

## Supplemental Compensation Agreement

Dated \_\_\_\_\_

THE SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO

as the SCA Provider

SIZEWELL C LIMITED

as GenCo

THE ENTITIES LISTED IN PART 1 OF SCHEDULE 1

as the Original HoldCo Shareholders

THE ENTITIES LISTED IN PART 2 OF SCHEDULE 1

as the Designated Affiliates

THE ENTITIES LISTED IN SCHEDULE 2

as the Original Secured Creditors

and

[REDACTED]

as the Security Trustee

Ref: L-267352

### *Disclaimer*

**IMPORTANT NOTE:** This document and its contents (this “**Document**”) is provided by His Majesty’s Government (“**HMG**”) to each recipient on the understanding that:

- This Document is provided for information and discussion purposes only to assist in the development of proposals for a RAB new nuclear project at Sizewell C (the “**Project**”).
- This Document is provided on the condition that it (and any discussion or other engagement on the part of HMG or its representatives or officials or advisers) is and will continue to be non-binding and exploratory, and shall not constitute or form part of, or be interpreted as being or giving rise to: (i) any approved HMG policy or policy proposal; or (ii) any legal, financial, technical or other professional advice; or (iii) any offer or invitation (or the solicitation of any offer or invitation) to negotiate or provide any investment or other participation by HMG in any transaction; or (iv) any express or implied representation, concerning the availability or terms of any HMG participation in any project or transaction, whether on the basis contemplated in this Document or any other basis.
- This Document is being provided pursuant to and is subject to the terms of a Non-Disclosure Agreement dated 13 May 2021 between Sizewell C Limited (formerly NNB Generation Company (SZC) Ltd) (“**GenCo**”) and the Department for Energy Security and Net Zero (formerly the Department for Business Energy and Industrial Strategy).
- Neither HMG, GenCo nor any of their representatives; officials; advisers; shareholders; subsidiaries; or affiliates (as the case may be) makes any express or implied representation or warranty with respect to the accuracy or completeness or status of this Document or shall have any liability or responsibility for any error or omission in this Document or for any loss which may arise from reliance on this Document.
- HMG participation (if any) in any transaction in relation to the Project will (in addition to, and without limiting the generality of, the above) be subject to and conditional upon the satisfaction of all relevant transaction conditions, including (without limitation): (i) compliance with all applicable legal and regulatory requirements and constraints (including any subsidy control requirements and constraints); (ii) satisfactory completion of due diligence on all relevant financial, technical, legal, commercial and other relevant matters; (iii) the preparation, negotiation and execution of all definitive documentation and the satisfaction of all conditions precedent to their coming into effect; and (iv) receipt of all necessary ministerial, regulatory, administrative and other relevant approvals.

## Table of Contents

Contents	Page
1 Definitions and Interpretation .....	2
2 Commencement, Duration and Conditions to Availability .....	24
3 General Representations and Warranties.....	29
4 General Insurance Provisions .....	29
5 Notification of Nuclear Incidents .....	37
6 Claims for Total Loss .....	38
7 Total Loss Compensation.....	38
8 Unavailability Notice .....	41
9 Claim Notification for an Uninsured Risk and Unavailability Loss.....	42
10 Unavailability Loss Compensation.....	43
11 Channelled Claims for NTPL Loss .....	45
12 NTPL Loss Compensation .....	45
13 Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation .....	47
14 Conduct of Proceedings: Total Loss, Unavailability and NTPL Loss .....	48
15 Unchanneled Claims.....	50
16 Claim Notification for Unchanneled Claim Costs .....	51
17 Conduct of Proceedings: Unchanneled Claims.....	53
18 Payment of Unchanneled Claim Costs .....	58
19 Adjustment to Cover Following a Failure Event .....	61
20 Decisions of the SCA Provider to approve a relevant Claim .....	62
21 Subrogation .....	63
22 No Duplicate Recovery .....	63
23 Fees and VAT .....	64
24 Accounts .....	67
25 Books and Records .....	67
26 Appointment of Security Trustee as Agent .....	68

27	Accession and Resignation of Beneficiaries .....	68
28	Confidentiality and Freedom of Information .....	69
29	Notices .....	73
30	Partial Invalidity .....	74
31	Remedies and Waivers .....	74
32	Consequential Loss .....	74
33	Amendments.....	75
34	Counterparts.....	75
35	Entire Agreement .....	75
36	Restrictions on Assignment.....	75
37	No Partnership or Agency .....	77
38	No Third Party Enforcement Rights .....	77
39	Governing Law .....	77
40	Jurisdiction and Disputes .....	77
41	Waiver of Sovereign Immunity.....	78
	Schedule 1 Original HoldCo Shareholders and Original Designated Affiliates .....	79
	Schedule 2 Original Secured Creditors.....	80
	Schedule 3 Required Insurances.....	81
	Schedule 4 Discretionary Insurances .....	102
	Schedule 5 Dispute Resolution Process.....	106
	Schedule 6 Form of Accession Agreement .....	108

**This Agreement** is made on [●] **between:**

- (1) **THE SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO** whose office is at 55 Whitehall, London, SW1A 2HP acting in their capacity as provider of supplemental compensation in accordance with the terms of this Agreement (the **"SCA Provider"**);
- (2) **SIZEWELL C LIMITED**, a limited liability company incorporated in England and Wales with registration number 09284825 and whose registered address is at 25 Copthall Avenue, London, England, EC2R 7BP (**"GenCo"**);
- (3) **THE ENTITIES LISTED IN** Part 1 (*Original Holdco Shareholders*) OF Schedule 1 (*Original Holdco Shareholders and Original Designated Affiliates*) (the **"Original HoldCo Shareholders"**);
- (4) **THE ENTITIES LISTED IN** Part 2 (*Designated Affiliates*) of Schedule 1 (*Original Holdco Shareholders and Original Designated Affiliates*) (the **"Designated Affiliates"**);
- (5) **THE ENTITIES LISTED IN** Schedule 2 (*Original Secured Creditors*) (the **"Original Secured Creditors"**); and
- (6) [REDACTED], acting in its capacity as security trustee for the Secured Creditors from time to time (the **"Security Trustee"**),

each a **"Party"** and together the **"Parties"**.

**Recitals:**

- (A) The Secretary of State (acting in their statutory capacity) has designated GenCo as a designated nuclear company pursuant to section 2 of the NEFA and has modified GenCo's electricity generation licence in accordance with section 6 of the NEFA.
- (B) GenCo, as a relevant nuclear licensee company, has been established to undertake the Project in accordance with all applicable laws and the Transaction Documents.
- (C) Pursuant to, among other things, the Nuclear Installations Act, the terms of the Main Works Contracts and the terms of this Agreement, GenCo is required to maintain the Required Insurances for the benefit of itself and the Relevant Parties on and from the dates specified in this Agreement, the Nuclear Installations Act, the relevant Main Works Contracts or as otherwise agreed between the Parties in writing from time to time (as the case may be).
- (D) The SCA Provider has agreed to provide contingent financial assistance to the Group Companies for, and in connection with, providing infrastructure at places in the United Kingdom (including infrastructure in connection with electricity and other services (potentially including the provision of heat)) pursuant to section 50 of the United Kingdom Internal Market Act 2020.
- (E) Given the nuclear-specific risks associated with GenCo operating the Regulated Assets, the SCA Provider has entered into this Agreement to provide financial support to:
  - (i) GenCo in respect of:
    - (a) Claims in respect of Insured Nuclear Incidents that are in excess of the Applicable Policy Limit under the Operational Property Insurance for Claims in respect of the full RAB Value of the Plant at the relevant time if there is a Total Loss of Regulated Assets in the period after the introduction of nuclear fuel into the first Unit;

- (b) Claims in respect of Unavailability of Covered Insurances in relation to Uninsured Risks; and
- (c) Claims in respect of NTPL Insurance if such NTPL Insurance is or becomes Unavailable up to the limit set out in the Nuclear Installations Act during the specified period set out in the Nuclear Installations Act; and
- (ii) the HoldCo Shareholders or their Designated Affiliate and the Secured Creditors in respect of Unchanneled Claims (and the HoldCo Shareholders, the Designated Affiliates and the Secured Creditors are parties to this Agreement solely for the purposes of Part 7 (*Third Party Liability in Relation to Nuclear Incidents: Unchanneled Claims*)),

in each case on the terms set out below.

## **Part 1**

### **Mechanics**

**The Parties agree** as follows:

## **1 Definitions and Interpretation**

### **1.1 Definitions**

In this Agreement:

**“Accession Agreement”** means an undertaking substantially in the form set out in Schedule 6 (*Form of Accession Agreement*);

**“Actual Additional Allowable Spend”** has the meaning given to that term in the Economic Licence;

**“Actual Allowable Capital Spend”** has the meaning given to that term in the Economic Licence;

**“Aggregated Claims Value”** has the meaning given to it in Clause 7.1.2(ii);

**“Alternative Secretary of State Transfer”** has the meaning given to it in Clause 36.5.3;

**“Applicable Policy Limit”** means, in respect of each Covered Insurance:

- (a) the applicable policy indemnity limits for each Covered Insurance as set out in paragraphs 6.3 (*Sum(s) insured*), 7.3 (*Sum(s) insured*) and 8.3 (*Sum(s) insured*) of Schedule 3 (*Required Insurances*); or
- (b) such amended or varied policy indemnity limit as may be agreed between GenCo with the relevant Insurer(s) from time to time, subject to the prior written consent of the SCA Provider,

as applicable;

**“Associated Undertaking”** means in relation to a person:

- (a) any holding company or subsidiary undertaking or any other subsidiary undertakings of any such holding company;
- (b) any fund associated with that person, including by virtue of its fund manager, general partner or otherwise; and

- (c) any incorporated or unincorporated branch, franchise or other such business associated with that person;

**“Assurance Services Agreement”** means the contract of that name entered into between GenCo and [REDACTED] on 12 February 2025 in relation to certain assurance services with respect to a number of Project implementation areas;

**“Available”** means that, in respect of a Covered Insurance, such Covered Insurance is not Unavailable;

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

**“Capex Incentive”** has the meaning given to that term in the Economic Licence;

**“Captive Insurer Request”** has the meaning given to it in Clause 4.10.1;

**“Captive Insurer Response”** has the meaning given to it in Clause 4.10.2;

**“CFA Provider”** means the Secretary of State in their capacity as the provider of contingent financing pursuant to the Contingent Financing Agreement;

**“Channelled Claim”** means a claim for compensation brought against GenCo by a third party pursuant to and in accordance with the Nuclear Installations Act and/or any relevant international agreement (as such term is defined in the Nuclear Installations Act);

**“Civil Works Alliance Agreement”** means the contractual alliancing agreement entered into on 24 June 2025 between GenCo, [REDACTED]  
[REDACTED] in relation to the civil works and related works in connection with the design, construction and completion of the Project;

**“Claim”** means any claim for compensation under this Agreement in respect of a Total Loss, NTPL Loss, Unchanneled Claim Costs or Unavailability Loss arising from the occurrence of:

- (a) an Insured Nuclear Incident or an Uninsured Risk in respect of any Covered Insurance; and/or

- (b) a Nuclear Incident in respect of an Unchanneled Claim,

as applicable;

**“Codes”** means the Department for Constitutional Affairs’ Code of Practice on the Discharge of Functions of Public Authorities under Part I of the FOIA and the Code of Practice on the discharge of obligations of public authorities under the Environmental Information Regulations;

**“Collaboration Agreement”** means the collaboration agreement to be entered into between GenCo and [REDACTED];

**“Commercial Manager Partner Contract”** means the contract of that name entered into between GenCo and [REDACTED] on 27 January 2025 in relation to project management, contract management and other services for the Project;

**“Commercial Operations Date”** has the meaning given to that term in the Economic Licence;

**“Commercially Sensitive Information”** has the meaning given to that term in the Liaison Agreement;

**“Compensation Obligations”** means the obligations of the SCA Provider to make payment pursuant to Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) and/or Clause 18 (*Payment of Unchanneled Claim Costs*), as applicable;

**“Conditions Precedent and Escrow Agreement”** means the conditions precedent and escrow agreement entered into on [●] July 2025 between, among others, the Secretary of State, GenCo, HoldCo, the Secured Creditors, the Security Trustee and each Original HoldCo Shareholder;

**“Confidential Information”** means all data and information either indicated or marked as such or being of a nature which it would be reasonable to assume is of a confidential nature, regardless of form or characteristic, and shall include drawings, files, tapes, specifications or related performance or design type documents, or commercial or price information or data of any kind, whether or not patentable, disclosed orally (if confirmed in writing by the originating party no later than 30 Business Days after disclosure as being confidential), in writing or howsoever by one party to another party or parties in connection with the Project or otherwise being acquired by or coming into the knowledge of such party or parties but does not include information that at the date of disclosure is publicly known or at any time after that date becomes publicly known not as a result of a breach of any duty of confidentiality;

**“Consequential Loss”** means:

- (a) any indirect or consequential loss;
- (b) any cost of interest or other financing charges; and
- (c) any loss of production, loss of profit, loss of revenue, loss of contract or liability under other agreements,

in each case whether or not the Party knew, or ought to have known, that such loss would be likely to be suffered, but not including costs, losses or liabilities due to third party losses and/or damages (including for injury or death) and/or fines imposed on any party;

**“Construction Phase”** means the period commencing on the date of Revenue Commencement and concluding on the date on which the Operations Phase begins;

**“Contingent Financing Agreement”** means the agreement of that name entered into between the CFA Provider, PledgeCo, GenCo and HoldCo on or about the date of Revenue Commencement;

**“Covered Insurances”** means the Operational Property Insurance and the NTPL Insurance;

**“CPIH”** means the consumer prices index including owner occupiers’ housing costs published by the Office for National Statistics (the **“Index”**) or, failing such publication or in the event of a fundamental change to the Index, such other index as the SCA Provider and GenCo may agree in writing, or such adjustments to the Index as those parties may agree in writing (in each case with the intention of putting the SCA Provider and GenCo in a ‘no better, no worse’ position than they would have been in had the Index not ceased to be published or the relevant fundamental change not been made);



**“Cross-Regulatory Information Sharing Platform”** means the working group of that name comprising representatives from, among others, GenCo, the Secretary of State, the Economic Regulator, the Environment Agency and the Office for Nuclear Regulation;

**“DCA Provider”** means the Secretary of State acting in their capacity pursuant to the Discontinuation and Compensation Agreement;

**“Decommissioning and Waste Management Plan”** means GenCo’s decommissioning and waste management plan for the purposes of section 45 of the Energy Act 2008, as updated from time to time in accordance with the Funding Arrangements Plan, the Energy Act 2008 and any other applicable law;

**“Deed of Adherence”** has the meaning given to that term in the Shareholders’ Agreement;

**“Defence Costs Cap”** means, subject to Clause 17.4 (*Limitations on Unchanneled Claim Costs*), in the case of any Claim for legal fees submitted by the Security Trustee (for and on behalf of the Secured Creditors) and/or the HoldCo Shareholders and/or the Designated Affiliates (as applicable), [REDACTED] (in aggregate across all Unchanneled Claims);

**“Defence Costs Claim Request”** has the meaning given to it in Clause 17.3.3;

**“Delivery Partner Contract”** means the contract of that name entered into between GenCo and [REDACTED] on 16 January 2025 in relation to project management, contract management and other services for the Project;

**“Designated Affiliate”** means each of:

- (a) the Original Designated Affiliates; and
- (b) any legal person who has been designated as a Designated Affiliate by a legal person who has become a HoldCo Shareholder and each of those legal persons has acceded to this Agreement as a Designated Affiliate or a HoldCo Shareholder (respectively) in accordance with Clause 27 (*Accession and Resignation of Beneficiaries*),

which in each case has not ceased to be a beneficiary in accordance with the terms of this Agreement;

**“Direct Agreement”** means each direct agreement that is required to be in full force and effect as at the date of Revenue Commencement pursuant to the terms of clause 10.1 of the Nuclear Administration and Statutory Transfers Agreement;

**“Disclosure of Tax Avoidance Scheme”** means the “Disclosure of Tax Avoidance Schemes” rules which require a promoter of tax schemes to inform HM Revenue and Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868, made under section 132A of the Social Security Administration Act 1992;

**“Discontinuation and Compensation Agreement”** means the discontinuation and compensation agreement entered into between the DCA Provider, PledgeCo, HoldCo, GenCo and the Security Trustee on or about the date of Revenue Commencement;

**“Discontinuation Date”** has the meaning given to that term in the Discontinuation and Compensation Agreement;

**“Discretionary Insurances”** means the insurances listed in Schedule 4 (*Discretionary Insurances*), which GenCo may (with the prior written consent of the SCA Provider) elect to place in accordance with the principal terms relating to such insurances as set out in Schedule 4 (*Discretionary Insurances*) (as may be amended with the consent of the SCA Provider from time to time in accordance with Clause 4.4.1(ii) or Clause 4.5 (*Renewal of Required Insurances and Discretionary Insurances*)), and **“Discretionary Insurance”** shall mean any one of such insurances;

**“Dispute”** has the meaning given to it in Clause 40.1;

**“Dispute Resolution Process”** means the dispute resolution process set out in Schedule 5 (*Dispute Resolution Process*);

**“Economic Guidance”** means the guidance issued by the Economic Regulator from time to time in respect of its approach to the economic regulation of GenCo;

**“Economic Licence”** means the electricity generation licence issued by the Economic Regulator to GenCo in accordance with section 6(1) of the Electricity Act 1989, as such generation licence has been modified by the Secretary of State (in their statutory capacity) in accordance with section 6 of the NEFA;

**“Economic Regulator”** means the Gas and Electricity Markets Authority or the Office of Gas and Electricity Markets, as the case may be;

**“EDF Group”** means:

- (a) each of EDF Energy Holdings Limited’s parent undertakings, together with each of their respective subsidiary undertakings for the time being (excluding the Group Companies);
- (b) any person or entity under the control of EDF S.A.; and
- (c) for such time as EDF S.A. is under the control of the government of the French Republic, excluding any parent undertaking of EDF S.A. and any subsidiary undertaking of such parent undertaking (other than EDF S.A. and its subsidiary undertakings or persons or entities under its control) but including any parent undertaking of EDF S.A. which becomes such a parent undertaking as a consequence of a restructuring transaction pursuant to which such parent undertaking has substantially the same shareholders as assets as EDF S.A. had immediately prior to such transaction, disregarding its ownership of EDF S.A. itself;

**“Environmental Information Regulations”** means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;

**“Equity Documents”** means the:

- (a) Shareholders' Agreement;
- (b) Investment Agreement;
- (c) Shareholder Loan Agreements; and
- (d) Sell Down Option Agreement;

**"Equivalent Holding Company"** has the meaning given to it in Clause 2.9.2(i);

**"Expiry Date"** means the earlier of:

- (a) the Transfer Termination Date;
- (b) the date of transfer of the Plant from GenCo to the party nominated under a Nuclear Transfer Scheme in circumstances other than those set out in Clause 2.7 or Clause 2.9; and
- (c) the Discontinuation Date;

**"Failure Event"** has the meaning given to that term in the Discontinuation and Compensation Agreement;

**"Fair Presentation"** means the duty of fair presentation as set out in part 2 of the Insurance Act 2015;

**"FDP Documents"** means the following documents in relation to the Funded Decommissioning Programme, as approved by the Secretary of State:

- (a) the Funding Arrangements Plan;
- (b) the Decommissioning and Waste Management Plan;
- (c) the Waste Agreements;
- (d) the Section 46 Agreement;
- (e) the FundCo Budget and Services Agreement;
- (f) the FundCo Shareholders' Agreement;
- (g) the FundCo Articles of Association;
- (h) any other document defined as a "Document" in and for the purposes of the Funding Arrangements Plan; and
- (i) any other document designated as an "FDP Document" by agreement between the Secretary of State and GenCo;

**"Fees Regulations"** means the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004;

**"Final Claims Payment Schedule"** means the relevant Proposed Claims Payment Schedule in relation to a Claim:

- (a) approved by the SCA Provider in accordance with Clause 6.2, Clause 9.3 or Clause 11.2 (as applicable); or
- (b) determined in accordance with the Dispute Resolution Process,

as applicable;

**“Finance Documents”** has the meaning given to that term in the Financing MDA;

**“Financing MDA”** means the master definitions agreement entered into between, among others, FundCo, GenCo, HoldCo, PledgeCo, the Secretary of State and the Security Trustee on or around the date of Revenue Commencement;

**“FOIA”** means the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

**“FundCo”** means SZC Nuclear Decommissioning Fund Company, a company to be incorporated in England prior to Revenue Commencement, being the company incorporated for the purposes of managing and investing GenCo’s FDP fund and holding the account into which Funded Decommissioning Programme contributions are made by GenCo;

**“FundCo Articles of Association”** means the articles of association (or other constitutional documents) of FundCo in force from time to time;

**“FundCo Budget and Services Agreement”** means the agreement between FundCo and GenCo governing how FundCo is administered and funded, dated on or about the date of Revenue Commencement;

**“FundCo Shareholders’ Agreement”** means the shareholders’ agreement between GenCo, each of the Independent Director Shareholders and FundCo dated on or around the date of Revenue Commencement;

**“Funded Decommissioning Programme”** or **“FDP”** has the meaning given to that term in the Economic Licence;

**“Funding Arrangements Plan”** means the funding arrangements plan entered into between GenCo and FundCo which will form part of the Funded Decommissioning Programme;

**“General Anti-Abuse Rule”** means:

- (a) part 5 of the Finance Act 2013; and
- (b) any future legislation introduced to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions or other tax charges;

**“General Required Insurances”** means the Required Insurances set out in:

- (a) paragraph 10 (*Employers Liability Insurance*) of Schedule 3 (*Required Insurances*);
- (b) paragraph 11 (*Motor Third Party Liability Insurance*) of Schedule 3 (*Required Insurances*);
- (c) paragraph 13 (*Personal Accident and Travel Insurance*) of Schedule 3 (*Required Insurances*);
- (d) paragraph 14 (*General Office Property Insurance*) of Schedule 3 (*Required Insurances*);

(e) paragraph 15 (*General Office Public Liability Insurance*) of Schedule 3 (*Required Insurances*); and

(f) paragraph 16 (*Cyber Risk*) of Schedule 3 (*Required Insurances*);

and “**General Required Insurance**” shall be construed accordingly;

“**GLF Provider**” means the Secretary of State in their capacity as lender under the Government Liquidity Facility Agreement;

“**Good Industry Practice**” has the meaning given to that term in the Economic Licence;

“**Government**” means His Majesty’s government of the United Kingdom of Great Britain and Northern Ireland;

“**Government Liquidity Facility Agreement**” means the agreement of that name entered into between, among others, the GLF Provider and GenCo dated on or about the date of Revenue Commencement;

“**Government Support Package**” or “**GSP**” means:

- (a) this Agreement;
- (b) the Government Liquidity Facility Agreement;
- (c) the Contingent Financing Agreement;
- (d) the Discontinuation and Compensation Agreement; and
- (e) the Nuclear Administration and Statutory Transfers Agreement;

