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- (i) notice of such proceedings had been published by the court, arbitral, or other tribunal, administrative or regulatory body, or, as the case may be, expert, hearing the legal proceedings;
 - (ii) the Generator had been informed of such proceedings by any party to the legal proceedings, or by the court, arbitral or other tribunal, administrative or regulatory body, or, as the case may be, expert hearing the legal proceedings; or
 - (iii) such proceedings were (a) commenced, (b) pending before any court, arbitral or other tribunal, administrative or regulatory body or, as the case may be, expert, or (c) threatened (by issue of a formal written notice before action or similar); and, in each case, the Generator was aware, or could reasonably be expected to have become aware of such proceedings; ~~or~~
- (L) results from an application for judicial review in respect of the grant of any of the Relevant Applicable Planning Consents, made: within the JR Window; or
- ~~(i) within six (6) weeks of the grant of the relevant Applicable Planning Consent, in relation to an application to which paragraph 5 of Rule 54.5 of the Civil Procedure Rules applies; or~~
- (M) ~~(ii) within three (3) months of~~ where the Facility is an Unconsented Project, is the grant, refusal or variation of any of the ~~relevant~~ Relevant Applicable Planning ~~Consent, in relation to all other applications,~~ Consents.

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

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

“**Fuelling Criteria**” has the meaning given to that term in Annex 7 (*FMS arrangements, Sustainability Criteria, RQM Calculation Methodology and ACT Efficiency*);

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

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

“**Further CP Response Notice**” has the meaning given to that term in Condition 3.11(C)(ii);

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

- (B) all electrical losses that would be incurred from the Generating Unit(s) to the Metering Equipment at the Boundary Point in so operating the Facility and/or delivering electricity),

assuming any source of power used by the Facility to generate electricity was available to it without interruption, and provided that, where a Facility uses combined heat and power, the capacity of the Facility shall be determined by reference to a condition where any reduction of heat generation would not result in any increase in electrical generation;

"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~~Adjustment to Installed Capacity Estimate: Relevant Construction Event and Relevant Planning Restriction) and Condition 6 (*Adjustment to Installed Capacity Estimate: Permitted reduction*);

"Intellectual Property Rights" means:

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

"Interest Rate Methodology" means the average of the Bank of England Sterling Overnight Index Average (**SONIA**) Compounded Index, plus 1 percentage point, from the date the Generator receives the Subsidy for the period interest is required to run under Condition 32.11, and subject to Condition 32.11(C);

"Intermittent Dual Scheme Facility" means a Facility that is stated to be an Intermittent Dual Scheme Facility in the CfD Agreement;

"Investor" means any person who holds any indirect or direct legal, beneficial or equitable interest in the equity share capital (or other economic interests) in the Generator and/or the holding company of the Generator;

"JR Window" means, in relation to an application for judicial review of a Relevant Applicable Planning Consent:

- (A) the period of six (6) weeks after the grant or refusal of the Relevant Applicable Planning Consent, in the case of an application to which paragraph 5 of Rule 54.5 of the Civil Procedure Rules applies; or
- (B) the period of three (3) months after the grant or refusal of the Relevant Applicable Planning Consent, in the case of any other application.

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

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

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

- (A) a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 69 and this definition to be entitled to such extension;
- (B) any failure by any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO is a party; ~~or~~
- (C) where (i) the Facility Generation Technology is Offshore Wind or Onshore Wind; and (ii) a Radar Mitigation Scheme Agreement is in effect, the Ministry of Defence having not confirmed prior to the Milestone Delivery Date the availability of suitable mitigation measures in accordance with the terms of the Radar Mitigation Scheme Agreement; ~~;~~ or
- (D) if the Project is an Unconsented Project, either of the following in respect of a Relevant Applicable Planning Consent:
 - (i) such Relevant Applicable Planning Consent having not been granted prior to the Milestone Delivery Date; or
 - (ii) an application for judicial review having been made in respect of the grant of such Relevant Applicable Planning Consent made within the JR Window,

in the case of delays caused by the reasons in (B) ~~and~~ (C) and (D), except to the extent that such failure ~~or~~ non-confirmation, non-grant or application (as the case may be) is due to the fault or negligence of the Generator or its Representatives and provided that:

- (i) the Generator gives notice as soon as reasonably practicable to the CfD Counterparty of the nature and extent of the failure or non-confirmation (as the case may be); ~~and~~
- (ii) there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours: (i) to mitigate the effects of such failure ~~or~~ non-confirmation, non-grant or application (as the case may be) (including delay to the Project); (ii) to carry out its obligations under the

Contract for Difference and each other CfD Document in any way that is reasonably practicable; and (iii) to resume the performance of its obligations under the Contract for Difference and each other CfD Document as soon as reasonably practicable;

- (iii) without limitation to (ii), there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives pursuing and/or conducting (x) the application for and grant of Relevant Applicable Planning Consents, and (y) any judicial review in respect of the grant of Relevant Applicable Planning Consents, in each case with reasonable diligence and in accordance with the Reasonable and Prudent Standard; and
- (iv) reference to delays caused by the reasons in (D) shall not include any delay by reason of the grant of a Relevant Applicable Planning Consent being refused, save to the extent that, and for so long as, (x) such refusal is or may be the subject of an application for judicial review made within the JR Window; or (y) the outcome of a judicial review applied for within the JR Window is or may be the subject of an appeal process initiated within the applicable time limit.

