

Dated 19 November 2024

NET ZERO TEESSIDE POWER LIMITED
(as the **GENERATOR**)

and

LOW CARBON CONTRACTS COMPANY LTD
(as the **DPA COUNTERPARTY**)

AGREEMENT
RELATING TO NET ZERO TEESSIDE POWER

Final Version

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THIS AGREEMENT is dated 19 November 2024 (the "**Agreement Date**") and made between:

- (1) **NET ZERO TEESSIDE POWER LIMITED**, a company incorporated under the laws of England and Wales whose registered office is Chertsey Road, Sunbury On Thames, Middlesex, United Kingdom, TW16 7BP and whose company number is 12473751 (the "**Generator**"); and
- (2) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated under the laws of England and Wales whose registered office is 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the "**DPA Counterparty**").

BACKGROUND

- (A) This Agreement is entered into pursuant to Section 10 of the EA 2013.
- (B) The Generator has satisfied the Eligibility Criteria.
- (C) The DPA Counterparty is a company wholly owned by the UK Government and is entering into this Agreement solely for the purpose of implementing the provisions of the EA 2013.
- (D) This Agreement, together with the terms and conditions set out in the Final Version of the document entitled "DPA Terms and Conditions" as at the date of this Agreement, constitute a "**DPA**".

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 Except as expressly specified in this Agreement, words and expressions defined in the Conditions shall have the same meanings when used in this Agreement. Where a term is defined in both this Agreement and in the Conditions, the definition in this Agreement shall apply instead of the definition in the Conditions.
- 1.2 In this Agreement and its recitals:

"Capture Assets" means all the capture assets (excluding those assets forming part of a CO₂ Storage Facility) which: (i) are used (or intended to be used) to capture and/or deliver CO₂ to the CO₂ Delivery Point; (ii) are connected to the Generation Assets; and (iii):

- (A) were taken into account by the Generator in determining the CO₂ Capture Rate Estimate and the Maximum CO₂ Flow Rate Estimate;
- (B) are (except as otherwise agreed in writing by the DPA Counterparty) situated within the area shaded on the map provided pursuant to paragraph 3(B)(ii) of Part A (*Initial Conditions Precedent*) of Annex 1 (*Conditions Precedent*) to the Conditions and which has the geographical coordinates specified in Annex 1 (*Description of the Facility*); and

- (C) are described pursuant to paragraph 3(B)(i) of Part A (*Initial Conditions Precedent*) of Annex 1 (*Conditions Precedent*) to the Conditions,

adjusted where the context requires to take due account of any changes to the composition of such assets arising as a result of the agreement or determination of the Test Achieved CO₂ Capture Rate pursuant to Condition 6 (*Longstop Date Capacity Notice*), and otherwise excluding all assets forming part of a T&S Network;

"CO₂ Storage Facility" means a facility where CO₂ storage occurs or can occur and includes all assets performing or contributing to any such CO₂ storage;

"Commercial Term Facility Agreement" means the commercial term facility agreement dated on or prior to the Escrow Release Date between, amongst others, the lenders named therein, the Facility Agent and the Generator;

"Conditions" means the terms and conditions set out in the Final Version of the document entitled "DPA Terms and Conditions" as at the date of this Agreement (as amended, modified, supplemented or replaced by this Agreement and as may be amended, modified, supplemented or replaced from time to time in accordance with the Conditions);

"Eligibility Criteria" means the eligibility criteria set out in the EA 2013 Regulations, in each case as applicable to the Facility, the Generator and the Project in relation to the DPA;

"Facility" means the Generation Assets and the Capture Assets; and

"Generation Assets" means all the generating assets (including all Generating Units but excluding all assets forming part of an Electricity Storage Facility) which: (i) are used (or intended to be used) to generate and/or deliver electricity to the Electricity Delivery Point; (ii) are connected to the Capture Assets; and (iii):

- (A) were taken into account by the Generator in determining the Initial Net Dependable Capacity Estimate, the Plant Net Efficiency Estimate and the Start Up Times Estimates;
- (B) are (except as otherwise agreed in writing by the DPA Counterparty) situated within the area shaded on the map provided pursuant to paragraph 3(A)(ii) of Part A (*Initial Conditions Precedent*) of Annex 1 (*Conditions Precedent*) to the Conditions and which has the geographical coordinates specified in Annex 1 (*Description of the Facility*); and
- (C) are described pursuant to paragraph 3(A)(i) of Part A (*Initial Conditions Precedent*) of Annex 1 (*Conditions Precedent*) to the Conditions,

adjusted where the context requires to take due account of any changes to the composition of such assets arising as a result of, or giving rise to:

- (i) any adjustment to the Net Dependable Capacity Estimate pursuant to Condition 5 (*Adjustment to Net Dependable Capacity Estimate*);

Permitted Reduction) or Condition 7 (*Adjustments to the Net Dependable Capacity: Annual NDC Test*); and

- (ii) the agreement or determination of the:
 - (a) Net Dependable Capacity pursuant to Condition 6 (*Longstop Date Capacity Notice*);
 - (b) Plant Net Efficiency pursuant to Condition 6 (*Longstop Date Capacity Notice*); and/or
 - (c) Start Up Times pursuant to Condition 6 (*Longstop Date Capacity Notice*),

and otherwise excluding all assets forming part of: (i) the Electricity Transmission System or the Electricity Distribution System; and (ii) the Gas Distribution System.

2. AGREEMENT

The Generator

- 2.1 The Generator shall, as from the Agreement Date, comply with this Agreement (including the Conditions) as the "**Generator**" and agrees that the Conditions are hereby incorporated into this Agreement as if they were clauses of this Agreement.

The DPA Counterparty

- 2.2 The DPA Counterparty shall, as from the Agreement Date, comply with this Agreement (including the Conditions) as the "**DPA Counterparty**" and agrees that the Conditions are hereby incorporated into this Agreement as if they were clauses of this Agreement.

Specific terms

- 2.3 The Parties have agreed to amend the Conditions as set out in Annex 2 (Modification Agreement).
- 2.4 The Parties agree that, for the purposes of this DPA, the Conditions shall be amended, modified, supplemented or replaced in accordance with the terms of this Agreement.

3. TERM

The "**Specified Expiry Date**" applicable to this DPA is the fifteenth (15th) anniversary of the earlier of the Start Date and the last day of the Target Commissioning Window.

4. FACILITY TECHNOLOGY

Facility Generation Technology

- 4.1 The Facility Generation Technology is the generation technology deployed by the Facility, as detailed in Annex 1 (*Description of the Facility*).

Facility Capture Technology

- 4.2 The Facility Capture Technology is the capture technology deployed by the Facility, as detailed in Annex 1 (*Description of the Facility*).

Facility Fuel

- 4.3 The "**Facility Fuel**" applicable to this DPA shall be Natural Gas.

CO₂ Re-use Service Facility

- 4.4 The Facility is a CO₂ Re-use Service Facility

5. CONDITIONS PRECEDENT AND MILESTONE

Interpretation

- 5.1 The "**Initial Target Commissioning Window**" applicable to this DPA shall be twelve (12) months, such period commencing on 1 October 2028.
- 5.2 The "**Target Commissioning Date**" applicable to this DPA shall be 1 December 2028.
- 5.3 The "**Longstop Period**" applicable to this DPA shall be twelve (12) months following the final day of the Target Commissioning Window or such longer period that results from an extension in accordance with the definition of "**Longstop Date**".

Operational Conditions Precedent

- 5.4 An "**Approved Scheme of Funding**" for the purposes of this DPA means twenty million two hundred and twenty one thousand five hundred and thirty pounds (£20,221,530) from the Industrial Strategy Challenge Fund.

Milestone

- 5.5 The "**Initial Milestone Delivery Date**" applicable to this DPA shall be eighteen (18) months after the Agreement Date.
- 5.6 The "**Total Project Pre-Commissioning Costs (Nominal)**" applicable to this DPA shall be [REDACTED] expressed in Nominal Terms.
- 5.7 The "**Project Commitments**" applicable to this DPA shall be the requirements provided for in:
- (A) Part A of Annex 3 (*Project Commitments*); and
 - (B) the section of Part B of Annex 3 (*Project Commitments*) which is expressed to apply to the Facility Capture Technology.

6. INITIAL NET DEPENDABLE CAPACITY ESTIMATE

The "Initial Net Dependable Capacity Estimate" applicable to this DPA is: 742.91 MW.

7. CO₂ CAPTURE RATE ESTIMATE

The "CO₂ Capture Rate Estimate" applicable to this DPA is: 96%.

8. PLANT NET EFFICIENCY ESTIMATE

The "Plant Net Efficiency Estimate" applicable to this DPA is [REDACTED] (NCV basis).

