in Great Britain, in the territorial sea adjacent to Great Britain, or in a renewable energy zone designated as such under the Energy Act 2004;
 - (c) the electricity generator is, in respect of the generating station, a party to a Relevant Contract:
 - (i) which was entered into prior to any OLR Closure Date that is applicable in respect of the generating station; and
 - (ii) in respect of which the Contract Commencement Date has occurred on or before the date the electricity generator submitted its expression of interest to the Authority;
 - (d) the generating station (or the relevant proportion of the capacity of the generating station) is not subject to an existing BPPA (unless the existing BPPA is due to expire or terminate on or before the Preferred BPPA Commencement Date of any new BPPA in respect of the generating station);
 - (e) the electricity generator has not (and no previous party to the Relevant Contract described in paragraph 38A.8(c) has) previously withdrawn an expression of interest to enter into a BPPA in respect of the generating station after the date on which it (or the previous party to the Relevant Contract described in paragraph 38A.8(c)) submitted to the Authority a Statement of Confirmation in respect of that expression of interest;

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

- (f) the electricity generator has not (and no previous party to the Relevant Contract described in paragraph 38A.8(c) has) failed to enter into a BPPA in respect of the generating station within 3 Working Days of receiving from the Authority, under and in accordance with the PPA Scheme Regulations, a copy of the BPPA signed by a licensed electricity supplier;
- (g) the electricity generator has not (and no previous party to the Relevant Contract described in paragraph 38A.8(c) has), failed to comply with:
 - (i) a notice given by the Authority under and in accordance with the PPA Scheme Regulations requiring the submission of further Project Information; or
 - (ii) a notice given by the Authority under and in accordance with the PPA Scheme Regulations where the Authority has identified an error or omission in any Project Information submitted by the electricity generator (or the previous party to the Relevant Contract described in paragraph 38A.8(c)),in each case within 5 days of the date on which the relevant notice was given;
- (h) subject to the application of paragraph 38A.25, any BPPA previously entered into in respect of the generating station (whether by the electricity generator or any previous party to the Relevant Contract described in paragraph 38A.8(c)) has not been terminated by a licensed electricity supplier in exercise of a termination right under the BPPA in favour of the licensed electricity supplier; and
- (i) the electricity generator is:
 - (i) where the Final Installed Capacity of the generating station is less than 100MW, seeking to enter into a BPPA for the total amount of the Final Installed Capacity;
 - (ii) where the Final Installed Capacity of the generating station is equal to or more than 100MW, seeking to enter into a BPPA for at least 50% of the Final Installed Capacity.

38A.9 Where the Authority is required under and in accordance with the PPA Scheme Regulations to determine whether an electricity generator is eligible to participate in the Power Purchase Agreement Scheme, in assessing whether the requirements set out in:

- (a) paragraphs 38A.8(c) and 38A.8(i) are met, the Authority's assessment shall be made by reference to information provided to the Authority by the CFD Counterparty;
- (b) paragraphs 38A.8(a), 38A.8(b) and 38A.8(d) to 38A.8(i) are met, the Authority's assessment shall be made by reference to information provided to or held by the Authority for the purposes of the Power Purchase Agreement Scheme.

Generator's Expression of Interest

38A.10 Paragraph 38A.11 applies where an electricity generator has, in the form and manner specified by the Authority, submitted an expression of interest to the Authority which:

- (a) states that the electricity generator is seeking to enter into a BPPA under the Power Purchase Agreement Scheme;

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

- (b) specifies the generating station in respect of which the electricity generator is seeking to enter into a BPPA;
- (c) states that the electricity generator is eligible to enter into a BPPA in respect of the specified generating station; and
- (d) provides the following information:
 - (i) the full name of the electricity generator (and, if applicable, the jurisdiction of its registration and registration number);
 - (ii) the Final Installed Capacity of the generating station;
 - (iii) where the electricity generator is seeking a BPPA in respect of a proportion of the Final Installed Capacity, the total amount of capacity (expressed in MW) for which a BPPA is sought;
 - (iv) the location and GSP Group of, and technology used by, the generating station; and
 - (v) the agreement number of the Relevant Contract to which the generating station is subject.

38A.11 Where this paragraph applies the licensee will, by such means as the Authority may from time to time specify:

- (a) be notified by the Authority, under and in accordance with the PPA Scheme Regulations, of the electricity generator's expression of interest; and
- (b) receive a copy of the information referred to in paragraph 38A.10(d) and any of the Project Information (but excluding the Statement of Confirmation) that the electricity generator may also have provided with its expression of interest.

