

# Static FFR Service Terms

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CONSULTATION DOCUMENT

## 1. Introduction

- 1.1 These **Static FFR Service Terms** describe the requirements for provision of **Static FFR** procured by **NGESO** under **Auctions** and the basis upon which **NGESO** shall make payments in respect thereof, and shall apply to each **Service Provider** and **Static FFR Unit** the subject of a **Static FFR Contract** where, in accordance with the **Static FFR Procurement Rules**, and for any **EFA Block**, the **Service Provider's Sell Order** for that **Static FFR Unit** is accepted by **NGESO**.
- 1.2 Each **Static FFR Contract** so formed shall create a legally binding obligation on the **Service Provider** to provide from the relevant **Static FFR Unit**, and for **NGESO** to pay for, **Static FFR**, to be delivered during the relevant **Contracted EFA Block** upon the terms of these **Static FFR Service Terms**. For the avoidance of doubt, neither a **Service Provider** nor **NGESO** shall be under any obligation or commitment to provide or pay for **Static FFR** except pursuant to **Static FFR Contracts**.
- 1.3 A **Static FFR Contract** shall relate to a single **Static FFR Unit** and shall apply only to a single **EFA Block**.
- 1.4 Neither **Party** may terminate a **Static FFR Contract** once formed except as provided or referred to in paragraph 14 or by agreement in writing between the **Parties**.
- 1.5 These **Static FFR Service Terms** should be read alongside the **Static FFR Procurement Documentation** of which they form a part.

## 2. Changes to these Static FFR Service Terms

- 2.1 Subject always to paragraph 2.2, **NGESO** may update these **Static FFR Service Terms** from time to time by publication of an updated version on its website, and each such updated version shall be effective from the date shown on its front cover provided always that any updated version shall not apply to any **Static FFR Contract** extant at the date of publication except with the consent in writing of the relevant **Service Provider**.
- 2.2 To the extent required by the **Electricity Balancing Regulation** (and by reference to those provisions of the **Static FFR Procurement Documentation** constituting terms and conditions approved by the **Authority** as the terms and conditions related to balancing pursuant to Article 18 of the **Electricity Balancing Regulation**), any variation to these **Static FFR Service Terms** will be proposed and implemented in accordance with the applicable requirements in the **Electricity Balancing Regulation**.

## 3. Defined Terms

- 3.1 Unless defined in paragraph 3.2 below or the context otherwise requires, any capitalised term used in these **Static FFR Service Terms** shall have the meaning given to it (if any) in the prevailing **Static FFR Procurement Rules** or **Balancing Services Glossary of General Terms and Rules of Interpretation** (as the case may be).
- 3.2 In these **Static FFR Service Terms**:
- 3.2.1 “**Cancellation Notice**” shall have the meaning given to it in paragraph 21.11;
- 3.2.2 “**Monthly Statement**” shall have the meaning given to it in paragraph 1 of Schedule 3;
- 3.2.3 “**On-Site Monitoring Equipment**” shall mean means all and any monitoring and/or metering equipment in respect of any **Static FFR Unit**;
- 3.2.4 “**Primary Service Provider**” shall have the meaning given to it in paragraph 21.1;
- 3.2.5 “**Reduced Availability**” shall have the meaning given to it in paragraph 5.3;
- 3.2.6 “**Retired Unit**” shall have the meaning given to it in paragraph 5.6;
- 3.2.7 “**Secondary Service Provider**” shall have the meaning given to it in paragraph 21.1;
- 3.2.8 “**Substitute Unit**” shall have the meaning given to it in paragraph 5.6;
- 3.2.9 “**Transfer Notice**” shall have the meaning given to it in paragraph 21.4

3.2.10 “**Transfer Period**” shall mean the period described as such in a **Transfer Notice** as may be shortened upon the cancellation or withdrawal of that **Transfer Notice** or otherwise in accordance with paragraph 21.

3.3 For the purposes of paragraph 3.1, with respect to any **Static FFR Contract**, “prevailing” shall mean the latest version of the applicable document which is in effect at the time of formation of that **Static FFR Contract**.

## 4. Interpretation

4.1 The rules of interpretation set out in the **Balancing Services Glossary of General Terms and Rules of Interpretation** shall apply to these **Static FFR Service Terms**.

## 5. Service Availability

5.1 The **Service Provider** (or, where applicable, the **Secondary Service Provider**, and references in this paragraph 5 to “**Service Provider**” shall be construed accordingly) will procure that, with respect to each **Static FFR Contract**, **Static FFR** is made available from the **Static FFR Unit** for delivery throughout each **Contracted EFA Block** in the manner provided in paragraph 5.2 and paragraph 6. It is a requirement of each **Static FFR Contract** that, unless prevented by an unplanned outage or other unforeseen technical circumstances, a **Static FFR Unit** will be available to provide **Static FFR** in accordance with these **Static FFR Service Terms** continuously throughout the **Contracted EFA Block**.

5.2 Availability of **Static FFR** shall mean the **Relay** is capable of being armed [and disarmed] so as to provide **Automatic Response** of an amount equal to the **Contracted Quantity**, initiated by tripping of the **Relay** following a transgression of the **System Frequency** below the **Frequency Trigger**.

5.3 Notwithstanding its obligations under paragraph 5.1, the **Service Provider** shall notify **NGESO** by the method prescribed in the [**FFR Service Procedure**] forthwith upon becoming aware of any inability (howsoever caused) of any **Static FFR Unit** to provide **Static FFR** in all or any part of any **Contracted EFA Block**, including a reduction in the level of **Contracted Quantity** below the level set out in the applicable **Sell Order** (“**Reduced Availability**”) and, subject to sub-paragraph 5.4, with effect from the start of such inability until otherwise notified by the **Service Provider** by the method prescribed in the **FFR Service Procedure** that the ability of the **Static FFR Unit** to provide **Static FFR** is fully restored, **Static FFR** shall be deemed to be unavailable from such **Static FFR Unit** for the purposes of paragraph 7.2.

