

**DATED** \_\_\_\_\_ **2021**

**NATIONAL GRID ELECTRICITY SYSTEM OPERATOR LIMITED (1)**

and

[ ] (2)

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**SERVICE AGREEMENT FOR THE PROVISION OF A CONSTRAINT MANAGEMENT  
SERVICE AT [ ] POWER STATION**

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**CONTRACT LOG NO: [ ]**

**SUBJECT TO CONTRACT**

**DRAFT 1.2**

**August 2021**

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This **AGREEMENT** is dated

2021

**BETWEEN:**

- (1) **NATIONAL GRID ELECTRICITY SYSTEM OPERATOR LIMITED**, a company registered in England (company number 11014226) whose registered office is at 1-3 Strand, London, WC2N 5EH (the “**Company**” which expression shall include its permitted successors and/or assigns); and
  - (2) [REDACTED] a company registered in [Scotland/England] under company number [REDACTED] whose registered office is at [REDACTED] (the “**Generator**” which expression shall include its permitted successors and/or assigns),
- each a “**Party**” and together the “**Parties**”.

**BACKGROUND:**

- (A) The **Company** issued an Invitation to Tender (“**ITT**”) for the Constraint Management Pathfinder service on [REDACTED] 2021 for the provision of a constraint management service in relation to the B6 constraint boundary and the **Generator** has submitted a tender for the provision of such service from its **Power Station**.
- (B) The **Responsible TO** owns, operates and maintains an intertrip scheme to which the **Power Station** is connected. The constraint management service involves the arming of that intertrip scheme by the **Responsible TO** on the instruction of the **Company** and may result in the tripping of the **Generator’s** generating units at the **Power Station**.
- (C) The **Parties** have entered into this **Agreement** in accordance with the rules of the **ITT**.

**IT IS AGREED as follows:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this **Agreement**, including in the recitals hereto, unless the subject matter or context otherwise requires or is inconsistent therewith, or unless expressly defined herein the definitions set out in Schedule 1 shall apply.
- 1.2 In this **Agreement**:
  - 1.2.1 except where the context otherwise requires, references to a particular Clause, Paragraph, Appendix or Schedule shall be a reference to that Clause, Paragraph, Appendix or Schedule in or to this **Agreement**;
  - 1.2.2 the table of contents and headings are inserted for convenience only and shall be ignored in construing this Agreement;
  - 1.2.3 references to the words “include” or “including” are to be construed without limitation;

- 1.2.4 except where the context otherwise requires, any reference to an Act of Parliament or any Part or Section or other provision of, or Schedule to, an Act of Parliament shall be construed, at the particular time, as including a reference to any modification, extension or re-enactment thereof then in force and to all instruments, orders or regulations then in force and made under or deriving validity from the relevant Act of Parliament;
- 1.2.5 references to the masculine shall include the feminine and references in the singular shall include references in the plural and vice versa; and
- 1.2.6 except where the context otherwise requires, any reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organisation or other entity, in each case whether or not having separate legal personality.

## 2. **COMMENCEMENT AND TERM<sup>1</sup>**

- 2.1 This **Agreement** shall come into effect on the **Effective Date** and without prejudice to earlier termination in accordance with Clause 7 (*Termination*), Clause 21 (*Force Majeure*) or Clause 23 (*Anti-Bribery*) shall continue in force and effect until the expiry of the **Service Term**.
- 2.2 [Not later than six (6) months prior to the expiry of the **Service Term**, the **Parties** shall meet in order to discuss whether to extend this **Agreement** for a further period of twelve (12) months.]

## 3. **SERVICE OBLIGATIONS**

### 3.1 **Availability of Service**

- 3.1.1 The **Generator** agrees to the **Commercial Intertrip Scheme** being **Armed** by the **Responsible TO** on the **Company’s** instruction at any time and from time to time during the **Service Term** when **Active Power** is being exported to the **National Electricity Transmission System** from the **Power Station** in accordance with and subject to the terms and conditions of this **Agreement**.
- 3.1.2 It is agreed by the **Parties** that the **Commercial Intertrip Scheme** shall be in addition to, and this **Agreement** shall not prejudice or affect, the operation of any **System to Generator Operational Intertripping Scheme** as provided for in the applicable **Bilateral Agreement**.

### 3.2 **Instruction to Arm**

- 3.2.1 Where the **Company** has a requirement for **Arming** of the **Commercial Intertrip Scheme** at any time during the **Service Term**, then subject always to Clause 3.2.2, it will instruct the **Responsible TO** to **Arm** the **Commercial Intertrip Scheme** and

<sup>1</sup> For plant requiring a new connection, the Agreement will be conditional on the connection being completed.

to notify the **Generator** accordingly ("**Arming Instruction**") by telephone to the number set out in Schedule 3, Part 4, specifying:

- (a) the selected **Trip Conditions**;
- (b) the date and time from when the **Commercial Intertrip Scheme** will be **Armed**; and
- (c) the specific **Contracted Units** in respect of which the **Commercial Intertrip Scheme** will be **Armed**.

3.2.2 The **Company** may not issue an **Arming Instruction** with respect to any **Contracted Unit** in relation to any period where:

- (a) that **Contracted Unit** is intended by the **Generator** (as shown by the prevailing **Physical Notification**) to be **Desynchronised** for whatever reason thereby rendering the **Commercial Intertrip Scheme** unavailable in respect of such **Contracted Unit**; or
- (b) the **Company** has been notified by the **Generator** pursuant to Clause 3.8 that the **Contracted Unit** is not available to the **Commercial Intertrip Scheme** for technical reasons related to such **Contracted Unit**.

### 3.3 **Arming**

3.3.1 The **Generator** acknowledges that the **Arming** of the **Commercial Intertrip Scheme** in respect of the **Contracted Units** may be instructed when the **Contracted Units** are exporting to the **National Electricity Transmission System**.

### 3.4 **Disarming**

3.4.1 The **Company** may instruct the **Responsible TO** to **Disarm** the **Commercial Intertrip Scheme** ("**Disarming Instruction**") and to notify the **Generator** accordingly.

3.4.2 Notwithstanding the above, for the purposes of this **Agreement** the **Commercial Intertrip Scheme** shall be deemed to be **Disarmed** with respect to any **Contracted Unit** where:

- (i) that **Contracted Unit** is **Desynchronised** for whatever reason; or
- (ii) that **Contracted Unit** is tripped otherwise than in accordance with a signal from the **Commercial Intertrip Scheme**,

such **Disarming** to be deemed to be effective from the commencement of the **Settlement Period** in which such **Desynchronisation**, or trip occurred until the **Company** is notified of the restored availability of the **Contracted Unit** for participation in the **Commercial Intertrip Scheme** in accordance with Clause 3.8.2.

### 3.5 **Tripping**

3.5.1 Following each **Trip**, and with respect to the relevant **Contracted Units** the **Commercial Intertrip Scheme** shall be deemed to be **Disarmed** pursuant to Clause 3.4.2(i) or Clause 3.4.2(ii) as appropriate until the end of the **Balancing Mechanism Window**.

3.5.2 Without prejudice to the **Generator's** obligations under **Grid Code OC7**, upon each incidence of **Tripping**, the **Generator** shall, as soon as reasonably practicable, notify the **Company** of the cessation of the export of **Active Power** from the **Contracted Units** by facsimile or email.

### 3.6 **Payments**

3.6.1 In consideration of the **Generator** complying with its obligations, and subject to any notification under Clause 3.8.1, the **Company** shall pay to the **Generator** in accordance with Clause 4 (*Payment*) an amount (the "**Arming Payment**") calculated for each relevant **Contracted Unit** and by reference to: (1) the **Arming Payment Rate**; and (2) the period in respect of which the **Commercial Intertrip Scheme** is **Armed** by the **Company** (the "**Arming Period**").

3.6.2 In respect of each **Trip** of a **Contracted Unit**, the **Company** shall (subject to Clause 3.6.3) pay to the **Generator** in accordance with Clause 4 (*Payment*) an amount (the "**Tripping Payment**") calculated by reference to the **Tripping Payment Rate**.

3.6.3 For the avoidance of doubt, the **Parties** agree that no **Tripping Payment** shall be made where:

- (a) reduction in **Active Power Output** of a **Contracted Unit** occurred otherwise than in accordance with a signal from the **Commercial Intertrip Scheme** to that **Contracted Unit**;
- (b) reduction in **Active Power Output** of a **Contracted Unit** occurred outside of an **Arming Period**; or
- (c) reduction in **Active Power Output** of a **Contracted Unit** occurred following a withdrawal availability in accordance with Clause 3.8.1 and before the **Company** is first notified of the restored availability of the **Commercial Intertrip Scheme** pursuant to Clause 3.8.2.

3.6.4 For the purposes of the **ABSVD Methodology Statement** the reduction in **Output** of **Active Power** following operation of the **Commercial Intertrip Scheme** resulting in disconnection of a **Contracted Unit** shall be determined in accordance with the provisions of Schedule 3, Part 2.

### 3.7 **Grid Code**

3.7.1 The provision by the **Generator** of the **Constraint Management Service** shall not relieve it of any of its obligations (where applicable) set out in the **Grid Code**.