“Milestone Requirement” has the meaning given to that term in Condition 4.1;

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

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

“Mutual Appointment Decision” has the meaning given to that term in Condition 60.4;

“Negative Price Period” means:

- (A) the Baseload Negative Price Period, as such term is defined in Part 5A (*Payment calculations: Baseload Technologies*) (provided that this paragraph (A) shall apply only if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) the Intermittent Negative Price Period, as such term is defined in Part 5B (*Payment calculations: Intermittent Technologies*) (provided that this paragraph (B) shall apply only if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

“Net Payable Amount” means, in respect of a Billing Period, the amount calculated in accordance with Condition 22.7;

“Non-NPA Payment Cure Period” has the meaning given to that term in Condition 53.1(B)(ii);

“Notified Change in Law” means a Change in Law which constitutes: (i) a Qualifying Change in Law and to which a CfD Counterparty QCiL Notice, a Generator QCiL Notice

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

“Payment Failure” means a failure by the Generator to pay a Net Payable Amount in accordance with Condition 23.1 (except to the extent that such failure is due to the occurrence of a Payment Disruption Event and the Generator, as the PDE Affected Party, has complied with Condition 68.2 but irrespective of whether or not the Generator has paid any such Net Payable Amount within the applicable NPA Payment Cure Period);

“PDE Affected Party” has the meaning given to that term in Condition 68.1;

“PDE Obligations” has the meaning given to that term in Condition 68.1;

“Physical Separation Requirement” has the meaning given to that term in Condition 32A.2;

“Planning Restriction” means a condition or requirement of a Relevant Applicable Planning Consent;

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

“Posted Collateral Demand” has the meaning given to that term in Condition 56.10;

“Post-Tax Real Discount Rate” has the meaning given to that term in the CfD Agreement;

“Pre-Start Date Termination Date” has the meaning given to that term in Condition 51.1(E)(i);

“Pre-Start Date Termination Notice” has the meaning given to that term in Condition 51.1;

“Preliminary Annual QCPC Report” has the meaning given to that term in Condition 48.1;

“Preliminary Generation Tax Report” means the report of the Energy Consultant referred to in Condition 42.18(A);

“Previous Subsidy” has the meaning given to that term in Condition 3.29(A)(i);

- (i) relating to or in connection with matters of health, safety, security, environment, transport or damage to property (the **"Relevant Matters"**) affecting (directly or indirectly): (1) the Facility or the generation of electricity therefrom; (2) the Generator; (3) the land on which the Facility is situated; (4) the management of any of (1) to (3); or (5) the generation of electricity using the same Generation Technology as the Facility (whether in the UK or elsewhere), but in this case, provided the Relevant Matters also relate or apply to one (1) or more of (1) to (4), where at the time of the Shutdown Event it was justifiable in the circumstances as they related or applied to the relevant one(s) of (1) to (5) to prevent the operation, or refuse to consent to any re-start, of the whole of the Facility;
- (ii) arising out of, in connection with, or resulting from the negligence, breach or fault of, or a failure to act in accordance with a Reasonable and Prudent Standard by, the Generator or any of its Representatives where at the time of the Shutdown Event it was justifiable in the circumstances to prevent the operation, or refuse to consent to any re-start, of the whole of the Facility; or
- (iii) relating to any decision by any Subsidy Control Competent Authority in respect of the application of the Subsidy Control Rules in the Contract for Difference or FiT Contracts for Difference (including the annulment, invalidation, revocation, modification, suspension or replacement of any prior decision pursuant to such rules);

"Radar Mitigation Scheme Agreement" means an agreement between the Ministry of Defence and the Generator relating, inter alia, to the identification, testing, and implementation of potential measures to mitigate the adverse effects of the Facility on Ministry of Defence air defence radars;

"Relevant Applicable Planning Consents" means the Applicable Planning Consents that are needed for the Relevant Works in respect of the Facility;

"RCE-Adjusted Installed Capacity Estimate" has the meaning given to that term in Condition 5.1(A)(ii);

"RCE Deadline" has the meaning given to that term in Condition 5.1;

"RCE Notice" has the meaning given to that term in Condition 5.1;

"RCE Response Notice" has the meaning given to that term in Condition 5.4;

"RCE Supporting Information" has the meaning given to that term in Condition 5.4;

"RPR-Adjusted Installed Capacity Estimate" has the meaning given to that term in Condition 5.11;

"RPR Notice" has the meaning given to that term in Condition 5.11;

“RPR Response Notice” has the meaning given to that term in Condition 5.13;

“RPR Supporting Information” has the meaning given to that term in Condition 5.13;

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

“Reconciliation Amount” has the meaning given to that term in Condition 22.5;

“Reconciliation Billing Period” has the meaning given to that term in Condition 22.6;

“Reduced Output Period” has the meaning given to that term in Condition 34.3 or paragraph 3.3 of Part F of Annex 7 (*FMS arrangements, Sustainability Criteria, RQM Calculation Methodology and ACT Efficiency*) (as the context requires);