5.4 Following receipt of a notice under sub-paragraph 5.3 indicating **Reduced Availability**, **NGESO** may, at its sole discretion and provided that the availability of **Static FFR** from the **Static FFR Unit** shall not be reduced to a level less than the greater of one (1) MW and five percent (5%) of the **Contracted Quantity** set out in the applicable **Sell Order**, agree that the **Static FFR Unit** shall continue to be treated as available, subject to reductions in the **Availability Payment** and the level of **Contracted Quantity** to be provided.

5.5 Where either:-

- i. in the absence of notification from the **Service Provider** pursuant to paragraph 5.2, **NGESO** nonetheless has reasonable grounds for believing that a **Static FFR Unit** is unable to meet the requirements of the **Static FFR Contract** in all or any part of a **Contracted EFA Block**; or
- ii. **NGESO** has reasonable grounds for believing that any notification from the **Service Provider** pursuant to paragraph 5.3 is for reasons other than related to an unplanned outage or other unforeseen technical circumstances,

then, for the purposes of paragraph 7.2, **NGESO** reserves the right to treat that **Static FFR Unit** as deemed unavailable to deliver **Static FFR** for the entirety of the **Contracted EFA Block** in question (including any part thereof prior to the commencement of unavailability) and shall be entitled to terminate the **Static FFR Contract** pursuant to paragraph 14.

5.6 If the **Service Provider** anticipates that **Static FFR** may become unavailable from a **Static FFR Unit** during all or any part of any **Contracted EFA Block** including due to technical unavailability of any one or more constituent **Eligible Asset(s)**, the **Service Provider** may, subject always to sub-paragraphs 5.7 and 5.6 (and (unless the unavailability is attributable to the technical capability of the relevant **Eligible Asset(s)**) no later

than two hours prior to **Gate Closure** for the first **Settlement Period** in the affected **Contracted EFA Block**, request by the method prescribed in the **FFR Service Procedure** that **NGESO** agrees to the substitution of the affected **Eligible Asset(s)** (“the **Retired Asset**”) by any other **Eligible Asset** at the same **Grid Entry Point** (or, as the case may be, **Grid Supply Point**) (“the **Substitute Asset**”).

- 5.7** In any notification pursuant to sub-paragraph 5.6, the **Service Provider** shall indicate to **NGESO** the affected **Contracted EFA Block** in respect of which such substitution shall apply, provided always that:-
- i. an **Eligible Asset** may not be nominated as a **Substitute Asset** pursuant to sub-paragraph 5.7 where it is already allocated to a **Static FFR Unit** the subject of a **Static FFR Contract** for the **Contracted EFA Block** in question; and
  - ii. an **Eligible Asset** may not be nominated as a **Substitute Asset** for more than one **Static FFR Unit** at the same time.
- 5.8** **NGESO** shall, as soon as reasonably practicable and by the method prescribed in the **FFR Service Procedure**, at its sole discretion, either to agree to or decline the **Service Provider**'s request pursuant to paragraph 5.7.
- 5.9** The effect of substitution in accordance with paragraph 5.6 shall be to treat the **Substitute Asset** as the **Retired Asset** for all purposes of these **Static FFR Service Terms**, and for the duration of the relevant **Contracted EFA Block** the **Static FFR Procurement Documentation** shall be read and construed accordingly. Without limiting the foregoing, with respect to any **Substitute Asset** and for the duration of the relevant **Contracted EFA Block(s)**, the technical, commercial and other parameters (including without limitation the **Availability Payment**) applicable to the **Retired Asset** shall continue to apply.
- 5.10** For the avoidance of doubt, with respect to any **Transfer Period** and for the purposes of this paragraph 5 and paragraph 7, all and any periods of unavailability of the applicable **Static FFR Unit(s)** **Registered** to the **Secondary Service Provider** shall be treated as deemed unavailability of the **Static FFR Unit**.
- 5.11** Further for the avoidance of doubt, the registration of **Eligible Assets** to a **Static FFR Unit** may not be changed so as to be effective during the subsistence of a **Static FFR Contract**.

## 6. Service Delivery

- 6.1** At the commencement of each **Contracted EFA Block**, and except to the extent the **Static FFR Unit** is deemed to be unavailable to deliver **Static FFR** pursuant to paragraph 5, the **Service Provider** (or, where applicable, the **Secondary Service Provider**, and references in this paragraph 6 to “**Service Provider**” shall be construed accordingly) shall arm the **Relay** and procure the delivery of **Static FFR** throughout the **Contracted EFA Block** in accordance with this paragraph 6, and (unless immediately followed by another **Contracted EFA Block**) at the expiry of the **Contracted EFA Block** shall disarm the **Relay**.
- 6.2** During operation of arming of the **Relay** (and not otherwise), the **Service Provider** shall, following a transgression in **System Frequency** below the **Frequency Trigger**, procure that the **Contracted Quantity** is delivered from the **Static FFR Unit** and initiated by tripping of the **Relay** and sustained until the expiry of the **Maximum Response Period**.
- 6.3** Any failure of the **Relay** to trip (including where the **Service Provider** has failed to arm the **Relay**) or any failure by the **Service Provider** to disarm the **Relay** in each case in accordance with Clause 6.1 shall be taken into account in deriving a percentage performance measure pursuant to paragraph 15 and shall entitle **NGESO** to terminate the **Static FFR Contract** pursuant to paragraph 14.