Project Information

38A.12 Project Information, in respect of an expression of interest, comprises:

- (a) a statement of the number of BPPAs the electricity generator is seeking to enter into in respect of the generating station;
- (b) a completed copy of the Project Information Schedule for each BPPA the electricity generator is seeking to enter into, which Project Information Schedule must:
 - (i) where it is submitted to the Authority by the electricity generator less than 5 Working Days after the submission of the expression of interest, include a Preferred BPPA Commencement Date that is a date which is between 26 and 45 Working Days after the date the electricity generator submits the expression of interest;
 - (ii) where it is submitted to the Authority by the electricity generator 5 or more Working Days after the submission of the expression of interest, include a Preferred BPPA Commencement Date that is a date which is between 22 and 41 Working Days after the date the electricity generator submits the Statement of Confirmation;

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

- (c) information in respect of any other matter, as may be specified from time to time by the Authority, which is required from the electricity generator for the purposes of entering into a BPPA under the Power Purchase Agreement Scheme; and
- (d) a Statement of Confirmation.

Provision of Information to the Authority

38A.13 Paragraph 38A.14 applies where:

- (a) following receipt of a notice referred to in paragraph 38A.11(a) or an OLR Notice; and
- (b) prior to the date by which an OLR Auction Bid is to be submitted to the Authority, the licensee becomes aware of any information that leads it to believe that the electricity generator is not eligible to enter into a BPPA under the Power Purchase Agreement Scheme in respect of the generating station for which that notice is issued.

38A.14 Where this paragraph applies the licensee must take all reasonable steps to:

- (a) notify the Authority that it has become aware of such information as is referred to in paragraph 38A.13; and
- (b) send a copy of that information to the Authority,

as soon as reasonably practicable prior to the date by which an OLR Auction Bid is to be submitted to the Authority.

Entering into a BPPA

38A.15 Paragraphs 38A.16 and 38A.17 apply where the licensee is notified by the Authority that its OLR Auction Bid is determined as the successful bid (or the successful reserve bid).

38A.16 Where this paragraph applies and the licensee does not, within 3 Working Days of receiving the notification referred to in paragraph 38A.15, receive from the electricity generator a copy of the applicable BPPA signed and dated by the electricity generator, the licensee must as soon as reasonably practicable notify the Authority that the applicable BPPA has not been entered into.

38A.17 Where this paragraph applies and the licensee receives from the electricity generator a copy of the applicable BPPA signed and dated by the electricity generator, the licensee must within 3 Working Days of receiving that copy of the applicable BPPA:

- (a) notify the Authority that the BPPA has been entered into and of the commencement date of the BPPA; and
- (b) submit to the Authority the evidence referred to in paragraph 38A.18.

38A.18 The evidence referred to in this paragraph is evidence that the licensee:

- (a) meets the required credit rating under the BPPA; or
- (b) has provided the credit support required under the BPPA, which evidence must be:

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

- (i) proof that the licensee (or any person acting on its behalf) has deposited cash in the electricity generator's nominated bank account; or
- (ii) a copy of the letter of credit or parent company guarantee (as the case may be) provided by the licensee to the electricity generator under the BPPA.

Termination of a BPPA

38A.19 Paragraph 38A.20 applies where:

- (a) the licensee is a party to a BPPA; and
- (b) either party to the BPPA serves on the other party a Termination Notice (or purported Termination Notice) under the BPPA.

38A.20 Where this paragraph applies the licensee must, in each case as soon as reasonably practicable:

- (a) give notice to the Authority that a Termination Notice (or purported Termination Notice) has been served under the BPPA;
- (b) send a copy of the Termination Notice (or purported Termination Notice) to the Authority;
- (c) where the validity of such a Termination Notice served is disputed by the recipient, give notice to the Authority of:
 - (i) the grounds for termination given by the party serving the Termination Notice;
 - (ii) the date on which the Termination Notice is stated to take effect; and
 - (iii) the nature of the dispute;
- (d) where:
 - (i) the recipient of the Termination Notice is the electricity generator; and
 - (ii) that electricity generator serves a claim form on the licensee disputing the licensee's right to terminate the BPPA,give notice to the Authority that it has been served with the claim form; and
- (e) where the licensee has in accordance with paragraph 38A.20(c) or 38A.20(d) notified the Authority of a dispute, give notice to the Authority of the outcome of that dispute.