“**Group Company**” means each of GenCo, HoldCo and PledgeCo, together the “**Group Companies**”;

“**GSP Provider**” means the Secretary of State in their capacity as provider of the Government Support Package;

“**Halifax Abuse Principle**” means the principle explained in the Court of Justice of the European Union Case C-255/02, *Halifax and others*;

“**HoldCo**” means Sizewell C (Holding) Limited as GenCo’s holding company;

“**HoldCo Shareholders**” means each of:

- (a) the Original HoldCo Shareholders; and
- (b) any legal person who has become a direct shareholder in HoldCo and has acceded to this Agreement as a HoldCo Shareholder in accordance with Clause 27 (*Accession and Resignation of Beneficiaries*),

which in each case has not ceased to be a beneficiary in accordance with the terms of this Agreement;

“**holding company**” has the meaning given to that term in section 1159 of the Companies Act 2006;

“**Independent Director Shareholders**” has the meaning given to that term in the FundCo Shareholders’ Agreement;

“**Independent Technical Adviser**” means the company appointed by GenCo under the ITA Deed of Appointment;

**“Indexation Base Month”** means the month preceding the month in which Revenue Commencement occurred;

**“Indexed”** means, in relation to an amount, such amount multiplied by:

$$\frac{CPIH_t}{CPIH_{base}}$$

(or if less than one, one), calculated on each anniversary of Revenue Commencement, where:

$CPIH_t$  is the value of CPIH most recently published in the equivalent month to the Indexation Base Month for the relevant year; and

$CPIH_{base}$  is the value of CPIH published in the Indexation Base Month;

**“Information”**, for the purposes of Clause 28.5 (*Freedom of Information*), has the meaning given under section 84 of the FOIA;

**“Instrumentation and Controls Contract”** means the contract of that name between GenCo and [REDACTED] in relation to the design, manufacture, procurement, integration, assembly, storage, packing, transport and delivery of the operational instrumentation and controls equipment, entered into on 29 September 2023;

**“Instrumentation and Controls LTSA”** means the long-term services agreement between GenCo and [REDACTED] in relation to the design, manufacture, procurement, integration, assembly, storage, packing, transport and delivery of the operational instrumentation and controls equipment entered into on 4 December 2024;

**“Insurance Period”** means a period of 12 months (or such other period as may be agreed in writing between GenCo and the Secretary of State) following the commencement, renewal or expiry date in respect of the relevant insurance;

**“Insurance Pool”** has the meaning given to it in Clause 4.1.1(ii)(b);

**“Insurance Proposals”** means, together:

- (a) the reinstatement value of all assets required to be insured pursuant to such Required Insurance or (if applicable) Discretionary Insurance on a reinstatement value basis;
- (b) the insured amounts in respect of all other risks required to be insured pursuant to such Required Insurance or (if applicable) Discretionary Insurance;
- (c) the amount of deductibles applicable to such Required Insurance or (if applicable) Discretionary Insurance; and
- (d) the Applicable Policy Limit for such Required Insurance or (if applicable) Discretionary Insurance,

in each case, for the Insurance Period following the Renewal Date, together with information showing in reasonable detail how the same are calculated and any other related information required by the Secretary of State; and

- (e) the claims experience in respect of such Required Insurance or (if applicable) Discretionary Insurance;

**“Insured Nuclear Incident”** means, in respect of the Covered Insurances, the Occurrence of a Nuclear Incident that:

- (a) results in any loss or liability for any of the Relevant Parties; and
- (b) is within the scope of the insurance cover provided by the Covered Insurances as at the date of the relevant event,

irrespective of whether such loss or liability falls within the relevant Applicable Policy Limit;

**“Insurers”** means the insurance providers who are counterparties from time to time to the Required Insurances and (if applicable) the Discretionary Insurances, and **“Insurer”** shall mean any one of them;

**“International Nuclear Conventions”** means the Vienna Convention on Civil Liability for Nuclear Damage 1997, the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention 1998, the Convention on Supplementary Compensation for Nuclear Damage 1997, the Paris Convention on Third Party Liability in the Field of Nuclear Energy 1960, the 1963 Convention Supplementary to the Paris Convention (the Brussels Convention) and such other international treaties which channel claims for compensation in the event of a Nuclear Incident to the operator of a nuclear facility from time to time;

**“Investment Agreement”** means the investment agreement entered into between HoldCo, GenCo, PledgeCo, the Secretary of State, EDF Energy Holdings Limited and each Investor Shareholder (as such term is defined therein) on or around the date of Revenue Commencement;

**“Investor Liability Cap”** means a sum equivalent to the value of the Liable Shareholder’s equity investment in HoldCo and/or PledgeCo by way of any Securities at the time when the Nuclear Incident which is the subject of an Unchanneled Claim occurred;

**“ITA Deed of Appointment”** means the deed of appointment entered into between the Independent Technical Adviser, the Secretary of State, the Economic Regulator, the Security Trustee and GenCo on or around the date of Revenue Commencement;

**“Law”** means any enactment or subordinate legislation, rule, regulation, order, directive or other provision including those of the European Union, which has, in each case, the force of law in the United Kingdom;

**“Lender Notice of Proceedings”** has the meaning given to it in Clause 16.1;

**“Liable Shareholder”** has the meaning given to it in Clause 17.4.4;

**“Liaison Agreement”** means the agreement of that name entered into between the Secretary of State, GenCo, the Independent Technical Adviser and the Economic Regulator on or about the date of Revenue Commencement;

**“Main Works Contracts”** means the:

- (a) Nuclear Services Agreement;
- (b) Nuclear Services Agreement LTSA;
- (c) Turbine Hall Contract;
- (d) Turbine Hall LTSA;

- (e) N4S Contract;
- (f) N4S LTSA;
- (g) Nuclear Fuel Supply Contract;
- (h) Instrumentation and Controls Contract;
- (i) Instrumentation and Controls LTSA;
- (j) Civil Works Alliance Agreement;
- (k) MEH Alliance Agreement;
- (l) Delivery Partner Contract;
- (m) Commercial Manager Partner Contract; and
- (n) Assurance Services Agreement;

**“Make Safe Activities”** means the activities in accordance with clause 5 (*Approved Discontinuation Plan, Make Safe Activities and Make Safe Account*) of the Discontinuation and Compensation Agreement to ensure that the Works or the Plant and the Site (as applicable):

- (a) have been secured and made safe in accordance with clause 5.1 of the Discontinuation and Compensation Agreement; and
- (b) will continue to be secured and made safe until the date of transfer of the Works or the Plant and the Site (as applicable) from GenCo to a party nominated under any Nuclear Transfer Scheme;

**“Make Safe Activities Completion Date”** means the earlier of:

- (a) the date on which GenCo has completed undertaking the Make Safe Activities; and
- (b) the date of transfer of the Plant from GenCo to the party nominated under a Nuclear Transfer Scheme;

**“Material Contracts”** has the meaning given to that term in the Nuclear Administration and Statutory Transfers Agreement;

**“Material Required Insurance”** means the Required Insurances set out in:

- (a) paragraph 2 (*Construction All Risks*) of Schedule 3 (*Required Insurances*);
- (b) paragraph 3 (*Third Party Liability*) of Schedule 3 (*Required Insurances*);
- (c) paragraph 4 (*Marine Cargo*) of Schedule 3 (*Required Insurances*);
- (d) paragraph 5 (*Terrorism Insurance (Property Damage)*) of Schedule 3 (*Required Insurances*);
- (e) paragraph 9 (*General Third Party Liability*) of Schedule 3 (*Required Insurances*); and
- (f) paragraph 12 (*Directors and Officers Liability Insurance*) of Schedule 3 (*Required Insurances*);



**“MEH Alliance Agreement”** means the agreement of that name to be entered into between GenCo, [REDACTED];

**“Minimum Credit Rating Notice”** has the meaning given to it in Clause 4.1.2;

**“Minimum Credit Rating Requirements”** has the meaning given to it in Clause 4.1.1(ii);

**“Minimum Credit Rating Response”** has the meaning given to it in Clause 4.1.3;

**“Minister of the Crown”** has the meaning given to that term in the Ministers of the Crown Act 1975;

**“N4S Contract”** means the contract for the design, manufacture, installation and commissioning of the nuclear steam supply system for the two Units at the Site entered into between GenCo and [REDACTED] on 9 April 2024;

**“N4S LTSA”** means the contract for the provision of certain long-term services (including any call-off contracts thereunder) in relation to the nuclear steam supply system entered into between GenCo and [REDACTED] on 9 April 2024;

**“NEFA”** means the Nuclear Energy (Financing) Act 2022;

**“Non-Convention Jurisdiction”** means a jurisdiction where the relevant government has not signed up to a relevant international agreement (as such term is defined in the Nuclear Installations Act);

**“Non-GenCo Recipient”** means a Relevant Party other than GenCo;

**“NSCo”** means [REDACTED] incorporated and registered in England and Wales with company number [REDACTED] whose registered office is at [REDACTED];

**“NSCo Agreements”** means:

- (a) the NSCo Share Purchase Agreement;
- (b) the NSCo Shareholders’ Agreement;
- (c) the NSCo Master Secondment Agreement;
- (d) the NSCo Corporate Services Agreement;
- (e) the disclosure letter between the [REDACTED] and [REDACTED] GenCo dated 20 December 2024;
- (f) the asset transfer agreement between NSCo and [REDACTED] dated 15 October 2024;
- (g) the technical services agreement between GenCo and NSCo dated 30 January 2025 as amended from time to time; and
- (h) the intellectual property licence agreement to be entered into between GenCo and [REDACTED] dated 29 January 2025;

**“NSCo Corporate Services Agreement”** means the support services agreement entered into between [REDACTED] and NSCo on 24 January 2025;

**“NSCo Master Secondment Agreement”** means the master secondment agreement originally dated 16 October 2024 and novated on 17 October 2024 between NSCo, [REDACTED];

**“NSCo Shareholders’ Agreement”** means the shareholders’ agreement entered into between NSCo, [REDACTED] and GenCo on 30 January 2025;

**“NSCo Share Purchase Agreement”** means the share purchase agreement entered into between [REDACTED] and GenCo on 20 December 2024;

**“NTPL Cap Amount”** means the relevant cap amount as specified in the Nuclear Installations Act;

**“NTPL Insurance”** means any insurance policy or analogous arrangement that GenCo is required to procure and maintain pursuant to the Nuclear Installations Act and/or any relevant international agreement (as such term is defined in the Nuclear Installations Act) in respect of claims against GenCo by third parties in relation to Nuclear Incidents;

**“NTPL Loss”** means in relation to a Nuclear Incident, and subject to the NTPL Cap Amount, any loss incurred by GenCo in excess of an Applicable Policy Limit under the NTPL Insurance in relation to Channelled Claims in respect of that Nuclear Incident, to the extent that the costs or losses incurred by GenCo in respect of such Channelled Claims would have been recoverable pursuant to the terms and conditions of the NTPL Insurance but for the application of such Applicable Policy Limit or the Unavailability of such NTPL Insurance in relation to that loss;

**“Nuclear Administration”** means a relevant licensee nuclear company administration for the purposes of part 3 of the NEFA;

**“Nuclear Administration and Statutory Transfers Agreement”** or **“NASTA”** means the nuclear administration and statutory transfers agreement entered into between the Secretary of State, GenCo, PledgeCo, HoldCo, the HoldCo Shareholders and the Security Trustee on or about the date of Revenue Commencement;

**“Nuclear Assets”** has the meaning given to that term in the Nuclear Administration and Statutory Transfers Agreement;

**“Nuclear Fuel Supply Contract”** means the fuel supply contract for the purposes of the Project entered into between GenCo and [REDACTED] on 9 April 2024;

**“Nuclear Incident”** means any Occurrence which causes nuclear damage;

**“Nuclear Incident Claim Notice”** has the meaning given to it in Clause 5.1.2;

**“Nuclear Installations Act”** means the Nuclear Installations Act 1965;

**“Nuclear Liabilities”** has the meaning given to that term in the Nuclear Administration and Statutory Transfers Agreement;

**“Nuclear Services Agreement”** means the nuclear services agreement entered into between GenCo, [REDACTED] on 3 July 2024;

**“Nuclear Services Agreement LTSA”** means the long-term services agreement in respect of certain design and engineering services to be entered into by GenCo, [REDACTED];

**“Nuclear Transfer Scheme”** has the meaning given to that term in the Nuclear Administration and Statutory Transfers Agreement;

**“Occurrence”** shall have the meaning given to “occurrence” in the Nuclear Installations Act;

**“Office for Nuclear Regulation”** or **“ONR”** means the Office for Nuclear Regulation;

**“Operational Property Insurance”** means the insurance to be placed in accordance with the requirements set out in Schedule 3 (*Required Insurances*) in respect of the Units to the extent such insurance covers the reinstatement value of the Units in the event of a Total Loss;

**“Operations Phase”** has the meaning given to that term in the Economic Licence;

**“Original Designated Affiliates”** means the Designated Affiliates named in Part 2 (*Original Designated Affiliates*) of Schedule 1 (*Original HoldCo Shareholders and Original Designated Affiliates*) as at the date of this Agreement;

**“Original HoldCo Shareholders”** means the HoldCo Shareholders named in Part 1 (*Original HoldCo Shareholders*) of Schedule 1 (*Original HoldCo Shareholders and Original Designated Affiliates*) as at the date of this Agreement;

**“Original Secured Creditors”** means the Secured Creditors named in Schedule 2 (*Original Secured Creditors*) as at the date of this Agreement;

**“Payee”** has the meaning given to it in Clause 23.7 (*VAT*);

**“Plant”** has the meaning given to that term in the Economic Licence;

**“PledgeCo”** has the meaning given to that term in the Financing MDA;

**“Potential Claim Notification”** means a notification to be issued by GenCo to the SCA Provider immediately upon becoming aware of the occurrence of an Insured Nuclear Incident that will or might give rise to a Claim for Total Loss, NTPL Loss or Unchanneled Claim Costs;

**“Potential Unchanneled Claim Costs Notice”** has the meaning given to it in Clause 5.1.2;

**“Pre-PCR Phase”** has the meaning given to that term in the Economic Licence;

**“Price Control Financial Model”** has the meaning given to that term in the Economic Licence;

**“Project”** has the meaning given to that term in the Economic Licence;

**“Project Documents”** means:

- (a) the Main Works Contracts;
- (b) the NSCo Agreements;
- (c) the Collaboration Agreement;
- (d) the Material Contracts; and
- (e) any other contract relating to the Project entered into or to be entered into (as applicable) between GenCo and any works contractor or supplier through which

any payment is to be made by GenCo and for which GenCo intends to apply for such cost to be logged to the RAB;

**“Proposed Claims Payment Schedule”** means a proposed schedule for the payment of amounts which are claimed by GenCo in relation to a Claim under Clause 6 (*Claims for Total Loss*), Clause 9 (*Claim Notification for an Uninsured Risk and Unavailability Loss*) (only in relation to the NTPL Insurance being Unavailable) or Clause 11 (*Channelled Claims for NTPL Loss*), which shall (as a minimum):

- (a) subject to paragraph (c), set out the schedule of amounts and dates for payment of the amounts referred to in Clause 6.1, Clause 9.2 and/or Clause 11.1 in relation to a Claim to the extent known;
- (b) include the amounts claimed by each of the Relevant Parties and any other third party claimants, including sufficient detail of the relevant claimants to allow the SCA Provider to exercise its discretion under Clause 13.3 where relevant;
- (c) where amounts due under this Agreement relate to the liabilities for losses of a Relevant Party which are incurred or are payable over time (including, without limitation, the reinstatement of assets), provide for monthly payments to be made in respect of the actual amounts incurred during the relevant period and which have been evidenced to the reasonable satisfaction of the SCA Provider (including, without limitation, invoices raised for completed reinstatement works);
- (d) to the extent GenCo has incurred any part of the relevant amounts due under Clause 13.1 of this Agreement prior to the agreement of the relevant Proposed Claims Payment Schedule, schedule the payment of such amounts 20 Business Days following the earlier of the events referred to in Clause 13.1.1, Clause 13.1.2 and Clause 13.1.3; and
- (e) provide for the first amount to be due and payable under the Proposed Claims Payment Schedule no earlier than 20 Business Days following the earlier of the events referred to in Clause 13.1.1, Clause 13.1.2 and Clause 13.1.3 of this Agreement;

**“RAB”** or **“Regulated Asset Base”** means GenCo’s regulated asset base for the purposes of the Economic Licence;

**“RAB Value”** means the value of the RAB as at the date on which GenCo submits a Claim to the SCA Provider in accordance with Clause 6.1, as calculated by the Economic Regulator in accordance with:

- (a) if the Claim is submitted during the Pre-PCR Phase, Special Condition 27.27 of the Economic Licence; or
- (b) if the Claim is submitted during the Operations Phase, Special Condition 46.17 of the Economic Licence;

**“Rating Agencies”** means Moody’s, S&P and Fitch and any further or replacement rating agency which has comparable standing in the United Kingdom and the United States of America appointed by GenCo with the approval of the Secretary of State (and **“Rating Agency”** means any one of them);

**“Rating Event”** means where GenCo and/or HoldCo, or the most senior class of debt issued by any such entity, is either:

- (a) rated BBB- or Baa3 (as applicable) or lower by a Rating Agency; or
- (b) on negative watch by a Rating Agency;

**“Recovery”** means the proceeds of any judgment, insurance, bond, surety, salvages, claim refunds, compensation or any other monies or other recovery which may be applied by the Relevant Party to reduce the amount of any Claim or liability arising in respect of this Agreement, the Required Insurances or (if applicable) any Discretionary Insurance(s) (excluding any recovery from the Insurers under the Required Insurances and/or the Discretionary Insurance(s));

**“Regulated Assets”** has the meaning given to that term in the Economic Licence and, to the extent not included in that definition, any assets that may be required for the purposes of decommissioning the Regulated Assets (as defined in the Economic Licence) and the Site;

**“Regulatory Documents”** means:

- (a) the Economic Licence;
- (b) the Price Control Financial Model;
- (c) the Economic Guidance;
- (d) the Revenue Collection Contract;
- (e) the Liaison Agreement; and
- (f) the ITA Deed of Appointment;

**“Relevant Failure Event”** means a Failure Event which has not been Remedied or reduced to a Remedy Event;

**“Relevant Parties”** means GenCo, the Secured Creditors, the HoldCo Shareholders and/or the Designated Affiliates, as applicable in the circumstances (and **“Relevant Party”** means any one of them);

**“Remedied”** has the meaning given to that term in the Discontinuation and Compensation Agreement;

**“Remedy Event”** has the meaning given to that term in the Discontinuation and Compensation Agreement;

**“Renewal Date”** means the renewal or expiry date in respect of the relevant Required Insurance;

**“Request for Information”**, for the purposes of Clause 28.5 (*Freedom of Information*), has the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term “request” shall apply);

**“Required Insurances”** means the insurances listed in Schedule 3 (*Required Insurances*), which shall be placed by GenCo in accordance with the principal terms relating to such insurances as set out in Schedule 3 (*Required Insurances*) (as may be amended with the consent of the SCA Provider from time to time in accordance with Clause 4.4.1(ii) or Clause 4.5 (*Renewal of Required Insurances and Discretionary Insurances*)), and such insurances as GenCo is required to have by any Law, official requirement or the Transaction Documents, and **“Required Insurance”** shall mean any one of such insurances;

**“Retiring Party”** has the meaning given to it in Clause 27.7;

**“Revenue Collection Contract”** means the revenue collection contract in respect of the Project entered into between GenCo and the Revenue Collection Counterparty on or about the date of Revenue Commencement;

**“Revenue Collection Counterparty”** means the Low Carbon Contracts Company Ltd or such other entity as is designated by the Secretary of State as the revenue collection counterparty for the purposes of the Revenue Collection Contract in accordance with section 16 of the NEFA;

**“Revenue Commencement”** means the date on which the Revenue Collection Contract becomes effective in accordance with its terms;

**“Rfi Recipient”** means a Party that is subject to the FOIA and/or the Environmental Information Regulations who receives a Request for Information;

**“SCA Proceeds Account”** has the meaning given to that term in the Financing MDA;

**“Secretary of State”** means the Secretary of State for Energy Security and Net Zero;

**“Secretary of State Replacement”** means:

- (a) any Minister of the Crown or any entity directly wholly-owned or controlled by a Minister of the Crown to which the Secretary of State transfers or novates its rights and obligations under this Agreement; or
- (b) any other UK public body (being a single entity):
  - (i) with the legal capacity, power and authority to become a party to and to perform the obligations of the Secretary of State under this Agreement; and
  - (ii) whose obligations under this Agreement are unconditionally and irrevocably guaranteed, sponsored and/or funded by the Secretary of State, a Minister of the Crown or other Government department with the legal capacity, power and authority to perform the obligations under the guarantee, sponsorship and/or funding arrangement (as applicable) and the obligations of the Secretary of State under this Agreement,

to which the Secretary of State transfers or novates its rights and obligations under this Agreement;

**“Section 46 Agreement”** means the agreement entered into between, *inter alia*, GenCo, FundCo and the Secretary of State under section 46(3A) of the Energy Act 2008 on or about the date of Revenue Commencement;

**“Secured Creditors”** means each of:

- (a) the Original Secured Creditors; and
- (b) any legal person who has become a Secured Creditor (as such term is defined in the Financing MDA and which term, for the purposes of and in accordance with clause 10.3 (*Secured Creditor*) of the Discontinuation and Compensation Agreement, includes the DCA Provider)) and has acceded to this Agreement as a Secured Creditor in accordance with Clause 27 (*Accession and Resignation of Beneficiaries*),

which in each case has not ceased to be a beneficiary in accordance with the terms of this Agreement, and **"Secured Creditor"** shall be construed accordingly;

**"Securities"** has the meaning given to that term in the Shareholders' Agreement;

**"Security Trust and Intercreditor Deed"** has the meaning given to that term in the Financing MDA;

**"Security Trustee Unchanneled Claim Notification"** has the meaning given to it in Clause 16.1.2(i);

**"Sell Down Option Agreement"** has the meaning given to that term in the Shareholders' Agreement;

**"Settlement Claim Request"** has the meaning given to it in Clause 17.3.2;

**"Shareholder Loan Agreements"** has the meaning given to that term in the Shareholders' Agreement;

**"Shareholder Notice of Proceedings"** has the meaning given to it in Clause 16.2;

**"Shareholders' Agreement"** means the shareholders' agreement originally entered into between, among others, HoldCo, GenCo, the Secretary of State, EDF Energy Holdings Limited and each Investor Shareholder (as defined therein) on or around the date of Revenue Commencement;

**"Shareholder Unchanneled Claim Notification"** has the meaning given to it in Clause 16.2.2(i);

**"Site"** has the meaning given to that term in the Nuclear Administration and Statutory Transfers Agreement;

**"SoS' Insurance Adviser"** means the Secretary of State's insurance adviser, as the Secretary of State may notify to GenCo from time to time;

**"Subrogated Rights"** means the rights of GenCo and/or all other Relevant Parties against sub-contractors and other third parties;