## 7. Availability Payments

- 7.1** In respect of each **Static FFR Contract**, **NGESO** shall, in accordance with paragraph 8, pay to the **Service Provider** an **Availability Payment** calculated in accordance with the formula in Schedule 2.
- 7.2** No **Availability Payment** shall be made by **NGESO** to the **Service Provider** pursuant to this paragraph 7 in respect of any period or periods of deemed unavailability pursuant to paragraphs 5 or 6.
- 7.3** Without prejudice to its other rights and remedies, **NGESO** reserves the right to withhold payment of any **Availability Payment** where the **Service Provider** has failed to provide any requested access or data pursuant to paragraph 15.

- 7.4 With respect to any **Transfer Period**, and for the avoidance of doubt:-
- i. for the purposes of this paragraph 7, the availability and provision of **Static FFR** pursuant to the relevant **Static FFR Contract** shall be assessed by reference to the **Static FFR Unit(s) Registered** to the **Secondary Service Provider** and not to the **Primary Service Provider's Static FFR Unit**; and
  - ii. all and any **Availability Payments** accruing due pursuant to this paragraph 7 shall be payable to the **Primary Service Provider** and nothing in these **Static FFR Service Terms** shall create any liability or obligation on the part of **NGESO** to make any such payments to the **Secondary Service Provider**.

## 8. Payment Procedure

- 8.1 In respect of each calendar month during which the **Service Provider** has been party to one or more **Static FFR Contracts**, **NGESO** shall send to the **Service Provider** a **Monthly Statement** setting out, in respect of each such **Static FFR Contract**, its calculation of:-
- i. the **Availability Payments** payable to the **Service Provider** pursuant to paragraph 7;
  - ii. any adjustments made to previous **Monthly Statements**; and
  - iii. the resulting net amount due to (or from, as the case may be) the **Service Provider**,
- and in respect thereof the provisions of Schedule 3 shall apply.

## 9. Grid Code and Distribution Code

- 9.1 The provision by the **Service Provider** of **Static FFR** shall not relieve it of any of its obligations or affect such obligations (where applicable) set out in the **Grid Code** (including its obligations (if any) to provide **Mode A Frequency Response** when instructed by **NGESO** pursuant to the **CUSC** and/or the **Grid Code**) or to provide **Demand** control when instructed by **NGESO** pursuant to **Grid Code OC6**) or in the **Distribution Code** of its host **Public Distribution System Operator**.
- 9.2 Without limiting paragraph 9.1, each **Service Provider** that is or becomes a **DRSC Liable User** shall, for the duration of each **Contracted EFA Block**, comply in all respects with the **Demand Response Services Code** as it refers to **Demand Response Active Power Control**.

## 10. Maintenance of Eligible Assets

The **Service Provider** shall maintain each **Eligible Asset** to such a standard that the **Service Provider** can meet its obligations to provide **Static FFR** in accordance with each **Static FFR Contract** and these **Static FFR Service Terms**.

## 11. Third Party Claims

- 11.1 The **Service Provider** undertakes to **NGESO** that the availability and delivery of **Static FFR** from any **Static FFR Unit** pursuant to and in accordance with each **Static FFR Contract** and these **Static FFR Service Terms** (including during any **Transfer Period**) will not at any time during any **Contracted EFA Block** cause the **Service Provider** to be in breach of or to otherwise be non-compliant with any **Connection Agreement** and/or any agreement for the supply of electricity or related services to or from any constituent **Eligible Asset** or any **Plant** and **Apparatus** associated with it.
- 11.2 Notwithstanding paragraph 11.1, in the event that the **Service Provider** (or, during any **Transfer Period**, any **Secondary Service Provider**) delivers **Static FFR** in accordance with these **Static FFR Service Terms** in consequence of which **NGESO** suffers or incurs any loss in respect of a claim brought by any third party related to any actual or alleged breach or non-compliance by the **Service Provider** as described in paragraph 11.1, then the **Service Provider** shall indemnify **NGESO** against all and any losses, liabilities, claims, expenses and demands suffered or incurred by **NGESO** in connection therewith. Such indemnity shall include any legal costs and expenses reasonably incurred in the contesting of such claims including the court costs and reasonable attorney's fees and other professional advisors' fees. The **Parties** agree and accept that, for the purposes of paragraph 18 all such legal costs and expenses expressed to be the subject of such indemnity shall be treated as direct losses.

11.3 In the event of any such claim referred to in paragraph 11.2 being made against **NGESO**, **NGESO** shall as soon as reasonably practicable give notice of the claim together with all relevant supporting documentation to the **Service Provider**. The **Service Provider** shall be entitled, upon written notice to **NGESO** and subject to **NGESO** receiving from the **Service Provider** such reasonable undertakings as **NGESO** shall reasonably require to protect **NGESO** against damage to its name and reputation, to assume at its own expense the sole conduct of all proceedings relating to such claim including the right to contest such claim in the name of **NGESO**. **NGESO** shall supply the **Service Provider** with all information, assistance and particulars reasonably required by the **Service Provider** in connection therewith. **NGESO** shall not accept, settle, pay or compromise any such claim without the prior written approval of the **Service Provider** (not to be unreasonably withheld or delayed). The **Service Provider** shall reimburse to **NGESO** all of its reasonable expenses incurred in connection with the provision of any such information, assistance or particulars in the contesting of any such claim.

## 12. Provision of Other Services

12.1 The **Service Provider** undertakes to **NGESO** that the availability and delivery of **Static FFR** from any **Static FFR Unit** pursuant to and in accordance with a **Static FFR Contract** and these **Static FFR Service Terms** will not at any time during any **Contracted EFA Block** (including during any **Transfer Period**) be impaired or otherwise prejudiced by the **Service Provider's** (or, during any **Transfer Period**, any **Secondary Service Provider's**) performance of any agreement with a third party (including another **Service Provider**) relating to any **Eligible Asset** or any associated **Plant and Apparatus**, including the making available and/or delivery of services to that third party by the **Service Provider** (whether by way of increases or reductions in **Generation** or **Demand** or stipulated running profiles, participation in any other services (including where part of a trial service) or otherwise, and whether to assist in the management, operation or protection of a **User System** or pursuant to the **Capacity Market Rules** or otherwise).