9. START UP TIMES ESTIMATES

The "Start Up Times Estimates" applicable to this DPA are:

(A) to start up the Facility from a Hot Start: [REDACTED]

(B) to start up the Facility from a Warm Start: [REDACTED]

(C) to start up the Facility from a Cold Start: [REDACTED]

10. INITIAL CORRECTION CURVES

The "Initial Correction Curves" applicable to this DPA are set out in Annex 4 (*Initial Correction Curves*).

11. INITIAL HEAT AND MATERIAL BALANCE DIAGRAM

The "Initial Heat and Material Balance Diagram" applicable to this DPA is set out in Annex 5 (*Initial Heat and Material Balance Diagram*).

12. POST-TAX REAL DISCOUNT RATE

The "Post-Tax Real Discount Rate" applicable to this DPA is [REDACTED]

13. PAYMENT CALCULATIONS: AVAILABILITY PAYMENT RATE

The "Initial Availability Payment Rate" applicable to this DPA is: thirty seven pounds and ninety one pence (£37.91) per MW per AP Settlement Unit.

14. PAYMENT CALCULATIONS: BASE PERFORMANCE ASSUMPTIONS

14.1 The "Initial Other Extra Variable Costs" applicable to this DPA are: [REDACTED] per MWh.

14.2 The "Initial Reference Plant CO₂ Emissions" applicable to this DPA are: 0.3222 tCO₂ per MWh.

14.3 The "Initial Reference Plant Gas Consumption" applicable to this DPA is: 59.902 therms per MWh, GCV basis.

14.4 The "**Facility CO₂ Emissions**" applicable to this DPA are: 0.0151 tCO₂ per MWh.

14.5 The "**Facility Gas Consumption**" applicable to this DPA is: [REDACTED] therms per MWh, GCV basis.

15. **T&S CAPACITY ASSUMPTIONS**

15.1 The "**Maximum CO₂ Rich Stream Flow Rate**" applicable to this DPA is 291.5 tCO_{2RS}/hour.

15.2 The "**Maximum T&S Capacity**" applicable to this DPA is: 291.5 tCO_{2RS}/hour.

15.3 The "**Maximum T&S Delivery Point Size**" applicable to this DPA is: 291.5 tCO_{2RS}/hour.

15.4 The "**Initial Minimum Turndown Rate**" applicable to this DPA is: 120.5 tCO_{2RS}/hour.

16. **PAYMENT CALCULATIONS: INFLATION FACTOR**

The "**Base Year**" applicable to this DPA is: 2022.

17. **MINIMUM NET ASSETS REQUIREMENT**

The "**Minimum Net Assets Requirement**" applicable to this DPA is: five billion pounds (£5,000,000,000), expressed in Base Year terms and indexed on the Agreement Date and each anniversary thereafter by reference to the Reference CPI.

18. **GAIN SHARE**

18.1 The "**Equity IRR Threshold**" applicable to this DPA is: [REDACTED] (Nominal).

18.2 The "**Facilities Agreement**" applicable to this DPA is the common terms agreement dated on or prior to the Escrow Release Date between, amongst others, the lenders named therein, the security trustee, the facility agent and the Generator.

18.3 The "**HoldCo**" applicable to this DPA is Net Zero Teesside Power Holdings Limited, a company incorporated under the laws of England and Wales whose registered office is Chertsey Road, Sunbury On Thames, Middlesex, United Kingdom, TW16 7BP and whose company number is 15336333.

18.4 The "**Original Investors**" applicable to this DPA are:

(A) BP CCUS UK Ltd, a company incorporated under the laws of England and Wales whose registered office is Chertsey Road, Sunbury On Thames, Middlesex, United Kingdom, TW16 7BP and whose company number is 12473113; and

(B) Equinor Low Carbon UK Limited, a company incorporated under the laws of England and Wales whose registered office is 1 Kingdom Street, London, United Kingdom, W2 6BD and whose company number is 14944806,

(each an "**Original Investor**").

18.5 The "**Original TopCos**" applicable to this DPA are:

- (A) **BP NZT Power Holdings Limited**, a company incorporated under the laws of England and Wales whose registered office is Chertsey Road, Sunbury On Thames, Middlesex, United Kingdom, TW16 7BP and whose company number is 15330133; and
- (B) **Equinor NZT Holdings Limited**, a company incorporated under the laws of England and Wales whose registered office is 1 Kingdom Street, London, United Kingdom, W2 6BD and whose company number is 15299879,

(each an "**Original TopCo**").