“Reference CPI” means the most recently published CPI;

“Relevant Construction Event” means a Construction Event:

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

“Relevant Planning Restriction” means a Planning Restriction:

- (A) which the Generator and its Representatives acting in accordance with a Reasonable and Prudent Standard and having made all due and careful enquiries could not reasonably have foreseen or anticipated, and had not foreseen or anticipated, at the FiT CfD Application Date; and
- (B) which renders the development, completion, construction, conversion, installation or commissioning of the Facility to meet a proportion (but not all) of the Installed Capacity Estimate unviable;

“Relevant Works” has the meaning given to that term in the Contracts for Difference (Allocation) Regulations 2014 (as at the Agreement Date);

“Renewable Qualifying Multiplier” has the meaning given to that term in paragraph 2.1 of Part E of Annex 7 (*FMS arrangements, Sustainability Criteria, RQM Calculation Methodology and ACT Efficiency*);

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

- (A) to perform and comply with its obligations under the Contract for Difference and the other CfD Documents; and
- (B) (other than for the purposes of Conditions 28.1(E) and 30.1(B)) to design, develop, construct, convert, install, complete, test, commission, operate, maintain and decommission the Facility⁷.

provided that, if the Project is an Unconsented Project, Relevant Applicable Planning Consents shall, for the purposes of Conditions 28.1 and 30.1, be deemed not to be Required Authorisations that are required to be obtained by the Generator by the Agreement Date;

"Required CiL Amendment" means any such amendment or supplement to the Contract for Difference which is, as a direct result of a Change in Applicable Law being implemented, occurring or becoming effective, necessary to ensure that the Required CiL Amendment Objectives are met (provided that any such amendment or supplement shall not affect either: (i) the commercial intent of the Contract for Difference; or (ii) the overall balance of risk, rights and obligations between the Parties, in each case as provided for in the Contract for Difference);

"Required CiL Amendment Objectives" means that: (i) the Contract for Difference continues in force; and (ii) no provision of the Contract for Difference is rendered illegal, invalid, unenforceable or inoperable;

"Required Installed Capacity" has the meaning given to that term in the CfD Agreement;

"Required Number of Settlement Units" means:

- (A) twelve (12) Settlement Units, if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) five (5) Settlement Units, if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

"Required Percentage" means:

- (A) fifty per cent. (50%), if Part 5A (*Payment calculations: Baseload Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement); or
- (B) fifty per cent. (50%), if Part 5B (*Payment calculations: Intermittent Technologies*) is expressed to apply to the Contract for Difference in the CfD Agreement);

Part B or Part C of Annex 7 (*FMS arrangements, Sustainability Criteria, RQM Calculation Methodology and ACT Efficiency*);

“Synthesis Chamber” means that part of a Facility, the Facility Generation Technology of which is Advanced Conversion Technology, in which Advanced Fuel is produced;

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

- (A) a Force Majeure in respect of which the Generator is the FM Affected Party, but only to the extent that the Generator has satisfied the requirements and conditions of Condition 69 and this definition to be entitled to such extension;
- (B) any failure by any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO, to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Transmission System Operator, Transmission Licensee, Licensed Distributor or OFTO is a party; or
- (C) where (i) the Facility Generation Technology is Offshore Wind or Onshore Wind; and (ii) a Radar Mitigation Scheme Agreement is in effect, the Ministry of Defence having not confirmed the availability of suitable mitigation measures in accordance with the terms of the Radar Mitigation Scheme Agreement,

in the case of delays caused by the reasons in (B) or (C), except to the extent that such failure or non-confirmation (as the case may be) is due to the fault or negligence of the Generator or its Representatives and provided that:

- (i) the Generator gives notice as soon as reasonably practicable to the CfD Counterparty of the nature and extent of the failure or non-confirmation (as the case may be); and
- (ii) there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours (i) to mitigate the effects of such failure, or non-confirmation (as the case may be) (including delay to the Project); (ii) to carry out its obligations under the Contract for Difference and each other CfD Document in any way that is reasonably practicable; and (iii) to resume the performance of its obligations under the Contract for Difference and each other CfD Document as soon as reasonably practicable;

“System Restoration” has the meaning given to that term in the Grid Code;

“Tax” means any taxes, levies, duties, imposts and any charges, deductions or withholdings in the nature of tax including taxes on gross or net Income, Profits or Gains and taxes on receipts, sales, use, occupation, development, franchise, employment,

"UK Competent Authority" means a Competent Authority of the United Kingdom;

"Ultimate Investor" means any person who:

- (A) has Control of an Investor; or
- (B) holds any direct or indirect legal, beneficial or equitable interest in 25% (twenty-five per cent) or more of the equity share capital (or other economic interests) of an Investor;

"Unconsented Project" means a Project designated as such the CfD Agreement.

"Union Funding" means any funding from European Union resources (regardless of whether such funding constitutes subsidy or State aid), including funding under the NER 300 and Horizon 2020 programmes;

"Unilateral Commercial Operations Notice" has the meaning given to that term in Condition 3.26A(A); and

"Working Hours" means 09:00 to 17:00 on a Business Day.