**"Total Loss"** means a total loss of a Unit or both Units caused by a Nuclear Incident, as a direct result of which:

- (a) it is determined by a loss adjuster the Unit or Units cannot be economically reinstated, which may include that the Unit has (or Units have) been damaged to such an extent that the cost of reinstating the Unit or both Units would be greater than the value of the Unit or Units as defined by reference to the value of the RAB immediately prior to the occurrence of the Nuclear Incident; and
- (b) the Aggregated Claims Value exceeds the Applicable Policy Limit in respect of the Operational Property Insurance, if and to the extent that such loss would have been recoverable pursuant to the terms and conditions of the Operational Property Insurance but for the application of such Applicable Policy Limit and capped at the RAB Value as at the date when the Claim is made;

**"Transaction Documents"** means the:

- (a) Regulatory Documents;
- (b) Project Documents;

- (c) Finance Documents;
- (d) GSP;
- (e) Equity Documents; and
- (f) FDP Documents;

**“Transfer Termination Date”** means the date on which this Agreement is terminated in accordance with Clause 2.7 or Clause 2.9;

**“Turbine Hall Contract”** means the contract in respect of the Project to be entered into between GenCo, [REDACTED] for the design, manufacture, installation, commissioning and testing of a turbine hall for both Units;

**“Turbine Hall LTSA”** means the contract for the provision of certain long-term services in respect of the turbine hall to be entered into between GenCo, [REDACTED];

**“Unavailability Confirmation Notice”** has the meaning given to it in Clause 8.3;

**“Unavailability Loss”** means:

- (a) in respect of the risks which are specifically covered by any Covered Insurance which was previously Available but has subsequently become Unavailable, the relevant portion of loss (if any) incurred by a Relevant Party that would have been recoverable under the applicable Covered Insurance on the terms applying immediately prior to the relevant Covered Insurance becoming Unavailable; or
- (b) in respect of the risk which would have been specifically covered by any Covered Insurance but GenCo has been unable to procure such Covered Insurance at any time due to it being Unavailable, that portion of the loss (if any) incurred by a Relevant Party that would have been recoverable under the applicable Covered Insurance on the terms which would have (or would reasonably be likely to have) applied if such Covered Insurance had been Available at the time when GenCo became required to procure such Covered Insurance,

(in each case, taking full account of any deductibles, exclusions and any other relevant terms and conditions of such Covered Insurance but ignoring any Applicable Policy Limit) as a result of the occurrence of such risk but for such Covered Insurance being Unavailable (or to the extent that such Covered Insurance is Unavailable) at the time of occurrence of such risk (including Consequential Loss to the extent such Consequential Loss would have specifically been covered under the terms of the applicable Covered Insurance);

**“Unavailability Loss Claim Notice”** has the meaning given to it in Clause 9.2;

**“Unavailability Notice”** has the meaning given to it in Clause 8.1.1;

**“Unavailable”** means, in relation to a risk that is (or is required to be) covered by a Covered Insurance, that:

- (a) the relevant Covered Insurance is not or is no longer available in respect of the Project and/or the Regulated Assets, as applicable, (and comparable nuclear operational activities in the United Kingdom) in the worldwide insurance market for nuclear power stations with reputable insurers of good standing or an



Insurance Pool in respect of that risk (including where the unavailability in the market results from a Nuclear Incident elsewhere); or

- (b) there has been a material adverse change in the terms on which the relevant Covered Insurance is available in respect of the Project and/or the Regulated Assets, as applicable, (and comparable nuclear operational activities in the United Kingdom) in the worldwide insurance market with reputable insurers of good standing or an Insurance Pool in respect of that risk (excluding any change in the premium payable, individual sub-limits or the policy deductibles) compared to the terms of the relevant Covered Insurance in place immediately prior to the relevant Renewal Date (as a result of a Nuclear Incident elsewhere),

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

“**Unchanneled Claim**” means a claim for compensation brought against one or more of the HoldCo Shareholders or one or more of the Designated Affiliates and/or one or more of the Secured Creditors or the Security Trustee in a jurisdiction which is not party to any relevant international agreements (as such term is defined in the Nuclear Installations Act) by a third party in respect of a Nuclear Incident;

“**Unchanneled Claim Costs**” means in relation to a Nuclear Incident:

- (a) subject to the Defence Costs Cap, the aggregate costs reasonably incurred by the HoldCo Shareholders or any of the Designated Affiliates and/or the Secured Creditors (as applicable) directly in connection with defending any Unchanneled Claims in respect of that Nuclear Incident;
- (b) if an Unchanneled Claim against one or more of the Secured Creditors in respect of that Nuclear Incident is successful, the amount of any legally enforceable damages awarded to the claimant or claimants by the relevant court (without any cap), provided that the SCA Provider may require the Secured Creditors to (in which case the Secured Creditors shall) pursue any legally available means of appeal in accordance with Clause 17.3.4(ii) before the SCA Provider shall become liable for the cost of any such damages;
- (c) if a competent court in the relevant jurisdiction permits an Unchanneled Claim against one or more of the Secured Creditors in respect of that Nuclear Incident and, prior to the conclusion of the court proceedings, the Secured Creditors enter into a compromise or settlement with the claimant in respect of that Unchanneled Claim with the prior written consent of the SCA Provider, the amount of any damages payable to that claimant in accordance with the terms of the compromise or settlement (without any cap);
- (d) if an Unchanneled Claim against one or more of the HoldCo Shareholders or one or more of the Designated Affiliates in respect of that Nuclear Incident is successful, the amount in excess of [REDACTED] but not in excess of the Unchanneled Claim Costs Cap of any legally enforceable damages awarded to the claimant or claimants by the relevant court, provided that the SCA Provider may require the HoldCo Shareholders or the Designated Affiliates (as applicable) to pursue any legally available means of appeal in accordance with Clause 17.3.4(ii) before the SCA Provider shall become liable for the cost of any such damages; and

- (e) if a competent court in the relevant jurisdiction permits an Unchanneled Claim against one or more of the HoldCo Shareholders or one or more of the Designated Affiliates in respect of that Nuclear Incident and, prior to the conclusion of the court proceedings, the HoldCo Shareholders or the Designated Affiliates (as applicable) enter into a compromise or settlement with the claimant in respect of that Unchanneled Claim with the prior written consent of the SCA Provider, the amount in excess of [REDACTED] but not in excess of the Unchanneled Claim Costs Cap of the amount of any damages payable to that claimant in accordance with the terms of the compromise or settlement;

**“Unchanneled Claim Costs Cap”** means, subject to Clause 17.4 (*Limitations on Unchanneled Claim Costs*), in the case of any Unchanneled Claim submitted by any HoldCo Shareholder or Designated Affiliate (as applicable), the amount payable under Clause 17.4.4(ii) (excluding legal fees);

**“Unchanneled Claim Costs Request”** has the meaning given to it in Clause 17.3.5(iii);

**“Uninsured Risk”** means an Occurrence for which the relevant Covered Insurance is Unavailable;

**“Uninsured Risk Notice”** means a written notice from GenCo to the SCA Provider confirming the occurrence of an Uninsured Risk as further set out in Clause 9.1;

**“Unit”** has the meaning given to that term in the Economic Licence, and **“Units”** shall be construed accordingly;

**“Unremedied Failure Event Notice”** has the meaning given to it in Clause 19.1;

**“Unsuitable Party”** means:

- (a) any person whose activities, in the reasonable opinion of the Secretary of State, pose or could pose a threat to national security relating to the Project; or
- (b) any person whose tax returns submitted on or after 1 October 2012 have been found to be incorrect as a result of:
  - (i) His Majesty’s Revenue and Customs successfully challenging it under the General Anti-Abuse Rule or the Halifax Abuse Principle (and such challenge has not been subsequently successfully overturned);
  - (ii) a tax authority in a jurisdiction in which the person is obliged to submit a tax return successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle (and such challenge has not been subsequently successfully overturned); and/or
  - (iii) the failure of an avoidance scheme which the person was involved in and which was, or should have been, notified under the Disclosure of Tax Avoidance Scheme or any equivalent or similar regime in a jurisdiction in which the person is established;

**“VAT”** means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature;

**“Waste Agreements”** means the:

- (a) Waste Contract for Spent Fuel; and

(b) Waste Contract for Intermediate Level Waste;

**“Waste Contract for Intermediate Level Waste”** means the waste transfer agreement relating to the transfer of intermediate level waste arising from the Project entered into between the Secretary of State and GenCo dated on or about the date of Revenue Commencement;

**“Waste Contract for Spent Fuel”** means the waste transfer agreement relating to the transfer of spent fuel arising from the Project entered into between the Secretary of State and GenCo dated on or about the date of Revenue Commencement; and

**“Works”** means the design, development, construction, commissioning, operation and maintenance of the Project (including all necessary permanent and temporary works) and any other work carried out in accordance with the Project Documents.

## 1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires the headings are inserted for convenience only and shall not affect the construction of this Agreement.

1.2.2 The Schedules shall be deemed to be incorporated into this Agreement.

1.2.3 All representations, warranties, indemnities, covenants, agreements, undertakings and obligations made or given or entered into by more than one person in this Agreement are made or given or entered into severally and not jointly.

1.2.4 Expressions in this Agreement that are appropriate to companies shall be construed, in relation to an undertaking that is not a company, as references to the corresponding persons, officers, documents or organs, as the case may be, appropriate to undertakings of that nature.

1.2.5 Unless a contrary indication appears, any reference in this Agreement to:

- (i) any agreement, deed, instrument, licence, code or other document (including this Agreement and any Transaction Document) or to a provision contained in any of these, shall be construed, at the particular time, as a reference to it as it may then have been amended, restated, varied, supplemented, modified, suspended, replaced, assigned or novated;
- (ii) a **“person”** includes any person, firm, company, corporation, government, state or agency of a state, or any unincorporated body, association, foundation, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing and words denoting natural persons include any other persons;
- (iii) a **“company”** includes any body corporate, wherever incorporated;
- (iv) the SCA Provider, HoldCo, GenCo, the Security Trustee, the Secured Creditors, the HoldCo Shareholders, the Designated Affiliates or any other person includes its respective successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under this Agreement;

- (v) the Security Trustee is a reference to the Security Trustee acting on its own behalf and/or on behalf of the Secured Creditors, as the case may be;
- (vi) a “**Clause**” or a “**Schedule**” is a reference to a Clause of or a Schedule to this Agreement;
- (vii) a provision of law or a technical standard is a reference to that provision as amended, updated, extended or re-enacted and includes all laws and official requirements made under or deriving validity from it or enacting such modification;
- (viii) a time of day is a reference to London time;
- (ix) a reference to a “**day**” means a calendar day;
- (x) a reference to a “**month**” means a calendar month;
- (xi) words indicating one gender include all genders;
- (xii) words indicating the singular also include the plural and vice versa;
- (xiii) provisions including the word “**agree**”, “**agreed**” or “**agreement**” require the agreement to be recorded in writing;
- (xiv) unless provided otherwise, “**written**” or “**in writing**” means hand-written, type-written, printed or electronically made, in each case resulting in a permanent record; and
- (xv) “**includes**”, “**including**”, “**in particular**”, “**other**” and “**otherwise**” are to be construed without limitation and the *eiusdem generis* rule shall not apply to this Agreement.

## 2 Commencement, Duration and Conditions to Availability

- 2.1** Subject to satisfaction of the conditions precedent set out in the Conditions Precedent and Escrow Agreement, this Agreement shall come into force on Revenue Commencement and, subject to Clause 2.2, Clause 2.3, Clause 2.4 and Clauses 2.10 to 2.12, shall terminate on the Expiry Date.
- 2.2** After the Expiry Date has occurred, each of this Clause 2, Clause 4.1 (*Required Insurances*), Clause 4.4 (*Insurance Undertakings*), Clauses 4.6 (*Information*) to Clause 22 (*No Duplicate Recovery*), and Clauses 28 (*Confidentiality and Freedom of Information*) to 40 (*Jurisdiction and Disputes*) shall remain in full force and effect in respect of any Claims made and notified to the SCA Provider on or prior to the Expiry Date in accordance with Clause 5 (*Notification of Nuclear Incidents*), Clause 6 (*Claims for Total Loss*), Clause 9 (*Claim Notification for an Uninsured Risk and Unavailability Loss*), Clause 11 (*Channelled Claims for NTPL Loss*) and/or Clause 16 (*Claim Notification for Unchannelled Claim Costs*) until the final disposal of any such Claim by settlement, determination or withdrawal.
- 2.3** Where the Expiry Date occurs after the date on which GenCo is first required to take out NTPL Insurance, in respect of any Claims arising between the Expiry Date and the date on which Make Safe Activities commence and thereafter, in respect of any Claims in connection with the performance of the Make Safe Activities arising on or prior to the Make Safe Activities Completion Date, in each case, that are made and notified to the

SCA Provider by no later than the third anniversary of the Make Safe Activities Completion Date in accordance with Clause 5 (*Notification of Nuclear Incidents*), Clause 6 (*Claims for Total Loss*), Clause 9 (*Claim Notification for an Uninsured Risk and Unavailability Loss*), Clause 11 (*Channelled Claims for NTPL Loss*) and/or Clause 16 (*Claim Notification for Unchanneled Claim Costs*), the following Clauses shall remain in full force and effect in respect of such Claims until the final disposal of any such Claims by settlement, determination or withdrawal:

2.3.1 Clause 2 (*Commencement, Duration and Conditions to Availability*);

2.3.2 Clause 5 (*Notification of Nuclear Incidents*) to Clause 22 (*No Duplicate Recovery*); and

2.3.3 Clause 28 (*Confidentiality and Freedom of Information*) to Clause 40 (*Jurisdiction and Disputes*).

**2.4** Where the Expiry Date has occurred after the date on which GenCo is first required to take out NTPL Insurance, each of this Clause 2, Clause 4.1 (*Required Insurances*), Clause 4.4 (*Insurance Undertakings*), Clauses 4.6 (*Information*) to Clause 22 (*No Duplicate Recovery*), and Clauses 28 (*Confidentiality and Freedom of Information*) to 40 (*Jurisdiction and Disputes*) shall remain in full force and effect in respect of any Channelled Claims made against GenCo or Unchanneled Claims made against any HoldCo Shareholder or Designated Affiliate or any Secured Creditor and notified to the SCA Provider in respect of:

2.4.1 in the case of any liabilities for injury (as such term is defined in section 26 of the Nuclear Installations Act) on or prior to the date falling 30 years after the Transfer Termination Date or the date on which the Nuclear Assets and Nuclear Liabilities have transferred in accordance with any Nuclear Transfer Scheme; or

2.4.2 in the case of any other liabilities on or prior to the date falling 10 years after the Transfer Termination Date or the date on which the Nuclear Assets and Nuclear Liabilities have transferred in accordance with any Nuclear Transfer Scheme,

(or, in each case, such other date as would be coterminous with the time limitation specified in the Nuclear Installations Act) in accordance with Clause 11 (*Channelled Claims for NTPL Loss*) or Clause 16 (*Claim Notification for Unchanneled Claim Costs*) until the final disposal of any such Claim by settlement, determination or withdrawal, up to the limit set out in the Nuclear Installations Act if and to the extent that GenCo's NTPL Insurance is not available in respect of such Claim.

**2.5** Subject to Clauses 2.2, 2.3, 2.4 and 2.6, on and from the Expiry Date, the SCA Provider shall have no liability under this Agreement:

2.5.1 in respect of any Insured Nuclear Incidents, Nuclear Incidents or Uninsured Risks that occur after the Expiry Date; or

2.5.2 if an Insured Nuclear Incident, a Nuclear Incident or an Uninsured Risk occurs on or prior to the Expiry Date, in respect of any Claims made and/or notified to the SCA Provider in relation to such Insured Nuclear Incidents, Nuclear Incidents or Uninsured Risks (as applicable) more than 10 years after the Expiry Date (or such other date as would be coterminous with the time limitation specified in the Nuclear Installations Act).

**2.6** Clause 2.5 shall not apply in relation to any Claims in connection with the performance of the Make Safe Activities made in accordance with Clause 2.3.

**2.7** If a transfer of the Regulated Assets (whether partially or wholly constructed), whether by share sale or asset transfer, is directed or agreed pursuant to the Economic Licence, the NASTA, the NEFA, any Nuclear Transfer Scheme, the Discontinuation and Compensation Agreement or otherwise in accordance with law which, subject to Clause 2.8:

**2.7.1** excludes the ITA Deed of Appointment, the Liaison Agreement, this Agreement or any other document forming part of the Government Support Package;

**2.7.2** excludes the Economic Licence and the relevant transferee has not been granted a modification to its electricity generation licence pursuant to section 6 of the NEFA; or

**2.7.3** where there is more than one transferee for the transfer, excludes the ITA Deed of Appointment, the Liaison Agreement, this Agreement or any other document forming part of the Government Support Package in a transfer to a single transferee,

and the SCA Provider has not given their express consent to such transfer, the SCA Provider may, by notice to the other Parties, terminate this Agreement with effect from the date of such transfer. Such termination shall be without prejudice to any accrued rights or obligations under this Agreement and no Party shall have any claim against any other Party in respect of such termination.

**2.8** For the purposes of Clauses 2.7.1 and 2.7.3 only, the references to “**the ITA Deed of Appointment**”, “**the Liaison Agreement**”, “**this Agreement**” and “**any other document forming part of the Government Support Package**” shall each be construed to exclude:

**2.8.1** any documents which are not capable of being transferred at law; and

**2.8.2** any documents which have already expired or terminated by operation of their terms.

**2.9** If:

**2.9.1** a transfer of:

(i) the Regulated Assets (whether partially or wholly constructed), whether by share sale or asset transfer; or

(ii) the shares of any of the Group Companies which results in:

(a) GenCo ceasing to maintain tax residency status in the United Kingdom;

(b) HoldCo ceasing to retain ownership of 100% of the issued share capital of PledgeCo; or

(c) PledgeCo ceasing to retain ownership of 100% of the issued share capital of GenCo,

in each case occurs as a result of, or arising from the process of, the enforcement of any security under the Finance Documents;

**2.9.2** either:

- (i) the ITA Deed of Appointment, the Liaison Agreement, this Agreement and/or any other document forming part of the Government Support Package has a counterparty who ceases to be a holding company of GenCo and has not been transferred to an equivalent holding company of GenCo (an “**Equivalent Holding Company**”);
- (ii) the transferee, any Equivalent Holding Company or any shareholder of any Equivalent Holding Company has not entered a Deed of Adherence or a replacement shareholders’ agreement in form and substance satisfactory to the Secretary of State (in their capacity as GSP Provider);
- (iii) the transferee, any Equivalent Holding Company or any shareholder of any Equivalent Holding Company is an Unsuitable Party; and/or
- (iv) the transferee, any Equivalent Holding Company or any direct shareholder of any Equivalent Holding Company is not resident in the United Kingdom for tax purposes; and

**2.9.3** the Secretary of State (in their capacity as GSP Provider) has not given their express consent to such transfer,

the SCA Provider may, by notice to the other Parties, terminate this Agreement with effect from the date of such transfer. Such termination shall be without prejudice to any accrued rights or obligations under this Agreement and no Party shall have any claim against any other Party in respect of such termination.

## **2.10** GenCo may only submit:

- 2.10.1** a Potential Claim Notification under Clause 5 (*Notification of Nuclear Incidents*) if GenCo has paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clauses 23.1.1, 23.1.2 and 23.1.4 prior to the occurrence of the relevant Insured Nuclear Incident or Nuclear Incident;
- 2.10.2** a Potential Unchanneled Claim Costs Notice under Clause 5 (*Notification of Nuclear Incidents*) if GenCo has paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.4 prior to the occurrence of the relevant Insured Nuclear Incident or Nuclear Incident;
- 2.10.3** a Claim in relation to Total Loss under Clause 6 (*Claims for Total Loss*) if GenCo has paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.1 prior to the occurrence of the relevant Insured Nuclear Incident or Nuclear Incident;
- 2.10.4** an Uninsured Risk Notice under Clause 9.1 if GenCo has paid the initial premium or the annual premium (as applicable) and, if applicable, any multiplier and/or cover arrangement fee that was most recently due and payable pursuant to Clause 23.1.3 prior to the occurrence of the relevant Uninsured Risk;
- 2.10.5** a Claim in relation to Unavailability Loss under Clause 9.2 if GenCo has paid the initial premium or the annual premium (as applicable) and, if applicable, any multiplier and/or cover arrangement fee that was most recently due and payable pursuant to Clause 23.1.3 prior to the occurrence of the relevant Uninsured Risk; and/or

- 2.10.6** a Claim in relation to NTPL Loss under Clause 11 (*Channelled Claims for NTPL Loss*) if GenCo has paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.2 prior to the occurrence of the relevant Insured Nuclear Incident or Nuclear Incident.
- 2.11** A HoldCo Shareholder or Designated Affiliate (as applicable) and/or the Security Trustee on behalf of the Secured Creditors (as applicable) may only submit, as applicable:
- 2.11.1** a Security Trustee Unchanneled Claim Notification under Clause 16.1.2(i);
- 2.11.2** a Shareholder Unchanneled Claim Notification under Clause 16.2.2(i);
- 2.11.3** a Settlement Claim Request under Clause 17.3.2;
- 2.11.4** a Defence Costs Claim Request under Clause 17.3.3 and/or Clause 17.3.6(iv) (as applicable); and
- 2.11.5** an Unchanneled Claim Costs Request under Clause 17.3.5(iii) and/or Clause 17.3.6(v) (as applicable),
- if GenCo has paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.4 prior to the occurrence of the relevant Nuclear Incident.
- 2.12** The SCA Provider shall not be required to comply with its obligations pursuant to:
- 2.12.1** Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) unless GenCo has paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clauses 23.1.1, 23.1.2 and/or 23.1.3 (as applicable) and, if applicable, any multiplier and/or cover arrangement fee that was most recently due and payable pursuant to Clause 23.1.3 prior to the occurrence of the relevant Uninsured Risk; or
- 2.12.2** Clause 18 (*Payment of Unchanneled Claim Costs*) unless GenCo has paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.4 prior to the occurrence of the relevant Nuclear Incident.



## Part 2

### Representations and General Insurance Provisions

#### 3 General Representations and Warranties

3.1 GenCo represents and warrants that, as at Revenue Commencement:

- 3.1.1 it is validly existing and in good standing under the laws of England and Wales and has the corporate power and authority to execute, deliver and perform its obligations under this Agreement; and
- 3.1.2 the execution, delivery and performance of this Agreement by it have been authorised by all necessary corporate action on its part.