Disputes Regarding Termination of a BPPA

38A.21 Where the licensee is a party to a BPPA, the licensee must ensure it does not commit a breach of the BPPA which results in the termination of that BPPA by the counterparty to that BPPA.

38A.22 Paragraph 38A.23 applies where the Authority has:

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

- (a) received a notice pursuant to paragraph 38A.20(a) stating that the licensee has served a Termination Notice under a BPPA; and
 - (b) not received a notice pursuant to paragraph 38A.20(d) in respect of that BPPA (the ‘old BPPA’).
- 38A.23 Where this paragraph applies the Authority shall determine that the information held by, or provided to, it does not support an electricity generator’s statement that it meets the requirement set out in paragraph 38A.8(h) in respect of the generating station which is the subject of the old BPPA.
- 38A.24 Paragraph 38A.25 applies where the Authority has received:
- (a) a notice pursuant to paragraph 38A.20(a) stating that the licensee has served a Termination Notice under a BPPA; and
 - (b) a notice pursuant to paragraph 38A.20(d) in respect of that BPPA (the ‘old BPPA’).
- 38A.25 Where this paragraph applies the Authority shall determine, unless and until such date as it is notified of a court judgment, which is a final judgment, in favour of the licensee upholding the right of the licensee to terminate the BPPA, that the information held by, or provided to, it supports an electricity generator’s statement that it has met the requirement set out in paragraph 38A.8(h), in respect of the generating station which is the subject of the old BPPA.
- 38A.26 For the purposes of paragraph 38A.25, a court judgment is a final judgment:
- (a) if the judgment has not been appealed against, at the end of the period for bringing an appeal; or
 - (b) if the judgment is appealed, the appeal has been disposed of by virtue of it:
 - (i) being determined and the period within which any further appeal may be brought having expired; or
 - (ii) being abandoned or otherwise ceasing to have effect.

Mandatory OLR Licensee

- 38A.27 The licensee shall be a “**Mandatory Licensed Supplier**” in respect of any OLR Year where it receives a notice from the Authority, given under and in accordance with the PPA Scheme Regulations, stating that the licensee is required to participate in all auctions which take place in a particular OLR Year on the basis that it meets the relevant criterion set out in paragraph 38A.28 (a **Mandatory Notice**).
- 38A.28 The relevant criterion is that the total amount of electricity supplied by the licensee, or by the licensee and any Affiliate of the licensee, to Customers in the Applicable OLR Year is equal to or greater than 6% of the total amount of electricity supplied by all licensed electricity suppliers to Customers in the Applicable OLR Year.
- 38A.29 Where the licensee receives a Mandatory Notice and does not already have an Additional BM Unit registered in its name for every GSP Group, it must within 20 Working Days of that Mandatory Notice commence all necessary steps to ensure that an Additional BM Unit is registered in its name for every GSP Group.

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

BPPA Terms and Conditions

38A.30 Each BPPA to be entered into under the Power Purchase Agreement Scheme shall incorporate all of the terms and conditions determined by the Secretary of State in accordance with the PPA Scheme Regulations which shall (as a minimum):

- (a) provide for automatic expiry of the BPPA on the first anniversary of its commencement date; and
- (b) include terms and conditions:
 - (i) setting out the methodology to be applied for calculating the price to be paid to the electricity generator on a £/MWh basis for contracted electrical output (other than any excess output). That methodology shall provide for the price to be calculated by applying a discount to the market reference price which applies under the Relevant Contract to which the relevant generating station is subject with the discount being calculated by applying an indexation formula to a specified initial discount;
 - (ii) providing for monthly payments to the electricity generator for the contracted electrical output of the generating station sold and delivered (as evidenced by metering equipment at the generating station) by the electricity generator under the BPPA with the price for such output (excluding excess output) being calculated in accordance with the methodology set out in the BPPA;
 - (iii) setting out the circumstances in which the buyer of the contracted electrical output is obliged to provide credit support to the electricity generator, the nature of such credit support and the method for calculating the amount of such credit support;
 - (iv) requiring the electricity generator to install and maintain metering equipment at the generating station for the purposes of measuring the contracted electrical output and, where the generating station is or will be connected to a distribution network, requiring the buyer of the contracted electrical output to register the metering equipment;
 - (v) comprising warranties by each party to the BPPA, including warranties that it has in place policies designed to prevent the occurrence of bribery and corrupt conduct, and obligations regarding compliance with those policies;
 - (vi) obliging each party to the BPPA to comply with applicable laws;
 - (vii) for the provision by the electricity generator to the buyer of the contracted electrical output no less than monthly of forecasts of the likely future availability of the generating station;
 - (viii) requiring the electricity generator to notify the buyer of the contracted electrical output of periods in which maintenance of the generating station is planned;
 - (ix) setting out the circumstances in which the BPPA may be terminated by a party prior to its automatic expiry; and
 - (x) providing a mechanism for the resolution of disputes.