BSC definitions

1.2

- (A) References in these Conditions to **"Apparatus"**, **"BM Unit"**, **"BM Unit Metered Volume"**, **"Boundary Point"**, **"BSC Agent"**, **"BSC Company"**, **"Clock Change Day"**, **"Code Subsidiary Document"**, **"Communications Equipment"**, **"Credited Energy Volume"**, **"Daily Party Energy Imbalance Cashflow"**, **"Material Change"**, **"Metering Equipment"**, **"Metering System"**, **"MSID"**, **"Registrant"**, **"Residual Cashflow Reallocation Cashflow"**, **"Settlement Run"**, **"Trading Dispute"** and **"Trading Unit"** have the meanings given to such terms in the BSC, save that references to Metering Equipment within the definition of **"Material Change"** shall be replaced by references to Facility Metering Equipment.
- (B) Condition 1.2(A) shall operate without prejudice to the application of Part 8 (*Changes in Law*) to changes in the meaning of those terms under the BSC after the Agreement Date.

Application of definitions

- 1.3 The following definitions shall apply to the Contract for Difference only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement: **"CHPQA"**; **"CHPQA Certificate"**; **"CHPQA Guidance Note 44"**; **"CHPQA Guidance Note 44 Certificate"**; **"CHPQM Calculation Methodology"**; and **"CHP Qualifying Multiplier"**; and, if such definitions are so disappplied, any reference to any of the foregoing definitions in any other definition shall be disregarded.
- 1.4 The following definitions shall apply to the Contract for Difference only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD

Part 4

Adjustments to Installed Capacity Estimate

5. ADJUSTMENT TO INSTALLED CAPACITY ESTIMATE: RELEVANT CONSTRUCTION EVENT AND RELEVANT PLANNING RESTRICTION

Relevant Construction Event

5.1 The Generator may, if it considers that a Relevant Construction Event has occurred, give a notice to the CfD Counterparty (an “**RCE Notice**”). An RCE Notice must be given to the CfD Counterparty no later than three (3) months prior to the Longstop Date (the “**RCE Deadline**”) and shall:

- (A) specify:
 - (i) the reduction to the Installed Capacity Estimate which the Generator considers to be necessary to take into account the Relevant Construction Event; and
 - (ii) the Installed Capacity Estimate which will apply if such reduction is made (an “**RCE-Adjusted Installed Capacity Estimate**”);
- (B) include details of any change to the Facility which will result from the proposed reduction to the Installed Capacity Estimate (which shall include revised details of the assets comprising the Facility and any revised aerial view of the unique geographical location of (a) the Facility, (b) the Facility Metering Equipment, and (c) (if the Facility Generation Technology is Offshore Wind) the Offshore Transmission System), as well as any change to the geographical coordinates specified in Annex 1 of the CfD Agreement; and
- (C) include such Supporting Information as the Generator considers to be relevant to evidence:
 - (i) the existence or occurrence of the Construction Event and the basis for the Generator having concluded that the Construction Event constitutes a Relevant Construction Event;
 - (ii) the basis for the Generator having concluded that, as a result of the existence or occurrence of the Relevant Construction Event, the Installed Capacity Estimate is required to be reduced to the RCE-Adjusted Installed Capacity Estimate; and
 - (iii) the details of any change to the assets comprising the Facility which will result from the proposed reduction to the Installed Capacity Estimate (which shall include revised details of the assets comprising the Facility and any revised aerial view of the unique geographical location of (a) the Facility, (b) the Facility Metering Equipment, and (c) (if the Facility Generation Technology is Offshore Wind) the Offshore Transmission

- (A) the CfD Counterparty considers that a Relevant Construction Event has occurred, then (except where it has requested RCE Supporting Information relating to the RCE-Adjusted Installed Capacity Estimate) the RCE Response Notice shall:
 - (i) include a confirmation that the CfD Counterparty agrees with the RCE-Adjusted Installed Capacity Estimate specified in the RCE Notice, in which case the RCE-Adjusted Installed Capacity Estimate shall constitute the Installed Capacity Estimate with effect from the date of the RCE Response Notice; or
 - (ii) state that the CfD Counterparty does not agree with the RCE-Adjusted Installed Capacity Estimate specified in the RCE Notice, in which case the Installed Capacity Estimate shall remain unadjusted for the purposes of the Contract for Difference unless and until it is varied in accordance with the Dispute Resolution Procedure;
- (B) the CfD Counterparty considers that a Relevant Construction Event has not occurred, the Installed Capacity Estimate shall remain unadjusted for the purposes of the Contract for Difference unless and until a resolution or determination to the contrary is made in accordance the Dispute Resolution Procedure; or
- (C) the CfD Counterparty requires the Generator to provide RCE Supporting Information:
 - (i) the Generator shall provide the RCE Supporting Information as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of the RCE Response Notice, or such longer period as is specified by the CfD Counterparty; and
 - (ii) upon receipt of the RCE Supporting Information, the CfD Counterparty shall, no later than ten (10) Business Days after receipt of the RCE Supporting Information, give a further RCE Response Notice to the Generator (a "**Further RCE Response Notice**"). A Further RCE Response Notice shall specify whether the CfD Counterparty:
 - (a) considers that a Relevant Construction Event has or has not occurred; and
 - (b) accepts or does not accept the RCE-Adjusted Installed Capacity Estimate.