18.6 The "**Project Gain Share Calculation Period**" applicable to this DPA is, in respect of any Project Gain Share Calculation Period, each period from (and including) 31 July 2021 to (but not including) the relevant Project Gain Share Calculation Date.

18.7 The "**Qualifying Guarantor**" applicable to this DPA is a member of the Generator's Group:

- (A) who has a long-term credit rating of not less than BBB+ (from Standard & Poor's or Fitch) or Baa1 (from Moody's); or
- (B) who has consolidated net assets as determined in accordance with IFRS of not less than an amount which is equal to five billion pounds (£5,000,000,000), expressed in Base Year terms and indexed on the Agreement Date and each anniversary thereafter by reference to the Reference CPI; or
- (C) having such lower minimum long-term credit rating or consolidated net assets as the DPA Counterparty may consent to or specify from time to time.

18.8 The "**Sale IRR Calculation Period**" means, in respect of any Relevant Sale, the period from (and including) 31 July 2021 or, if later, the date of completion of the previous Relevant Sale (if any) in respect of the relevant TopCo Tranche, to (and including) the date of completion of such Relevant Sale.

19. **INITIAL T&S DELAY STANDBY COMPENSATION AMOUNT**

The "**Initial T&S Delay Standby Compensation Amount**" applicable to this DPA is one million two hundred and forty thousand pounds (£1,240,000), expressed in Base Year terms and indexed on the Agreement Date and each anniversary thereafter by reference to the Reference CPI.

20. **ANNUAL ADJUSTED NDC IMPLEMENTATION DATE**

The "**Annual Adjusted NDC Implementation Date**" means 30 November in the year of the relevant NDC Test.

21. **T&S TERMINATION PAYMENT**

21.1 The "**Assumed Decommissioning Costs**" means in respect of:

(A) the Capture Assets: [REDACTED]; and

(B) the Generation Assets: [REDACTED]

21.2 The "**Generator's Assumed Decommissioning Date**" means the fifteenth (15th) anniversary of the Start Date.

21.3 The "**Senior Financing Agreements**" means:

- (A) the Common Terms Agreement;
- (B) the Intercreditor Agreement;
- (C) each Facility Agreement;
- (D) the Account Bank Agreement;
- (E) each Security Document;
- (F) each Hedging Document and any related credit support documentation;
- (G) each Fee Letter; and
- (H) each Letter of Credit issued under the Debt Service Reserve Facility, the LC Facility or the Working Capital Facility,

(each of the terms set out above as defined in the Facilities Agreement), in each case dated on or prior to the Escrow Release Date.

21.4 The "**Permitted Senior Debt Amount**" means the amount of Senior Debt outstanding in the period in which the T&S Prolonged Unavailability Termination Date falls as set out in the Permitted Senior Debt Amount Table.

21.5 The "**Scheduled First Repayment Date**" is 30 June 2029.

21.6 The "**Scheduled Second Repayment Date**" is 31 December 2029.

21.7 The "**Scheduled Third Repayment Date**" is 30 June 2030.

21.8 The "**Total Project Pre-Commissioning Costs (Real)**" applicable to this DPA shall be [REDACTED] expressed in Real Terms from the Base Year.

22. INVESTOR GROUP REQUIREMENTS

The Investor Group Requirements are satisfied by the following entities:

- (A) in terms of the Power CCUS Expertise Test:

- (i) Whiting Clean Energy, Inc., a company incorporated under the laws of Indiana (United States of America) whose registered office is 334 North Senate Avenue, Indianapolis, IN, 46204, United States of America and whose business identification number is 1998110694; and
 - (ii) Equinor Energy AS, a company incorporated under the laws of Norway whose registered office is Forusbeen 50, 4035 Stavanger, Norway and whose registration number is 990888213; and
- (B) in terms of the Acceptable Credit Standing Test:
- (i) BP International Limited, a company incorporated under the laws of England and Wales whose registered office is Chertsey Road, Sunbury On Thames, Middlesex, United Kingdom, TW16 7BP and whose company number is 00542515; and
 - (ii) Equinor ASA, a company incorporated under the laws of Norway whose registered office is Forusbeen 50, 4035 Stavanger, Norway and whose registration number is 923609016.

23. NOTICES

- 23.1 The address and email address of each Party for any notice to be given under this DPA, and the department or officer (if any) for whose attention the notice is to be made, is:

- (A) in the case of the Generator:

Address:	[REDACTED]
Email address:	[REDACTED]
For the attention of:	[REDACTED]

- (B) in the case of the DPA Counterparty:

Address:	10 South Colonnade, London, England, E14 4PU
Email address:	lccc.dpa@lowcarboncontracts.uk
For the attention of:	Head of CCUS and H2

24. AGENT FOR SERVICE OF PROCESS

Condition 72 (Agent for service of process) shall not apply to this DPA and there shall be no Service Agent.