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

OLR Levelisation Process

38A.31 The licensee must:

- (a) participate in the levelisation process set out in Part 3 of the PPA Scheme Regulations;
- (b) cooperate with the Authority to provide such information as is required by the Authority under and in accordance with the PPA Scheme Regulations for the efficient administration of the OLR levelisation account; and
- (c) make such levelisation payments as it is required to make into the OLR levelisation account pursuant to Part 3 of the PPA Scheme Regulations,

in accordance with the Authority's instructions.

Interpretation and Definitions

38A.32 In this Condition, unless the context requires otherwise, any reference to a 'generating station' shall be read as a reference to:

- (a) where the whole of the generating station is subject to a Relevant Contract, the whole of the generating station; and
- (b) where only a part of the generating station is subject to a Relevant Contract, that part of the generating station that is subject to the Relevant Contract.

38A.33 In this Condition, a Statement of Confirmation means a statement signed by a director of the electricity generator which:

- (a) declares that the Project Information submitted to the Authority by the electricity generator in respect of the electricity generator's expression of interest to enter into a BPPA is complete, true and accurate;
- (b) confirms that the electricity generator meets the warranties set out in, and can comply with the terms of, each BPPA it is seeking to enter into and in respect of which it has submitted a completed Project Information Schedule;
- (c) declares that the electricity generator will provide, where requested to do so by a licensed electricity supplier and within a reasonable period of time, such information as may be reasonably required by the electricity supplier for the purposes of enabling the electricity supplier to carry out its due diligence work prior to submitting an OLR Auction Bid; and
- (d) confirms that the electricity generator understands that should it withdraw its expression of interest in respect of the generating station at any time following the submission of the statement or fail to enter into the applicable BPPA within 3 Working Days of receiving from the Authority a copy signed (but undated) by a licensed electricity supplier, it will no longer be eligible to participate in the Power Purchase Agreement Scheme in respect of the generating station.

38A.34 In this Condition:

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

Additional BM Unit	has the meaning given to it in the Balancing and Settlement Code on the date this standard condition 38A takes effect.
Applicable OLR Year	means: <ul style="list-style-type: none">(a) for the purposes of determining whether the licensee is required to participate in all auctions which take place in the OLR Year starting on 1 April 2015, the twelve month period beginning on 1 October 2013 and ending on 30 September 2014; and(b) for the purposes of determining whether the licensee is required to participate in all auctions which take place in any other OLR Year, the twelve month period beginning on 1 April and ending on 31 March immediately preceding the date of the Mandatory Notice.
Backstop Power Purchase Agreement (BPPA)	means an agreement for the sale and purchase of electricity and associated renewables benefits for the period and incorporating the terms referred to in paragraph 38A.30.
BPPA Auction	means, in respect of a BPPA, the auction held by the Authority in order to determine the successful and reserve bids for that BPPA.
CFD Counterparty	means the person or persons designated as a counterparty for contracts for difference in accordance with section 7 of the Energy Act 2013.
Contract Commencement Date	means, in respect of a Relevant Contract, the start date of the period in respect of which the obligations relating to payments to be made under that Relevant Contract first take effect.
Eligible Generating Station	has the same meaning given to “eligible generating station” in paragraph 1 of the Schedule to the Contracts for Difference (Definition of Eligible Generator) Regulations 2014, but excludes a generating station of the type described in paragraphs 1(d) and 1(f) of that Schedule.
Final Installed Capacity	means the final installed capacity (expressed in MW) of the generating station as notified by the electricity generator to the CFD Counterparty.
GSP Group	has the meaning given to it in the Balancing and Settlement Code on the date this standard condition 38A takes effect.
Management Fee	means, in respect of any BPPA, the fee which the licensee will charge for entering into and managing that BPPA, which fee shall be expressed as an amount (whether negative or positive) for each MWh of electricity