3.7.2 In addition to the provisions of Clause 3.7.1, if during an **Arming Period** the **Commercial Intertrip Scheme** fails to operate in accordance with the terms of this **Agreement** for whatever reason, the **Company** may instruct the **Generator** to trip the relevant **Contracted Units** by issuing an **Emergency Instruction** in accordance with the provisions of the **Grid Code** provided that if the **Company** issues a **Bid Offer Acceptance** (or such an instruction is treated as a **Bid Offer Acceptance**), or the **Generator** receives any other payments in accordance with the provisions of the **Grid Code** and/or the **CUSC** and/or the **BSC** in respect of such **Emergency Instruction**, then the **Generator** shall pay to the **Company** the sum of any such payments received less any **Tripping Payment** which the **Generator** would have received if the **Commercial Intertrip Scheme** had operated in accordance with the terms of this **Agreement** (or where the **Tripping Payment** is greater than the sum of any other such payments received, the **Company** shall pay to the **Generator** the difference). Such payments shall be made in accordance with Clause 4 (*Payment*).

### 3.8 **Unavailability of the Constraint Management Service**

3.8.1 If for any reason (including any event or circumstance of **Force Majeure**) the **Contracted Units** become unavailable for participation in the **Commercial Intertrip Scheme** for reasons relating to safety to the plant and/or personnel and/or technical reasons related to the **Contracted Units**, the **Generator** shall as soon as reasonably practicable notify the **Company** by facsimile or email in the form set out in Schedule 3, Part 4. Such notification shall include a brief explanation thereof, the time of commencement of unavailability and the expected duration thereof.

3.8.2 The **Generator** shall as soon as reasonably practicable notify the **Company** by facsimile or email in the form set out in Schedule 3, Part 4 of the restored availability of the **Contracted Units** for participation in the **Commercial Intertrip Scheme** following the resolution of the technical problems related to the **Contracted Units**. Such notification shall specify the time of restoration of the availability of the **Contracted Units** for participation in the **Commercial Intertrip Scheme** and shall specify the steps taken to resolve such problems.

### 3.9 **Damage to Plant and Apparatus**

Each **Party** shall bear the risk of, and the other **Party** shall have no liability to that **Party** in respect of, loss or damage to that **Party's Plant** or **Apparatus** caused directly or indirectly by the occurrence (or failure to occur) of a **Trip** with respect to the **Contracted Units** in the manner contemplated by this **Agreement** (whether **Tripping** or failure to **Trip** is caused by the other **Party's** default or the malfunction of its **Plant** and **Apparatus** or otherwise).

### 3.10 **Allowed Interruption**

Any **Tripping** of any **Contracted Units** pursuant to this **Agreement** shall constitute an **Allowed Interruption** for the purposes of Paragraph 5.10 of Section 5 of the **CUSC** and therefore no **Interruption Payment** shall become due or payable.

### 3.11 Revisions to Trip Conditions

The **Company** is entitled to:

- (a) amend the description of the circuits listed in Schedule 3, Part 1 to reflect any changes to the **National Electricity Transmission System**; and
- (b) add further circuits to the list of **Trip Conditions**.

The **Company** shall provide the **Generator** with at least seven (7) days prior written notice of such changes, including the date from which such changes are to take effect.

### 3.12 Revisions to Arming Payment Rate

3.12.1 The **Generator** may, in respect of a calendar month or such other reference period as the **Company** may notify to the **Generator** in accordance with Clause 3.12.2, revise the **Arming Payment Rate** to a level not exceeding the **Arming Payment Rate** specified in its **Tender Submission**, by notice in writing to the **Company** given not earlier than the second **Business Day** in the preceding calendar month and not later than the eighth **Business Day** in the preceding calendar month. The **Company** shall acknowledge such notice in writing as soon as reasonably practicable following receipt.

3.12.2 The **Company** may from time to time and by not less than ten (10) **Business Days** notice in writing to the **Generator**, change the reference period and the notice periods specified in Clause 3.12.1 as it in its absolute discretion sees fit.

## 4. PAYMENT

4.1 As soon as reasonably practicable and no later than eight (8) **Business Days** following the end of each calendar month in respect of which an **Arming Instruction** was issued, the **Company** shall send to the **Generator** a statement (the "**Monthly Statement**") setting out the amounts payable. In respect of each calendar month, the **Company** shall include in that statement:-

4.1.1 its calculation of the **Arming Payment** and any **Tripping Payment** due to the **Generator** in respect of the previous calendar month; and

4.1.2 if relevant, adjustments to be made (net of interest) in relation to disputes concerning **Arming Payments** or **Tripping Payments** in respect of any month prior to the previous calendar month.

4.2 If the **Generator** disagrees with any dates times facts or calculations set out in the **Monthly Statement**, it may notify the **Company** in writing, with the evidence on which it relies in support of such disagreement, no later than the date falling ten (10) **Business Days** after receipt thereof, but in the absence of any such notification by such date, the **Monthly Statement** shall be final and binding on the **Parties** subject only to Clause 4.3. The **Parties** shall discuss and endeavour to

resolve the matter in good faith and any adjustments agreed shall be included in the **Monthly Statement** next following the date of resolution of the dispute. The dates, times, facts and calculations set out in the **Monthly Statement** shall be binding upon the **Parties** until such time as they are reversed or revised by agreement between the **Parties** or otherwise determined pursuant to Clause 15 (*Dispute Resolution*).

- 4.3 Where, having regard to any **Settlement Run** or to the results of any other monitoring by the **Company** of service delivery, the **Company** or the **Generator** discovers that some or all of any calculations and/or amounts falling due shown in any **Monthly Statement** are incorrect, then it shall promptly notify the other in writing whereupon the **Company** shall, subject to verification by the **Company** revise the **Monthly Statement** and re-issue the same to the **Generator**, and the provisions of Clause 4.2 shall apply mutatis mutandis to such revised **Monthly Statement**.
- 4.4 In the absence of fraud, neither the **Company** nor the **Generator** may invoke the provisions of Clause 4.3 with respect to the contents of any **Monthly Statement** after the period of twelve (12) months has elapsed following submission of that **Monthly Statement** in which the calculations and/or amounts in question were first stated, after which date such calculations and/or amounts shown in the last **Monthly Statement** issued by the **Company** shall be final and conclusive.
- 4.5 No later than the eighteenth (18th) **Business Day** of each month, the **Company** will issue a self-billing invoice (or credit note) reflecting the **Monthly Statement** issued pursuant to Clause 4.2, and no later than five (5) **Business Days** after such date of issue the **Company** shall pay to the **Generator** (or the **Generator** shall pay to the **Company**, as the case may be) the net amount shown as due from the **Company** to the **Generator** (or from the **Generator** to the **Company**, as the case may be) in that **Monthly Statement**.
- 4.6 If either **Party** (the "**Defaulting Party**") fails to pay any amount properly due under this **Agreement** on the due date, then the **Defaulting Party** shall pay to the other **Party** interest on such overdue amount at the **Base Rate** plus three per cent (3%) from the date on which such payment was properly due to (but excluding) the date of actual payment. Any interest shall accrue from day to day.
- 4.7 If it is agreed or otherwise determined under Clause 4.2 that the **Generator** was entitled to a further payment from the **Company**, the **Generator** shall be entitled to interest at the **Base Rate** on the amount of such further payment from the date on which that sum would have been payable had it been included in the **Monthly Statement** for each **Relevant Settlement Period** until the date of payment.
- 4.8 If it is agreed or otherwise determined under Clause 4.2 that the **Generator** was not entitled to any payment it has received, the **Company** shall be entitled to interest at the **Base Rate** on the amount so paid from the date of payment until the date of repayment or the date when the **Company** makes a payment to the **Generator** which takes such payment into account.

- 4.9 Notwithstanding any other provision of this **Agreement**, the **Parties** shall not be limited in any way as to the evidence they may rely upon in any proceedings arising out of or in connection with payment for the **Constraint Management Service** under this **Agreement** and the **Parties** agree that in the event and to the extent that either **Party** succeeds in proving in any such proceedings that the **Constraint Management Service** was or was not provided, the successful **Party** shall be entitled to repayment of the sums already paid or payment of sums not paid as the case may be in respect of the **Constraint Management Service**.
- 4.10 Save as otherwise expressly provided in this **Agreement**, sums payable by one **Party** to the other pursuant to this **Agreement** whether by way of charges, interest or otherwise shall (except to the extent otherwise required by law) be paid in full, free and clear of and without deduction, set-off or deferment in respect of any disputes or claims whatsoever save for sums the subject of a final award or judgement (after exhaustion of all appeals if this opportunity is taken) or which by agreement between the **Company** and the **Generator** may be so deducted or set off.
- 4.11 All amounts specified hereunder shall be exclusive of any Value Added Tax or other similar tax and the **Company** shall pay to the **Generator** Value Added Tax at the rate for the time being and from time to time properly chargeable in respect of the making available and/or supply of the **Constraint Management Service** under this **Agreement**.
- 4.12 All payments by the **Company** to the **Generator** under this **Agreement** will be made by payment to the bank account details of which are notified to the **Company** by the **Generator** from time to time.
- 4.13 The submission of all **Monthly Statements** and facts and other evidence in support thereof and any questions in connection therewith from the **Company** to the **Generator** and vice versa in accordance with this Clause 4 must be made, in the absence of agreement to the contrary between the **Parties**, by 19.00 hours on the **Business Day** concerned.
- 4.14 The **Generator** hereby irrevocably consents to the operation of a self-billing system by the **Company** with regard to the payment for the **Constraint Management Service** and will at all times throughout the **Term** maintain such consent. The **Generator** hereby undertakes to do (at the **Company's** cost) all acts and things reasonably necessary to enable the **Company** to comply with the regulations of HM Revenue & Customs as regards the self-billing of the **Constraint Management Service**.
- 4.15 The provisions of this Clause 4 shall survive termination of this **Agreement**.
5. **LIMITATION OF LIABILITY**
- 5.1 Subject to Clause 5.2, save where any provision of this **Agreement** provides for an indemnity, the **Parties** agree and acknowledge that neither **Party** (the "**Party Liable**") nor any of its officers, employees or agents shall be liable to the other **Party** for loss arising from any breach of this **Agreement** other than for loss directly

resulting from such breach and which at the date of this **Agreement** was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:-