Annex 1 (Description of the Facility)

Part A: Overview

The Facility is the Net Zero Teesside project, comprising of the following:


Generation Assets and Capture Assets


The Generation Assets and Capture Assets fall within the area delineated by the following grid references which were transformed from Ordnance Survey Great Britain 1936 (**OSGB36**) to World Geodetic System 1984 (**WGS84**) using transformation "OSGB36 to WGS84 (9)":

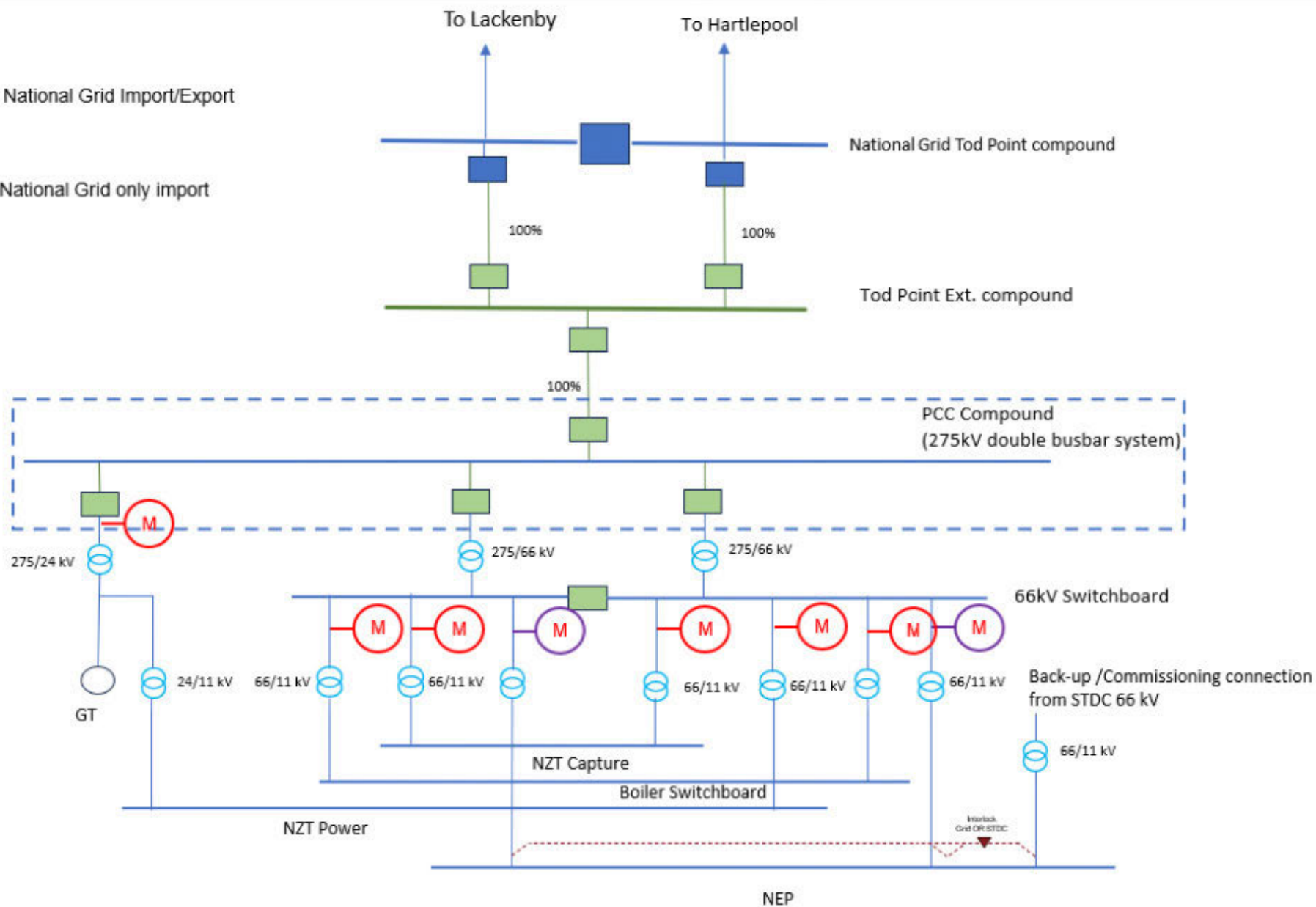
Corner Point ID	Latitude	Longitude
Northerly corner	54.624427	-1.118687
Easterly corner	54.622188	-1.109390
Southerly corner	54.613473	-1.115622
Westerly corner	54.615719	-1.124913

The Facility is located at Teesside and comprises a combined cycle gas turbine power station, post combustion capture, low pressure compression and conditioning plant and associated balance of plant equipment for a total net power output of 742.91 MW.