5.6 Nothing in ~~this Condition 5 (Adjustment to Installed Capacity Estimate: Relevant Construction Event~~ [Conditions 5.1 to 5.9 \(inclusive\)](#) shall require the CfD Counterparty to specify in any RCE Response Notice or Further RCE Response Notice that a Relevant Construction Event has occurred or that the CfD Counterparty accepts any RCE-Adjusted Installed Capacity Estimate unless and until the CfD Counterparty is satisfied of the same.

- 5.7 Any RCE Notice shall be irrevocable and, if the Installed Capacity Estimate is reduced pursuant to this Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Construction Event*), the Generator may not subsequently increase the Installed Capacity Estimate.
- 5.8 Subject to Condition 5.3, the Generator may give an RCE Notice on only one (1) occasion prior to the RCE Deadline. Any RCE Notice received by the CfD Counterparty after the RCE Deadline shall be invalid and of no effect.
- 5.9 No adjustment to the Strike Price shall be made solely as a result of a reduction to the Installed Capacity Estimate pursuant to ~~this Condition 5 (*Adjustment to Installed Capacity Estimate: Relevant Construction Event*)~~ Conditions 5.1 to 5.9 (inclusive).

Relevant Planning Restriction

- 5.10 Conditions 5.11 to 5.18 (inclusive) shall only apply if the Project is an Unconsented Project.
- 5.11 The Generator may, if it considers that a Relevant Planning Restriction has been imposed, give a notice to the CfD Counterparty (an “RPR Notice”). An RPR Notice must be given to the CfD Counterparty by the Milestone Delivery Date and shall:
- (A) specify:
 - (i) the reduction to the Installed Capacity Estimate which the Generator considers to be necessary to take into account the Relevant Planning Restriction; and
 - (ii) the Installed Capacity Estimate which will apply if such reduction is made (an “RPR-Adjusted Installed Capacity Estimate”);
 - (B) include details of any change to the Facility which will result from the proposed reduction to the Installed Capacity Estimate (which shall include revised details of the assets comprising the Facility and any revised aerial view of the unique geographical location of (a) the Facility, (b) the Facility Metering Equipment, and (c) the Offshore Transmission System), as well as any change to the geographical coordinates specified in Annex 1 of the CfD Agreement; and
 - (C) include such Supporting Information as the Generator considers to be relevant to evidence:
 - (i) the imposition of the Planning Restriction and the basis for the Generator having concluded that the Planning Restriction constitutes a Relevant Planning Restriction;
 - (ii) the basis for the Generator having concluded that, as a result of the existence or occurrence of the Relevant Planning Restriction, the Installed Capacity Estimate is required to be reduced to the RPR-Adjusted Installed Capacity Estimate; and

- (iii) the details of any change to the assets comprising the Facility which will result from the proposed reduction to the Installed Capacity Estimate (which shall include revised details of the assets comprising the Facility and any revised aerial view of the unique geographical location of (a) the Facility, (b) the Facility Metering Equipment, and (c) the Offshore Transmission System), as well as any change to the geographical coordinates specified in Annex 1 of the CfD Agreement.

5.12 Each RPR Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the RPR Notice.

5.13 If the Generator gives an RPR Notice to the CfD Counterparty, the CfD Counterparty shall, no later than twenty (20) Business Days after receipt of such RPR Notice, give a notice to the Generator (an "**RPR Response Notice**"). An RPR Response Notice shall specify whether the CfD Counterparty considers that:

- (A) a Relevant Planning Restriction has been imposed;
- (B) it accepts or does not accept the RPR-Adjusted Installed Capacity Estimate; or
- (C) the CfD Counterparty has not been provided with sufficient Supporting Information to determine:
 - (i) whether a Relevant Planning Restriction has been imposed;
 - (ii) whether it will accept the RCE-Adjusted Installed Capacity Estimate;
 - (iii) the change to the Facility which will result from the proposed reduction to the Installed Capacity Estimate (which shall include revised details of the assets comprising the Facility and any revised aerial view of the unique geographical location of (a) the Facility, (b) the Facility Metering Equipment, and (c) (if the Facility Generation Technology is Offshore Wind) the Offshore Transmission System), as well as any change to the geographical coordinates specified in Annex 1 of the CfD Agreement; or
 - (iv) any combination of the foregoing.

in which case the CfD Counterparty shall provide details of the additional Supporting Information which the CfD Counterparty requires to determine (as relevant) whether a Relevant Planning Restriction has been imposed, whether to accept the RPR-Adjusted Installed Capacity Estimate or the change to the assets which comprise the Facility (the "**RPR Supporting Information**").