12.2 Notwithstanding paragraph 12.1, and without prejudice to paragraph 12.6, in the event that the **Service Provider** (or, during any **Transfer Period**, any **Secondary Service Provider**) is unable to provide **Static FFR** (to any extent) in all or any part of any **Contracted EFA Block** for any reason described in paragraph 12.1, then the **Service Provider** shall (or shall procure that the **Secondary Service Provider** shall) give a full explanation to **NGESO** in its notification of unavailability pursuant to paragraph 5.2, and **NGESO** may in its absolute discretion (except where paragraph 12.5 applies) terminate the **Static FFR Contract** in question pursuant to paragraph 14).

12.3 Subject always to paragraph 12.4, and irrespective of whether or not **NGESO** elects to terminate the **Static FFR Contract**, the **Service Provider** hereby agrees to reimburse to **NGESO** all and any additional costs and expenses incurred by it as a result of such inability including **NGESO's** additional costs of alternative or replacement service provision.

12.4 The amount or amounts for which the **Service Provider** may be liable to reimburse **NGESO** pursuant to paragraph 12.3 in respect of any single **Static FFR Contract** shall not exceed in aggregate the greater of (1) two hundred and fifty thousand pounds sterling (£250,000), and (2) an amount equal to the aggregate **Availability Payments** in respect of that **Static FFR Contract** calculated by reference to all **Settlement Periods** in the relevant **Contracted EFA Block** (ignoring any periods of unavailability and whether or not declared by the **Service Provider**).

12.5 Where, during any one or more **Settlement Periods** in a **Contracted EFA Block**, a **Service Provider** is required under the terms of any agreement with **NGESO** to provide from any **Eligible Asset** any other **Balancing Service** (except with respect to **Reactive Power**) the **Parties** agree and acknowledge that to the extent that such service provision is inconsistent or in conflict with the delivery of **Static FFR** (as determined by **NGESO** acting reasonably) then **Static FFR** cannot be provided simultaneously with such other **Balancing Service**. Accordingly, unless pursuant to the terms for provision of and payment for such other **Balancing Services** the relevant **Static FFR Unit** is deemed unavailable to provide **Static FFR** or except as may otherwise be specified by **NGESO**, the relevant **Static FFR Unit** shall be deemed unavailable to provide such other **Balancing Service**, and availability of the **Static FFR Unit** to provide **Static FFR** pursuant to these **Static FFR Service Terms** shall prevail.

12.6 For the avoidance of doubt, paragraph 12.5 shall not affect the submission by a **Service Provider** of bids and offers (and the issue of **Bid-Offer Acceptances**) under the **Balancing Mechanism** where not made pursuant to terms agreed with **NGESO** for provision of any other **Balancing Service**. Further information regarding simultaneous provision of the **Static FFR** is contained in the **Stacking Guidance** as published by **NGESO** from time to time.

12.7 Where, during any one or more **Settlement Periods** in a **Contracted EFA Block**, a **Service Provider** (or, during any **Transfer Period**, any **Secondary Service Provider**) is making available and/or delivering services to a third party in breach of paragraph 12.1, then the relevant **Static FFR Unit** shall be deemed unavailable for the purposes of paragraph 7.

12.8 For the purposes of this paragraph 12 and for the avoidance of doubt, where a **Static FFR Contract** is formed with respect to a **Static FFR Unit** which is not registered as a **BM Unit** and with a **Contracted Capacity** which is less than the aggregate **Registered Quantity** of each component **Eligible Asset**, then the making available and/or delivery of services by the **Service Provider** to **NGESO** or a third party from such **Eligible Assets** or any of them with respect to any or all of that excess capacity shall be deemed to impair, and be inconsistent or in conflict with, the delivery of **Static FFR** pursuant to such **Static FFR Contract** unless such excess capacity is demonstrated to **NGESO's** reasonable satisfaction to be separately metered so as to enable the production of **Operational Data** and **Performance Data** pursuant to paragraph 15.

### 13. Communications

13.1 Any communications required by these **Static FFR Service Terms** to be given in writing shall unless otherwise provided in this paragraph 13 be made and deemed to have been received in accordance with paragraph 26 (*Notices*) save as may be otherwise agreed by the **Parties**.

13.2 The **Parties** consent to the recording of all telephone conversations between them relating in whole or in part to these **Static FFR Service Terms**, and each **Party** agrees to notify its employees of that consent and obtain their consent to that recording if required by **Law**.

13.3 All notifications to be made by the **Service Provider** with respect to any unavailability (and restoration of availability) of a **Static FFR Unit** to provide **Static FFR** pursuant to paragraph 5 shall be made as part of **Operational Data** using a **Data Concentrator** (unless otherwise provided in paragraph 15).

### 14. Termination of Static FFR Contracts

14.1 Either **Party** shall have the right to terminate a **Static FFR Contract** in the circumstances set out in:-

- i. paragraphs 5.5 and 6.3; and
- ii. paragraph 8.1 of the prevailing **Common Flexibility Service Terms and Conditions** as if paragraphs 8.1 and 8.2 were set out in full herein.

14.2 Without prejudice to paragraph 14.1, and in addition to any other rights of termination available under the **Static FFR Procurement Documentation**, a **Static FFR Contract** shall automatically terminate with immediate effect if at any time **NGESO** notifies the **Service Provider** in accordance with paragraph 15 of the **Static FFR Procurement Rules** with the effect that an **Eligible Asset** comprised within the relevant **Static FFR Unit** has become ineligible to be allocated to any **Static FFR Unit**.