- 5.1.1 physical damage to the property of the other **Party**, its officers, employees or agents; and/or
- 5.1.2 the liability of such other **Party** to any other person for loss in respect of physical damage to the property of any person subject, for the avoidance of doubt, to the requirement that the amount of such liability claimed by such other party should be mitigated in accordance with general law,

provided further that the liability of any **Party** in respect of all claims for such loss shall not exceed five million GB pounds (£5,000,000) per incident or series of related incidents.

5.2 Nothing in this **Agreement** shall exclude or limit the liability of the **Party Liable** for death or personal injury resulting from the negligence of the **Party Liable** or any of its officers, employees or agents and the **Party Liable** shall indemnify and keep indemnified the other **Party**, its officers, employees or agents, from and against all such and any loss or liability which such other **Party** may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the **Party Liable** or any of its officers, employees or agents.

5.3 Subject to Clause 5.2 and save where any provision of this **Agreement** provides for an indemnity neither the **Party Liable** nor any of its officers, employees or agents shall in any circumstances whatsoever be liable to the other **Party** for:-

- 5.3.1 any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill; or
- 5.3.2 any indirect or consequential loss; or
- 5.3.3 loss resulting from the liability of the other **Party** to any other person howsoever and whensoever arising save as provided in Clause 5.1.2 and Clause 5.2.

5.4 Each **Party** acknowledges and agrees that the other **Party** holds the benefit of Clauses 5.1, 5.2 and 5.3 for itself and as trustee and agent for its officers, employees and agents.

5.5 The rights and remedies provided by this **Agreement** to the **Parties** are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies express or implied and provided by common law or statute in respect of the subject matter of this **Agreement**, including without limitation any rights either **Party** may possess in tort which shall include actions brought in negligence and/or nuisance. Accordingly, each of the **Parties** hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute and releases the other **Party**, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations

provided by common law or statute in respect of the matters dealt with in this **Agreement** and undertakes not to enforce any of the same except as expressly provided herein.

5.6 For the avoidance of doubt, the **Parties** acknowledge and agree that nothing in this **Agreement** shall exclude or restrict or otherwise prejudice or affect any of the rights, powers, privileges, remedies, duties and obligations of the **Secretary of State** or the **Authority** under the **Act**, any **Licence** or otherwise howsoever.

5.7 Each of Clauses 5.1, 5.2 , 5.3 and 5.4 shall:-

5.7.1 be construed as a separate and severable contract term, and if one or more of such Clauses is held to be invalid, unlawful or otherwise unenforceable the other or others of such Clauses shall remain in full force and effect and shall continue to bind the **Parties**; and

5.7.2 survive termination of this **Agreement**.

5.8 For the avoidance of doubt, nothing in this Clause 5 shall prevent or restrict any **Party** enforcing any obligation (including suing for a debt) owed to it under or pursuant to this **Agreement**.

5.9 Each **Party** acknowledges and agrees that the provisions of this Clause 5 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the date of this **Agreement**.

## 6. **METERING**

6.1 The relationship between the **Parties** with respect to **Energy Metering Equipment** shall be regulated in accordance with Sections K and L of the **Balancing and Settlement Code**.

6.2 The relationship between the **Parties** with respect to **Operational Metering Equipment** shall be regulated by Paragraph 6.7.3 of the **Connection and Use of System Code**.

## 7. **TERMINATION**

### Automatic Termination

7.1 This **Agreement** shall terminate automatically upon:-

7.1.1 the **Generator** ceasing to be a **BSC Party** solely as a result of the **Generator's** election or a material breach by the **Generator** of its obligations under such agreement; or

7.1.2 the revocation or withdrawal of the **Generation Licence** solely as a result of the **Generator's** election or a material breach by the **Generator** of its obligations under such licence; or

- 7.1.3 termination of the applicable **Bilateral Agreement** solely as a result of the **Generator's** election or a material breach by the **Generator** of its obligations under such agreement; or
- 7.1.4 the **Responsible TO** connects another **User's Generating Unit** to the same circuit to which the **Contracted Units** are connected and that **Generating Unit** does not participate in the **Commercial Intertrip Scheme**,

and the **Generator** cannot comply in all material respects with its obligations under this **Agreement** or (in the case of clause 7.1.4) it is not possible for the **Contracted Units** to trip in accordance with the **Commercial Intertrip Scheme** without causing the other **User's Generating Unit** to trip.

Termination by the **Generator**

- 7.2 The **Generator** may, by notice in writing to the **Company**, terminate this **Agreement** in the event that:
- 7.2.1 the **Company** shall fail to pay (other than by inadvertent error in funds transmission which is discovered by the **Generator**, notified to the **Company** and corrected within five (5) **Business Days** following such notification) any sum properly due or owing from it pursuant to this **Agreement** according to its terms and such non-payment remains unremedied and not disputed in good faith and upon reasonable grounds at the expiry of fifteen (15) **Business Days** immediately following receipt by the **Company** of written notice from the **Generator** of such non-payment; or
- 7.2.2 without prejudice to Clause 7.1, the **Company** shall commit any material breach (other than a breach under Clause 7.2.1) of this **Agreement** (or persistent breaches of this **Agreement** which taken as a whole are material), or shall commit a breach of any of the material obligations on its part to be observed under this **Agreement**, and the **Generator** shall have served written notice on the **Company** requiring it to remedy such default (if it is capable of remedy) within thirty (30) days or such longer period as may be reasonably necessary to remedy the default and the **Company** shall have failed to remedy such default to the reasonable satisfaction of the **Generator** within the specified period; or
- 7.2.3 in respect of the **Company**:-
- (a) an order of the High Court is made or an effective resolution passed for its winding-up or dissolution; or
  - (b) a receiver (which expression shall include an administrative receiver within the meaning of Section 29 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking is appointed; or
  - (c) an administration order under Section 8 of the Insolvency Act 1986 is made or an administrator has been appointed (whether out of court or otherwise) or if a voluntary arrangement is proposed by the **Company** under Section 1 of that Act; or

- (d) it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the **Authority**); or
- (e) any of the events referred to in (a) to (d) above has occurred and is continuing and the **Company** is unable to pay its debts within the meaning of Section 123 (1) or (2) of the Insolvency Act 1986 save that such section shall have effect as if for seven hundred and fifty pounds sterling (£750) there was inserted two hundred and fifty thousand pounds sterling (£250,000) (and the **Company** shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by it with recourse to all appropriate measures and procedures);

and in any such case within twenty eight (28) days of appointment of the liquidator, receiver, administrative receiver, administrator, nominee or other similar officer, such person has not provided to the **Generator** a guarantee of future performance by the **Company** of this **Agreement** in such form and amount as the **Generator** may reasonably require.

#### Termination by the **Company**

7.3 The **Company** may, by notice in writing to the **Generator**, terminate this **Agreement** in the event that:-

7.3.1 without prejudice to Clause 7.1, the **Generator** shall commit any material breach (other than a breach under Clause 7.3.2) of this **Agreement** (or persistent breaches of this **Agreement** which taken as a whole are material), or shall commit a breach of any of the material obligations on its part to be observed under this **Agreement**, and the **Company** shall have served written notice on the **Generator** requiring it to remedy such default (if it is capable of remedy) within thirty (30) days or such longer period as may be reasonably necessary to remedy the default and the **Generator** shall have failed to remedy such default to the reasonable satisfaction of the **Company** within the specified period; or

7.3.2 the **Generator** shall fail to pay (other than by inadvertent error in funds transmission which is discovered by the **Company**, notified to the **Generator** and corrected within five (5) **Business Days** following such notification) any sum properly due or owing from it pursuant to this **Agreement** according to its terms and such non-payment remains unremedied and not disputed in good faith and upon reasonable grounds at the expiry of fifteen (15) **Business Days** immediately following receipt by the **Generator** of written notice from the **Company** of such non-payment;

7.3.3 in respect of the **Generator**:-

- (a) an order of the High Court is made or an effective resolution passed for its winding-up or dissolution; or
- (b) a receiver (which expression shall include an administrative receiver within the

meaning of Section 29 Insolvency Act 1986) of the whole or any material part of its assets or undertaking is appointed; or

- (c) an administration order under Section 8 of the Insolvency Act 1986 is made or an administrator has been appointed (whether out of court or otherwise) or if a voluntary arrangement is proposed by the **Generator** under Section 1 of that Act; or
- (d) it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the **Authority**); or
- (e) any of the events referred to in (a) to (d) above has occurred and is continuing and the **Generator** is unable to pay its debts within the meaning of Section 123 (1) or (2) of the Insolvency Act 1986 save that such section shall have effect as if for seven hundred and fifty pounds sterling (£750) there was inserted two hundred and fifty thousand pounds sterling (£250,000) (and the **Generator** shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by it with recourse to all appropriate measures and procedures)

and in any such case within twenty eight (28) days (or such longer period as the **Company** may in its absolute discretion permit) of appointment of the liquidator, receiver, administrative receiver, administrator, nominee or other similar officer, such person has not provided to the **Company** a guarantee of future performance by the **Generator** of this **Agreement** in such form and amount as the **Company** may reasonably require.