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

	purchased under that BPPA.
Mandatory Licensed Supplier	has the meaning given to it in paragraph 38A.27.
OLR Auction Bid	means an offer to enter into a BPPA in respect of a generating station (or a proportion of the capacity of the generating station), submitted by the licensee, or where the context requires by any other licensed supplier, in accordance with this standard condition 38A.
OLR Closure Date	means, in respect of an Eligible Generating Station of a particular technology, the date (if any) published by the Secretary of State in accordance with Regulation 3(4)(b) of the PPA Scheme Regulations.
OLR levelisation account	has the meaning given to it in the PPA Scheme Regulations.
OLR Notice	has the meaning given to it in paragraph 38A.4.
OLR Year	means a period of 12 months commencing on 1 April and ending on the next 31 March.
Power Purchase Agreement Scheme	means the scheme established pursuant to sections 50 and 51 of the Energy Act 2013.
PPA Scheme Regulations	means the Power Purchase Agreement Scheme Regulations 2014.
Preferred BPPA Commencement Date	means, in respect of any BPPA, the date specified (or, where the context requires, to be specified) as the preferred commencement date in the Project Information Schedule to that BPPA (being a date which satisfies the requirements of paragraph 38.12(b)).
Project Information	has the meaning given to it in paragraph 38A.12.
Project Information Schedule	in respect of any BPPA means the schedule to such a BPPA which is entitled 'Project Information'.
Relevant Contract	means: (a) a contract for difference entered into by an electricity generator pursuant to chapter 2 of Part 2 of the Energy Act 2013; or (b) an investment contract entered into by an electricity generator pursuant to chapter 4 of Part 2 of the Energy Act 2013.
Termination Notice	means a notice given under and in accordance with a BPPA which provides for the BPPA to be terminated prior

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

to the expiry date of the BPPA.

Voluntary Licensed Supplier

means a licensed electricity supplier that is not a Mandatory Licensed Supplier.

Working Day

has the meaning given to it in the PPA Scheme Regulations.”

GUIDANCE NOTE

(This note is not part of the modifications)

These modifications to the standard conditions of electricity supply licence are made under section 50 of the Energy Act 2013 (c. 32) (“the Act”). The purpose of these licence modifications is to establish a power purchase agreement (PPA) scheme to facilitate investment in electricity generation. Other provisions in connection with the PPA scheme are contained in the Power Purchase Agreement Scheme Regulations 2014 (“the Regulations”).

Paragraphs 1 and 2 of Condition 38A provide for licensed electricity suppliers to submit (to the Authority) a bid to enter into a backstop power purchase agreement (BPPA) in respect of a generating station following receipt of a notice from the Authority (OLR Notice). A licensed electricity supplier that meets (in respect of the relevant year) the specified criterion set out in paragraph 28 of the Condition (referred to as Mandatory Licensed Supplier) must, unless it is notified by the Authority after the issue of the OLR Notice that no BPPA is to be entered into, submit such a bid. Any other licensed supplier (referred to as Voluntary Licensed Supplier) can choose to submit a bid. Paragraph 3 confirms that once a licensed electricity supplier has submitted its bid it cannot withdraw, amend or revoke it.

Paragraph 4 explains that an OLR Notice is a notice given in accordance with the Regulations and that the notice will (i) specify the way in which and date by which the bid to enter into the BPPA has to be submitted to the Authority, and (ii) include a copy of the BPPA(s) the electricity generator is seeking to enter into and other project information in respect of the generating station and/or the electricity generator.

Paragraph 5 confirms that where a licensed electricity supplier submits a bid to enter into a BPPA it must do so in accordance with the requirements specified in the OLR Notice. It also sets out the other information or documents that must be provided by the supplier in submitting its bid. This includes confirming whether or not it is (pursuant to the Balancing and Settlement Code) registered for an additional BM Unit for the relevant grid supply point group, sending two signed copies of the relevant BPPA, confirming where it is a Voluntary Licensed Supplier whether its bid may also be considered as a reserve bid, and specifying the fee it will charge for entering into and managing the BPPA.

Paragraphs 6 and 7 confirm that the status of a bid submitted by a licensed electricity supplier to enter into a BPPA is an offer to enter into that BPPA in the event that the Authority determines the bid to be a successful bid or a successful reserve bid and set out the periods for which such an offer remains open for acceptance (which period differs depending on whether the bid is one that may also be considered for the purposes of the reserve bid process in the event that such a process is required).

Paragraph 8 confirms the category of electricity generator with whom the licensed electricity supplier will be required (i.e. if a Mandatory Licensed Supplier) or can choose (i.e. if a Voluntary Licensed Supplier) to offer to enter into a BPPA, by reference to the eligibility requirements to be satisfied by the electricity generator and the relevant generating station in circumstances where the electricity generator wishes to enter into a BPPA in respect of that generating station (or a proportion of its capacity). Paragraph 9 explains how the Authority makes the assessment with regard to each of the eligibility criteria set out in Condition 38A.8.