14.3 Paragraphs 8.4 to 8.6 inclusive of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

### 15. Monitoring

15.1 **NGESO** reserves the right to assess the delivery of the **Static FFR Service** by the **Static FFR Unit** in accordance with either or both of the methodologies set out below.

15.2 The **Demand** or **Generation** profile of the **Static FFR Unit** from time to time shall be ascertained by reference to a combination of second by second output data.

15.3 Where the **Static FFR Unit** provides low **Frequency Response** by automatic reduction of **Demand**, then **NGESO** shall, using its analysis software, derive a percentage performance measure for the **Static FFR Unit** for the **Contracted EFA Block** in question, based on the difference between (1) the **Contracted Quantity** by 30 seconds and (2) the lowest point in the **Demand** profile ascertained pursuant to sub-paragraph 15.2.

15.4 Where the **Static FFR Unit** provides low **Frequency Response** by automatic increase of **Generation**, then **NGESO** shall, using its analysis software, derive a percentage performance measure (PPM) for the **Static FFR Unit** for the **Contracted EFA Block** in question, based on the difference between (1) the **Contracted Quantity** by thirty (30) seconds and (2) the difference between the highest point in the **Generation** profile ascertained pursuant to sub-paragraph 15.2 and the **Maximum Available Output**.

15.5 **NGESO** also reserves the right to assess the delivery of **Automatic Response** from a **Static FFR Unit** in respect of any period during which the **Relay** is armed by the **Service Provider** in accordance with paragraph 6 and at any time during that period the **System Frequency** transgresses the **Frequency Trigger** in this sub-paragraph 15.5 “a **Relevant Frequency Incident**”, in accordance with the following methodology:-

- i. the level of **Demand** or **Generation** (as the case may be) immediately prior to, and for the remainder of the **Contracted EFA Block** after, the **Relevant Frequency Incident** shall be derived from second by second output data ascertained pursuant to sub-paragraph 15.2, in order to ascertain the **Automatic Response** delivered and sustained;
- ii. using its analysis software **NGESO** shall derive a percentage performance measure (PPM), where:

$$PPM = C/D * 100$$

and where:

C is the difference between the level of **Demand** or **Generation** (as the case may be) immediately prior to the **Relevant Frequency Incident** and a level being (i) in the case of low **Frequency Response**, the lowest level of **Generation** or the highest level of **Demand** (as the case may be) or (ii) in the case of **High Frequency Response**, the highest level of **Generation** or the lowest level of **Demand** (as the case may be), in each case during the period over which **Automatic Response** is required pursuant to sub-paragraph 6 to be sustained and derived from the operating profile ascertained pursuant to sub-paragraph 15.2, and

- iii. D is the **Contracted Quantity**.

15.6 The percentage performance measure (PPM) derived pursuant to paragraphs 15.4 to 15.4 or paragraph 15.5 (or, where both measures are derived in respect of the same period, the lowest) shall be used to derive a deduction in the **Availability Payment** attributable to the duration of the relevant **Contracted EFA Block(s)**, using the following table:-

Percentage Performance Measure	% by which Availability Payment is reduced	K (as used in Schedule 2)
≥95%	0%	1
≥60%, <95%	25%	0.75
≥10%, <60%	50%	0.5
<10%	100%	0

15.7 The **Service Provider** shall provide to **NGESO** all information and reasonable assistance necessary for **NGESO** to derive output data for the purposes of this paragraph 15, and shall allow **NGESO**, its employees, agents, suppliers, contractors and sub-contractors necessary access to all constituent **Eligible Assets** of the **Static FFR Unit(s)** and any land and premises associated therewith for the purpose of enabling **NGESO** to verify that the **Service Provider** has complied with its obligations under the **Static FFR Procurement Documentation**. Without limitation the **Service Provider** hereby grants to **NGESO** the right to collect and record data from any [**On-Site Monitoring Equipment**].

15.8 The **Service Provider** shall maintain accurate and up to date records and data relevant to the provision of **Static FFR** from the **Static FFR Unit** pursuant to these **Static FFR Service Terms** (including **Metered Active Power Output** or **Demand** (as the case may be) at a granularity of one (1) measurement per second (1 Hz), and upon request from **NGESO** shall promptly provide such records and data (or any of them) to **NGESO**.

15.9 Where in relation to any **Contracted EFA Block** the **Availability Payment** calculated for a **Service Provider** is affected by an active K factor (as more particularly described in Schedule 2), then no later than five (5)

**Business Days** following request from **NGESO** the **Service Provider** shall provide to **NGESO** a report in writing (in such form as **NGESO** may reasonably require) setting out in reasonable detail an explanation for the underlying performance of the relevant **Static FFR Unit(s)** attributed to such K factor.

## 16. Not Used

## 17. Force Majeure

17.1 Save for paragraphs 10.2.2 and 10.4 which shall not apply, paragraph 10 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

## 18. Liability, Indemnity and Insurance

18.1 Paragraph 11 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

## 19. Records and Audits

19.1 Paragraph 5 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

## 20. Assignment

20.1 Paragraph 12 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

## 21. Transfer of Static FFR Contracts

21.1 At any time during the subsistence of a **Static FFR Contract**, a **Service Provider** (the "**Primary Service Provider**") may nominate another **Registered Response Participant** (the "**Secondary Service Provider**") to discharge its obligations to **NGESO** with respect to the delivery of **Static FFR** in the applicable **Contracted EFA Block** pursuant to that **Static FFR Contract**.