#### Other termination rights

7.4 The provisions of this Clause 7 are additional to any other rights of termination expressly provided. Termination of this **Agreement** under this Clause 7 or any other provision of this **Agreement** shall be without prejudice to the rights and remedies to which a **Party** may be entitled hereunder and shall not affect any accrued rights obligations or liabilities of either **Party** nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

7.5 For the avoidance of doubt, unless otherwise expressly provided herein, references in this **Agreement** to termination of this **Agreement** shall mean termination of all of the provisions of this **Agreement** and not otherwise.

## 8. **ASSIGNMENT**

8.1 The **Generator** shall not assign or transfer nor purport to assign or transfer the benefit or burden of this **Agreement** save in the following circumstances:-

8.1.1 the **Generator** may assign or charge its benefit under this **Agreement** in whole or in part by way of security;

- 8.1.2 upon the disposal of the whole of the **Generator's** business or undertaking, the **Generator** may transfer its rights and obligations under this **Agreement** to the purchaser thereof provided that the transfer to the purchaser of all of its rights and obligations under the **Connection and Use of System Code**, all **Bilateral Agreements** (and associated **Construction Agreements**) and all **Mandatory Services Agreements** shall have taken place;
- 8.1.3 upon disposal of part of the **Generator's** business or undertaking comprising **Generator's Equipment** at one or more **Connection Sites**, the **Generator** may transfer its rights and obligations under this **Agreement** to the purchaser thereof provided that the transfer to the purchaser of all of its rights and obligations under those **Bilateral Agreements** (and associated **Construction Agreements**) and **Mandatory Services Agreements** relevant to the part of the business or undertaking to be transferred shall have taken place.
- 8.2 The **Company** shall not assign or transfer nor purport to assign or transfer the benefit or burden of this **Agreement** save to the holder of a **Licence** with responsibility for carrying out the **Balancing Services Activity**.

## 9. **CONFIDENTIALITY AND ANNOUNCEMENTS**

- 9.1 Subject to the exceptions provided in Clause 9.3, Clause 10 (*Disclosure of Information*) (and to the extent otherwise expressly permitted by this **Agreement**), neither **Party** shall, at any time, whether before or after the expiry or sooner termination of this **Agreement**, without the prior consent of the other **Party** in writing (such consent not to be unreasonably withheld or delayed), divulge or suffer or permit its officers, employees, agents or contractors to divulge to any person or permit use by any person (other than disclosure to or use by any of its or their respective officers or employees to the extent that such disclosure and use is required to enable such persons properly to carry out their duties in connection with this **Agreement**):-
- 9.1.1 any of the contents of this **Agreement**;
- 9.1.2 any commercially confidential information relating to the negotiations concerning the entering into of this **Agreement**;
- 9.1.3 any commercially confidential information which may come to a **Party's** knowledge in the course of such negotiations; or
- 9.1.4 any commercially confidential information concerning the operations, contracts, commercial or financial arrangements or affairs of the other **Party**.
- 9.2 Each **Party** undertakes to use information referred to in Clause 9.1 and disclosed to it by the other **Party** solely for the purposes of this **Agreement** and shall not use it for any other purpose or for the purposes of any third party.
- 9.3 The restrictions imposed by Clause 9.1 shall not apply to the disclosure of any information:

- 9.3.1 which now or hereafter comes into the public domain otherwise than as a result of a breach of a confidentiality obligation or which either **Party** can show was in its written records prior to the date of disclosure of the same by the other **Party**, under this **Agreement** or which it receives from a third party independently entitled to disclose it;
- 9.3.2 which is required by law or pursuant to the rules of the Electricity Arbitration Association in England and Wales or pursuant to the rules or regulations of the Financial Services Authority to be disclosed to any person who is authorised by law or pursuant to the rules of the Electricity Arbitration Association in England and Wales or pursuant to the rules or regulations of the Financial Services Authority to receive the same;
- 9.3.3 which is required to be disclosed by the regulations of any recognised exchange upon which the share capital of the **Party** making the disclosure (or its parent undertaking) is or is proposed to be from time to time listed or dealt in, or is required to be disclosed by the Panel on Takeovers and Mergers;
- 9.3.4 to a court, arbitrator or administrative tribunal in the course of proceedings before it to which the disclosing **Party** is a party;
- 9.3.5 pursuant to any **Licence** of the **Party** concerned;
- 9.3.6 to any consultants, banks, financiers, insurers or professional advisers retained by the disclosing **Party**;
- 9.3.7 by the **Generator** to a third party who is a party to a power purchase agreement in respect of the electricity generated by the **Power Station** and with whom all (or some of) the risks and benefits arising from the **Agreement** will be shared provided such party is subject to confidentiality undertakings which are no less onerous than those to which the **Generator** is subject to under this **Agreement**;
- 9.3.8 by either **Party** to any parent, subsidiary or fellow subsidiary undertaking on a “need to know” basis only; or
- 9.3.9 required or expressly permitted to be disclosed under the terms of any agreement or arrangement to which both the **Parties** have agreed to be bound.
- 9.4 In this Clause 9, the words “parent undertaking”, “subsidiary undertaking” and “fellow subsidiary undertaking” shall have the meanings as provided in sections 1161 and 1162 of the Companies Act 2006.
- 9.5 Before either **Party** discloses any information in any of the circumstances described in Clauses 9.3.6 to 9.3.8 (other than to its authorised professional advisers), it shall notify the other **Party** of its intention to make such disclosure and (in the case where the disclosing **Party** is the **Generator**) procure the execution and delivery to that **Party** of an undertaking executed by the person to whom the disclosure is proposed to be made being in the same terms mutatis mutandis as the undertakings contained in this Clause 9.

- 9.6 No public announcement or statement regarding the signature, performance or termination of this **Agreement** shall be issued or made by either **Party** unless:
- 9.6.1 to the extent legally possible, before it is issued or made, both the **Parties** have been furnished with a copy of it and have approved it (such approval not to be unreasonably withheld or delayed); or
- 9.6.2 it is necessary to do so in order to comply with any applicable law or the regulations of any recognised stock exchange upon which the share capital of such **Party** is from time to time listed or dealt in.
- 9.7 With respect to the information referred to in Clause 9.1 both **Parties** shall ensure, to the extent reasonably practicable, that:-
- 9.7.1 such information is disseminated within their respective organisations on a “need to know” basis only;
- 9.7.2 employees, directors, agents, consultants and professional advisers who are in receipt of such information are made fully aware of the **Party’s** obligations of confidence in relation thereto; and
- 9.7.3 any copies of such information, whether in hard copy or computerised form, will clearly identify the information as confidential.
- 9.8 Notwithstanding any other provision of this **Agreement**, the provisions of this Clause 9 shall continue to bind a person after termination of this **Agreement**, in whole or in part, for whatever reason.

## 10. **DISCLOSURE OF INFORMATION**

- 10.1 The **Generator** hereby consents to the disclosure and use by the **Company** in such manner or form and at such times as it thinks fit of:
- 10.1.1 the tendered rates for calculating **Arming Payments** (as the same may be varied in accordance with Clause 3.12.1) and **Tripping Payments** for each **Contracted Unit** and any other information submitted by the **Generator** in its **Tender Submission**;
- 10.1.2 the periods for which **Arming** of the **Commercial Intertrip Scheme** in respect of the **Contracted Units** has been instructed;
- 10.1.3 the aggregate cost of **Arming Payments** and the aggregate amount of **Tripping Payments** made by the **Company** to the **Generator** and all other generators participating in the **Constraint Management Service**; and
- 10.1.4 any other data and other information relating to this **Agreement** and the provision of the **Constraint Management Service** for the purposes of any or all of the statements published from time to time pursuant to **Standard Condition C16** of the **Transmission Licence**.

10.2 Where the **Company** intends disclosing and using any data or other information relating to this **Agreement** other than that specified in Clause 10.1 it shall first consult with the **Generator** regarding the form and scope of the intended disclosure documentation and, acting reasonably and in good faith, make such adjustments to the disclosure documentation as the **Generator** may reasonably request in order to protect its business interests.

## 11. **WAIVER**

No delay by or omission of any **Party** in exercising any right, power, privilege or remedy under this **Agreement** shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.

## 12. **NOTICES**

12.1 Any notice or other communication to be given by one **Party** to the other under, or in connection with the matters contemplated by, this **Agreement** shall be addressed to the recipient and sent to the address or facsimile number of such other **Party** given in Schedule 4 for the purpose and marked for the attention of the person so given or to such other address or facsimile number and/or marked for such other attention as such other **Party** may from time to time specify by notice given in accordance with this Clause 12 to the **Party** giving the relevant notice or other communication to it.