#### 4 General Insurance Provisions

##### 4.1 Required Insurances

4.1.1 Subject to Clause 4.2 (*Unavailability of Required Insurance*), GenCo shall:

- (i) procure that each Required Insurance is taken out and maintained in full force and effect by the date and for the duration specified in Schedule 3 (*Required Insurances*) (or such other dates or durations as may be agreed with the SCA Provider); and
- (ii) ensure that each Required Insurance shall be placed and maintained through appropriately regulated insurers or underwriters of good standing in the international insurance market with (at the time of placement and any subsequent renewal):
  - (a) a minimum credit rating of:
    - (I) BBB+ or Baa1 from no fewer than two Rating Agencies; or
    - (II) A- or A3 from one Rating Agency; or
  - (b) if such Required Insurance is provided by a pool of insurers (an “**Insurance Pool**”), in respect of each insurer that forms part of such Insurance Pool, a minimum credit rating of:
    - (I) BBB+ or Baa1 from no fewer than two Rating Agencies; or
    - (II) A- or A3 from one Rating Agency,

(the requirements set out in each of Clause 4.1.1(ii)(a) and Clause 4.1.1(ii)(b) being the “**Minimum Credit Rating Requirements**”),

if the relevant Required Insurance is available in respect of GenCo (and comparable nuclear operational activities in the United Kingdom) in the worldwide insurance market with reputable insurers of good standing or from an Insurance Pool, in each case which (at the time of placement and any subsequent renewal) complies with the Minimum Credit Rating Requirements.

4.1.2 If the only available insurers or underwriters of good standing and/or Insurance Pools formed of insurers of good standing (as applicable) available in the global insurance market do not meet the applicable Minimum Credit Rating

Requirements, GenCo shall submit to the SCA Provider a written notice setting out:

- (i) details of the credit rating(s) of the relevant insurer or insurers, or (if applicable) the insurers forming part of the relevant Insurance Pool, and any other relevant circumstances or information in relation to the credit position of the relevant insurer, insurers or Insurance Pool (as applicable); and
- (ii) if GenCo proposes (notwithstanding the requirements of Clause 4.1.1(ii)) to place a Required Insurance with the relevant insurer, insurers or Insurance Pool (as applicable), a detailed explanation as to why, in GenCo's opinion, it would be reasonable to place the relevant Required Insurance with that insurer, insurers or Insurance Pool,

(such notice being a **"Minimum Credit Rating Notice"**).

**4.1.3** Within 30 Business Days of receipt of a Minimum Credit Rating Notice, the SCA Provider shall deliver to GenCo a notice (a **"Minimum Credit Rating Response"**) setting out whether the SCA Provider:

- (i) unconditionally approves GenCo's proposals set out in the relevant Minimum Credit Rating Notice, in which case GenCo shall proceed to place the relevant Required Insurance with the relevant insurer, insurers or Insurance Pool in accordance with the proposals set out in the relevant Minimum Credit Rating Notice;
- (ii) acting reasonably, conditionally approves GenCo's proposals set out in the relevant Minimum Credit Rating Notice, in which case the Minimum Credit Rating Response shall set out the conditions attached to the SCA Provider's approval; or
- (iii) acting reasonably, does not approve GenCo's proposals set out in the relevant Minimum Credit Rating Notice, in which case within 10 Business Days of the SCA Provider delivering the Minimum Credit Rating Response to GenCo, the Parties shall meet to discuss how to resolve the matters set out in the Minimum Credit Rating Notice. If the Parties are unable to reach an agreement pursuant to this Clause 4.1.3(iii), either Party may refer the matter for resolution in accordance with the Dispute Resolution Process.

**4.1.4** GenCo shall as soon as reasonably practicable after (and in any event within 10 Business Days of) the date on which GenCo has placed a Required Insurance (the **"Placement Date"**) submit to the SCA Provider a written notice confirming that the relevant Required Insurance has been placed in accordance with the terms set out in Schedule 3 (*Required Insurances*) (subject to any amendments permitted pursuant to the terms of this Agreement or as may have been agreed between the Parties in writing prior to the placement of such policy of insurance).

**4.1.5** In relation to the Covered Insurances and each Material Required Insurance, on or within 15 Business Days of each anniversary of the Placement Date for that Material Required Insurance, GenCo shall submit to the SCA Provider a written annual summary notice confirming:

- (i) that the relevant Material Required Insurance has been renewed or otherwise remains in full force and effect;
- (ii) subject to Clause 4.5 (*Renewal of Required Insurances and Discretionary Insurances*), any changes to the terms of such Material Required Insurance during the previous 12 months;
- (iii) any claims made under the relevant Material Required Insurance during the previous 12 months; and
- (iv) any loss of cover under the Material Required Insurance during the previous 12 months.

**4.1.6** In relation to each General Required Insurance, on or within 15 Business Days of the date falling six months after the Placement Date for that General Required Insurance (and each six months thereafter), GenCo shall submit to the SCA Provider a written bi-annual summary notice confirming:

- (i) that the relevant General Required Insurance has been renewed or otherwise remains in full force and effect;
- (ii) subject to Clause 4.5 (*Renewal of Required Insurances and Discretionary Insurances*), any changes to the terms of such General Required Insurance during the previous six months;
- (iii) any claims made under the relevant General Required Insurance during the previous six months; and
- (iv) any loss of cover under the General Required Insurance during the previous six months.

**4.1.7** Subject to Clause 4.2 (*Unavailability of Required Insurance*), GenCo shall use reasonable endeavours to procure that the Required Insurances:

- (i) contain an indemnity to principals clause or additional insureds equivalent, under which the SCA Provider shall be indemnified in respect of claims made against the SCA Provider arising from death or bodily injury or third party property damage, and for which GenCo is legally liable in respect of this Agreement;
- (ii) name the SCA Provider as co-insured for its separate interest with attendant non-vitiation, waiver of subrogation and notice of cancellation provisions on terms and in form and substance acceptable to the SCA Provider (acting reasonably); and
- (iii) where relevant to the insurance being taken out, contain a cash option for non-reinstatement of the Plant on terms acceptable to the SCA Provider (acting reasonably).

## **4.2 Unavailability of Required Insurance**

**4.2.1** If at any time any Required Insurance is not available within the worldwide insurance market on reasonable commercial terms (including cost) from reputable insurers of good standing or an Insurance Pool formed of insurers of good standing (as applicable), in each case which meets the applicable Minimum Credit Rating Requirements, GenCo shall:

- (i) promptly notify the SCA Provider of such unavailability and the reasons why in its opinion the commercial terms are unreasonable or too expensive or would not represent value for money for consumers (having regard to the inclusion of the premium in the Economic Licence); and
- (ii) retest the worldwide insurance market (customarily writing the nuclear sector), once every six months and take out such Required Insurances in the event they subsequently become available on reasonable commercial terms (including cost).

**4.2.2 If:**

- (i) the SCA Provider reasonably considers that, notwithstanding the commercial terms and the cost of such Required Insurance(s), it is in consumers' interests to take out such Required Insurance(s); and
- (ii) the Economic Regulator has confirmed that the cost is covered by the Economic Licence and GenCo is in no better or no worse position under the totex incentive as a result of placing the insurance than before the increase in premia,

GenCo shall proceed to place the relevant insurance(s).

### **4.3 Discretionary Insurances**

- 4.3.1** GenCo may procure that any Discretionary Insurance is taken out on the terms set out in Schedule 4 (*Discretionary Insurances*), or on such other terms as GenCo, acting in accordance with Good Industry Practice, and the SCA Provider may agree in writing.
- 4.3.2** GenCo shall as soon as reasonably practicable after (and in any event within 10 Business Days of) the date on which GenCo has placed a Discretionary Insurance submit to the SCA Provider a written notice confirming that the relevant Discretionary Insurance has been placed in accordance with the terms set out in Schedule 4 (*Discretionary Insurances*) or such other terms as GenCo and the SCA Provider have agreed in writing prior to the placement of such Discretionary Insurance.
- 4.3.3** In relation to any Discretionary Insurance that has been placed, on or within 15 Business Days of each anniversary of the date on which such Discretionary Insurance was placed, GenCo shall, for so long as any Discretionary Insurance is taken out, submit to the SCA Provider a written annual summary notice confirming the matters set out in Clause 4.1.5, as if references to "Material Required Insurance" were references to "Discretionary Insurance".

### **4.4 Insurance Undertakings**

- 4.4.1** GenCo undertakes, during the term of this Agreement, to:
  - (i) pay or procure the payment on a timely basis of all premiums and other fees and charges as required by the terms of the Required Insurances and (if applicable) the Discretionary Insurances;
  - (ii) subject to Clauses 4.2 (*Unavailability of Required Insurance*) and 4.5 (*Renewal of Required Insurances and Discretionary Insurances*), procure that no changes in the Applicable Policy Limits or coverage (including

those resulting from extensions or exclusions) shall be made to any Covered Insurance, Material Required Insurance or (if applicable) any Discretionary Insurance without the prior written consent of the SCA Provider, provided that in respect of any Material Required Insurance and (if applicable) any Discretionary Insurance, GenCo may without such prior written consent:

- (a) increase the Applicable Policy Limit and/or improve the principal terms and/or scope of cover provided under such policy of insurance at any time; or
  - (b) make administrative changes to the terms of such policy of insurance;
- (iii) provide to the SCA Provider and the SoS' Insurance Adviser copies of:
  - (a) all policies and other instruments of insurance (including endorsements and, unless unavailable following request to the Insurer, premium receipts) issued from time to time in relation to the Required Insurances and (if applicable) any Discretionary Insurances; and
  - (b) all changes requested or effected to the Required Insurances and/or (if applicable) any Discretionary Insurances promptly following their issue or the implementation of relevant changes (as applicable);
- (iv) where such original documents and endorsements exist, upon reasonable notice and at reasonable times and frequencies, allow the SCA Provider and SoS' Insurance Adviser to inspect the originals of all policies (including endorsements) and other instruments of insurance at the offices of GenCo; and
- (v) procure that all Required Insurances and (if applicable) any Discretionary Insurances, and the procurement thereof, comply at all times with all applicable laws and regulations and that all authorisations required for the purchase and maintenance of the Required Insurances and (if applicable) Discretionary Insurances on the basis provided in this Agreement are obtained and remain valid and applicable.

**4.4.2** GenCo and the other Relevant Parties undertake, during the term of this Agreement, to:

- (i) comply or procure compliance at all times with the terms and conditions of all Required Insurances and (if applicable) Discretionary Insurances and take all reasonable action within their respective powers to procure that nothing is at any time done or suffered to be done whereby any Required Insurance and (if applicable) Discretionary Insurance may reasonably be expected to be impaired, suspended or rendered void or voidable in whole or in part, or any claim under any Required Insurance and (if applicable) Discretionary Insurance becomes uncollectable in full;
- (ii) take or procure the taking of reasonable risk management and risk control measures in relation to the Project as a prudent entity engaged in a similar

function on a comparable project would take, complying with Good Industry Practice;

- (iii) take or procure the taking of all reasonable and practicable steps to preserve and enforce its rights of Recovery and to do and permit to be done all such other acts and things as may be necessary or reasonably required by the SCA Provider in the interests of any rights or remedies or for obtaining relief or indemnity, from a party other than GenCo or the other Relevant Parties; and
- (iv) disclose to the SCA Provider all information that the Relevant Parties are obliged to disclose to the Insurers and, where there are no relevant insurers, all information of which the Relevant Parties are aware that could reasonably be foreseen to be material to the SCA Provider's decision to provide support under this Agreement and the costs charged for such support (including, without limitation, notice of any material change in circumstances).

#### **4.5 Renewal of Required Insurances and Discretionary Insurances**

- 4.5.1** In relation to each Covered Insurance and, where the consent of the SCA Provider is required pursuant to Clause 4.4.1(ii), Material Required Insurance and (if applicable) Discretionary Insurance, GenCo shall, no later than the date falling 35 Business Days prior to the renewal or expiry date in respect of such policy of insurance, deliver to the SCA Provider a notice outlining any changes that GenCo proposes to make in relation to such policy of insurance, including in relation to the risks or liabilities to be insured thereunder and any proposed changes in relation to the Insurance Proposals applicable thereto.
- 4.5.2** GenCo shall, no later than the date falling 15 Business Days prior to the renewal or expiry date in respect of each Covered Insurance, Material Required Insurance or (if applicable) Discretionary Insurance, deliver to the SCA Provider a notice setting out the full details of the Insurance Proposals for the relevant Insurance Period.
- 4.5.3** Following receipt of the relevant Insurance Proposals and any proposed changes to such Insurance Proposals in accordance with Clauses 4.5.1 and 4.5.2, the SCA Provider shall, within 10 Business Days of receiving the full details of the relevant Insurance Proposals pursuant to Clause 4.5.2, confirm in writing whether or not it agrees with such Insurance Proposals, provided that the SCA Provider shall not be entitled to withhold its consent:
  - (i) where such Covered Insurances, Material Required Insurances or (if applicable) Discretionary Insurances are to be renewed on terms that are consistent with the requirements of Schedule 3 (*Required Insurances*) or Schedule 4 (*Discretionary Insurances*), as applicable; or
  - (ii) to the extent that the changes to be made to such Material Required Insurances or (if applicable) Discretionary Insurances upon renewal are permitted in accordance with Clause 4.4.1(ii).
- 4.5.4** Subject to Clause 4.4.1(ii) and Clause 4.2 (*Unavailability of Required Insurance*), if:

- (i) the SCA Provider, acting reasonably, does not agree, in whole or in part, with any Insurance Proposals in respect of a Covered Insurance, Material Required Insurance or (if applicable) Discretionary Insurance provided by GenCo pursuant to Clause 4.5.1 or Clause 4.5.2; or
- (ii) GenCo otherwise amends any of the terms of the Covered Insurances, Material Required Insurances or (if applicable) Discretionary Insurances without the consent of the SCA Provider (which shall not be unreasonably withheld or delayed),

GenCo may nonetheless place such Covered Insurance, Material Required Insurance or (if applicable) Discretionary Insurance on such terms as were specified in the relevant Insurance Proposals (or amendment thereto) delivered to the SCA Provider pursuant to Clause 4.5.1 and/or Clause 4.5.2, provided that the SCA Provider shall not be obliged to pay any amount of any Total Loss, NTPL Loss or Unavailability Loss to the extent that such Total Loss, NTPL Loss or Unavailability Loss would not have been incurred but for GenCo placing, renewing or amending that policy of insurance on such terms.

#### **4.6 Information**

GenCo shall give to the SCA Provider and the SoS' Insurance Adviser such information about the Required Insurances and (if applicable) Discretionary Insurances (or any matter which may be relevant to the Required Insurances and (if applicable) the Discretionary Insurances) as the SCA Provider or the SoS' Insurance Adviser may, from time to time, reasonably request.

#### **4.7 Failure to take out Required Insurance**

If GenCo at any time fails to procure, maintain in full force and effect and/or renew any Required Insurance in accordance with the provisions of Clause 4.1 (*Required Insurances*), Clause 4.2 (*Unavailability of Required Insurance*) and/or Clause 4.5 (*Renewal of Required Insurances and Discretionary Insurances*), then, without prejudice to any rights of the SCA Provider (however arising), the SCA Provider may elect (but shall not be required) to:

- 4.7.1 pay any premiums required to keep the Required Insurances in full force and effect; or
- 4.7.2 procure the Required Insurances itself,

and may in either case recover any premiums (together with all costs incurred by the SCA Provider in connection with the procurement of the Required Insurances) from GenCo immediately upon written demand.

#### **4.8 Insurance Act 2015**

- 4.8.1 GenCo shall discharge in full all duties and obligations in respect of the Insurance Act 2015 when procuring, maintaining or amending any of the Required Insurances and (if applicable) Discretionary Insurances, including in circumstances where GenCo is required to name the SCA Provider on any such insurance policies to protect the SCA Provider's separate interests.

4.8.2 Without prejudice to the other express obligations of GenCo under this Agreement, GenCo acknowledges and agrees that it owes a duty of Fair Presentation to the SCA Provider as if this contract were a contract of insurance.

#### 4.9 Brokers Letter of Undertaking

GenCo shall use reasonable endeavours to procure that every insurance broker that effects any Required Insurance writes a letter of undertaking to the SCA Provider in respect thereof, in such form as may be agreed by the SCA Provider, by the date specified in Schedule 3 (*Required Insurances*) (or such other dates or durations as may be agreed with the SCA Provider) and at each renewal thereof.

#### 4.10 Use of captives

4.10.1 If GenCo wishes to place any Required Insurance or Discretionary Insurance through a captive insurance company, GenCo shall submit to the SCA Provider and the Economic Regulator a written notice setting out full details of such proposed captive insurance company, including:

- (i) its jurisdiction of incorporation;
- (ii) details of any directors, shareholders and persons of significant control;
- (iii) copies of its constitutional documents;
- (iv) the means through which it is capitalised and its capital levels;
- (v) details of any reinsurance agreements to be entered into between the captive insurance company and any other provider of insurance and confirmation that any such insurance provider meets the Minimum Credit Rating Requirements; and
- (vi) such other information as the SCA Provider or the SoS' Insurance Adviser may request,

(a "**Captive Insurer Request**").

4.10.2 Subject to any approvals required from the Economic Regulator, within 30 Business Days of receipt of a Captive Insurer Request, the SCA Provider shall deliver to GenCo a notice (a "**Captive Insurer Response**") setting out whether the SCA Provider:

- (i) unconditionally approves GenCo's proposals set out in the relevant Captive Insurer Request, in which case GenCo may proceed to place the relevant Required Insurance with the relevant captive insurance company in accordance with the proposals set out in the relevant Captive Insurer Request;
- (ii) acting reasonably, conditionally approves GenCo's proposals set out in the relevant Captive Insurer Request, in which case the Captive Insurer Response shall set out the conditions attached to the SCA Provider's approval; or
- (iii) acting reasonably, does not approve GenCo's proposals set out in the relevant Captive Insurer Request, in which case within 10 Business Days of the SCA Provider delivering the Captive Insurer Response to GenCo, the Parties shall meet to discuss how to resolve the matters set out in the



Captive Insurer Request. If the Parties are unable to reach an agreement pursuant to this Clause 4.10.2(iii) either Party may refer the matter for resolution in accordance with the Dispute Resolution Process.

- 4.10.3 The SCA Provider shall not be required to approve any Captive Insurer Request if the Economic Regulator does not approve the financing of a captive insurance company through the Economic Licence or regulatory regime.

## 5 Notification of Nuclear Incidents

### 5.1 Subject to Clause 2.10, GenCo shall:

- 5.1.1 provide the SCA Provider with a Potential Claim Notification immediately upon becoming aware of the occurrence of an Insured Nuclear Incident or a Nuclear Incident that will or might give rise to a Claim for Total Loss and/or NTPL Loss and/or Unchanneled Claim Costs (as applicable);
- 5.1.2 as soon as reasonably practicable after (and in any event within 40 Business Days of) delivering the relevant Potential Claim Notification to the SCA Provider in accordance with Clause 5.1.1, deliver to the SCA Provider a written notice setting out:
- (i) details of the relevant Insured Nuclear Incident or Nuclear Incident, including the circumstances and timing of the event and the parties involved;
  - (ii) details of all expected losses and claims made (or likely to be made) under the Covered Insurances or any Unchanneled Claims that may be made as a result of the relevant Insured Nuclear Incident or Nuclear Incident, including any jurisdictions in which any such Unchanneled Claims may be brought, insofar as GenCo is aware of the same;
  - (iii) if applicable, details of any Claim for Total Loss or NTPL Loss made by GenCo to the SCA Provider as a result of the relevant Insured Nuclear Incident;
  - (iv) all information that GenCo or a Relevant Party provides to any of the Insurers in respect of such Insured Nuclear Incident or Nuclear Incident; and
  - (v) all other information in connection with the relevant Insured Nuclear Incident or Nuclear Incident that the SCA Provider reasonably requests,
- in respect of the relevant Insured Nuclear Incident (a **“Nuclear Incident Claim Notice”**) or Nuclear Incident (a **“Potential Unchanneled Claim Costs Notice”**), as the case may be; and
- 5.1.3 subject to any Applicable Policy Limit, seek to recover from the relevant Insurer or Insurers all sums available under the relevant Covered Insurance or Covered Insurances (as applicable) as soon as is reasonably practicable following the occurrence of the relevant Insured Nuclear Incident.

## **Part 3**

### **Operational Property Insurance and Total Loss**

#### **6 Claims for Total Loss**

**6.1** As soon as reasonably practicable after a Total Loss has arisen as a result of a Nuclear Incident, and in any event within 40 Business Days of GenCo receiving written confirmation from the relevant Insurer or Insurers that the amount for which the Insurer or Insurers would be liable under the Operational Property Insurance in respect of an Insured Nuclear Incident exceeds the Applicable Policy Limit for the Operational Property Insurance (less the amount of any deductibles applicable to such Operational Property Insurance in respect of that Insured Nuclear Incident, in relation to which GenCo shall be solely liable), GenCo shall provide the SCA Provider with:

**6.1.1** an updated or confirmed Nuclear Incident Claim Notice, including the associated Proposed Claims Payment Schedule;

**6.1.2** if and to the extent that it has changed, an update in relation to all other information to be provided in the relevant Nuclear Incident Claim Notice in relation to the relevant Insured Nuclear Incident; and

**6.1.3** all other information in connection with the occurrence of the relevant Insured Nuclear Incident that the SCA Provider requests,

insofar as such information is known (or ought reasonably to be known) by GenCo.

**6.2** Within 40 Business Days of receipt by the SCA Provider of the information required pursuant to Clause 6.1 (or such longer period as may be agreed in writing between the Parties), the SCA Provider shall notify GenCo in writing whether it approves or rejects the relevant Claim (or part thereof) and associated Proposed Claims Payment Schedule.

**6.3** If an Insured Nuclear Incident that may give rise to a Claim for Total Loss has occurred as a result of any criminal activity (except in respect of any fine imposed upon GenCo as a result of a technical breach which does not result in a Nuclear Incident), fraud or wilful default by GenCo, then GenCo shall not be entitled to make a Claim for Total Loss in accordance with this Clause 6.

#### **7 Total Loss Compensation**

##### **7.1 Property Damage to the Plant in relation to Nuclear Incidents**

**7.1.1** If GenCo incurs a Total Loss as a result of an Insured Nuclear Incident and GenCo has made a Claim in respect of that Total Loss pursuant to Clauses 5 (*Notification of Nuclear Incidents*) and 6 (*Claims for Total Loss*) in relation to such Insured Nuclear Incident, then, subject to:

(i) GenCo complying with the terms of Clause 4 (*General Insurance Provisions*) in respect of the Covered Insurances, Clause 5 (*Notification of Nuclear Incidents*), Clause 6 (*Claims for Total Loss*) and Clause 22 (*No Duplicate Recovery*);

(ii) Clause 4.2.2, Clause 7.2 (*Limitations on Total Loss Compensation*), Clause 19.3 and Clause 20 (*Subrogation*);

- (iii) the relevant Claim and associated Proposed Claims Payment Schedule being approved by the SCA Provider pursuant to Clause 6.2 or being otherwise determined pursuant to this Agreement; and
- (iv) GenCo having paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.1 prior to the occurrence of the relevant Insured Nuclear Incident,

the SCA Provider shall, subject to the terms set out in this Agreement, pay to GenCo (or any Non-GenCo Recipient, as the case may be) in accordance with Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) an amount equal to the Total Loss which is the subject of the relevant Claim to the extent approved pursuant to Clause 6.2 or as otherwise determined pursuant to the terms of this Agreement.