Paragraphs 10 and 11 set out the information which is to be provided to the Authority by an electricity generator that expresses an interest to enter into a BPPA, which information will in turn be sent by the Authority to licensed electricity suppliers.

Paragraph 12 sets out the project information that an electricity generator needs to have provided to the Authority in order for the Authority to issue an OLR Notice to licensed electricity suppliers.

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

Paragraphs 13 and 14 oblige licensed electricity suppliers to inform the Authority if, having received from the Authority a copy of the generator's expression of interest to enter into a BPPA or the OLR Notice, they become aware that the electricity generator may (or does) not meet the eligibility requirements with regard to the BPPA it is seeking to enter into.

Paragraphs 15 to 18 provide that where the licensed electricity supplier is informed that its bid is the successful bid (or successful reserve bid) it must let the Authority know whether or not the relevant BPPA has been entered into and, if it has been entered into, to submit credit rating or credit support evidence to the Authority.

Paragraphs 19 and 20 require a licensed electricity supplier that is a party to a BPPA to inform the Authority if notice is given by either party to terminate the BPPA (i.e. prior to its expiry date) and also to inform the Authority if the giving of any such notice is disputed (including the outcome of that dispute once known).

Paragraph 21 requires a licensed electricity supplier that is a party to a BPPA to ensure that it does not commit a breach of that BPPA which results in it being terminated by the other party (i.e. the electricity generator).

Paragraphs 22 to 23 confirm that where the Authority is informed by a licensed electricity supplier (in accordance with the requirements of paragraph 20) that the supplier has served a termination notice in respect of BPPA but the Authority is not informed by the supplier that the electricity generator is taking legal action disputing the supplier's right to terminate, the Authority shall (for the purposes of determining eligibility for any future backstop power purchase agreement for the same generating station) determine that the information it holds does not support the electricity generator's statement that it meets the eligibility requirement set out in paragraph 8(h) of condition 38A.

Paragraphs 24 to 25 confirm that where the Authority is informed by a licensed electricity supplier (in accordance with the requirements of paragraph 20) that the supplier has served a termination notice in respect of BPPA and the Authority is also informed by the supplier that the generator is taking legal action disputing the supplier's right to terminate, the Authority shall (for the purposes of determining eligibility for any future BPPA for the same generating station) determine, unless and until there is a final court judgment, that the information it holds does support the electricity generator's statement that it meets the eligibility requirement set out in paragraph 8(h) of condition 38A.

Paragraph 26 confirms what constitutes a final court judgment for the purposes of paragraph 25.

Paragraph 27 provides that a licensed electricity supplier is a Mandatory Licensed Supplier in respect of an OLR Year (and therefore obliged to participate in auctions for BPPAs in that OLR Year) where it receives a notice from the Authority to that effect. Paragraph 28 sets out the criterion for being a Mandatory Licensed Supplier (by reference to the amount of electricity supplied), and Paragraph 29 provides that where a licensed electricity supplier is notified by the Authority that it is a Mandatory Licensed Supplier for an OLR Year but does not already have an additional BM unit registered for it in each GSP Group, the supplier must take all necessary steps to ensure that it has an additional BM Unit registered in every GSP Group.

Paragraph 30 confirms that each BPPA must incorporate all of the terms and conditions determined by the Secretary of State and sets out the minimum requirements in respect of such terms and conditions.

Paragraph 31 requires licensed electricity suppliers to participate in the levelisation process, cooperate with the Authority and make levelisation payments, in each case as required under the Regulations, in accordance with the Authority's instructions.

Paragraph 32 confirms the definition of the term 'generating station' when it is used in the condition.

Draft modifications to licences under section 50(1) of the Electricity Act 1989, laid before Parliament under section 64(2) of the Energy Act 2013; draft to lie for forty days pursuant to section 64(3) of that Act, during which period either House of Parliament may resolve not to approve the draft.

Paragraph 33 confirms the definition of the term ‘statement of confirmation’ which statement forms part of the project information which the Authority needs to receive from an electricity generator seeking to enter into a BPPA in order to issue an OLR Notice to licensed electricity suppliers.

Paragraph 34 defines the other terms used in the condition.

The Secretary of State will publish the modifications on the website of the Department of Energy and Climate Change as soon as reasonably practicable after they are made.