21.2 The effect of any such nomination once validated by **NGESO** pursuant to this paragraph 21 is to treat delivery of **Response** from one or more **Static FFR Units** registered to the **Secondary Service Provider** as if delivered by the **Primary Service Provider** from its **Static FFR Unit** for the purposes of these **Static FFR Service Terms**.

21.3 No nomination shall be valid unless:-

- i. both entities are **Registered Static FFR Participants**;
- ii. the **Secondary Service Provider** has **Eligible Assets** which are **Registered** to it and allocated to one or more **Static FFR Units** pursuant to the **Static FFR Procurement Rules** with sufficient aggregate **Registered Quantity** and proven capability to deliver **Static FFR** to enable the **Static FFR Contract** to be discharged during the applicable **Contracted EFA Block**;
- iii. the specified **Transfer Period** during which the nomination is to be effective is a period which comprises the entire **Contracted EFA Block** created by a subsisting **Static FFR Contract** to which the **Primary Service Provider** is a party; and
- iv. the nomination is validly notified to **NGESO** pursuant to paragraphs 21.4, 21.5 and 21.6 and the **Transfer Notice** validated by **NGESO**.

### *Transfer Notices*

21.4 Each nomination shall be notified to **NGESO** by the **Primary Service Provider** by no later than one (1) hour prior to commencement of the applicable **Contracted EFA Block**, and each such nomination is referred to in these **Static FFR Service Terms** as a "**Transfer Notice**".

21.5 Unless otherwise specified in writing by **NGESO** from time, each **Transfer Notice** shall comprise the entirety of a **Contracted EFA Block**, and shall specify:-

- i. the identity of the **Primary Service Provider** and **Static FFR Unit**; and
- ii. the identity of the **Secondary Service Provider** and its **Static FFR Unit(s)** and **Eligible Assets**.

**21.6** Each nomination shall comprise the entire **Contracted Quantity** associated with the **Static FFR Contract** during the relevant **Transfer Period**, and for the avoidance of doubt the **Contracted Quantity** shall not be capable of being split amongst two or more **Secondary Service Providers**.

**21.7** In giving a **Transfer Notice**, the **Primary Service Provider** warrants that the **Secondary Service Provider** accepts the nomination.

**21.8** **NGESO** shall notify the **Primary Service Provider** as soon as reasonably practicable following receipt of the **Transfer Notice** whether or not the **Transfer Notice** has been validated. In the absence of any notification by **NGESO** of validation of the **Transfer Notice** by commencement of the relevant **Contracted EFA Block** the **Transfer Notice** shall be deemed not to have been validated.

**21.9** Where in **NGESO**'s reasonable opinion the delivery of **Response** pursuant to the **Static FFR Contract** during the **Transfer Period** by the **Secondary Service Provider**'s designated **Static FFR Unit(s)** would or might endanger operational security within the meaning of the **Electricity Transmission System Operation Regulation**, then **NGESO** shall so notify both **Registered Static FFR Participants** whereupon the **Transfer Notice** shall be deemed withdrawn.

**21.10** A **Transfer Notice** shall be invalid if the **Secondary Service Provider**'s designated **Static FFR Unit** or any **Eligible Asset** allocated to it is the subject of a **Static FFR Contract** for the same **Contracted EFA Block**, in which case **NGESO** shall so notify both whereupon the **Transfer Notice** shall be deemed withdrawn.

#### *Cancellation Notice*

**21.11** A **Transfer Notice** may be cancelled by the **Primary Service Provider** (but not under any circumstances by the **Secondary Service Provider**) by notification to **NGESO** in writing ("**Cancellation Notice**") specifying the date and time from which the cancellation is to be effective.

#### *Effect of Transfer Notice*

**21.12** For the duration of each **Transfer Period** (or any earlier period where the **Transfer Period** comes to an end pursuant to the foregoing provisions), **NGESO** consents to the **Primary Service Provider**'s obligation to deliver **Response** pursuant to the relevant **Static FFR Contract** being discharged on its behalf by the **Secondary Service Provider** from its **Static FFR Unit(s)**.

#### *Form of notifications*

**21.13** All **Transfer Notices** and **Cancellation Notices** and other notifications related thereto between the **Parties** referred to in this paragraph 21 shall be made using the method of communication specified from time to time by **NGESO**.

## **22. Confidentiality**

**22.1** The provisions of paragraph 12 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply to all and any information provided by **NGESO** or any **Registered Static FFR Participant** to the other (whether orally or in writing) pursuant to or in connection with these **Static FFR Service Terms** as if set out in full herein.

## **23. Intellectual Property Rights**

**23.1** The provisions of paragraph 14 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply to all **Intellectual Property Rights** owned by or licensed to either **Party** as if set out in full herein.

## **24. Data Protection**

**24.1** The provisions of paragraph 15 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

## 25. Modern Slavery, Anti-bribery and Living Wage

25.1 The provisions of paragraph 16 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein, and without limitation as at the date of formation of each **Static FFR Contract** the **Service Provider** warrants, represents and undertakes to **NGESO** in the manner set out in paragraph 16.1 thereof and indemnifies **NGESO** as provided in paragraphs 16.2 and 16.7 thereof.

25.2 Any breach of this paragraph 25 by the **Service Provider** shall be deemed a material breach of all and any relevant **Static FFR Contracts** for the purposes of paragraph 14.1.

## 26. Notices

26.1 Save to the extent the manner of communication between the **Parties** is otherwise stipulated in these **Static FFR Service Terms**, paragraph 17 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply to any notice required to be submitted under these **Static FFR Service Terms** by either **NGESO** or the **Registered Static FFR Participant** to the other as if set out in full herein.

26.2 For the purposes of paragraph 26.1, the relevant contact details and addresses of each **Party** shall be those notified from time to time by that **Party** to the other pursuant to the **Registration and Pre-Qualification Procedure**.