**7.1.2** If:

- (i) a Nuclear Incident causes damage to a Unit or both Units such that the Unit or Units cannot be economically reinstated (which may include circumstances where the Unit has (or Units have) been damaged to such an extent that the cost of reinstating the Unit or both Units would be greater than the value of the Unit or Units prior to the occurrence of the Nuclear Incident); and
- (ii) the amount of the proceeds of all aggregated claims for Total Loss under the Covered Insurances (the “**Aggregated Claims Value**”) is less than the RAB Value,

the SCA Provider shall, subject to the terms set out in this Agreement, pay to GenCo (or any Non-GenCo Recipient, as the case may be) in accordance with Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) an amount equal to the difference between the RAB Value and the Aggregated Claims Value, provided always that if and to the extent that the Total Loss which has occurred has only affected one of the Units, the SCA Provider shall only be obliged to pay the difference between half of the RAB Value and the Aggregated Claims Value.

- 7.1.3** For the purposes of calculating the RAB Value for the purposes of Clause 7.1.2, any payments to any counterparty under any Project Document in respect of loss of profit for the termination of any Project Document shall not be included in the RAB Value as either Actual Allowable Capital Spend or Actual Additional Allowable Spend, as adjusted for the Capex Incentive adjustments to the extent applicable to that spend.

## **7.2 Limitations on Total Loss Compensation**

- 7.2.1** Subject to Clause 7.2.2, the SCA Provider shall have no liability or obligation in relation to any deductible under any Operational Property Insurance (which shall solely remain the responsibility of GenCo) and shall have no obligation or liability to pay out a Claim for Total Loss pursuant to and in accordance with this Clause 7 and/or Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) if:

- (i) the relevant Insurer or Insurers rejects the corresponding claim made by GenCo under the terms of the Operational Property Insurance on the grounds that there is insufficient evidence to substantiate the claim under the Operational Property Insurance;
- (ii) the Insurer has (or Insurers have, as applicable) agreed to pay to GenCo the full amount claimed by GenCo in respect of the relevant Insured Nuclear Incident under the Operational Property Insurance, notwithstanding any Applicable Policy Limit; or
- (iii) the relevant Claim has occurred as a result of a Nuclear Incident caused (in whole or in part) by any criminal activity (except in respect of any fine imposed upon GenCo as a result of a technical breach which does not result in a Nuclear Incident), fraud or wilful default by GenCo.

**7.2.2** The SCA Provider may take into consideration the terms of the Operational Property Insurance such that the settlement of any Claim for Total Loss made pursuant to this Clause 7 shall follow, as far as possible, the terms of the Operational Property Insurance.

**7.2.3** If:

- (i) it has been:
  - (a) agreed in writing by the Insurer or Insurers; or
  - (b) determined under the Operational Property Insurance,
 that GenCo shall be paid an amount equal to the Applicable Policy Limit (less the amount of any deductibles applicable to such Operational Property Insurance in respect of the relevant Insured Nuclear Incident under the Operational Property Insurance); and
- (ii) one or more of the relevant Insurers has not paid that amount (or part thereof) to GenCo because the relevant Insurer is insolvent or has failed to make such payment,

such unpaid amount shall be deemed to have been paid by the relevant Insurer for the purposes of Clause 7.2.1 and the SCA Provider shall have no liability to make any payment in respect of such unpaid amount.

**7.2.4** If the Operational Property Insurance provides for costs and expenses recoverable by GenCo from the Insurers to be payable in addition to the Applicable Policy Limit, the liability of the SCA Provider under this Clause 7 for such costs and expenses shall be limited to the proportion which the amount payable under this Clause 7 (excluding such costs and expenses) bears to the total sum payable under the Operational Property Insurance and this Clause 7 (excluding such costs and expenses) except to the extent such costs and expenses are recovered from the Insurers.

**7.2.5** In the event that the SCA Provider has made any payment in respect of a Total Loss to GenCo (or any Non-GenCo Recipient, as the case may be) in respect of the then-RAB Value, the RAB Value in the Economic Licence will be correspondingly adjusted by the Economic Regulator.

## **Part 4**

### **Unavailability of Covered Insurance**

#### **8 Unavailability Notice**

**8.1** If, on the initial placement or any renewal of any Covered Insurance, such Covered Insurance is or becomes or has become Unavailable in respect of a relevant risk or for the period for which GenCo may be liable for such risk, then GenCo shall:

**8.1.1** as soon as reasonably practicable, and in any event within 10 Business Days of GenCo becoming aware that such Covered Insurance is Unavailable, deliver to the SCA Provider a written notice:

- (i) confirming that the relevant Covered Insurance is Unavailable;
- (ii) confirming that the Covered Insurance has not become Unavailable as a result of any criminal activity, fraud or wilful default by GenCo;
- (iii) explaining in sufficient detail why a prudent board of directors of a company providing nuclear generation in the United Kingdom would, acting reasonably and in the best interests of that company, resolve to cease to operate such business as a result of the relevant Covered Insurance being Unavailable; and
- (iv) setting out in reasonable detail any mitigation actions that GenCo proposes to take as a result of the relevant Covered Insurance being Unavailable,

insofar as known or as reasonably ought to have been known by GenCo (an **"Unavailability Notice"**); and

**8.1.2** approach the insurance markets on a regular basis, and in any event at least every three months, to establish whether such Covered Insurance remains Unavailable in respect of such risk, in each case keeping the SCA Provider fully informed as to the results of each such approach.

**8.2** If the relevant Covered Insurance becomes Available (in whole or in part) in respect of such Occurrence, GenCo shall, immediately upon becoming aware that such Covered Insurance is Available, take out and maintain (or procure the taking out and maintenance of) the applicable Covered Insurance in respect of such Occurrence, which shall be incepted as soon as is reasonably practicable on the terms set out in Schedule 3 (*Required Insurances*). GenCo shall not be required to take out any Covered Insurance to the extent that it is Unavailable.

**8.3** Following the delivery of an Unavailability Notice to the SCA Provider, if GenCo and the SCA Provider agree, or it is otherwise agreed or determined in accordance with the Dispute Resolution Process, that the following conditions have been satisfied, namely that:

- 8.3.1** the relevant Occurrence is an Uninsured Risk and/or the relevant Covered Insurance is not available for the appropriate period of liability;
- 8.3.2** the Covered Insurance has not become Unavailable as a result of any criminal activity, fraud or wilful default by GenCo; and

**8.3.3** GenCo has demonstrated to the reasonable satisfaction of the SCA Provider that a prudent board of directors of a company engaged in nuclear electricity generation in the United Kingdom would, acting reasonably and in the best interests of that company, resolve to cease to operate such business as a result of the relevant Covered Insurance being Unavailable,

then the SCA Provider shall deliver to GenCo a notice confirming that the conditions set out in this Clause 8.3 have been satisfied and the cover arrangement fee that is payable by GenCo to the SCA Provider pursuant to Clause 23.1.3(iv) (an **“Unavailability Confirmation Notice”**).

## **9 Claim Notification for an Uninsured Risk and Unavailability Loss**

**9.1** Subject to Clause 2.10, after the SCA Provider has issued an Unavailability Confirmation Notice to GenCo, if an Uninsured Risk occurs and the applicable Covered Insurance:

**9.1.1** remains Unavailable in respect of that Uninsured Risk at the time when the Uninsured Risk occurs; or

**9.1.2** is Available at the time when the Uninsured Risk occurs and GenCo has fully complied with its obligations pursuant to Clause 8.1.2 but the applicable Covered Insurance policy has not come into effect at the time when the Uninsured Risk occurs,

GenCo shall deliver to the SCA Provider an Uninsured Risk Notice within 20 Business Days of GenCo becoming aware of the occurrence of such Uninsured Risk.

**9.2** Subject to Clause 2.10, as soon as reasonably practicable after (and in any event within 10 Business Days of) delivering an Uninsured Risk Notice to the SCA Provider, GenCo shall provide to the SCA Provider in respect of the occurrence of the relevant Uninsured Risk:

**9.2.1** details of the occurrence of the relevant Uninsured Risk, including the circumstances and timing of the event and the parties involved;

**9.2.2** details of the Claim for Unavailability Loss being made by GenCo to the SCA Provider as a result of the relevant Uninsured Risk;

**9.2.3** all information that GenCo would be obliged to provide to the Insurers if the relevant Covered Insurance remained Available; and

**9.2.4** all other information in connection with the occurrence of the relevant Uninsured Risk that the SCA Provider reasonably requests,

insofar as known or as reasonably ought to have been known by GenCo (an **“Unavailability Loss Claim Notice”**).

**9.3** Within 40 Business Days of receipt by the SCA Provider of the Unavailability Loss Claim Notice in respect of the occurrence of an Uninsured Risk (or such longer period as may be agreed in writing between the Parties), the SCA Provider shall notify GenCo in writing whether it approves or rejects the relevant Claim (or part thereof) and, only in relation to the NTPL Insurance being Unavailable, any associated Proposed Claims Payment Schedule.

## **10 Unavailability Loss Compensation**

### **10.1 Payment of Unavailability Loss Compensation**

On receipt of a valid Claim for Unavailability Loss under Clause 9.2, subject to:

- 10.1.1 GenCo complying with the terms of Clause 4 (*General Insurance Provisions*) in respect of the Covered Insurances, Clause 5 (*Notification of Nuclear Incidents*), Clause 8 (*Unavailability Notice*), Clause 9 (*Claim Notification for an Uninsured Risk and Unavailability Loss*), this Clause 10 and Clause 22 (*No Duplicate Recovery*);
- 10.1.2 the terms of Clause 10.2 (*Limitations on Unavailability Loss Compensation*), Clause 19.3 and Clause 20 (*Subrogation*);
- 10.1.3 the relevant Claim being approved by the SCA Provider under Clause 9.3 or being otherwise determined under this Agreement;
- 10.1.4 only in relation to the NTPL Insurance being Unavailable, any Proposed Claims Payment Schedule associated with that Claim being approved by the SCA Provider under Clause 9.3 or being otherwise determined under this Agreement; and
- 10.1.5 GenCo having paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.3 (as applicable) and, if applicable, any multiplier and/or cover arrangement fee that was most recently due and payable pursuant to Clause 23.1.3 prior to the occurrence of the relevant Uninsured Risk,

the SCA Provider shall (subject to the terms set out in this Agreement) pay to GenCo (or any Non-GenCo Recipient, as the case may be) in accordance with Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) an amount equal to the Unavailability Loss which is the subject of the relevant Claim to the extent that such Claim has been approved pursuant to Clause 9.3 or as otherwise determined under this Agreement.

### **10.2 Limitations on Unavailability Loss Compensation**

- 10.2.1 Subject to Clause 10.2.2, the SCA Provider shall have no obligation or liability to pay out a Claim for Unavailability Loss pursuant to and in accordance with this Clause 10 and/or Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) if:
  - (i) the relevant Insurer or Insurers would have rejected, or would in the opinion of the SCA Provider, acting reasonably) have been likely to reject, a corresponding claim made by GenCo under the terms of the relevant Covered Insurance (on the terms that applied immediately before the relevant Covered Insurance became Unavailable) on the grounds that there is insufficient evidence to substantiate the claim under the relevant Covered Insurance; or
  - (ii) the relevant Claim for Unavailability Loss has occurred as a result of a Nuclear Incident caused (in whole or in part) by any criminal activity (except in respect of any fine imposed upon GenCo as a result of a

technical breach which does not result in a Nuclear Incident), fraud or wilful default by GenCo.

**10.2.2** The SCA Provider:

- (i) may take into consideration the terms of the relevant Covered Insurance that applied immediately before such Covered Insurance became Unavailable, such that:
  - (a) the settlement of any Claim for Unavailability Loss made pursuant to this Clause 10 shall follow, as far as possible, the terms of the relevant Covered Insurances that applied immediately before such Covered Insurance became Unavailable; and
  - (b) without prejudice to Clause 10.2.3, any deductibles and exclusions that applied under the terms of the relevant Covered Insurance that applied immediately before such Covered Insurance became Unavailable shall also apply to any compensation paid by the SCA Provider pursuant to this Clause 10; and
- (ii) shall be entitled to raise any defences to any Claim for payment of any Unavailability Loss which the applicable Insurer(s) would have been entitled to raise (whether pursuant to the applicable Covered Insurance or generally at law), had the relevant Covered Insurance not been Unavailable.

**10.2.3** In addition to any deductible that applies pursuant to Clause 10.2.2(i)(b), GenCo shall not be entitled to recover (and the SCA Provider shall not be obliged to pay) the first [REDACTED] [REDACTED] in aggregate in relation to all Claims for Unavailability Loss pursuant to Clause 9 (*Claim Notification for an Uninsured Risk and Unavailability Loss*).



## **Part 5**

### **Third Party Liability in Relation to Nuclear Incidents: Channelled Claims**

#### **11 Channelled Claims for NTPL Loss**

- 11.1** Subject always to the NTPL Cap Amount, as soon as reasonably practicable after (and in any event within two Business Days of) GenCo receiving written confirmation from the relevant Insurer, Insurers or claims administrator (as applicable) that the amount for which the Insurer or Insurers would be liable under the NTPL Insurance in respect of an Insured Nuclear Incident exceeds the Applicable Policy Limit (less the amount of any deductibles applicable to such NTPL Insurance in respect of that Insured Nuclear Incident, in relation to which GenCo shall be solely liable), GenCo shall provide the SCA Provider with:
- 11.1.1** an updated or confirmed Nuclear Incident Claim Notice, including the associated Proposed Claims Payment Schedule;
  - 11.1.2** if and to the extent that it has changed, an update in relation to all other information to be provided in the relevant Nuclear Incident Claim Notice in relation to the relevant Insured Nuclear Incident; and
  - 11.1.3** any further information that the SCA Provider requests,
- insofar as such information is known, or reasonably ought to be known, by GenCo.
- 11.2** Within 40 Business Days of receipt by the SCA Provider of the information required pursuant to Clause 11.1 (or such longer period as may be agreed in writing between the Parties), the SCA Provider shall notify GenCo in writing whether it approves or rejects the relevant Claim (or part thereof) and associated Proposed Claims Payment Schedule for an NTPL Loss, provided always that the SCA Provider shall not be liable for any Claim which exceeds the NTPL Cap Amount.
- 11.3** If an Insured Nuclear Incident that may give rise to a Claim for NTPL Loss has occurred as a result of any criminal activity (except in respect of any fine imposed upon GenCo as a result of a technical breach which does not result in a Nuclear Incident), fraud or wilful default by GenCo, then GenCo shall not be entitled to make a Claim for NTPL Loss in accordance with this Clause 11.

#### **12 NTPL Loss Compensation**

- 12.1** If GenCo incurs any NTPL Loss as a result of an Insured Nuclear Incident and GenCo has made a Claim in respect of that NTPL Loss pursuant to Clauses 5 (*Notification of Nuclear Incidents*) and 11 (*Channelled Claims for NTPL Loss*) in relation to such Insured Nuclear Incident, then, subject to:
- 12.1.1** GenCo complying with the terms of Clause 4 (*General Insurance Provisions*) in respect of the Covered Insurances, Clause 5 (*Notification of Nuclear Incidents*) and Clause 22 (*No Duplicate Recovery*);
  - 12.1.2** Clause 4.5.2, Clause 19.3 and Clause 20 (*Subrogation*);
  - 12.1.3** the relevant Claim and associated Proposed Claims Payment Schedule being approved by the SCA Provider pursuant to Clause 11.2 or being otherwise determined pursuant to this Agreement;

**12.1.4** GenCo having paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.2 prior to the occurrence of the relevant Insured Nuclear Incident,

the SCA Provider shall pay to GenCo (or any Non-GenCo Recipient, as the case may be) in accordance with Clause 13 (*Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation*) an amount equal to the NTPL Loss up to the NTPL Cap Amount which is the subject of the relevant Claim to the extent approved pursuant to Clause 11.2 or as otherwise determined in accordance with the terms of this Agreement.

**Part 6**  
**Payment and Conduct of Proceedings: Total Loss, Unavailability and**  
**NTPL Loss Compensation**

**13 Payment of Total Loss Compensation, Unavailability Loss Compensation and NTPL Loss Compensation**

**13.1** Subject to Clause 4.5.4, Clause 7 (*Total Loss Compensation*), Clause 10 (*Unavailability Loss Compensation*), Clause 12 (*NTPL Loss Compensation*) and the remainder of this Clause 13, the SCA Provider agrees to pay to GenCo or any Non-GenCo Recipient, as the case may be, (and/or procure the payment to GenCo or any Non-GenCo Recipient, as the case may be of) any amounts referred to in Clause 7.1 (*Property Damage to the Plant in relation to Nuclear Incidents*), Clause 10.1 (*Payment of Unavailability Loss Compensation*) and/or Clause 12 (*NTPL Loss Compensation*) (if applicable, in accordance with the relevant Final Claims Payment Schedule) in relation to a Claim following the earlier of:

**13.1.1** the SCA Provider having approved in writing the relevant Claim (or part thereof) and, if applicable, the Proposed Claims Payment Schedule in accordance with Clause 6.2, 9.3 or 11.2 (as applicable) or the Parties otherwise having reached an agreement in relation to the relevant Claim pursuant to paragraph 1 (*Notification and Initial Resolution*) or paragraph 2 (*Senior Representatives*) of Schedule 5 (*Dispute Resolution Process*);

**13.1.2** if any of the Parties has referred a Dispute to the English courts for determination in accordance with paragraph 3 (*Referral to court*) of Schedule 5 (*Dispute Resolution Process*), the English courts having delivered a judgment and any subsisting rights of appeal having been exhausted or waived by the other Party or Parties; or

**13.1.3** if paragraph 3 (*Referral to court*) of Schedule 5 (*Dispute Resolution Process*) does not apply, a court of competent jurisdiction having delivered a judgment in relation to the Claim and any subsisting rights of appeal having been exhausted or waived by the SCA Provider.

**13.2** Subject to Clauses 13.3 to 13.6, all payments to be made by the SCA Provider pursuant to this Clause 13 shall be made by bank transfer to:

**13.2.1** in the case of GenCo, the SCA Proceeds Account; and/or

**13.2.2** in the case of any Non-GenCo Recipient, such bank account as may be nominated by that Non-GenCo Recipient from time to time.

**13.3** Subject to Clauses 13.4 to 13.6, the SCA Provider may, in their sole discretion, apply any payment pursuant to Clause 13.1 by either:

**13.3.1** if applicable, discharging the liability giving rise to the relevant Claim in accordance with the Final Claims Payment Schedule for the relevant Claim, provided that the aggregate of all such payments shall not exceed the amount of the Claim approved by the SCA Provider or otherwise determined less any applicable deductible; or

**13.3.2** making payment directly to GenCo or any Non-GenCo Recipient, as the case may be,

and the Parties agree that any payment by the SCA Provider in discharging the liability that gave rise to the Claim pursuant to Clause 13.3.1 shall (to the extent of such payment) absolve the SCA Provider from any obligation to make any such payments to GenCo or its receiver, assignees or successors.

- 13.4** Subject to Clauses 13.5 and 13.6, if a Non-GenCo Recipient which has suffered a Total Loss, NTPL Loss or an Unavailability Loss (as applicable) submits a request in writing to the SCA Provider to make a payment in respect of the Compensation Obligations to the applicable Relevant Party directly in discharge of the liability giving rise to the relevant Claim, in deciding whether to exercise its discretion to make a payment to such Non-GenCo Recipient in accordance with Clause 13.3, the SCA Provider shall have regard to the reasons provided by the Non-GenCo Recipient for such payment to be paid directly.

**13.5** If:

**13.5.1** GenCo is in Nuclear Administration or a Rating Event subsists and GenCo has notified the SCA Provider of such Nuclear Administration or Rating Event (as applicable);

**13.5.2** the SCA Provider is required to make a payment pursuant to Clause 13.1 to discharge a liability giving rise to a Claim; and

**13.5.3** such liability is owed, in whole or in part, to a Non-GenCo Recipient,

to the extent that such liability is owed to any Non-GenCo Recipient, the SCA Provider shall apply any payment that it is required to make pursuant to Clause 13.1 to discharge such liability directly to that Non-GenCo Recipient in accordance with the Final Claims Payment Schedule for the relevant Claim or the order of the court in the applicable jurisdiction (as applicable).

**13.6** The Parties agree that:

**13.6.1** the aggregate of all payments made by the SCA Provider to a Non-GenCo Recipient pursuant to Clause 13.5 shall not exceed the amount of the relevant Claim approved by the SCA Provider or otherwise determined pursuant to this Agreement, less any applicable deductible; and

**13.6.2** any payment by the SCA Provider in discharging the liability that gave rise to the relevant Claim shall (to the extent of such payment) absolve the SCA Provider from any other obligation to make any such payments to the Non-GenCo Recipient or its receivers, assignees or successors.

**14 Conduct of Proceedings: Total Loss, Unavailability and NTPL Loss**

**14.1** This Clause 14 shall apply where a Claim has been made or is likely to be made as a result of the occurrence of an Insured Nuclear Incident or an Uninsured Risk and any actions or proceedings are brought against GenCo as a result of the relevant Insured Nuclear Incident or an Uninsured Risk.

**14.2** Subject to Clause 14.4 and Clause 14.5, GenCo may elect to assume the defence of any such action or proceeding brought against it, with legal advisers satisfactory to the SCA Provider, provided that the SCA Provider is satisfied that any such action by GenCo shall not be prejudicial to the rights or interests of the SCA Provider. GenCo shall notify the SCA Provider in writing prior to assuming the defence of any such action or proceeding, including all details of the applicable proceedings.

- 14.3** GenCo shall not, without the prior written consent of the SCA Provider, settle or compromise, or consent to the entry of judgment with respect to any action or proceeding to which this Clause 14 relates, unless such settlement, compromise or consent either:
- 14.3.1** in relation to Total Loss, Unavailability Loss and NTPL Loss only, is in relation to losses and claims made (or likely to be made) under the Covered Insurances in respect of the relevant Insured Nuclear Incident which are less than any Applicable Policy Limit such that no Total Loss, Unavailability Loss or NTPL Loss is or will be incurred by reason of such settlement, compromise or consent; or
  - 14.3.2** includes an unconditional release of the SCA Provider from all liability arising out of the matters which are the subject of such action or proceeding.
- 14.4** If the named parties to any action or proceeding to which this Clause 14 relates include GenCo, the Insurers and the SCA Provider (or any of them) and the SCA Provider has been advised by counsel that there may be one or more legal defences available to it which are different from or additional to those available to GenCo or the Insurers, GenCo shall not have the right to assume the defence of that action or proceeding on behalf of the SCA Provider and the SCA Provider shall have the right to employ separate counsel and to participate in the defence of any action or proceeding brought against it.
- 14.5** GenCo undertakes to indemnify the SCA Provider against any loss or liability which the SCA Provider may incur as a consequence of the settlement by GenCo of any action or proceeding effected in connection with the SCA Provider's obligation to make payment pursuant to Clause 13.1:
- 14.5.1** without the written consent of the SCA Provider; or
  - 14.5.2** in circumstances where GenCo has declined to defend such action or proceeding resulting in the SCA Provider being obliged to discharge a Total Loss, NTPL Loss or Unavailability Loss.