12.2 Any notice or other communication to be given by one **Party** to the other **Party** under, or in connection with the matters contemplated by, this **Agreement** shall be in writing and shall be given by letter delivered by hand or sent by first class prepaid post (airmail if overseas) or facsimile, and shall be deemed to have been received:-

12.2.1 in the case of delivery by hand, when delivered; or

12.2.2 in the case of first class prepaid post, on the second day following the day of posting or (if sent airmail from overseas) on the fifth day following the day of posting; or

12.2.3 in the case of facsimile, on acknowledgement by the addressee's facsimile receiving equipment (where such acknowledgement occurs before 17.00 hours on the day of acknowledgement) and in any other case on the day following the day of acknowledgement.

## 13. **COUNTERPARTS**

This **Agreement** may be executed in any number of counterparts and by the different **Parties** on separate counterparts, each of which when executed and delivered shall constitute an original but all the counterparts shall together constitute but one and the same instrument. For the purposes of this Clause 13, the delivery of a facsimile copy of a signed counterpart of this **Agreement** shall be deemed to be valid signature thereof provided that the **Party** so delivering a facsimile hereby

undertakes to deliver an original copy of this **Agreement** forthwith following such facsimile transmission.

#### 14. **VARIATIONS**

14.1 Subject to Clause 14.2 no variations or amendments to this **Agreement** shall be effective unless made in writing and signed by or on behalf of both the **Company** and the **Generator**.

14.2 The **Company** and the **Generator** shall effect any amendment required to be made to this **Agreement** by the **Authority** as a result of a change in the **Transmission Licence** or an order or directions made pursuant to the **Act** or a **Licence** or as a result of settling any of the terms hereof or otherwise as required by this **Agreement** and the **Generator** hereby authorises and instructs the **Company** to make any such amendment on its behalf and undertakes not to withdraw qualify or revoke such authority or instruction at any time.

#### 15. **DISPUTE RESOLUTION**

15.1 Save where expressly stated in this **Agreement** to the contrary and subject to any contrary provision of the **Act** or any **Licence** or the rights, powers, duties and obligations of the **Authority** or the **Secretary of State** under the **Act**, any **Licence** or otherwise howsoever, any dispute or difference of whatever nature howsoever arising under out of or in connection with this **Agreement** between the **Parties** shall be and is hereby referred to arbitration pursuant to the rules of the **Electricity Arbitration Association** in force from time to time.

15.2 Whatever the nationality, residence or domicile of either **Party** and wherever the dispute or difference or any part thereof arose, the law of England shall be the proper law of any reference to arbitration hereunder and in particular (but not so as to derogate from the generality of the foregoing) the provisions of the Arbitration Act 1996 (notwithstanding anything in section 108 thereof) shall apply to any such arbitration wherever the same or any part of it shall be conducted.

#### 16. **JURISDICTION**

16.1 Subject and without prejudice to Clause 15 and to Clause 16.4, both **Parties** irrevocably agree that the courts of England and Wales are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this **Agreement** and that accordingly any suit, action or proceeding (together in this Clause 16 referred to as "**Proceedings**") arising out of or in connection with this **Agreement** may be brought to such courts.

16.2 Each **Party** irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any **Proceedings** in any such court as is referred to in this Clause 16 and any claim that any such **Proceedings** have been brought in an inconvenient forum and further irrevocably agrees that judgment in any proceedings brought in the courts of England and Wales shall be conclusive and binding upon such **Party** and may be enforced in the courts of any other jurisdiction.

16.3 Each **Party** which is not incorporated in any part of Great Britain agrees that if it does not have, or shall cease to have, a place of business in Great Britain it will promptly appoint, and shall at all times maintain, a person in Great Britain to accept service of process on its behalf in any **Proceedings** in Great Britain.

16.4 For the avoidance of doubt nothing contained in the foregoing provisions of this Clause 16 shall be taken as permitting a party to commence **Proceedings** in the courts where this **Agreement** otherwise provides for **Proceedings** to be referred to arbitration.

## 17. **GOVERNING LAW**

This **Agreement** shall be governed by and construed in all respects in accordance with the laws of England and Wales.

## 18. **SEVERANCE OF TERMS**

If any provision of this **Agreement** is or becomes or is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject or by order of the **Secretary of State**, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this **Agreement** which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

## 19. **ENTIRE AGREEMENT**

This **Agreement** contains or expressly refers to the entire agreement between the **Parties** with respect to the subject matter hereof, and expressly excludes any warranty, condition or other undertaking implied at law or by custom, and supersedes all previous agreements and understandings between the **Parties** with respect thereto and each of the **Parties** acknowledges and confirms that it is not aware of any representation, warranty or other undertaking not fully reflected in the terms of this **Agreement** upon which it has relied in entering into this **Agreement**. To the extent that any such representation, warranty or other undertaking exists, each **Party** irrevocably and unconditionally waives any right it may have to claim damages for breach of warranty and/or to rescind this **Agreement**, unless such warranty or misrepresentation was made or given fraudulently.

## 20. **RIGHTS OF THIRD PARTIES**

The **Parties** hereby acknowledge and agree for the purposes of the Contracts (Rights of Third Parties) Act 1999 that no rights, powers or benefits are or shall be conferred on any person pursuant to this **Agreement** save as expressly provided in this **Agreement**.

## 21. **FORCE MAJEURE**

21.1 In so far as either **Party** is prevented from performing any of its obligations under this **Agreement** due to an event or circumstance of **Force Majeure**, then the rights and obligations of the **Parties** shall be suspended for as long as and to the extent

that the circumstance of **Force Majeure** prevents such performance. For the avoidance of doubt:

- 21.1.1 the **Generator** shall not be entitled to any **Arming Payment** to the extent that the **Power Station** is unavailable by reason of **Force Majeure**;
- 21.1.2 the **Parties** agree that they shall not be relieved from their obligations under this **Agreement** by reason of events or circumstances commencing prior to the last date specified in the **Tender for Tender Submissions** and continuing as at that date including restrictions introduced by any **Competent Authority** in relation to **Coronavirus** and the **Coronavirus Disease**; and
- 21.1.3 the **Parties** further agree that they shall be relieved from their obligations under this **Agreement** to the extent that they are unable to perform them by reason of any further restrictions or guidance introduced by any **Competent Authority** in relation to **Coronavirus** and the **Coronavirus Disease** on or after the date on which the **Generator** submitted its **Tender Submission**.
- 21.2 The **Party** affected by the **Force Majeure** shall give to the other **Party** immediately upon becoming aware of an event or circumstance of **Force Majeure**, a written communication describing the **Force Majeure** (including, without limitation, the nature of the occurrence and its expected duration) and the obligations which it is prevented from performing and shall continue to furnish regular reports with respect thereto to the other **Party** during the period of **Force Majeure**.
- 21.3 As soon as is reasonably practicable, following an event or circumstance of **Force Majeure**, the **Parties** shall discuss how best to continue their respective obligations as set out in this **Agreement**.
- 21.4 For the avoidance of doubt the non-performance of either **Party's** obligations pursuant to this **Agreement** arising prior to the event or circumstance of **Force Majeure**, shall not be excused as a result of the event or circumstance of **Force Majeure**.
- 21.5 Either **Party** shall have a right to terminate this **Agreement** if a **Party** has been prevented from performing its obligations due to an event of **Force Majeure** for a continuous period of two (2) calendar months.

## 22. **WARRANTIES AND INDEMNITY**

- 22.1 Each **Party** warrants and represents to the other that it has full power and authority to enter into this **Agreement** and perform its obligations hereunder.
- 22.2 The **Generator** hereby warrants and represents to the **Company** that:
  - 22.2.1 the availability and delivery of the **Constraint Management Service** from the **Power Station** pursuant to and in accordance with this **Agreement** does not cause it to be in breach of, or to otherwise be non-compliant with, any **Legal Requirement** and/or any agreement with any person;

- 22.2.2 it will not do anything in connection with this **Agreement** that will cause it to be in breach of, or to otherwise be non-compliant with, any **Legal Requirement** and/or any agreement with any person; and
- 22.2.3 save where the **Generator** has sought and been granted written consent by the **Company** (such consent to be at the Company's sole discretion), it is not a party to an agreement or arrangement with the **Company** or any **DNO** or electricity supplier or other person to provide any service from the **Power Station** which may impair the ability of the **Generator** to provide the **Constraint Management Service** and/or perform its obligations under this **Agreement**. The **Generator** repeats this warranty and representation on acknowledgement of each **Arming Instruction**.
- 22.3 In the event that any warranty or representation made under Clause 22.2 is breached, the **Generator** shall indemnify the **Company** against all and any losses, liabilities, claims, expenses that may be suffered or incurred by the **Company** as a direct result of that breach and all and any claims and demands which may be brought against the **Company** by any other person connected to or using the **User System** of a **DNO** or any other **User System** or the owner of operator of any **User System** or any other person whatever arising out of or resulting from such breach. Any legal costs and expenses reasonably incurred in the contesting of such claims, including the court costs and the reasonable fees of lawyers and other professional advisers, shall be treated as direct losses.
23. **ANTI-BRIBERY**
- 23.1 Each **Party** shall:
- 23.1.1 comply with all **Anti-Bribery Laws**;
- 23.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the **Bribery Act** if such activity, practice or conduct had been carried out in the UK;
- 23.1.3 have and shall maintain in place throughout the term of this **Agreement** its own policies and procedures, including **Adequate Procedures** to ensure compliance with the **Anti-Bribery Laws**, and this Clause 23.1, and will enforce them where appropriate; and
- 23.1.4 procure and ensure that all of its **Associated Persons** and/or other persons who are performing services and/or providing goods in connection with this **Agreement** comply with this Clause 23.
- 23.2 Without prejudice to any other rights or remedies either **Party** may terminate this **Agreement** on written notice to the other **Party** specifying the date on which this **Agreement** will terminate in the event of a breach of Clause 23.1.
24. **EMR**
- 24.1 Notwithstanding any confidentiality obligations and any restriction on the use or disclosure of information set out in this **Agreement**, the **Generator** consents to the

**Company** and each of its subsidiaries using all and any information or data supplied to or acquired by it in any year under or in connection with this **Agreement** for the purpose of carrying out its **EMR Functions**.