## 27. Dispute Resolution

27.1 The provisions of paragraph 18 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply in relation to any dispute or difference of whatever nature however arising under, out of, or in connection with these **Static FFR Service Terms** as if set out in full herein, save that:-

- i. no **Party** shall have any right to refer any dispute to an **Expert** for determination except where the dispute is stated in these **Static FFR Service Terms** to be referable to an **Expert** for determination or otherwise agreed in writing by the **Parties** to be so referable;
- ii. nothing in this paragraph 27.1 shall prevent the **Parties** from agreeing to resolve any dispute or difference through the courts in which case paragraph 28.2 shall apply; and
- iii. where any dispute is referred to arbitration, the rules of the Electricity Arbitration Association shall apply unless otherwise agreed in writing by the **Parties** (and paragraph 18 of the prevailing **Common Flexibility Service Terms and Conditions** shall be read and construed accordingly).

## 28. Governing Law and Jurisdiction

28.1 Any claim, dispute or matter (whether contractual or non-contractual) arising under or in connection with these **Static FFR Service Terms** or their enforceability shall be governed by and construed in accordance with the laws of England and Wales.

28.2 Subject always to paragraph 27.1, **NGESO** and each **Registered Static FFR Participant** submits to the exclusive jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with these **Static FFR Service Terms** or their enforceability and waives any objection to proceedings being brought in such courts or on the grounds that proceedings have been brought in an inconvenient forum.

## 29. Severance

29.1 The provisions of paragraph 19 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

## 30. Third Party Rights

30.1 The provisions of paragraph 20 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein with the exception of the words "other than the Distribution and Transmission Licensees (the Company) who shall be entitled to independently enforce all of the terms of the Contract".

### 31. No Agency or Partnership

31.1 The provisions of paragraph 21 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

### 32. Waiver

32.1 The provisions of paragraph 22 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

### 33. Entire Agreement

33.1 The provisions of paragraph 23 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein.

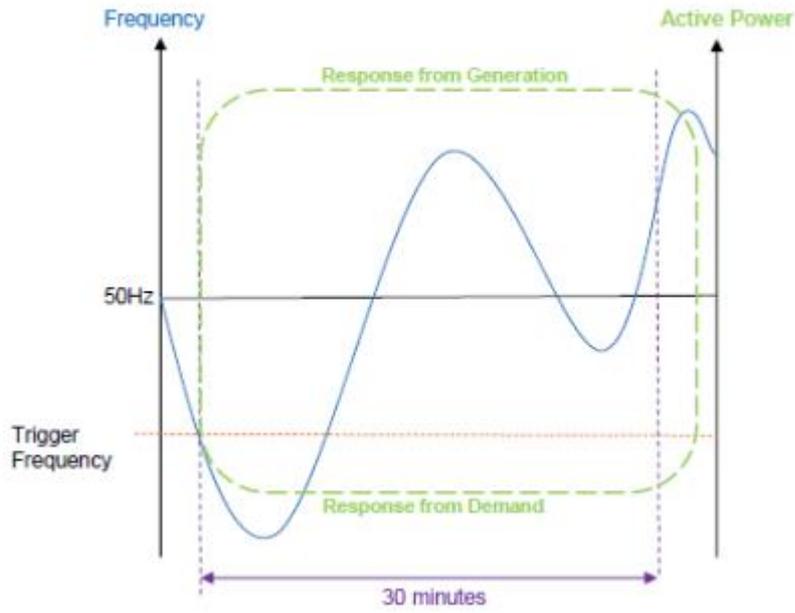
### 34. EMR

34.1 Notwithstanding any confidentiality obligations and any restriction on the use or disclosure of information set out in the **Static FFR Procurement Documentation**, the **Services Provider** consents to **NGESO** 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 any **Balancing Services Contract** for the purpose of carrying out its **EMR Functions**.

34.2 For the purposes of this paragraph 34 only:-

- i. **“AF Rules”** has the meaning given to “allocation framework” in section 13(2) of the Energy Act 2013;
- ii. **“Capacity Market Rules”** means the rules created pursuant to section 34 of the Energy Act 2013 as modified from time to time in accordance with The Electricity Capacity Regulations 2014;
- iii. **“EMR Functions”** has the meaning given to “EMR functions” in Chapter 5 of Part 2 of the Energy Act 2013; and
- iv. **“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 (Electricity Supplier Obligation) Regulations 2014, The Contracts for Difference (Definition of Eligible Generator) 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.

SCHEDULE 1 - CAPABILITY DATA TABLES



CONSULTANT

CONFIDENTIAL

## SCHEDULE 2 - AVAILABILITY PAYMENTS

### Calculation of Settlement Value

A settlement value shall be established for **Static FFR** in accordance with the following formula:

$$S_{i_e} = \left( \sum_j^{\text{CEB}} \text{Round} (P_{ij_e} \times V_{ij_e} \times 0.5, 2) \times F_{ij_e} \right) \times K_e$$

Where

- $S_{i_e}$  is the settlement value for **Static FFR** calculated in respect of **Static FFR Unit  $i$**  for the applicable **Contracted EFA Block  $e$**
- $\sum_j$  is the summation over the **Settlement Period  $j$**  in the relevant **Contracted EFA Block  $e$**
- $P_{ij_e}$  is the applicable **Market Clearing Price**, in GBP/MW/h, attributable to **Settlement Period  $j$**  for the relevant **Contracted EFA Block  $e$**
- $V_{ij_e}$  is the **Contracted Quantity** in megawatts, in respect of **Static FFR Unit  $i$**  and **Settlement Period  $j$** , for the relevant **Contracted EFA Block  $e$**
- $F_{ij_e}$  is zero where there is any period or periods of unavailability within **Settlement Period  $j$**  during the relevant **Contracted EFA Block  $e$** , otherwise is 1
- $K_e$  is derived from the applicable performance measurement factor shown in paragraph 15.8.