## **Part 7**

### **Third Party Liability in Relation to Nuclear Incidents: Unchanneled Claims**

#### **15 Unchanneled Claims**

- 15.1** The Parties acknowledge that the International Nuclear Conventions and the Nuclear Installations Act provide for the channelling of third party nuclear liability claims to the operator of a nuclear installation and the relevant international agreements and the Nuclear Installations Act provide that in the event of a Nuclear Incident in respect of which GenCo, as licensee, has a duty imposed under the Nuclear Installations Act, third party claims for nuclear liability must be brought against GenCo as the operator of the nuclear Units.
- 15.2** The Parties also acknowledge that GenCo is required to hold insurance in respect of any such claims as more fully set out in the Nuclear Installation Act.
- 15.3** The Parties acknowledge there are some jurisdictions which are not parties or signatories to the International Nuclear Conventions, albeit that the SCA Provider expects that claims should still be channelled to GenCo as operator.
- 15.4** Each HoldCo Shareholder, Designated Affiliate, the Security Trustee and each Secured Creditor have requested that the SCA Provider provides protection in the event, however remote, that following a Nuclear Incident a claim in respect of nuclear liability could be brought against either a HoldCo Shareholder or a Designated Affiliate (as applicable), the Security Trustee or any Secured Creditor by a third party who has suffered damage in a Non-Convention Jurisdiction, even if such a claim is ultimately channelled to GenCo as the operator of the nuclear Units.
- 15.5** If and to the extent that any third party claim for nuclear liability is made against any HoldCo Shareholder or Designated Affiliate (as applicable), the Security Trustee and/or any Secured Creditor in respect of a Nuclear Incident, such party shall reject such claim and refer the claimant to the provisions of the International Nuclear Conventions and the Nuclear Installations Act and the obligation on any such third party claimant to pursue any such claim against GenCo as operator of the Units.
- 15.6** In order to secure the financing of GenCo for the purposes of the design, construction, commissioning, operation, maintenance and decommissioning of the Units, the SCA Provider has agreed to provide certain protections to the HoldCo Shareholders or Designated Affiliates (as applicable), the Security Trustee and the Secured Creditors in the remote event that a claim (however unmeritorious) is brought by a third party against a relevant HoldCo Shareholder or a Designated Affiliate (as applicable), the Security Trustee and/or any of the Secured Creditors.
- 15.7** The provision of the protections in this Part 7 should not be interpreted by any Party or any third party as an acknowledgement or acceptance by the Secretary of State acting in any capacity that there is any liability on behalf of the HoldCo Shareholders, the Designated Affiliates, the Security Trustee and/or any of the Secured Creditors in respect of any liability whatsoever or howsoever arising in respect of nuclear third party liability.
- 15.8** The SCA Provider, GenCo, the HoldCo Shareholders, the Designated Affiliates, the Security Trustee and the Secured Creditors all agree that as set out in the Nuclear Installations Act GenCo has strict liability in respect of any Nuclear Incident.

## **16 Claim Notification for Unchanneled Claim Costs**

**16.1** Subject to Clause 2.11, if a Secured Creditor and/or the Security Trustee (as agent for the Secured Creditors) receives notice (in any form permissible for the commencement of legal proceedings in any Non-Convention Jurisdiction) that an Unchanneled Claim is being brought against the relevant Secured Creditor and/or the Security Trustee (as agent for the Secured Creditors) in respect of a Nuclear Incident (a “**Lender Notice of Proceedings**”):

**16.1.1** the Security Trustee shall procure that the relevant Secured Creditor (acting for itself or on behalf of its relevant Secured Creditors) delivers to the Security Trustee and the SCA Provider a copy of the Lender Notice of Proceedings in accordance with clause 7.8 (*Notification of Unchanneled Claims*) of the Security Trust and Intercreditor Deed;

**16.1.2** as soon as reasonably practicable after (and in any event within one Business Day of) receiving such Lender Notice of Proceedings, the Security Trustee shall deliver to the SCA Provider, GenCo, the HoldCo Shareholders and the Designated Affiliates:

- (i) a written notice setting out the particulars of the Unchanneled Claim, including:
  - (a) the Non-Convention Jurisdiction in which the Unchanneled Claim is being brought;
  - (b) the Secured Creditor(s) against whom the Unchanneled Claim has been brought;
  - (c) the aggregate of the quantum of any damages or other costs that the claimant is seeking to recover from each of the Secured Creditors; and
  - (d) any actions that the Security Trustee and/or any of the Secured Creditors propose to undertake in connection with the Lender Notice of Proceedings and/or the Unchanneled Claim,(a “**Security Trustee Unchanneled Claim Notification**”); and
- (ii) a copy of each Lender Notice of Proceedings delivered to each Secured Creditor against whom the Unchanneled Claim has been brought;

**16.1.3** as soon as reasonably practicable after, and in any event within 10 Business Days of the date of the Security Trustee Unchanneled Claim Notification, the Security Trustee shall meet with the SCA Provider, GenCo and any HoldCo Shareholder or Designated Affiliate (as applicable) that has received an equivalent Shareholder Notice of Proceedings to establish a jointly agreed approach to responding to the relevant Unchanneled Claim, including any ongoing reporting and expenditure protocols; and

**16.1.4** the Security Trustee shall as soon as reasonably practicable, and in any event within five Business Days (or such other period as the SCA Provider may agree in writing), following a request provide (or procure that any relevant Secured Creditor shall provide) to the SCA Provider any further information as may be

requested by the SCA Provider in respect of the Unchanneled Claim from time to time.

**16.2** Subject to Clause 2.11, if a HoldCo Shareholder or its Designated Affiliate (as applicable) receives notice (in any form permissible for the commencement of legal proceedings in any Non-Convention Jurisdiction) that an Unchanneled Claim is being brought against it in respect of the relevant Nuclear Incident (a **"Shareholder Notice of Proceedings"**), the relevant HoldCo Shareholder shall:

**16.2.1** deliver to the other HoldCo Shareholders and Designated Affiliates a copy of the Shareholder Notice of Proceedings in accordance with clause 6.4.13(ii) of the Shareholders' Agreement;

**16.2.2** as soon as reasonably practicable after (and in any event within one Business Day of) receiving such Shareholder Notice of Proceedings, deliver to the SCA Provider, GenCo and the Security Trustee:

(i) a written notice setting out the particulars of the Unchanneled Claim, including:

(a) the Non-Convention Jurisdiction in which the Unchanneled Claim is being brought;

(b) the aggregate of the quantum of any damages or other costs that the claimant is seeking to recover from it; and

(c) any actions that it proposes to undertake in connection with the Shareholder Notice of Proceedings and/or the Unchanneled Claim,

(a **"Shareholder Unchanneled Claim Notification"**); and

(ii) a copy of the Shareholder Notice of Proceedings delivered to it,

provided that if an Unchanneled Claim is brought against more than one HoldCo Shareholder or Designated Affiliate in respect of the same Nuclear Incident, the relevant HoldCo Shareholders or Designated Affiliates (as applicable) may appoint one of the HoldCo Shareholders or Designated Affiliates (as applicable) to act for and on behalf of each of the relevant HoldCo Shareholders or Designated Affiliates (if applicable) against whom the Unchanneled Claim has been brought, on such terms as the relevant HoldCo Shareholders or Designated Affiliates (as applicable) may jointly agree, provided that, if the Secretary of State is still a HoldCo Shareholder in respect of any Unchanneled Claim that is being brought, the HoldCo Shareholders and Designated Affiliates agree that the SCA Provider will act on behalf of the HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable);

**16.2.3** as soon as reasonably practicable after, and in any event within 10 Business Days of, the date of the Shareholder Unchanneled Claim Notification, the HoldCo Shareholders or Designated Affiliates (as applicable) shall meet with the SCA Provider, GenCo and the Security Trustee if the Security Trustee has received an equivalent Lender Notice of Proceedings to establish a jointly agreed approach to responding to the relevant Unchanneled Claim, including any ongoing reporting and expenditure protocols; and



- 16.2.4 as soon as reasonably practicable, and in any event within five Business Days (or such other period as the SCA Provider may agree in writing), following a request, provide to the SCA Provider any further information as may be requested by the SCA Provider in respect of the Unchanneled Claim from time to time.

## **17 Conduct of Proceedings: Unchanneled Claims**

- 17.1 This Clause 17 shall apply where an Unchanneled Claim has been made or is likely to be made as a result of the occurrence of a Nuclear Incident and any actions or proceedings are brought against any HoldCo Shareholder or Designated Affiliate (as applicable), the Security Trustee and/or any Secured Creditor as a result of the relevant Nuclear Incident.

### **17.2 Defence of Unchanneled Claims**

- 17.2.1 The relevant HoldCo Shareholder or Designated Affiliate (as applicable), Secured Creditor(s) and/or the Security Trustee shall conduct any Unchanneled Claim in consultation with the SCA Provider and GenCo and shall not negotiate, compromise, settle, appeal or elect not to appeal any Unchanneled Claim without the prior written consent of the SCA Provider and GenCo.
- 17.2.2 Subject to Clause 17.2.1, Clause 17.2.3 and Clause 17.2.4, the applicable HoldCo Shareholder or Designated Affiliate (as applicable), Secured Creditor(s) and/or the Security Trustee shall assume the defence of any such action or proceeding brought against them, with legal advisers approved in writing by the SCA Provider, provided that the SCA Provider is satisfied that any such action by the HoldCo Shareholder or Designated Affiliate (as applicable), Secured Creditor(s) and/or the Security Trustee shall not be prejudicial to the rights or interests of the SCA Provider.
- 17.2.3 If the Secretary of State is a named party to any action or proceeding to which this Clause 17 relates and has been advised by counsel that there may be one or more legal defences available to the Secretary of State which are different from or additional to those available to the other HoldCo Shareholder or Designated Affiliate (as applicable), the Secured Creditor(s) and/or the Security Trustee, the other Parties shall not have the right to assume the defence of that action or proceeding on behalf of the Secretary of State and the Secretary of State shall have the right to employ separate counsel and to participate in the defence of any action or proceeding brought against it.
- 17.2.4 Each HoldCo Shareholder or Designated Affiliate (as applicable), the Secured Creditors and the Security Trustee undertake to indemnify the SCA Provider against any loss or liability which the SCA Provider may incur as a consequence of the settlement by that Party of any action or proceeding effected in connection with an Unchanneled Claim:
- (i) without the prior written consent of the SCA Provider; or
  - (ii) in circumstances where the relevant HoldCo Shareholder or Designated Affiliate (as applicable), Secured Creditor(s) and/or the Security Trustee has failed or declined to defend such action or proceeding resulting in the SCA Provider being obliged to pay or discharge Unchanneled Claim Costs.

### 17.3 Settlement or Judgment of Unchanneled Claims

17.3.1 No HoldCo Shareholder, Designated Affiliate, Secured Creditor or the Security Trustee shall settle, compromise or consent to the entry of judgment with respect to any action or proceeding to which this Clause 17 relates without the prior written consent of the SCA Provider.

17.3.2 Subject to this Clause 17, if the relevant HoldCo Shareholder or Designated Affiliate (as applicable) and/or the Security Trustee and/or Secured Creditor agrees a legally enforceable compromise or settlement in respect of an Unchanneled Claim which is approved by the SCA Provider, as soon as reasonably practicable following the settlement of such Unchanneled Claim, the relevant HoldCo Shareholder or Designated Affiliate (as applicable) and/or the Security Trustee and/or Secured Creditor shall deliver to the SCA Provider:

- (i) a written notice requesting payment of the applicable Unchanneled Claim Costs, including:
  - (a) the aggregate value of the Unchanneled Claim Costs; and
  - (b) a breakdown of the aggregate value of all reasonably incurred Unchanneled Claim Costs and supporting evidence in respect of all reasonably incurred Unchanneled Claim Costs; and
- (ii) a copy of any settlement agreement or equivalent documentation in respect of such compromise or settlement,

(a **"Settlement Claim Request"**), provided that the relevant Party may not submit a Settlement Claim Request in excess of the Defence Costs Cap or the Unchanneled Claim Costs Cap, to the extent that either or both of those caps applies to such Claim.

17.3.3 If a competent court in the jurisdiction in which an Unchanneled Claim has been brought decides that a HoldCo Shareholder or Designated Affiliate (as applicable), Secured Creditor and/or the Security Trustee is not required to pay any costs and/or damages in connection with an Unchanneled Claim, the relevant Party may deliver to the SCA Provider by no later than the date falling 10 Business Days after the date on which the court issues its decision:

- (i) a written notice requesting payment of the costs reasonably incurred by that Party directly in connection with defending the relevant Unchanneled Claim up to the Defence Costs Cap including:
  - (a) the aggregate value of such costs; and
  - (b) a breakdown of all such costs, including supporting evidence of all such costs; and
- (ii) a copy of the judgment and any associated costs statements issued by the relevant court in respect of such Unchanneled Claim,

(a **"Defence Costs Claim Request"**).

17.3.4 If a competent court in the jurisdiction in which an Unchanneled Claim has been brought decides that the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), and/or the relevant Secured Creditor(s) and/or the

Security Trustee must pay any costs and/or damages in connection with the relevant Unchanneled Claim:

- (i) the Security Trustee and/or the relevant Secured Creditor(s) and/or the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) shall immediately deliver to the SCA Provider a written notice confirming the decision of such court;
- (ii) the SCA Provider may at its sole discretion require each relevant Party to appeal such decision through any legally permissible means; and
- (iii) unless the SCA Provider elects not to require the relevant Party to appeal such decision, the SCA Provider shall not be obliged to make any payment pursuant to Clause 18 (*Payment of Unchanneled Claim Costs*) unless and until all legally permissible means of appeal in connection with the Unchanneled Claim have been exhausted.

**17.3.5** If the SCA Provider does not require the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee to appeal the decision of the court pursuant to Clause 17.3.4(ii):

- (i) the SCA Provider shall inform the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee that no appeal shall be required as soon as reasonably practicable, having regard to all relevant circumstances (including any legally imposed timeframes within which an appeal must be made);
- (ii) the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee may only elect to appeal the decision of the court with the prior written consent of the SCA Provider; and
- (iii) unless they elect to appeal the decision of the court in accordance with Clause 17.3.5(ii), the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee may deliver to the SCA Provider by no later than the date falling 20 Business Days after the date on which the court issues its decision:
  - (a) a written notice requesting payment of all Unchanneled Claim Costs incurred by those Parties directly in connection with the relevant Unchanneled Claim, including:
    - (I) the aggregate value of such Unchanneled Claim Costs; and
    - (II) a breakdown of all such Unchanneled Claim Costs, including supporting evidence of all such costs; and
  - (b) a copy of the judgment and any associated costs statements issued by the relevant court in respect of such Unchanneled Claim,

(an “**Unchanneled Claim Costs Request**”) provided that the relevant Party may not submit a Settlement Claim Request in respect of any sum in excess of the Defence Costs Cap or the Unchanneled Claim Costs Cap, to the extent that such cap applies to such Claim.

**17.3.6** If the SCA Provider requires the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee to appeal the decision of the court pursuant to Clause 17.3.4(ii) or the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee elect to appeal the decision of the court, subject to Clause 17.3.5(ii):

- (i) if Clause 17.3.4(ii) applies, the SCA Provider shall inform the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee that an appeal is required as soon as reasonably practicable, having regard to all relevant circumstances (including any legally imposed timeframes within which an appeal must be made);
- (ii) if Clause 17.3.5(ii) applies, the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee shall request the written consent of the SCA Provider as soon as reasonably practicable (having regard to all relevant circumstances, including any legally imposed timeframes within which an appeal must be made) and the SCA Provider shall deliver its written response to the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee within 10 Business Days of receiving the written request from the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee;
- (iii) the provisions of Clause 17.2 (*Defence of Unchanneled Claims*) and Clause 17.3.1 shall continue to apply;
- (iv) if the court to which the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), and/or the relevant Secured Creditor(s) and/or the Security Trustee submit their appeal decides that those HoldCo Shareholders or Designated Affiliate(s) (as applicable), Secured Creditors and/or the Security Trustee are not required to pay to the claimant(s) any costs and/or damages in connection with the Unchanneled Claim, the provisions of Clause 17.3.3 shall apply, taking into account:
  - (a) the costs incurred by such HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), Secured Creditor(s) and/or the Security Trustee in defending the original proceedings and any subsequent appeal proceedings permitted pursuant to the terms of this Agreement; and
  - (b) any award for costs granted by the court in favour of such HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), Secured Creditor(s) and/or the Security Trustee; and

- (v) subject to Clause 17.3.7, if the court to which the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee submit their appeal decides that such HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), Secured Creditor(s) and/or the Security Trustee are required to pay costs and/or damages to the claimant(s) in connection with the Unchanneled Claim, the provisions of Clause 17.3.4 shall apply, taking into account the costs incurred by such HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), Secured Creditor(s) and/or the Security Trustee in respect of the original proceedings and any subsequent appeal proceedings permitted pursuant to the terms of this Agreement.

**17.3.7** If the court to which the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), and/or the relevant Secured Creditor(s) and/or the Security Trustee submit their appeal decides that such HoldCo Shareholder(s), Secured Creditor(s) and/or the Security Trustee are required to pay costs and/or damages in connection with the Unchanneled Claim and:

- (i) the SCA Provider requires such HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), and/or Secured Creditor(s) and/or the Security Trustee to appeal the decision of that court; and/or
- (ii) such HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), and/or Secured Creditor(s) and/or the Security Trustee obtain the prior written consent of the SCA Provider to appeal the decision of that court,

the provisions of Clause 17.3.6 shall continue to apply until either all legally permissible routes of appeal have been exhausted and/or the SCA Provider and the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable), and/or the relevant Secured Creditor(s) and/or the Security Trustee elect not to appeal the Unchanneled Claim to any further court, body or institution with Non-Convention Jurisdiction to hear an appeal in respect of that Unchanneled Claim.

**17.3.8** Within 40 Business Days of receipt by the SCA Provider of the information required pursuant to Clause 17.3.2, 17.3.3 or 17.3.5(iii), as applicable, (or such longer period as may be agreed in writing between the Parties), the SCA Provider shall notify the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or the relevant Secured Creditor(s) and/or the Security Trustee in writing whether it approves or rejects the relevant Claim (or part thereof).

#### **17.4 Limitations on Unchanneled Claim Costs**

**17.4.1** If a Nuclear Incident that gives rise to Unchanneled Claim Costs has occurred as a result of any criminal activity (except in respect of any fine imposed upon GenCo as a result of a technical breach which does not result in a Nuclear Incident), fraud or wilful default by GenCo, then any HoldCo Shareholder or Designated Affiliate, (as applicable) shall not be entitled to make a Claim in accordance with this Clause 17.

**17.4.2** The SCA Provider shall have no liability to compensate any HoldCo Shareholder or Designated Affiliate in respect of an Unchanneled Claim if that HoldCo

Shareholder or Designated Affiliate (as applicable) directed GenCo to take any action (or not to take any action, as the case may be) if:

- (i) such direction overrode, contravened or was otherwise not in accordance with Good Industry Practice with respect to safety; and
- (ii) such action or inaction (as applicable) caused or contributed to the occurrence of the relevant Nuclear Incident;

**17.4.3** The SCA Provider shall have no liability to compensate any HoldCo Shareholder, or Designated Affiliate (as applicable), the Security Trustee or any Secured Creditor in excess of the Defence Costs Cap in respect of legal costs incurred in defending an Unchanneled Claim. If:

- (i) an Unchanneled Claim is brought against more than one of the HoldCo Shareholders or Designated Affiliates, the Secured Creditors and/or the Security Trustee; and
- (ii) the aggregate legal costs incurred by those parties in defending such Unchanneled Claim exceeds [REDACTED],

the [REDACTED] shall be shared equally between each such parties

**17.4.4** In the event that it is agreed or determined that a HoldCo Shareholder or a Designated Affiliate has a liability for an Unchanneled Claim (each a “**Liable Shareholder**”), then:

- (i) the Liable Shareholder shall be liable to make payment of five per cent. of such liability until the amount paid by the Liable Shareholder reaches the limit of the Investor Liability Cap; and
- (ii) the SCA Provider shall be liable to make payment of 95% of the value of such liability until the Investor Liability Cap has been reached in accordance with Clause 17.4.4(i) and thereafter 100% of the liability.

## **18 Payment of Unchanneled Claim Costs**

**18.1** If an Unchanneled Claim is brought against one or more HoldCo Shareholder or Designated Affiliate and/or Secured Creditor and/or the Security Trustee, subject to:

- 18.1.1** each relevant Party complying with Clause 16 (*Claim Notification for Unchanneled Claim Costs*), Clause 17 (*Conduct of Proceedings: Unchanneled Claims*) and Clause 22 (*No Duplicate Recovery*);
- 18.1.2** Clause 17.4 (*Limitations on Unchanneled Claim Costs*), Clause 19.3 and Clause 20 (*Subrogation*);
- 18.1.3** the relevant Unchanneled Claim Costs being approved by the SCA Provider or otherwise determined pursuant to the terms of this Agreement;
- 18.1.4** GenCo having paid the initial premium or the annual premium (as applicable) that was most recently due and payable pursuant to Clause 23.1.4 prior to the occurrence of the relevant Nuclear Incident,

the SCA Provider shall, subject to the terms set out in this Agreement, pay to each relevant HoldCo Shareholder or Designated Affiliate (as applicable) and/or Secured Creditor and/or the Security Trustee, as applicable, in accordance with this Clause 18 an

amount equal to the Unchanneled Claim Costs which are the subject of or are incurred in connection with the relevant Unchanneled Claim to the extent approved pursuant to Clause 17.3.8 or as otherwise determined pursuant to this Agreement, subject to the Defence Costs Cap and the Unchanneled Claim Costs Cap.

**18.2** Subject to Clause 16 (*Claim Notification for Unchanneled Claim Costs*), Clause 17 (*Conduct of Proceedings: Unchanneled Claims*) and the remainder of this Clause 18, the SCA Provider agrees to pay to each relevant HoldCo Shareholder or Designated Affiliate (as applicable) and/or Secured Creditor and/or the Security Trustee, as applicable, any amounts referred to in Clause 17.3 (*Settlement or Judgment of Unchanneled Claims*) in such instalments as may be agreed in writing between the Parties in relation to a Claim following the earlier of:

**18.2.1** the SCA Provider having approved in writing the relevant Claim in accordance with Clause 17.3.8 or the Parties otherwise reaching an agreement in relation to the relevant Claim pursuant to paragraph 1 (*Notification and Initial Resolution*) or paragraph 2 (*Senior Representatives*) of Schedule 5 (*Dispute Resolution Process*);

**18.2.2** if either a relevant Party or the SCA Provider has referred a Dispute to the English courts for determination in accordance with paragraph 3 (*Referral to court*) of Schedule 5 (*Dispute Resolution Process*), the English courts having delivered a judgment and any subsisting rights of appeal having been exhausted or waived by the other Party; or

**18.2.3** if paragraph 3 (*Referral to court*) of Schedule 5 (*Dispute Resolution Process*) of this Agreement does not apply, a court of competent jurisdiction having delivered a judgment in relation to the Claim and any subsisting rights of appeal having been exhausted or waived by the SCA Provider.