5.14 If the CfD Counterparty specifies in an RPR Response Notice that:

- (A) the CfD Counterparty considers that a Relevant Planning Restriction has occurred, then (except where it has requested RPR Supporting Information relating to the RPR-Adjusted Installed Capacity Estimate) the RPR Response Notice shall:

- (i) include a confirmation that the CfD Counterparty agrees with the RPR-Adjusted Installed Capacity Estimate specified in the RPR Notice, in which case the RPR-Adjusted Installed Capacity Estimate shall constitute the Installed Capacity Estimate with effect from the date of the RPR Response Notice; or
 - (ii) state that the CfD Counterparty does not agree with the RPR-Adjusted Installed Capacity Estimate specified in the RPR Notice, in which case the Installed Capacity Estimate shall remain unadjusted for the purposes of the Contract for Difference unless and until it is varied in accordance with the Dispute Resolution Procedure;
- (B) the CfD Counterparty considers that a Relevant Planning Restriction has not been imposed, the Installed Capacity Estimate shall remain unadjusted for the purposes of the Contract for Difference unless and until a resolution or determination to the contrary is made in accordance the Dispute Resolution Procedure; or
- (C) the CfD Counterparty requires the Generator to provide RPR Supporting Information:
 - (i) the Generator shall provide the RPR Supporting Information as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of the RPR Response Notice, or such longer period as is specified by the CfD Counterparty; and
 - (ii) upon receipt of the RPR Supporting Information, the CfD Counterparty shall, no later than ten (10) Business Days after receipt of the RPR Supporting Information, give a further RPR Response Notice to the Generator (a "**Further RPR Response Notice**"). A Further RPR Response Notice shall specify whether the CfD Counterparty:
 - (a) considers that a Relevant Planning Restriction has or has not been imposed; and
 - (b) accepts or does not accept the RPR-Adjusted Installed Capacity Estimate.

5.15 Nothing in Conditions 5.11 to 5.18 (inclusive) shall require the CfD Counterparty to specify in any RPR Response Notice or Further RPR Response Notice that a Relevant Planning Restrictions has been imposed or that the CfD Counterparty accepts any RPR-Adjusted Installed Capacity Estimate unless and until the CfD Counterparty is satisfied of the same.

5.16 Any RPR Notice shall be irrevocable and, if the Installed Capacity Estimate is reduced pursuant to Conditions 5.11 to 5.18 (inclusive), the Generator may not subsequently increase the Installed Capacity Estimate.

5.17 The Generator may give an RPR Notice on only one (1) occasion prior to the Milestone Delivery Date. Any RPR Notice received by the CfD Counterparty after the Milestone Delivery Date shall be invalid and of no effect.

5.18 No adjustment to the Strike Price shall be made solely as a result of a reduction to the Installed Capacity Estimate pursuant to Conditions 5.11 to 5.17 (inclusive).

6. ADJUSTMENT TO INSTALLED CAPACITY ESTIMATE: PERMITTED REDUCTION

6.1 The Generator may, if it considers that the Installed Capacity will be lower than the Installed Capacity Estimate, give a notice to the CfD Counterparty (an “**ICE Adjustment Notice**”). An ICE Adjustment Notice must be given to the CfD Counterparty no later than the Milestone Delivery Date (the “**ICE Adjustment Deadline**”) and shall:

(A) specify:

- (i) the amount by which the Installed Capacity will be lower than the Installed Capacity Estimate;
- (ii) the new Installed Capacity Estimate which is to apply to the Facility as a result of such reduction (the “**Revised ICE**”);

(B) include details of any change in the Facility which will result from the reduction to the Installed Capacity Estimate (which shall include revised details of the assets comprising the Facility and any revised aerial view of the unique geographical location of (a) the Facility, (b) the Facility Metering Equipment, and (c) (if the Facility Generation Technology is Offshore Wind) the Offshore Transmission System), as well as any change to the geographical coordinates specified in Annex 1 of the CfD Agreement; and

(C) include such Supporting Information as the Generator considers to be relevant to evidence the detail of any changes to the asset comprising the Facility which will result from the reduction to the Installed Capacity Estimate.

6.2 The Revised ICE shall constitute the Installed Capacity Estimate with effect from the date of the ICE Adjustment Notice, provided that if an ICE Adjustment Notice specifies a Revised ICE which is less than seventy-five per cent. (75%) of the Initial Installed Capacity Estimate (or, if relevant, the RCE-Adjusted Installed Capacity Estimate), such ICE Adjustment Notice shall be invalid and of no effect.

6.3 Any ICE Adjustment Notice shall be irrevocable and the Generator may not subsequently increase the Installed Capacity Estimate.

6.4 The Generator may give an ICE Adjustment Notice on only one (1) occasion prior to the ICE Adjustment Deadline. Any ICE Adjustment Notice given to the CfD Counterparty after the ICE Adjustment Deadline shall be invalid and of no effect.

- (i) on any day prior to the Start Date, within 2 (two) Business Days of that day; and
- (ii) in any Settlement Unit on or after the Start Date for which Loss Adjusted Metered Output has not been reported by a BSC Company or a BSC Agent, within 2 (two) Business Days of the CfD Counterparty requesting such data,

in each case accompanied with a Directors' Certificate in respect of such Actual Generation Output Data and Supporting Information; ~~and~~

- (L) all Information requested by the CfD Counterparty to conduct "know your customer" or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by the CfD and the other CfD Documents, such Information to be provided as soon as reasonably practicable, and no later than 20 (twenty) Business Days (or, if such Information is not within the possession of the Generator, no later than 30 (thirty) Business Days) or such longer period as is specified by the CfD Counterparty, after the Information is requested. Any Information provided by a Generator to the CfD Counterparty under this Condition 32.1(L) shall be accompanied by a Directors' Certificate in respect of such Information~~;~~₃