24.2 The provisions relating to the resolution of disputes set out in this **Agreement** (if any) are subject to any contrary provision of an **EMR Document**.

24.3 Where for the purposes of this provision only:

**“AF Rules”** has the meaning given to “allocation framework” in section 13(2) of the Energy Act 2013;

**“Capacity Market Rules”** means the rules made under section 34 of the Energy Act 2013 as modified from time to time in accordance with that section and The Electricity Capacity Regulations 2014;

**“EMR Document”** means The Energy Act 2013, The Electricity Capacity Regulations 2014, the Capacity Market Rules, The Contracts for Difference (Allocation) Regulations 2014, The Contracts for Difference (Definition of Eligible Provider) Regulations 2014, The Contracts for Difference (Electricity Supplier Obligations) Regulations 2014, The Electricity Market Reform (General) Regulations 2014, the AF Rules and any other regulations or instruments made under Chapter 2 (contracts for difference), Chapter 3 (capacity market) or Chapter 4 (investment contracts) of Part 2 of the Energy Act 2013 which are in force from time to time; and

**“EMR Functions”** has the meaning given to “EMR functions” in Chapter 5 of Part 2 of the Energy Act 2013.

**IN WITNESS WHEREOF** the hands of the duly authorised representatives of the **Parties** at the date first above written

**SIGNED** on behalf of )

**NATIONAL GRID ELECTRICITY SYSTEM** )

**OPERATOR LIMITED** )

**SIGNED** on behalf of )

**[REDACTED]** )

**SCHEDULE 1  
DEFINITIONS**

<b>“the Act”</b>	the Electricity Act 1989;
<b>“ABSVD Methodology”</b>	has the meaning given to it in the <b>CUSC</b> ;
<b>“Active Power”</b>	the product of voltage and the in-phase component of alternating current measured in units of Watts and standard multiples thereof i.e.  1000 Watts = 1kW 1000 kW = 1MW 1000 MW = 1GW 1000 GW = 1TW;
<b>“Adequate Procedures”</b>	shall be determined in accordance with section 7(2) of the <b>Bribery Act</b> (and any guidance issued under section 8 of that Act);
<b>“Agreement”</b>	this agreement (including the Schedules) as amended, extended, supplemented, novated or modified from time to time;
<b>“Allowed Interruption”</b>	the meaning attributed to it in the <b>CUSC</b> ;
<b>“Anti-Bribery Laws”</b>	shall mean all applicable laws, statutes, regulations, and codes of mandatory application relating to anti-bribery and anti-corruption including but not limited to the <b>Bribery Act</b> ;
<b>“Apparatus”</b>	all equipment in which electrical conductors are used, supported or of which they may form a part;
<b>“Arm”</b>	the switching in of the <b>Commercial Intertrip Scheme</b> in respect of the <b>Contracted Units</b> so as to allow signals to pass from the <b>Commercial Intertrip Scheme</b> to the relevant <b>Circuit Breakers</b> , and <b>“Armed”</b> and <b>“Arming”</b> shall be construed accordingly;
<b>“Arming Instruction”</b>	the meaning attributed to it in Clause 3.2.1;
<b>“Arming Payment”</b>	the meaning attributed to it in Clause 3.6.1;
<b>“Arming Payment Rate”</b>	the payment rate for the purposes of calculating the <b>Arming Payment</b> set out in Schedule 3, Part 3 as the

	same may be revised from time to time in accordance with Clause 3.12.1;
<b>“Arming Period”</b>	the meaning attributed to it in Clause 3.6.1;
<b>“Associated Person”</b>	shall have the meaning ascribed to it in section 8 of the <b>Bribery Act</b> and shall include but is not limited to any employees, agents and/or subcontractors of the <b>Generator</b> or the <b>Company</b> as applicable in relation to the provision of the <b>Constraint Management Service</b> ;
<b>“Authority”</b>	the Director General of Electricity Supply appointed for the time being pursuant to section 1 of the <b>Act</b> or, after the coming into force of section 1 of the Utilities Act 2000, the Gas and Electricity Markets Authority established by that section;
<b>“Balancing and Settlement Code (BSC)”</b>	the meaning attributed to it in the <b>Transmission Licence</b> ;
<b>“Balancing Mechanism”</b>	the meaning attributed to it in the <b>Transmission Licence</b> ;
<b>“Balancing Mechanism Window”</b>	In relation to a particular time, means the period from that time to the end of the <b>Settlement Period</b> for which <b>Gate Closure</b> has most recently occurred at that time and having a duration of between 1 and 1½ hours.;
<b>“Balancing Services Activity”</b>	the meaning attributed to it in the <b>Transmission Licence</b> ;
<b>“Base Rate”</b>	means the Bank of England Official Rate from time to time provided that, if at any time the Bank of England Official Rate is a negative rate, then zero per cent (0%);
<b>“Bid-Offer Acceptance”</b>	the meaning attributed to it in the <b>Grid Code</b> ;
<b>“Bilateral Agreement”</b>	the meaning attributed to it in the <b>CUSC</b> ;
<b>“BM Unit”</b>	the meaning attributed to it in the <b>BSC</b> , except for the purposes of this <b>Agreement</b> the reference to “a <b>Party</b> ” in the <b>BSC</b> shall be a reference to the <b>Generator</b> ;
<b>“BM Unit Metered Volume”</b>	the meaning attributed to it in the <b>BSC</b> ;
<b>“Business Day”</b>	a week-day other than a Saturday on which banks are open for domestic business in the City of London;
<b>“Circuit Breaker”</b>	a mechanical switching device, capable of making carrying and breaking currents under normal circuit

	<p>conditions and also of making, carrying for a specified time and breaking currents under specific abnormal circuit conditions, such as those of short circuit;</p>
<p><b>“Combined Cycle Gas Turbine Module” or “CCGT Unit”</b></p>	<p>a collection of <b>Generating Units</b> (registered as a <b>CCGT Module</b> under the <b>Grid Code PC</b>) comprising one or more <b>Gas Turbine Units</b> (or other gas based engine units) and one or more <b>Steam Units</b> where, in normal operation, the waste heat from the <b>Gas Turbine Units</b> is passed to the water/steam of the associated <b>Steam Unit</b> or <b>Steam Units</b> and where the component units within the <b>CCGT Module</b> are directly connected by steam or hot gas lines which enable those units to contribute to the efficiency of the combined cycle operation of the <b>CCGT Module</b>;</p>
<p><b>“Combined Cycle Gas Turbine Module” or “CCGT Unit”</b></p>	<p>a <b>Generating Unit</b> within a <b>CCGT Module</b>;</p>
<p><b>“Commercial Intertrip Scheme”</b></p>	<p>the intertrip scheme owned, operated and maintained by the <b>Responsible TO</b> which incorporates (inter alia) the <b>Trip Conditions</b> and which can issue a signal to <b>Trip</b> one or more of the <b>Contracted Units</b>;</p>
<p><b>“Competent Authority”</b></p>	<p>means the <b>Authority</b> or any local, national or supra-national agency, authority, department, inspectorate, minister, official, court, tribunal or public or statutory person (whether autonomous or not) of the United Kingdom (or the government thereof) which have jurisdiction over the <b>Company</b> or the subject matter of this <b>Agreement</b>;</p>
<p><b>“Connection and Use of System Code” or “CUSC”</b></p>	<p>the <b>Connection and Use of System Code</b> designed by the <b>Secretary of State</b> as from time to time modified;</p>
<p><b>“Connection Site”</b></p>	<p>each location more particularly described in the relevant <b>Bilateral Agreement</b> at which the <b>Generator’s Equipment</b> and <b>Transmission Connection Assets</b> required to connect the <b>Generator</b> to the <b>National Electricity Transmission System</b> are situated or at which the <b>Generator’s Equipment</b> is connected to a <b>User System</b>;</p>
<p><b>“Constraint Management Service”</b></p>	<p>the performance by the <b>Generator</b> of its obligations contained in this <b>Agreement</b> in connection with the <b>Commercial Intertrip Scheme</b>;</p>