**18.3** Subject to Clauses 18.4 to 18.7, all payments to be made by the SCA Provider pursuant to this Clause 18 shall be made by bank transfer to such bank account(s) as may be nominated by the Security Trustee or each relevant Secured Creditor and/or HoldCo Shareholder or Designated Affiliate (as applicable) from time to time.

**18.4** Subject to Clauses 18.5 to 18.7, the SCA Provider may, in its sole discretion, apply any payment pursuant to Clause 18.2 by either:

**18.4.1** discharging the liability giving rise to the relevant Claim in accordance with any payment schedule for the relevant Claim agreed between the Parties in writing, provided that the aggregate of all such payments shall not exceed the amount of the Claim approved by the SCA Provider or otherwise determined less any applicable deductible or premium; or

**18.4.2** making payment directly to each relevant HoldCo Shareholder or Designated Affiliate (as applicable) and/or Secured Creditor and/or the Security Trustee, as applicable, and the Parties agree that any payment by the SCA Provider in discharging the liability that gave rise to the Claim pursuant to Clause 18.4.1 shall (to the extent of such payment) absolve the SCA Provider from any obligation to make any such payments to the relevant Parties or any of their respective receivers, assignees or successors.

**18.5** Subject to Clauses 18.6 and 18.7, if a relevant HoldCo Shareholder or Designated Affiliate (as applicable) and/or Secured Creditor and/or the Security Trustee which has suffered

any Unchanneled Claim Costs submits a request in writing to the SCA Provider to make a payment in respect of the Unchanneled Claim Costs to the third party claimant directly in discharge of the liability giving rise to the relevant Claim, in deciding whether to exercise its discretion to make a payment to such third party claimant in accordance with Clause 18.4, the SCA Provider shall have regard to the reasons provided by the relevant HoldCo Shareholder(s) or Designated Affiliate(s) (as applicable) and/or Secured Creditor(s) and/or the Security Trustee for such payment to be paid directly.

**18.6** If:

**18.6.1** a relevant HoldCo Shareholder or Designated Affiliate (as applicable) and/or Secured Creditor and/or the Security Trustee is subject to any insolvency proceedings;

**18.6.2** the SCA Provider is required to make a payment pursuant to Clause 18.2 to discharge a liability giving rise to a Claim; and

**18.6.3** such liability is owed, in whole or in part, to a third party claimant,

to the extent that such liability is owed to any third party claimant, the SCA Provider shall apply any payment that it is required to make pursuant to Clause 18.2 to discharge such liability directly to that third party claimant in accordance with any payment schedule agreed in writing between the relevant Parties in respect of the relevant Claim or an order of the court in the applicable jurisdiction (as applicable).

**18.7** The Parties agree that:

**18.7.1** the aggregate of all payments made by the SCA Provider to a third party claimant pursuant to Clause 18.6 shall not exceed the amount of the relevant Claim approved by the SCA Provider or otherwise determined pursuant to this Agreement; and

**18.7.2** any payment by the SCA Provider in discharging the liability that gave rise to the relevant Claim shall (to the extent of such payment) absolve the SCA Provider from any other obligation to make any such payments to the third party claimant or its receivers, assignees or successors.

**18.8** In no event shall the provisions of this Part 7 in respect of Unchanneled Claims provide any protection to any Associated Undertaking of any HoldCo Shareholder (other than its Designated Affiliate) and/or Secured Creditor and/or the Security Trustee.

**18.9** In particular, the protection in this Part 7 does not and is not intended to provide protection for any subsidiary or associated company of EDF Holdings Limited or any other EDF Group company other than in its capacity as a HoldCo Shareholder.



## Part 8

### Additional Insurance Requirements

#### 19 Adjustment to Cover Following a Failure Event

**19.1** If a Relevant Failure Event occurs at any time, the Secretary of State (in their capacity as GSP Provider) shall be entitled to deliver to GenCo a notice:

**19.1.1** specifying that the Relevant Failure Event has not been Remedied or reduced to a Remedy Event; and

**19.1.2** requiring that such Relevant Failure Event be Remedied or reduced to a Remedy Event,

(an “**Unremedied Failure Event Notice**”) at any time prior to such Relevant Failure Event being Remedied or reduced to a Remedy Event.

**19.2** If:

**19.2.1** the Secretary of State (in their capacity as GSP Provider) has delivered to GenCo an Unremedied Failure Event Notice; and

**19.2.2** the Relevant Failure Event to which that Unremedied Failure Event Notice relates has been Remedied or reduced to a Remedy Event,

the Secretary of State (in their capacity as GSP Provider) may at any time deliver to GenCo a written notice confirming that the relevant Unremedied Failure Event Notice has been withdrawn, provided that, in any event, such Unremedied Failure Event Notice shall be deemed to have been withdrawn immediately upon the Relevant Failure Event being Remedied or reduced to a Remedy Event.

**19.3** If a Claim is made at any time during the period after the Secretary of State (in their capacity as GSP Provider) has delivered an Unremedied Failure Event Notice to GenCo and prior to the withdrawal or deemed withdrawal of that Unremedied Failure Event Notice in accordance with Clause 19.2, the SCA Provider shall not be obliged to pay:

**19.3.1** the first [REDACTED] of any sum which the SCA Provider is required to pay in relation to any Claim in respect of any Total Loss pursuant to Clause 7.1 (*Property Damage to the Plant in relation to Nuclear Incidents*);

**19.3.2** the first [REDACTED] of any sum which the SCA Provider is required to pay in relation to any Claim in respect of any Unavailability Loss pursuant to Clause 10.1 (*Payment of Unavailability Loss Compensation*); or

**19.3.3** the first [REDACTED] of any sum which the SCA Provider is required to pay in relation to any Claim in respect of any NTPL Loss pursuant to Clause 12 (*NTPL Loss Compensation*).

**19.4** For each month or part thereof during the period after the Secretary of State (in their capacity as GSP Provider) has delivered an Unremedied Failure Event Notice to GenCo and prior to the withdrawal or deemed withdrawal of that Unremedied Failure Event Notice in accordance with Clause 19.2:

**19.4.1** GenCo shall pay to the SCA Provider an additional premium calculated in accordance with the following formula:

$$x = 50\% * (y/12)$$

where:

x = the monthly additional premium payable pursuant to this Clause 19.4.1; and

y = the prevailing annual premium payable pursuant to Clause 23.1.1 in respect of the SCA Provider's obligations under Clause 7 (*Total Loss Compensation*);

- 19.4.2** GenCo shall pay to the SCA Provider an additional premium calculated in accordance with the following formula:

$$x = 50\% * (y/12)$$

where:

x = the monthly additional premium payable pursuant to this Clause 19.4.2; and

y = the prevailing annual premium payable pursuant to Clause 23.1.2 in respect of the SCA Provider's obligations under Clause 12 (*NTPL Loss Compensation*); and

- 19.4.3** any premium payable pursuant to Clause 23.1.3(iii) shall be increased by 50 per cent.

## **20 Decisions of the SCA Provider to approve a relevant Claim**

- 20.1** In reaching its decision as to whether or not to approve a Claim pursuant to Clause 6.2, Clause 9.3, Clause 11.2 and/or Clause 17.3.8 (as applicable), the SCA Provider shall:

- 20.1.1** be entitled to rely on the opinion of any appropriately experienced loss adjuster, including any loss adjuster appointed by the SCA Provider or the insurer of any underlying commercial insurance which is in place at the time;

- 20.1.2** have due regard to costs which make up the relevant Claim, the evidence provided for such costs and the exclusions or other conditions which are set out in any underlying commercial insurance which is in place at the time;

- 20.1.3** have regard to whether or not any claim in respect of any underlying commercial insurance has been approved by commercial insurers;

- 20.1.4** in relation to a Claim pursuant to Clause 17.3.8, approve a Claim for Unchanneled Claim Costs where such Unchanneled Claim Costs:

- (i) have been finally determined by a court in the relevant jurisdiction and such judgment of the relevant court is not subject to any further appeal and is binding on the Party making the Claim under this Agreement; or

- (ii) have been settled or agreed with the consent of the SCA Provider,

in each case subject to any limitations on such claim through the Defence Costs Cap and subject to the relevant Party having paid its share of any Unchanneled Claim Costs including claims up to the Investor Liability Cap; and

- 20.1.5** set out reasons for rejection of the relevant Claim and whether such Claim is rejected in full or in part and, if in part, which part is rejected and the reasons for such rejection.

- 20.2** If and to the extent that any relevant Claim has been rejected in full or in part, the relevant beneficiary shall be entitled to dispute such decision of the SCA Provider.

## **21 Subrogation**

- 21.1** Subject to Clause 21.2, upon satisfaction in full of the SCA Provider's obligations to discharge a Claim in respect of Total Loss, NTPL Loss or Unavailability Loss, the SCA Provider shall be subrogated to GenCo's rights (and GenCo shall procure that the SCA Provider is subrogated to the rights of the other Relevant Parties) in respect of the Subrogated Rights in relation to the Insured Nuclear Incident or Uninsured Risk that has given rise to the relevant Total Loss, NTPL Loss or Unavailability Loss, as the case may be. GenCo acknowledges (and shall procure that the applicable other Relevant Parties acknowledge) the subrogation rights of the SCA Provider under such circumstances and agrees to execute (and to procure that the applicable other Relevant Parties execute) such further and other documents as the SCA Provider may request in order to evidence and/or confirm such Subrogated Rights.
- 21.2** The SCA Provider shall not exercise or enforce any rights of subrogation that it may have against any of the applicable Relevant Parties arising as a result of an Insured Nuclear Incident or Uninsured Risk.

## **22 No Duplicate Recovery**

- 22.1** If any Relevant Party (including GenCo on behalf of itself or any other Relevant Party) has previously made a Claim in respect of which the SCA Provider has paid out and, thereafter, the Relevant Party actually receives a Recovery in relation to that Claim, then that Relevant Party shall reimburse the SCA Provider for any Total Losses, NTPL Losses, Unchanneled Claim Costs or Unavailability Losses paid to that Relevant Party (either on its own behalf or on behalf of any other Relevant Party) by the SCA Provider in relation to that Claim to the extent that the proceeds of any such Recovery by the Relevant Party would cause the Relevant Party to receive a double recovery with respect to the Claim giving rise to the payment made by the SCA Provider in accordance with the terms of this Agreement.

**22.2** If:

- 22.2.1** a Relevant Party has not yet received payment of any Claim in relation to Total Loss, NTPL Loss, Unchanneled Claim Costs or Unavailability Loss, as applicable, pursuant to the terms of this Agreement (or has received part payment only) following a Claim by itself or another Relevant Party; and
- 22.2.2** that Relevant Party actually receives a Recovery in relation to that Claim prior to receiving payment for the Total Loss, NTPL Loss, Unchanneled Claim Costs or Unavailability Loss,

the aggregate amount of the Total Loss, NTPL Loss, Unchanneled Claim Costs or Unavailability Loss (as applicable) for which the SCA Provider shall be liable under this Agreement shall be reduced to the extent that the proceeds of any such Recovery would cause the Relevant Party to receive double recovery with respect to the Claim giving rise to the Compensation Obligations (provided, again, that the amount of any Recovery shall first be credited).

## 23 Fees and VAT

**23.1** In consideration for the SCA Provider assuming the payment obligations pursuant to the terms of this Agreement, GenCo agrees to pay the SCA Provider:

**23.1.1** in respect of the SCA Provider's obligations under Clause 7 (*Total Loss Compensation*):

- (i) on the date on which either or both of the Covered Insurances is placed, a single initial premium, calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.5 (*Notification of initial premium*); and
- (ii) thereafter, a recurring premium payable annually on the anniversary of such date calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.6 (*Notification of annual premium*);

**23.1.2** in respect of the SCA Provider's obligations under Clause 12 (*NTPL Loss Compensation*):

- (i) on the date on which the NTPL Insurance is placed, a single initial premium, calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.5 (*Notification of initial premium*); and
- (ii) thereafter, a recurring premium payable annually on the anniversary of such date calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.6 (*Notification of annual premium*);

**23.1.3** in respect of the SCA Provider's obligations under Clause 8 (*Unavailability Notice*) to Clause 10 (*Unavailability Loss Compensation*):

- (i) on the date on which either or both of the Covered Insurances is placed a single initial premium, calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.5 (*Notification of initial premium*);
- (ii) thereafter, a recurring premium payable annually on the anniversary of such date, calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.6 (*Notification of annual premium*);
- (iii) for each month or part thereof during any period in which any Covered Insurance is Unavailable in respect of a relevant risk, an amount equal to 1.25 multiplied by the commercial premium monthly rate (adjusted pro rata where such commercial premium rate was not payable on a monthly basis) that applied under the applicable Covered Insurance immediately prior to such Covered Insurance becoming Unavailable; and
- (iv) for each period in which any Covered Insurance is Unavailable, a cover arrangement fee that shall be in each case, as calculated in accordance with the principles set out in Clause 23.4 and notified to GenCo in the relevant Unavailability Confirmation Notice; and

- 23.1.4** in respect of the SCA Provider's obligations under Clause 17 (*Conduct of Proceedings: Unchanneled Claims*) and Clause 18 (*Payment of Unchanneled Claim Costs*):
- (i) on the date on which the NTPL Insurance is placed, a single initial premium, calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.5 (*Notification of initial premium*); and
  - (ii) thereafter, a recurring premium payable annually on the anniversary of such date, calculated in accordance with the principles set out in Clause 23.4 and as notified to GenCo in accordance with the process set out in Clause 23.6 (*Notification of annual premium*).
- 23.2** If there is any material change in circumstance or other event that enables the Insurers to increase the premiums payable in respect of the Required Insurances, the SCA Provider shall be entitled to make a comparable adjustment to the fees payable by GenCo in accordance with Clause 19.4 and Clause 23.1.
- 23.3** All payments to be made by GenCo pursuant to this Clause 23 shall be made by bank transfer to such bank account as may be nominated by the SCA Provider from time to time.
- 23.4** Each of the fees payable by GenCo to the SCA Provider pursuant to the terms of this Agreement shall be calculated by the SCA Provider (acting reasonably and based on the advice of the Government Actuary's Department or any equivalent replacement body) by reference to the market premium for the provision of insurance in relation to the relevant risk(s), which calculation shall be based on the following:
- 23.4.1** a risk premium (calculated by reference to the frequency of expected claims multiplied by the severity of such claims);
  - 23.4.2** expenses;
  - 23.4.3** the cost of capital and any other overheads;
  - 23.4.4** commission fee(s);
  - 23.4.5** insurance premium tax; and
  - 23.4.6** such other factors as may be necessary in the prevailing circumstances as determined by the Government Actuary's Department or any equivalent replacement body (acting reasonably).
- 23.5 Notification of initial premium**
- 23.5.1** GenCo shall deliver to the SCA Provider a written notice confirming that it intends to place a Covered Insurance at least 12 months prior to the date on which GenCo proposes to place such Covered Insurance.
  - 23.5.2** Within three months of receipt of such notice, the SCA Provider shall deliver to GenCo a written notice setting out:
    - (i) the proposed cost of the initial fee to be paid pursuant to Clause 23.1.1(i), and/or Clause 23.1.2(i), and/or Clause 23.1.2(i) and/or Clause 23.1.4(i) (as applicable); and

(ii) reasonable details as to how such proposed cost has been calculated.

**23.5.3** As soon as reasonably practicable following delivery of a notice in accordance with Clause 23.5.2 above, the SCA Provider and GenCo shall meet to discuss the proposed cost set out in such notice and the SCA Provider shall have regard to any considerations raised by GenCo as part of any such discussions when setting the actual cost of the initial fee.

**23.5.4** No less than one month prior to the date on which GenCo places the Covered Insurance(s), the SCA Provider shall deliver to GenCo a further written notice confirming the actual cost of the initial fee to be paid pursuant to Clause 23.1.1(i), and/or Clause 23.1.2(i), and/or Clause 23.1.3(i) and/or Clause 23.1.4(i) (as applicable).

**23.5.5** GenCo shall provide to the SCA Provider such information as the SCA Provider reasonably requires to enable the relevant fee to be calculated.

## **23.6 Notification of annual premium**

**23.6.1** No less than three months prior to each anniversary of the date on which a Covered Insurance was first placed, the SCA Provider shall deliver to GenCo a written notice setting out:

(i) the proposed cost of the next annual fee to be paid pursuant to Clause 23.1.1(ii), and/or Clause 23.1.2(ii), and/or Clause 23.1.3(ii) and/or Clause 23.1.4(ii) (as applicable); and

(ii) reasonable details as to how such proposed cost has been calculated.

**23.6.2** As soon as reasonably practicable following delivery of a notice in accordance with Clause 23.6.1 above, the SCA Provider and GenCo shall meet to discuss the proposed cost set out in such notice and the SCA Provider shall have regard to any considerations raised by GenCo as part of any such discussions when setting the actual cost of the annual fee.

**23.6.3** No less than one month prior to the date on which GenCo places the Covered Insurance(s), the SCA Provider shall deliver to GenCo a further written notice confirming the actual cost of the next annual fee to be paid pursuant to Clause 23.1.1(ii), and/or Clause 23.1.2(ii), and/or Clause 23.1.3(ii) and/or Clause 23.1.4(ii) (as applicable).

**23.6.4** GenCo shall provide to the SCA Provider such information as the SCA Provider reasonably requires to enable the relevant fee to be calculated.

## **23.7 VAT**

Where under the terms of this Agreement one party is liable to indemnify or reimburse another party in respect of any costs, charges or expenses, the payment shall include an amount equal to any VAT thereon not otherwise recoverable by the other party or the representative member of any VAT group of which it forms part. If the costs, charges or expenses are incurred by the party being indemnified or reimbursed (the “Payee”) in its capacity as agent of the payer and the relevant supply is treated for VAT purposes as made direct to the payer, the Payee shall use reasonable endeavours to procure that the supplier issues to the payer a valid VAT invoice.

## **24 Accounts**

GenCo shall use reasonable endeavours to procure that the Required Insurances and (if applicable) Discretionary Insurances shall contain provisions to the effect that each Insurer shall submit, or procure the submission of, all such accounts to the SCA Provider in relation to the respective Required Insurance and (if applicable) Discretionary Insurance as the SCA Provider may reasonably require from time to time in connection with the payment of any Total Losses or NTPL Losses.

## **25 Books and Records**

**25.1** GenCo shall use reasonable endeavours to procure that the Required Insurances and (if applicable) Discretionary Insurances shall contain provisions to the effect that:

**25.1.1** each Insurer prepare and maintain (and/or shall procure that there shall be prepared and maintained) full and proper accounts, books and records which record in all material respects all transactions, matters and things under the respective Required Insurance and (if applicable) Discretionary Insurance; and

**25.1.2** such accounts, books and records shall be open to the inspection of and audit by the SCA Provider and its duly authorised representatives at any time in connection with the payment of any Total Losses or NTPL Losses, both during the currency of this Agreement and for so long as there is any exposure or liability (whether actual or potential) under the relevant Required Insurance, Discretionary Insurances (if applicable) or under this Agreement and, in any case, for as long as such accounts, books and records are required to be maintained by statutory and regulatory requirements.

**25.2** GenCo shall use reasonable endeavours to procure that each Insurer instruct its respective employees and/or agents and/or sub-contractors to give all information and explanations to the SCA Provider or its duly authorised representatives in relation to the above matters.

## **Part 9**

### **Miscellaneous**

#### **26 Appointment of Security Trustee as Agent**

- 26.1** Each of the Secured Creditors has appointed the Security Trustee to act as its agent under and in connection with this Agreement, including in connection with any Unchanneled Claim, Lender Notice of Proceedings and/or Security Trustee Unchanneled Claim Notification, pursuant to clause 17.1 of the Security Trust and Intercreditor Deed.
- 26.2** The SCA Provider, GenCo, the HoldCo Shareholders and the Designated Affiliates shall be entitled to:
- 26.2.1** rely upon the appointment of the Security Trustee as the agent of the Secured Creditors pursuant to clause 17.1 of the Security Trust and Intercreditor Deed;
  - 26.2.2** deliver to the Security Trustee all notices and other correspondence for the attention of the Secured Creditors; and
  - 26.2.3** rely on all representations made or information provided by the Security Trustee as if such representations or information had been made or provided by the Secured Creditors.

#### **27 Accession and Resignation of Beneficiaries**

- 27.1** No person shall become a beneficiary of the protections in this Agreement unless it accedes to this Agreement, pursuant to this Clause 27.
- 27.2** Subject to Clause 27.3, as soon as reasonably practicable after receiving an Accession Agreement from a proposed new party, each of:
- 27.2.1** GenCo; and
  - 27.2.2** the SCA Provider,
- shall sign and accept such Accession Agreement if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement.
- 27.3** If there is a change of Security Trustee in accordance with clause 36 (*Retirement and Removal of Security Trustee*) of the Security Trust and Intercreditor Deed and the replacement Security Trustee submits an Accession Agreement to GenCo and the SCA Provider, each of GenCo and the SCA Provider shall, as soon as reasonably practicable after receiving such Accession Agreement, sign and accept that Accession Agreement if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement. The SCA Provider shall not be obliged to sign and accept an Accession Agreement submitted to it by a replacement Security Trustee unless the replacement Security Trustee delivers to the SCA Provider such evidence as the SCA Provider may require to demonstrate that the replacement Security Trustee has validly been appointed as replacement Security Trustee in accordance with clause 36 (*Retirement and Removal of Security Trustee*) of the Security Trust and Intercreditor Deed.
- 27.4** The SCA Provider shall only be obliged to sign and accept an Accession Agreement delivered to it once it is satisfied it has completed all necessary “know your customer” or



other similar checks, including those under all applicable laws and regulations in relation to the accession by the prospective party to this Agreement.

**27.5** Each Party shall promptly upon the request of the SCA Provider supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the SCA Provider (for itself) in order for the SCA Provider to carry out and be satisfied it has completed all necessary “know your customer” or other similar checks, including under all applicable laws and regulations.

**27.6** With effect from the date of acceptance by the SCA Provider and GenCo of an Accession Agreement duly executed and delivered to the SCA Provider and GenCo by the relevant acceding party (or, if later, the date specified in that Accession Agreement), as from that date the replacement Security Trustee, the replacement or new Secured Creditor or the replacement or new HoldCo Shareholder or the replacement or new Designated Affiliate (provided that each HoldCo Shareholder shall only be permitted to have one Designated Affiliate) (as applicable) shall assume the same obligations and become entitled to the same rights as if it had been an original Security Trustee, an Original Secured Creditor, an Original HoldCo Shareholder or an Original Designated Affiliate (as applicable).