(M) If the Project is an Unconsented Project, notification of:

- (a) any grant, refusal or variation of a Relevant Applicable Planning Consent;
- (b) any application for judicial review in respect of the grant of a Relevant Applicable Planning Consent; and
- (c) the results of any application for judicial review in respect of the grant of a Relevant Applicable Planning Consent,

in each case such notification to be:

- (1) provided as soon as reasonably practicable after the Generator becomes aware of the relevant circumstance; and
- (2) accompanied by details of the relevant grant, refusal, variation, application or results, to the extent that such information has not been submitted by the Generator to the CfD Counterparty in an RPR Notice under Condition 5.10,

32.1A The CfD Counterparty shall, no later than twenty (20) Business Days after receipt of Information in response to its request pursuant to Condition ~~32.1(L)~~32.1(L), give a notice to the Generator (a "**KYC Information Response Notice**"). A KYC Information Response Notice shall specify whether the CfD Counterparty considers that the Generator has or has not complied with and fulfilled its request pursuant to Condition

~~32.1(L)~~32.1(L), and where applicable the CfD Counterparty's reasons for considering it has not.

Forecast Data

32.2 For the purposes of Condition 32.1(C), the “**Forecast Data**” means:

- (A) the availability of the Facility;
- (B) the Loss Adjusted Metered Output;
- (C) the Renewable Qualifying Multiplier (provided that this paragraph (C) shall apply only if the Renewable Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement); and
- (D) the CHP Qualifying Multiplier (provided that this paragraph (D) shall apply only if the CHP Qualifying Multiplier is expressed to apply to the Contract for Difference in the CfD Agreement),

in each case in relation to the period referred to in Condition 32.1(C).

Accuracy of Information

32.3 The Generator shall ensure that:

- (A) all forecasts, forward-looking statements or data provided by or on behalf of the Generator pursuant to Condition 32.1 are prepared in good faith, on a reasonable basis and with due care and attention; and
- (B) all other Information provided by or on behalf of the Generator pursuant to Condition 32.1 is true, complete and accurate in all material respects and not misleading.

Warranty: No Cumulation of Subsidy

32.4 The Generator represents and warrants to the CfD Counterparty that, as at the Start Date or (if later) as at the Subsidy Declaration Date, the following statement is true, accurate and not misleading:

- (A) no Subsidy, State aid or Union Funding has been received in relation to the costs of the Project (regardless of whether such subsidy, aid or funding is received by the Generator or by any other person), other than:
 - (i) the subsidy arising under this Contract for Difference; or
 - (ii) any Subsidy, State aid and/or Union Funding notified to the CfD Counterparty in accordance with the process for the satisfaction or waiver of the Subsidy Declaration Operational CP.

Part 12 Termination

51. TERMINATION

Pre-Start Date termination

51.1 If:

- (A) (i) the Generator fails to deliver the Milestone Requirement Notice by the Milestone Delivery Date; or (ii) (subject to Condition 51.3) neither Milestone Requirement has been complied with and fulfilled by the Milestone Delivery Date;
- (B) at any time prior to the Start Date, any Directors' Certificate provided pursuant to Condition 4.2 is not true, complete or accurate in any material respect or is misleading as at the date thereof;
- (C) at any time prior to the Start Date, a Termination Event occurs and is continuing;
- (D) any of the Initial Conditions Precedent are not fulfilled by the Generator or waived by the CfD Counterparty within twenty (20) Business Days of the Agreement Date; ~~or~~
- (E) (subject to Condition 51.4) any of the Operational Conditions Precedent are not fulfilled by the Generator or waived by the CfD Counterparty by the Longstop Date; or
- (F) the Project is an Unconsented Project and prior to the Start Date, the following circumstances apply: (i) a Relevant Applicable Planning Consent has been refused or having been granted, is quashed in response to an application for judicial review or appeal and (ii) no further right of submitting an application for judicial review or appeal in respect of such refusal or quashing (as the case may be) has been exercised within the applicable time limit or remains available,

then the CfD Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating the Contract for Difference (a "**Pre-Start Date Termination Notice**"). A Pre-Start Date Termination Notice shall specify:

- (i) the date (on or following the date of the Pre-Start Date Termination Notice) on which termination of the Contract for Difference is designated by the CfD Counterparty to take effect (the date so designated being a "**Pre-Start Date Termination Date**"); and
- (ii) in the case of termination pursuant to Condition 51.1(C) , the Termination Event which has occurred.