### SCHEDULE 3 - PAYMENT PROVISIONS

Where amounts falling due by or to **NGESO** under these **Static FFR Service Terms** are expressed to be payable in accordance with this Schedule 3, then with respect to all and any such amounts the following provisions shall apply.

1. On the eighth (8<sup>th</sup>) **Business Day** of each calendar month **NGESO** shall send to the **Service Provider** a statement (the "**Monthly Statement**") setting out, for each **Static FFR Contract**, details of the following (to the extent applicable) in respect of the preceding calendar month, together with such other information as may be required to be provided under the these **Static FFR Service Terms**:-
  - a. the aggregate number of hours of service provision, together with any **Applicable Balancing Services Volume Data**, with respect to both availability and utilisation (as applicable);
  - b. details of events of default or service failures, and any consequential amounts withheld by or payable to **NGESO** with respect thereof;
  - c. the amounts payable by or to **NGESO** as a result; and
  - d. in relation to all **Static FFR Contracts**, the total net amount falling due to or from the **Service Provider**.
2. If the **Service Provider** disagrees with the content of any **Monthly Statement**, it may notify **NGESO** in writing, with evidence upon 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 paragraph 4.
3. Where a disagreement is notified by the **Service Provider** pursuant to paragraph 2, the **Parties** shall discuss and endeavour to resolve the same in good faith, and any revisions to a **Monthly Statement** agreed as a result thereof shall be reflected in a revised **Monthly Statement**, which shall promptly be issued by **NGESO**. In the absence of agreement, the **Monthly Statement** shall be binding upon the **Parties** until such time as otherwise agreed in writing between the **Parties** or as may otherwise be determined by an **Expert** following a referral by either **Party** to an **Expert** for determination, and which in each case shall be reflected in a revised **Monthly Statement** which shall promptly be issued by **NGESO**.
4. Where, having regard to any **Settlement Run** or to the results of any other monitoring by **NGESO** of service delivery, **NGESO** or the **Service Provider** 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 **NGESO** shall, at its discretion, revise the **Monthly Statement** and re-issue the same to the **Balancing Service Provider**, and the provisions of paragraphs 2 and 3 shall apply mutatis mutandis to such revised **Monthly Statement**.
5. In the absence of fraud, neither **NGESO** nor the **Balancing Service Provider** may invoke the provisions of paragraph 4, with respect to the contents of any **Monthly Statement** (including any revised **Monthly Statement**) after the period of twelve (12) months has elapsed following submission of the original **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** (including any revised **Monthly Statement**) issued by **NGESO** shall be final and conclusive.
6. No later than the eighteenth (18<sup>th</sup>) **Business Day** of each month, **NGESO** will issue a self-billing invoice (or credit note) in accordance with paragraph 11 reflecting the **Monthly Statement** issued pursuant to paragraph 1 (as may have been revised pursuant to the foregoing provisions), and no later than five (5) **Business Days** after such date of issue **NGESO** shall pay to the **Service Provider** (or the **Service Provider** shall pay to **NGESO**, as the case may be) the net amount shown as due from **NGESO** to the **Service Provider** (or from the **Service Provider** to **NGESO**, as the case may be) in that **Monthly Statement** (or revised **Monthly Statement**).
7. All payments shall be made in pounds sterling by direct bank transfer or equivalent transfer of immediately available funds to the other **Party's** bank account, details of which shall be as notified by each **Party** to the other from time to time in accordance with these **Static FFR Service Terms**.
8. If by virtue of the foregoing provisions, it is determined or agreed that:-
  - a. the **Service Provider** was entitled to a further payment from **NGESO**, then the **Service Provider** shall be entitled to interest at the **Base Rate** on the amount of such further payment from the due date until the date of actual payment; or
  - b. the **Service Provider** was not entitled to any payment it has received, then **NGESO** shall be entitled to interest at the **Base Rate** on such amount from the date of payment by **NGESO** until the date of repayment by the **Service Provider** (or, as the case may be, until the date when **NGESO** makes a payment to the **Service Provider** pursuant to paragraph 6 against which such amount is offset).
9. All amounts specified falling due and payable pursuant to these **Static FFR Service Terms** shall be exclusive of any **Value Added Tax** or other similar tax and **NGESO** shall pay to the **Service Provider 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 provision of **Static FFR** under these **Static FFR Service Terms**.

10. Sums payable by one **Party** to the other pursuant this Schedule 3 whether by way of charges, interest or otherwise, shall (except to the extent permitted by these **Static FFR Service Terms** or 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 provided that either **Party** shall be entitled to set off any payment due and payable by the other **Party** under this Schedule 3 against any payment it makes to that **Party** under this Schedule 3.
11. For so long as the **Service Provider** is a **Registered Response Participant**, the **Service Provider** agrees that **NGESO** shall maintain a self-billing system whereby each **Monthly Statement** shall constitute a self-billing invoice for **VAT** purposes. Accordingly, **NGESO** and the **Balancing Service Provider** shall enter into a self-billing agreement in accordance with **VAT** legislation and published guidance from HM Revenue and Customs from time to time, and agree to comply with all relevant requirements in relation to self-billing, and for such purpose the **Service Provider** hereby warrants and undertakes to **NGESO** that:-
  - a. it is registered for **VAT** and will inform **NGESO** forthwith if its ceases to be so registered or changes its **VAT** registration number;
  - b. it will account to HM Revenue and Customs for the **VAT** paid by **NGESO** pursuant to paragraph 9; and
  - c. it will not issue its own **VAT** invoices for provision of **Static FFR** .
12. The provisions of this Schedule 3 shall survive the termination of any **Static FFR Contract**.