<b>“Construction Agreement”</b>	as defined in the <b>CUSC</b> ;
<b>“Contracted Unit”</b>	each of the <b>BM Units</b> at the <b>Power Station</b> specified in Schedule 2, together referred to as the <b>Contracted Units</b> ;
<b>“Coronavirus”</b>	has the meaning given to it in the Coronavirus Act 2020, as at the date hereof;
<b>“Coronavirus Disease”</b>	has the meaning given to it in the Coronavirus Act 2020, as at the date hereof;
<b>“CUSC Framework Agreement”</b>	the meaning attributed to it in the <b>Transmission Licence</b> ;
<b>“Customer”</b>	a person to whom electrical power is provided (whether or not he is the same person as the person who provides the electrical power) other than power to meet <b>Station Demand</b> of that person;
<b>“Demand”</b>	the demand of MW and Mvar of <b>Electricity</b> ;
<b>“Desynchronisation”</b>	the act of taking a <b>Generating Unit</b> off a <b>System</b> to which it has been <b>Synchronised</b> by opening any connecting circuit breaker and <b>“Desynchronised”</b> shall be construed accordingly;
<b>“Disarm”</b>	the switching out of the <b>Commercial Intertrip Scheme</b> in respect of the <b>Contracted Units</b> so as to prevent the applicable signals passing from the <b>Commercial Intertrip Scheme</b> to the relevant <b>Circuit Breakers</b> , and <b>“Disarmed”</b> and <b>“Disarming”</b> shall be construed accordingly;
<b>“Disarming Instruction”</b>	the meaning attributed to it in Clause 3.4.1;
<b>“Disconnect”</b>	permanent physical disconnection of the <b>Generator’s Equipment</b> at any given <b>Connection Site</b> and <b>“Disconnection”</b> shall be construed accordingly;
<b>“Distribution Licence”</b>	a licence issued under section 6(1)(c) of the <b>Act</b> ;
<b>“Distribution Network Operator”</b>	a holder of a <b>Distribution Licence</b> who was the holder of, or is a successor to a company which was the holder of a <b>Public Electricity Supply Licence</b> , relating to distribution activities in Great Britain;
<b>“Effective Date”</b>	1 October 2023 or such earlier date as the <b>Parties</b> may agree;

<b>“Electricity”</b>	<b>Active Energy</b> and <b>Reactive Energy;</b>
<b>“Electricity Arbitration Association”</b>	the meaning attributed to it in the <b>Grid Code;</b>
<b>“Emergency Instruction”</b>	the meaning attributed to it in the <b>Grid Code;</b>
<b>“Energy” or “Active Energy”</b>	the electrical energy produced, flowing or supplied by an electric circuit during a time interval, being the integral with respect to time of the instantaneous power, measured in units of Watt-hours or standard multiples thereof i.e.  1000 Wh = 1kWh 1000 kWh = 1MWh 1000 MWh = 1GWh 1000 GWh = 1TWh
<b>“Energy Metering Equipment”</b>	the meaning attributed to the phrase “Metering Equipment” in the <b>Balancing and Settlement Code;</b>
<b>“Externally Interconnected System Operator”</b>	the meaning attributed to it in the <b>Grid Code;</b>
<b>“Force Majeure”</b>	for the purposes of Clause 21 in relation to either <b>Party</b> to this <b>Agreement</b> any event or circumstance which is beyond the reasonable control of such <b>Party</b> (not being, without limitation an event or circumstance caused by the negligence or lack of care and attention of that <b>Party</b> or its officers or employees, agents, contractors, and subcontractors or a failure to maintain such <b>Plant</b> in accordance with <b>Good Industry Practice</b> ) but subject thereto including act of God, epidemic or pandemic, strike, lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, governmental restraint, <b>Act</b> of Parliament, other legislation, bye law and Directive (not being any order, regulation or direction under Section 32, 33, 34 and 35 of the Act) provided always that lack of funds shall not be

	interpreted as a cause beyond the reasonable control of that <b>Party</b> ;
<b>“Gas Turbine Unit”</b>	a <b>Generating Unit</b> driven by a gas turbine, (for instance by an aero-engine);
<b>“Gate Closure”</b>	means, in relation to a <b>Settlement Period</b> , the spot time 1 hour before the spot time at the start of that <b>Settlement Period</b> ;
<b>“Generating Unit”</b>	unless otherwise provided in this <b>Agreement</b> , any <b>Apparatus</b> which produces electricity including for the avoidance of doubt a <b>CCGT Unit</b> ;
<b>“Generation Licence”</b>	the licence granted to the <b>Generator</b> pursuant to section 6(1)(a) of the <b>Act</b> ;
<b>“Generator’s Equipment”</b>	the <b>Plant</b> and <b>Apparatus</b> owned by the <b>Generator</b> (ascertained in the absence of agreement to the contrary by reference to the principles of ownership set out in <b>CUSC</b> ) which: <ul style="list-style-type: none"> <li>(i) is connected to <b>Transmission Connection Assets</b> forming part of any particular <b>Connection Site</b> to which the <b>Generator</b> wishes so to connect; or</li> <li>(ii) is connected to a <b>User System</b> to which the <b>Generator</b> wishes so to connect;</li> </ul>
<b>“Good Industry Practice”</b>	the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;
<b>“Grid Code”</b>	the <b>Grid Code</b> drawn up pursuant to the <b>Transmission Licence</b> as from time to time revised in accordance with the <b>Transmission Licence</b> (and references in this <b>Agreement</b> to any specific provision or part of the <b>Grid Code</b> shall be construed as references to such provision or part as from time to time amended);
<b>“Grid Code CC”</b>	the Connection Conditions of <b>Grid Code</b> ;
<b>“Grid Code OC”</b>	the Operating Codes of the <b>Grid Code</b> ;
<b>“Grid Code PC”</b>	the Planning Code of the <b>Grid Code</b> ;

<b>“Grid Supply Point”</b>	a point of supply from the <b>National Electricity Transmission System</b> to <b>Network Operators</b> or <b>Non-Embedded Customers</b> ;
<b>“Interruption Payment”</b>	the meaning attributed to it in the <b>CUSC</b> ;
<b>“Legal Requirement”</b>	has the meaning given to it in the <b>BSC</b> ;
<b>“Licence”</b>	any one or more as appropriate of the <b>Licences</b> granted pursuant to section 6 of the <b>Act</b> ;
<b>“Local TO”</b>	means the owner of that part of the <b>NETS</b> to which the <b>Contracted Units</b> are connected;
<b>“Mandatory Services Agreement”</b>	the meaning attributed to it in the <b>CUSC</b> ;
<b>“National Electricity Transmission System”</b> or <b>“NETS”</b>	has the meaning attributed to it in the <b>CUSC</b> ;
<b>“Network Operator”</b>	a person with a <b>User System</b> directly connected to the <b>National Electricity Transmission System</b> to which <b>Customers</b> and/or <b>Power Stations</b> (not forming part of a <b>User System</b> ) are connected, acting in its capacity as operator of the <b>User System</b> , but shall not include a person acting in the capacity of <b>Externally Interconnected System Operator</b> ;
<b>“Non-Embedded Customer”</b>	a <b>Customer</b> except for a <b>Network Operator</b> acting in its capacity as such receiving electricity direct from the <b>National Electricity Transmission System</b> irrespective of from whom it is supplied;
<b>“Operational Metering Equipment”</b>	meters, instrument transformers (both voltage and current), transducers metering protection equipment including alarms circuitry and their associated outstations as may be necessary for the purposes of the <b>Grid Code CC6.5.6</b> and the corresponding provision of the relevant <b>Distribution Code</b> ;
<b>“Output”</b>	the actual <b>Active Power</b> or <b>Reactive Power</b> output achieved by a <b>BM Unit</b> ;
<b>“Party”</b>	each person for the time being and from time to time a party of this <b>Agreement</b> and any successor(s) in title to, or permitted assign(s) of, such person and <b>“Parties”</b> shall be construed accordingly;
<b>“Party Liable”</b>	the meaning attributed to it in Clause 5.1;

<b>“Plant”</b>	fixed and movable items used in the generation and/or supply and/or transmission of electricity other than <b>Apparatus</b> ;
<b>“Physical Notification”</b>	the meaning attributed to it in the <b>Grid Code</b> ;
<b>“Power Station”</b>	an installation comprising one or more <b>Generating Units</b> (even where separately sited) owned or controlled by the same <b>Generator</b> which may reasonably be considered as being managed as one <b>Power Station</b> , for the purposes of this <b>Agreement</b> being the <b>Generator’s</b> [ ] <b>Power Station</b> ;
<b>“Proceedings”</b>	the meaning attributed to it in Clause 16.1;
<b>“Public Electricity Supply Licence”</b>	a licence issued under section 6(1)(c) of the <b>Act</b> prior to the coming into force of section 30 of the Utilities Act 2000;
<b>“Reactive Energy”</b>	the integral with respect to time of <b>Reactive Power</b> ;
<b>“Reactive Power”</b>	the product of voltage and current and the sine of the phase angle between them measured in units of voltamperes reactive and standard multiples thereof i.e.,  1000 Var = 1kvar 1000 kVar= 1Mvar
<b>“Remote Transmission Assets”</b>	any <b>Plant</b> and <b>Apparatus</b> or meters owned by the <b>Company</b> which (a) are embedded in a <b>User System</b> and which are not directly connected by <b>Plant</b> and/or <b>Apparatus</b> owned by the <b>Company</b> to a sub-station owned by the <b>Company</b> and (b) are by agreement between the <b>Company</b> and such <b>User</b> under the direction and control of such <b>User</b> ;
<b>“Responsible TO”</b>	SP Transmission Plc, being the owner and operator of the <b>Commercial Intertrip Scheme</b> ;
<b>“Secretary of State”</b>	the meaning attributed to it in the <b>Act</b> ;
<b>“Service Term”</b>	the period between 00:00 hours on the <b>Effective Date</b> and 24:00 hours on 30 September 2024;
<b>“Settlement Period”</b>	a period of 30 minutes ending on the hour or half hour in each hour during a day;
<b>“Settlement Run”</b>	has the meaning attributed to it in the <b>BSC</b> ;