Schedule 1
Conditions Precedent

Part A
Initial Conditions Precedent

Delivery to the CfD Counterparty of the following:

- (A) a legal opinion addressed to the CfD Counterparty, in form and content satisfactory to the CfD Counterparty (acting reasonably), from the legal advisers to the Generator confirming that the Generator:
 - (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, the Contract for Difference and the other CfD Documents;
- (B) evidence, in form and content satisfactory to the CfD Counterparty, acting reasonably, of compliance by the Generator with “know your customer” or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by the Contract for Difference and the other CfD Documents;
- (C) a description of the Facility, in form and content satisfactory to the CfD Counterparty (acting reasonably), including:
 - (i) details of the assets comprising the Facility; and
 - (ii) an aerial view of the unique geographical location of the Facility, whether an extract from the Ordnance Survey map or equivalent, showing the proposed locations of: (a) the Facility; (b) the Facility Metering Equipment; and (c) (if the Facility Generation Technology is Offshore Wind) the Offshore Transmission System;
- (D) a description of any Electricity Storage Facility, in form and content satisfactory to the CfD Counterparty (acting reasonably), including details of any assets relating to Electricity Storage or Electricity Storage Facilities which are intended to be located within the Facility site or be used by or be associated with the Facility;
- (E) a description of the Facility, in form and content satisfactory to the CfD Counterparty (acting reasonably), including a process flow diagram of the Facility, demonstrating that the Facility will comply with the Physical Separation Requirement, provided that this paragraph (E) shall apply only if the Facility Generation Technology is Advanced Conversion Technology; ~~and~~
- (F) a copy of the Facility CIB Requirements Statement and a statement supported by a Director's Certificate setting out whether the Facility CIB Requirements

Statement has been withdrawn or revised and if so, details of such withdrawal or revision, provided that this paragraph (F) shall only apply to the Contract for Difference if the Facility Generation Technology is Offshore Wind; and

(G) if the Project is an Unconsented Project, notwithstanding the Generator's obligations under Condition 32.1(M), evidence, in form and content satisfactory to the CfD Counterparty and accompanied by a Director's Certificate, either that:

(i) none of the Relevant Applicable Planning Consents has been refused;

(ii) in respect of each Relevant Applicable Planning Consent that has been refused, either:

(a) the applicable JR Window has not passed; or

(b) an application for judicial review has been made in respect of such refusal within the JR Window and is still being pursued by the Generator.

- 2.4 The Generator having given the CfD Counterparty not less than three (3) months' notice of the intended Start Date (provided that this paragraph 2.4 shall apply to the Contract for Difference only if the Generator is an Embedded Generator).
- 2.5 The Generator having notified the CfD Counterparty of the counterparty with which it has entered into a Market Supply Agreement and provided a duly executed copy of the same, certified as being correct and up to date by a director or company secretary of the Generator (provided that this paragraph 2.5 shall apply to the Contract for Difference only if the Generator is an Embedded Generator).
- 2.5A *The Generator having delivered to the CfD Counterparty evidence, in form and content satisfactory to the CfD Counterparty, acting reasonably, that the Generator is complying in full with the Physical Separation Requirement, provided this paragraph 2.5A shall apply only if the Facility Generation Technology is Advanced Conversion Technology.***

Subsidy Declaration Operational CP

- 2.6 Delivery to the CfD Counterparty of a written confirmation from the Generator, in form and content satisfactory to the CfD Counterparty (acting reasonably), that either:
- (A) no Subsidy, State aid or Union Funding has been received by the Generator or by any other person in relation to the costs of the Project (excluding the subsidy arising under this Contract for Difference); or
 - (B) Subsidy, State aid and/or Union Funding has been received by the Generator or by any other person in relation to the costs of the Project (excluding the subsidy arising under this Contract for Difference), and that such Subsidy, State aid and/or Union Funding (as applicable) (adjusted for interest in accordance with Condition 32.11) has been repaid to the granter of the subsidy, aid or funding in full.

4.2 The Generator shall, within five (5) Business Days of the Start Date give notice to the CfD Counterparty accompanied by a Director's Certificate setting out:

- (A) whether the Facility CIB Requirements Statement has been revised or withdrawn since the Agreement Date or the preparation of the last notice pursuant to paragraph 4.1(A) (as applicable), and if so, a copy of (as the case may be) the revised statement or withdrawal;
- (B) whether there is an Investment Extension Period, and if there is, details of when it ends;
- (C) if the Generator has previously given the CfD Counterparty a Facility CIB Implementation Statement:
 - (i) confirmation that such Facility CIB Implementation Statement remains in effect and has not been revised or withdrawn; or
 - (ii) if it has been revised or withdrawn, details and a copy of the revised statement or withdrawal, save to the extent it has already given such details and/or copy notice; and
- (D) if the Generator has not previously given the CfD Counterparty a Facility CIB Implementation Statement (or if a Facility CIB Implementation Statement given to the CfD Counterparty has been withdrawn):
 - (i) whether any CIB Implementation Statement Application has been made by the Generator and:
 - (a) if one has, a copy thereof and of any notice given by the Secretary of State in response to it, including whichever of the following was included with such notice:
 - (1) a Facility CIB Implementation Statement; or
 - (2) a Facility CIB Refusal; or
 - (b) if one has not (and the Investment Final Date has not occurred), details of whether and if so when the Generator expects to apply for one;
 - (ii) details and a copy of any notice revising or withdrawing a Facility CIB Implementation Statement that has been issued.

4.3 Without prejudice to paragraph 4.2, if there is an Investment Extension Period, the Generator shall, within five (5) Business Days after the end of the Investment Extension Period give notice to the CfD Counterparty accompanied by a Director's Certificate setting out the information required under paragraph 4.2, provided that for this purpose:

- (A) the words "*or this paragraph 4.2(A)*" shall be inserted in paragraph 4.2 after the words "*pursuant to paragraph 4.1(A)*"; and

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