**27.7** If a Party ceases entirely to be a HoldCo Shareholder or a Designated Affiliate, a Secured Creditor and/or the Security Trustee (such Party being a “**Retiring Party**”), such Retiring Party shall submit to GenCo and the SCA Provider within one Business Day of ceasing to be a HoldCo Shareholder, Designated Affiliate, Secured Creditor and/or the Security Trustee (as applicable) a written notice confirming that such Retiring Party shall:

**27.7.1** immediately cease to be a beneficiary for the purposes of this Agreement; and

**27.7.2** be discharged from further obligations towards the other Parties under this Agreement,

and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date).

## **28 Confidentiality and Freedom of Information**

### **28.1 Confidential Information**

Subject to Clause 28.2 (*Disclosure of Confidential Information*) and Clause 28.5 (*Freedom of Information*), the Parties shall at all times keep all Confidential Information confidential to the Party receiving it and shall not disclose such Confidential Information to any other person, except with the written authority of each Party to whom the information is confidential.

### **28.2 Disclosure of Confidential Information**

**28.2.1** Subject to Clause 28.3 (*Obligations preserved*) and Clause 28.5 (*Freedom of Information*), a Party shall, without the prior consent of the relevant other Party, be entitled to disclose Confidential Information of that other Party:

- (i) that is reasonably required by the Party for the performance of its obligations under the Transaction Documents, including the disclosure of any Confidential Information to any employee, consultant, agent, officer, sub-contractor (of any tier) or professional adviser to the extent necessary to enable that Party to perform its obligations under the Transaction Documents;

- (ii) to any Secured Creditors or their professional advisers (including any rating agencies, if applicable) or insurance advisers or, where it is proposed that a person should or may provide funds (whether directly or indirectly and whether by loan, equity participation or otherwise) to GenCo or a Group Company to enable GenCo to carry out its obligations under the Transaction Documents, to that person and their advisers but only to the extent reasonably necessary to enable a decision to be taken on the proposal;
- (iii) to the extent required by the Nuclear Installations Act, the NEFA or any other applicable law or pursuant to an order of any court of competent jurisdiction, any parliamentary obligation or the rules of any stock exchange or governmental or regulatory authority having the force of law, including for the purposes of the National Audit Act 1983, the Comptroller and Auditor General (as such terms are defined under the National Audit Act 1983);
- (iv) to register or record any authorisations and to effect property registration that may be required;
- (v) for the purpose of the examination and certification of any Party's accounts;
- (vi) to enable a determination to be made under a dispute resolution process arising out of or in connection with this Agreement;
- (vii) in relation to disclosure by GenCo, in order to fulfil the Economic Licence obligations;
- (viii) in relation to disclosure by GenCo, to any person in connection with that person being (or in anticipation of that person becoming) a shareholder of GenCo or a Group Company, subject to the terms of any non-disclosure agreement between GenCo and any of the Parties;
- (ix) required under the Nuclear Industries Security Regulations 2003 or in accordance with the ONR's Security Assessment Principles;
- (x) to prospective providers of financing to GenCo and/or a Group Company; and
- (xi) to any Group Company,

in each case, provided that any such disclosure is made honestly, reasonably (having regard to the terms of the Transaction Documents) and to the extent required for a legitimate purpose as set out in this Clause 28.2.

**28.2.2** Nothing in this Clause 28 shall be deemed to prohibit, prevent or hinder, or render any Party liable for, the disclosure of any information by that Party to the Economic Regulator, the Parliamentary Commissioner for Administration, a Minister of the Crown or any department of the Government of the United Kingdom, Parliament, the Scottish Parliament, the National Assembly of Wales or any department or officer of any of them for the purpose of facilitating the carrying out of its functions.

**28.2.3** If the Secretary of State, the Economic Regulator and GenCo agree in writing, the Parties shall be permitted to release Confidential Information (including the

contents of any Reports (as that term is defined in the Liaison Agreement)) to the Cross-Regulatory Information Sharing Platform, subject to such redactions as the Secretary of State, the Economic Regulator and GenCo agree are required.

### **28.3 Obligations preserved**

Where disclosure is permitted under Clause 28.2 (*Disclosure of Confidential Information*), other than Clauses 28.2.1(iii) and 28.2.1(iv), the Party making such disclosure shall ensure that the recipient of the information is subject to the same obligation of confidentiality as that contained in this Agreement.

### **28.4 Exploitation of information**

Subject to use of the information for the purposes expressly contemplated in Clauses 28.2.1(ii), 28.2.1(iii) and 28.2.1(v), no Party shall make use of any information arising out of the Project issued or provided by or on behalf of any Party in connection with the Transaction Documents otherwise than for the purposes of the Transaction Documents, except with the written consent of the Party by whom or on whose behalf the information was provided.

### **28.5 Freedom of Information**

**28.5.1** The Parties acknowledge that the SCA Provider is, and that GenCo may become subject to, the requirements of the FOIA and the Environmental Information Regulations and each Party may, subject to the remaining provisions of this Clause 28, elect to make representations to each other Party (as the case may be) with its Information disclosure requirements pursuant to the same in the manner provided for in Clauses 28.5.3 to 28.5.7 (inclusive).

**28.5.2** Except where a Request for Information is subject to confidentiality restrictions, where an RfI Recipient receives a Request for Information in relation to Information that may in the RfI Recipient's reasonable opinion be confidential to another Party, the RfI Recipient shall provide a copy of such Request for Information to the relevant other Party within three Business Days of receiving the Request for Information.

**28.5.3** The RfI Recipient may within 10 Business Days of delivering a Request for Information to the relevant other Party consult with such other Party in connection with such Request for Information, in which case the relevant other Party may make representations to the RfI Recipient as to whether:

- (i) such Information requested should be disclosed and, if so, on what basis;
- (ii) such Information may be or is Confidential Information or Commercially Sensitive Information; or
- (iii) further Information should reasonably be provided in order to identify and locate the Information requested,

provided always that, without prejudice to the relevant other Party's rights against the RfI Recipient in respect of any disclosure of Information made otherwise than in accordance with the FOIA or the Environmental Information Regulations, the RfI Recipient shall be responsible for determining, subject to Clause 28.5.4:

- (iv) whether Information is exempt from disclosure under the FOIA, the Environmental Information Regulations or any other relevant law (including the Utilities Act 2000); and
- (v) whether Information is to be disclosed in response to a Request for Information,

and in no event shall the relevant other Party respond directly, or allow its sub-contractors to respond directly, to a Request for Information unless expressly authorised to do so by the RfI Recipient. If the relevant other Party elects to make representations pursuant to this Clause 28.5.3, it shall respond to the RfI Recipient within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

**28.5.4** Subject to Clause 28.5.6, in deciding how to respond to a Request for Information which relates, or may relate, to Confidential Information or Commercially Sensitive Information, the RfI Recipient shall take into account any relevant representations by the relevant other Party in that regard that are made before expiry of the time period referred to in Clause 28.5.3, and the RfI Recipient shall not issue a response to the Request for Information before such date.

**28.5.5** If the RfI Recipient decides to respond to a Request for Information which relates, or may relate, to Confidential Information or Commercially Sensitive Information by confirming that it holds Confidential Information or Commercially Sensitive Information and/or by disclosing Confidential Information or Commercially Sensitive Information, it shall notify the relevant other Party of its decision in writing at least three Business Days before issuing such response.

**28.5.6** The Parties acknowledge that (notwithstanding the other provisions of this Clause 28) the RfI Recipient may, acting in accordance with the Codes, be obliged under the FOIA or the Environmental Information Regulations to disclose Information concerning the other Parties or the Project:

- (i) in certain circumstances without consulting with the relevant other Party; or
- (ii) following consultation with the relevant other Party and having taken their views into account,

provided always that where Clause 28.5.6(i) applies, the RfI Recipient shall, in accordance with the recommendations of the Codes, take reasonable steps, where appropriate, to give the relevant other Party notice, or failing that, to draw the disclosure to the attention of the relevant other Party after any disclosure. Where disclosure is made under this Clause, the RfI Recipient shall provide the relevant other Party with a copy of the information disclosed following the disclosure.

**28.5.7** The RfI Recipient shall not be liable for any loss, damage, harm or other detriment suffered by any other Party arising out of any Information in the RfI recipient's reasonable opinion required to be disclosed under the FOIA or Environmental Information Regulations, provided the RfI Recipient has complied with this Clause 28.5.

## **29 Notices**

### **29.1 Communications in writing**

Any communication to be made under or in connection with this Agreement shall be made in writing.

### **29.2 Addresses**

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered is as follows:

#### **29.2.1 SCA Provider**

[REDACTED]  
[REDACTED]

#### **29.2.2 GenCo**

[REDACTED]  
[REDACTED]

#### **29.2.3 EDF Energy Holdings Limited**

[REDACTED]  
[REDACTED]

Attention: [●]

#### **29.2.4 Other Original HoldCo Shareholders**

*[Other Original HoldCo Shareholders to be inserted once details confirmed]*

#### **29.2.5 Original Designated Affiliates**

*[Original Designated Affiliates to be inserted once details confirmed]*

#### **29.2.6 Original Secured Creditors**

*[Original Secured Creditors to be inserted once details confirmed]*

#### **29.2.7 Security Trustee**

[REDACTED]

Attention: [●]

or any substitute address or department or officer as any Party may notify in writing to each of the other Parties by not less than five Business Days' notice.

### **29.3 Delivery**

**29.3.1** Subject to Clause 29.4 (*Electronic communication*), any communication or document made or delivered by one Party to another Party under or in connection with this Agreement shall only be effective:

- (i) if by hand or recorded delivery, when so delivered; and

- (ii) if by post (other than recorded delivery), two Business Days after being deposited in the post (postage prepaid) in an envelope addressed to the relevant Party at the relevant address,

and, if a particular department or officer is specified as part of its address details provided under Clause 29.2 (*Addresses*), if addressed to that department or officer.

**29.3.2** Any notice under this Agreement shall be irrevocable.

## **29.4 Electronic communication**

**29.4.1** Any communication to be made under or in connection with this Agreement may be made by electronic mail or other electronic means if the Parties:

- (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
- (ii) notify the other Parties in writing of their electronic mail address and any other information required to enable the sending and receipt of information by that means; and
- (iii) notify the other Parties of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

**29.4.2** Any electronic communication made between the Parties will be effective only when actually received in readable form.

## **30 Partial Invalidity**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **31 Remedies and Waivers**

No failure to exercise, nor any delay in exercising, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement. No election to affirm this Agreement by any Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## **32 Consequential Loss**

Except where expressly stated otherwise, in no event shall the SCA Provider be liable to GenCo or any other Party in respect of any Consequential Loss or costs, losses or liabilities due to third party losses and/or damages (including for injury or death) (whether on the basis of breach of contract, indemnity, warranty, tort, breach of statutory duty or otherwise) for any matter arising out of or in connection with this Agreement.

### **33 Amendments**

This Agreement may be amended only by an instrument in writing signed by duly authorised representatives of each Party.

### **34 Counterparts**

This Agreement may be executed in any number of counterparts and by each Party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Agreement by email attachment shall be an effective mode of delivery.

### **35 Entire Agreement**

**35.1** This Agreement, in conjunction with the other documents forming part of the Government Support Package, constitutes the entire agreement between the Parties with respect to the Government Support Package and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to the subject matter of the Government Support Package.

**35.2** Subject to Clause 35.3, each Party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. No Party shall have any claim for innocent or negligent misrepresentation based upon any statement in this Agreement.

**35.3** Nothing in this Agreement shall exclude or limit liability in respect of fraud, fraudulent misstatement or any other matter to the extent not permitted by law to be excluded or limited.

### **36 Restrictions on Assignment**

**36.1** This Agreement shall benefit and bind the relevant Parties, their permitted assignees and their respective successors. Any reference in this Agreement to any Party shall be construed accordingly.

#### **36.2 Restriction on GenCo**

Subject to Clause 36.3 (*GenCo exception*), GenCo shall not assign, novate or otherwise transfer its rights or obligations under this Agreement in whole or in part except with the prior written consent of the SCA Provider (such consent not to be unreasonably withheld or delayed).

#### **36.3 GenCo exception**

GenCo may create a security assignment of this Agreement in favour of any Secured Creditor and the SCA Provider shall:

**36.3.1** assist in facilitating this, provided that all costs and expenses properly incurred by the SCA Provider in giving effect to such assignment are paid by GenCo; and

**36.3.2** execute such documents as may reasonably and customarily be required to give effect to such assignment.

#### **36.4 Restriction on SCA Provider**

Subject to Clause 36.5 (*SCA Provider exception*), the SCA Provider shall not assign, novate or otherwise transfer its rights or obligations under this Agreement in whole or in part except with the prior written consent of GenCo.

### **36.5 SCA Provider exception**

Subject to clause 20.2.1 (*Assignments and transfers by the GLF Provider*) of the Government Liquidity Facility Agreement, the Secretary of State may transfer or novate their rights and obligations under the ITA Deed of Appointment, the Liaison Agreement, this Agreement and any other document forming part of the Government Support Package to a Secretary of State Replacement, provided that:

- 36.5.1** such transfer or novation is in respect of all of the Secretary of State's or, as applicable, the previous Secretary of State Replacement's, rights and obligations under the ITA Deed of Appointment, the Liaison Agreement, this Agreement and any other document forming part of the Government Support Package;
- 36.5.2** the Secretary of State Replacement enters into documentation, in the same form or otherwise in a form reasonably acceptable to GenCo (such approval not to be unreasonably withheld or delayed), agreeing to be bound by the terms of the ITA Deed of Appointment, the Liaison Agreement, this Agreement and any other document forming part of the Government Support Package, with any consequential amendments which may be appropriate, as fully as if the Secretary of State Replacement had been a party to this Agreement and named in the ITA Deed of Appointment, the Liaison Agreement, this Agreement and any other document forming part of the Government Support Package in place of the Secretary of State or, as applicable, the previous Secretary of State Replacement (the "**Replacement Documentation**");
- 36.5.3** the Replacement Documentation shall specify that if at any time the Secretary of State Replacement ceases to be a Minister of the Crown, an entity directly wholly-owned or controlled by a Minister of the Crown or a public body of the nature described in paragraph (b) of the definition of Secretary of State Replacement, then prior to such cessation the Replacement Documentation shall be transferred or novated to a Minister of the Crown or any entity directly wholly-owned or controlled by a Minister of the Crown or a public body of the nature described in paragraph (b) of the definition of Secretary of State Replacement (such transfer or novation being an "**Alternative Secretary of State Transfer**");
- 36.5.4** where the Secretary of State Replacement is an entity directly wholly owned or controlled by a Minister of the Crown or a public body of the nature described in paragraph (b) of the definition of Secretary of State Replacement, the SCA Provider has produced evidence to the satisfaction of GenCo (acting reasonably) that:
  - (i) the Secretary of State Replacement has the power and financial capability to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement; and
  - (ii) all approvals, consents, updates and assurances required for the purposes of Clause 36.5.4(i) are, at the time of such transfer or novation, in full force and effect;



**36.5.5** if at any time the Secretary of State Replacement ceases to be a Minister of the Crown, an entity directly wholly-owned or controlled by a Minister of the Crown or a public body of the nature described in paragraph (b) of the definition of Secretary of State Replacement, the SCA Provider shall, procure that an Alternative Secretary of State Transfer (as contemplated by the Replacement Documentation and Clause 36.5.3) is effected and the requirements set out in Clause 36.5.4 shall apply in respect of such Alternative Secretary of State Transfer; and

**36.5.6** all costs and expenses properly incurred by GenCo in effecting such transfer or novation are paid by the Secretary of State Replacement.

### **36.6 Restriction on HoldCo Shareholders and Designated Affiliates**

Each HoldCo Shareholder and each Designated Affiliate shall not assign, novate or otherwise transfer its rights or obligations under this Agreement in whole or in part except with the prior written consent of the SCA Provider (such consent not to be unreasonably withheld or delayed).

### **36.7 Restriction on the Security Trustee**

Subject to Clause 27.3, the Security Trustee shall not assign, novate or otherwise transfer its rights or obligations under this Agreement in whole or in part except to any replacement Security Trustee appointed in accordance with, or as otherwise permitted pursuant to, the Finance Documents or with the prior written consent of the SCA Provider (such consent not to be unreasonably withheld or delayed).

## **37 No Partnership or Agency**

**37.1** Nothing in this Agreement shall be construed as creating a partnership.

**37.2** No Party shall be deemed to be an agent of any other Party and no Party shall hold itself out as having authority or power to bind any other Party in any way.

## **38 No Third Party Enforcement Rights**

Except in relation to Clause 13.5, a person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms, provided that nothing in this Clause 38 shall prejudice the rights of any person who accedes to this Agreement in accordance with Clause 27 (*Accession and Resignation of Beneficiaries*).

## **39 Governing Law**

This Agreement and any non-contractual obligations arising out of or in relation to this Agreement are governed by the law of England and Wales.

## **40 Jurisdiction and Disputes**

**40.1** Subject to the Dispute Resolution Process, the courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including, without limitation, a dispute regarding the existence, validity or termination of this Agreement and a dispute relating to any non-contractual obligations arising out of or in connection with this Agreement) (a “**Dispute**”).

**40.2** The Parties agree that the courts of England and Wales are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

**41 Waiver of Sovereign Immunity**

The Secretary of State irrevocably waives all immunity to which they may be or become entitled in relation to this Agreement, including immunity from enforcement and all legal proceedings, both in respect of themselves and their assets to the fullest extent permitted by the laws of England and Wales.

**Schedule 1**  
**Original HoldCo Shareholders and Original Designated Affiliates**

**Part 1**  
**Original HoldCo Shareholders**

- 1**      The Secretary of State for Energy Security and Net Zero
- 2**      EDF Energy Holdings Limited

*[List of any other HoldCo Shareholders to be inserted before signing.]*

**Part 2**  
**Original Designated Affiliates**

*[List to be inserted before signing.]*

**Schedule 2**  
**Original Secured Creditors**

*[List to be inserted before signing.]*

### **Schedule 3 Required Insurances**

*[Redacted]*

[Redacted]

[Redacted]

[Redacted]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



[Redacted]

**Schedule 4**  
**Discretionary Insurances**

*[Redacted]*

[Redacted]

[Redacted]

[Redacted]

## Schedule 5 Dispute Resolution Process

### 1 Notification and Initial Resolution

Each Dispute shall be notified in the first instance to the relevant contacts (the “**Contract Representatives**”) of the Parties:

**SCA Provider**

[•]

**GenCo**

[REDACTED]

**Security Trustee**

[•]

**EDF Energy Holdings Limited**

[•]

***[Any other Original HoldCo Shareholders, Original Designated Affiliates and Original Secured Creditors to be inserted],***

or any substitute address or department or officer as any Party may notify in writing to each of the other Parties by not less than five Business Days' notice.

The relevant Contract Representatives shall attempt (each acting reasonably) to resolve the Dispute in the first instance through negotiations for a period of 20 Business Days from the date of notification of the Dispute or such other period as is agreed between the relevant Parties in writing.

### 2 Senior Representatives

If the relevant Contract Representatives have failed to reach agreement on a Dispute within the timeframe set out in paragraph 1 (*Notification and Initial Resolution*), then the Dispute shall be notified to the relevant following contacts (the “**Senior Representatives**”) of the Parties:

**SCA Provider**

[•]

**GenCo**

[•]

**Security Trustee**

[•]

**HoldCo**

[•]

**EDF Energy Holdings Limited**

[•]

**[Any other Original HoldCo Shareholders, Original Designated Affiliates and Original Secured Creditors to be inserted],**

or any substitute address or department or officer as any Party may notify in writing to each of the other Parties by not less than five Business Days' notice.

The relevant Senior Representatives shall attempt (each acting reasonably) to resolve the Dispute through negotiations for a period of 20 Business Days from the date of notification of the Dispute or such other period as is agreed between the Parties in writing.

### **3 Referral to court**

Where the relevant Senior Representatives have failed to reach agreement on a Dispute within the timeframe set out in paragraph 2 (*Senior Representatives*), any relevant Party may refer the Dispute to the courts of England and Wales as contemplated by Clause 40 (*Jurisdiction and Disputes*).

## Schedule 6

### Form of Accession Agreement

To: Sizewell C Limited as GenCo.

To: Secretary of State for Energy Security and Net Zero as SCA Provider.

From: *[Insert full name of acceding beneficiary]*

THIS AGREEMENT is made on *[insert date]* by *[insert full name of acceding beneficiary]* (the “**Acceding Beneficiary**”) in relation to the supplemental compensation agreement originally dated *[insert date]* between Sizewell C Limited as GenCo, the Secretary of State for Energy Security and Net Zero as the SCA Provider, certain entities named therein as the Original HoldCo Shareholders, certain entities named therein as the Original Designated Affiliates, certain entities named therein as the Original Secured Creditors, and [REDACTED] as the Security Trustee (each term as defined therein) (the “**Supplemental Compensation Agreement**”).

Terms defined in the Supplemental Compensation Agreement shall, unless otherwise defined in this Agreement, bear the same meanings when used in this Agreement.

In consideration of the Acceding Beneficiary acceding to the Supplemental Compensation Agreement as [a HoldCo Shareholder][a Designated Affiliate][a Secured Creditor][the Security Trustee], the Acceding Beneficiary confirms that, as from *[insert date]*, it intends to be party to the Supplemental Compensation Agreement as [a HoldCo Shareholder] [a Designated Affiliate][a Secured Creditor][the Security Trustee] and undertakes to perform all of the obligations expressed in the Supplemental Compensation Agreement to be assumed by [a HoldCo Shareholder] [a Designated Affiliate][a Secured Creditor][the Security Trustee] and agrees that it shall be bound by all the provisions of the Supplemental Compensation Agreement, as if it had been an original party to the Supplemental Compensation Agreement.

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

**THIS AGREEMENT** has been entered into on the date stated above.

Acceding Beneficiary

[EXECUTED as a DEED]

*[Insert full name of Acceding Beneficiary]*

By:

Address:

Accepted by GenCo		Accepted by the SCA Provider	
for and on behalf of		for and on behalf of	
Sizewell C Limited		The Secretary of State for Energy Security and Net Zero	
Date:		Date:	



## SIGNATURE PAGES

**In witness** whereof this agreement has been duly executed on the date first above written.

*[Signature blocks to be inserted prior to signing.]*

### SCA PROVIDER

#### **EXECUTED** as a **DEED**

For England and Wales:

The **CORPORATE SEAL** of                    )  
**THE SECRETARY OF STATE**                )  
**FOR ENERGY SECURITY**                    )  
**AND NET ZERO**                                )

As affixed, is authenticated by                )  


**GENCO**

**EXECUTED** as a **DEED** by

.....  
(Name of authorised director)

.....  
(Signature of authorised director)  
Director

.....  
(Name of authorised director)

.....  
(Signature of authorised director)  
Director

for and on behalf of **SIZEWELL C LIMITED**

**ORIGINAL HOLDCO SHAREHOLDERS**

*[Signature blocks to be inserted prior to signing.]*

**ORIGINAL DESIGNATED AFFILIATES**

*[Signature blocks to be inserted prior to signing.]*

**ORIGINAL SECURED CREDITORS**

*[Signature blocks to be inserted prior to signing.]*

**SECURITY TRUSTEE**

*[Note: signature block to be inserted prior to signing.]*