<b>“Stability Trip”</b>	a <b>Trip</b> whereby the <b>Active Power Output</b> of the <b>Contracted Units</b> is reduced to zero instantaneously upon receipt of an appropriate signal, typically within 150 ms;
<b>“Station Demand”</b>	the meaning attributed to it in the <b>CUSC</b> ;
<b>“Steam Unit”</b>	a <b>Generating Unit</b> whose primes mover converts the heat-energy in steam to mechanical energy;
<b>“System”</b>	any <b>User System</b> or the <b>National Electricity Transmission System</b> as the case may be;
<b>“System to Generator Operational Intertripping Scheme”</b>	the meaning attributed to it in the <b>Grid Code</b> ;
<b>“Tender”</b>	means the procurement process for the provision of the <b>Constraint Management Service</b> undertaken pursuant to the <b>ITT</b> ;
<b>“Tender Submission”</b>	a submission made in response to the <b>ITT</b> ;
<b>“Transmission Connection Assets”</b>	the meaning attributed to it in the <b>CUSC</b> ;
<b>“Transmission Licence”</b>	the licence granted to the <b>Company</b> under section 6(1)(b) of the <b>Act</b> ;
<b>“Trip”</b>	the tripping of any one or more of the <b>Circuit Breakers</b> at any <b>Contracted Units</b> in accordance with a signal from the <b>Commercial Intertrip Scheme</b> (and not otherwise) during any <b>Arming Period</b> , and “ <b>Tripped</b> ” and “ <b>Tripping</b> ” shall be construed accordingly;
<b>“Trip Conditions”</b>	the circuits for which the <b>Commercial Intertrip Scheme</b> can be <b>Armed</b> which as at the <b>Effective Date</b> are listed in Schedule 3, Part 1, but which may be amended pursuant to Clause <a href="#">3.11</a> ;
<b>“Tripping Payment”</b>	the meaning attributed to it in Clause 3.6.2;
<b>“Tripping Payment Rate”</b>	the payment rate for the purposes of calculating the <b>Tripping Payment</b> set out in Schedule 3, Part 3;
<b>“User”</b>	a person who is party to the <b>CUSC Framework Agreement</b> other than the <b>Company</b> ; and
<b>“User System”</b>	any <b>System</b> owned or operated by a <b>User</b> comprising:-

Generating Units; and/or

systems consisting (wholly or mainly) of electric lines used for the distribution of electricity from **Grid Supply Points** or **Generating Units** or other entry points to the point of delivery to **Customers**, or other Units;

and **Plant** and/or **Apparatus** connecting:

the **System** as described above; or

**Non-Embedded Customers** equipment;

to the **National Electricity Transmission System** or to the relevant other **User System**, as the case may be. The **User System** includes any **Remote Transmission Assets** operated by such **User** or other person and any **Plant** and/or **Apparatus** and meters owned or operated by the **User** or other person in connection with the distribution of electricity but does not include any part of the **National Electricity Transmission System**.

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**SCHEDULE 2: POWER STATION**

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**SCHEDULE 3  
COMMERCIAL INTERTRIP**

**Part 1: DATA**

**CONTRACTED UNITS**

[ ]

**TRIP CONDITIONS**

**FAULTED CIRCUITS**

To be completed at the point of contract signature.

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## PART 2 - FORMULAE

$$SE_{sj} = \int_0^{SPD} E_{sj}(t)dt \quad \text{between } t_0 \text{ and } t_1$$

Where:

$SE_{sj}$  is as defined in the **ABSVD Methodology Statement**

$E_{sj}(t)$  is the required energy from the **Constraint Management Service s** at time  $t$  from the start of **Settlement Period j**. The required energy is determined with reference to Figure 1 (included for illustrative purposes only):

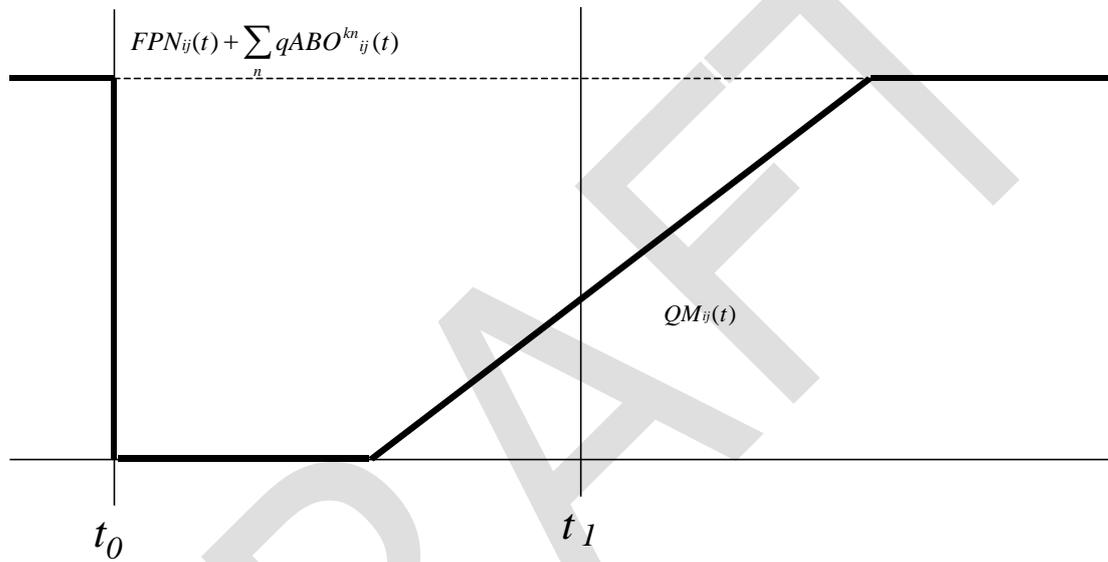


Figure 1

Where:

$$E_{sj}(t) = \left( FPN_{ij}(t) + \sum_n qABO^{kn}_{ij}(t) \right) - QM_{ij}(t)$$

$FPN_{ij}(t)$

has the meaning attributed to it in the **Balancing and Settlement Code**;

$\sum_n qABO^{kn}_{ij}(t)$

has the meaning attributed to it in the **Balancing and Settlement Code**;

$QM_{ij}(t)$

is the **BM Unit Metered Volume** (as defined in the **Balancing and Settlement Code**) at spot time  $t$ ;

$t_0$

is the time at which the **Trip** occurs;

$t_1$

is the time at the end of the **Balancing Mechanism Window**.

**PART 3 - PRICES**

**PAYMENT RATES**

<b>TYPE OF PAYMENT</b>	<b>APPLICABLE RATE</b>
<b>ARMING</b>  (per <b>Contracted Unit</b> per <b>Settlement Period</b> )	£[ ]
<b>TRIPPING</b>  (per <b>Contracted Unit</b> per <b>Trip</b> )	£[ ]

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**PART 4 - NOTIFICATION**

**TELEPHONE CONTACT NUMBERS**

The **Company:** 0118 936 3275

**Generator:** Direct line using Control Telephony System or **[CONTACT NUMBER]**

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**- FORMS**

**Availability / Unavailability of Commercial Intertrip Scheme**

(Clause 3.8)

From: Shift Group Leader, [ ] <b>Power Station</b>	[Fax No. [ ]]
To: Grid Operator, NGENSO	[Fax No. [ ]] [Back up Fax No. [ ]]

[The **Commercial Intertrip Scheme** at [ ] **Power Station** [in respect of the following **Contracted Units** [will be]/[is] \*[available]/[unavailable]\*.]\*

From: [Time (Hrs/Min)] [date] / [immediately]
To: [Time (Hrs/Min)] [date] / [further notice]

Reason for unavailability
---------------------------

Signed by	
Name	
Time	
Date	

Being authorised on behalf of the **Generator** to make this declaration.

Acknowledged by the **Company**

Signed by	
Name	
Time	

Date	
------	--

Being authorised on behalf of the **Company** to acknowledge this declaration.

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**SCHEDULE 4  
NOTICES**

The **Company's** address for service of Notice:

National Grid Electricity System Operator Limited

Markets

Faraday House

Warwick Technology Park

Gallows Hill

Warwick CV34 6DA

For the attention of the **Company** Secretary

Facsimile Number: 01926 655630

Copy of the Contracts and Settlements Manager

Facsimile Number: 01926 656613

The **Generator's** address for service of Notice:

[REDACTED]