The Electricity Metering Equipment and Facility Electricity Metering Point(s) shall be as indicated on the following single line diagram:

 NZT Meters for National Grid Import/Export

 NEP meter for National Grid only import



Part B: Facility Generation Technology

The Facility uses combined cycle gas turbine (CCGT) power plant technology, comprising one natural gas-fired CCGT module consisting of one GE 9HA.02 heavy duty gas turbine with “dry low NO_x” combustion technology, unfired triple pressure with reheat heat recovery steam generator and condensing type steam turbine and all associated auxiliaries and balance of plant.

Part C: Facility Capture Technology

The Facility uses post-combustion capture plant technology, comprising absorber, absorber stack, regenerator, circulation pumps, heat exchangers, low pressure CO₂ compression, conditioning and associated equipment and balance of plant.

Annex 2 (Modification Agreement)

Part A: Shared Services

With effect on and from the Agreement Date, the Conditions shall be amended as follows:

- (a) The definition of "Agreement Date Provisions" shall be deleted and replaced with the following:

"Agreement Date Provisions" means Part 1 (Introduction), Part 2 (Term), Part 3 (Conditions Precedent and Milestone Requirement), Condition 7A (Shared Infrastructure Amendments), Condition 8 (Definitions: Part 5), Condition 9.16 (APR Indexation Adjustment), Condition 10.11 (Other Extra Variable Costs Indexation), Condition 10.15 (Base Performance Assumptions Adjustments), Condition 14 (Default Interest), Condition 15 (Set-off), Condition 16 (Deductions and withholdings), Condition 17 (Payment accounts), Condition 18 (Generator representations and warranties), Condition 19 (DPA Counterparty representations and warranties), Condition 20 (Generator undertakings: General), Condition 25 (Generator undertakings: Information provision and no cumulation of Subsidy, state aid, union funding and/or international funding), Condition 26 (Generator undertaking: Supply Chain Reporting), Part 9 (Termination), Part 10 (Dispute Resolution) to Part 13 (Miscellaneous) (inclusive), Annex 1 (Conditions Precedent), Annex 3 (T&S Meter Operational Framework and Technical Specification), Annex 4 (Calculation of Default Termination Payment), Annex 6 (Change Control Procedure), Annex 5 (Post T&S Prolonged Unavailability Event Termination Procedure), Annex 7 (Form of Direct Agreement), Annex 12 (Pro forma notices), and the Schedule (Gain Share);

- (b) The definition of "Capture Outage Relief Event" shall be deleted and replaced with the following:

"Capture Outage Relief Event" means an event where the Facility is unable to export captured CO₂ to the T&S Network, which occurs as a direct result of a T&S Outage Event excluding any T&S Outage Events that arise out of or in connection with:

- (A) any act, omission, breach or default of the Generator or its Representatives (including any breach by the Generator or its Representatives of an Industry Document), excluding (but subject to limb (B)) where such act, omission, breach or default solely comprises the relevant party providing Shared Services in its or their capacity as a Shared Services Provider; or
- (B) any failure by the Generator or its Representatives to act in accordance with the Shared Services Reasonable and Prudent Standard when providing Shared Services in its or their capacity as a Shared Services Provider;

- (c) The definition of "Force Majeure" shall be deleted and replaced with the following:

"Force Majeure" means any event or circumstance including:

- (A) any Change in Law (which expression, for the purposes of this definition, shall not include any Foreseeable Change in Law, and, in the period to the Start Date, shall include any change after the Agreement Date in the policy or guidance of any Competent Authority);
- (B) any event or circumstance resulting from any action or omission by or of any DPA Settlement Services Provider, any BSC Agent or a BSC Company;
- (C) a DCO Change in Law,

provided that, in the case of limb (A) and (B) only, such event or circumstance:

- (i) is beyond the reasonable control of the FM Affected Party or, if relevant, its Representatives (in the case of the Generator and its Representatives, acting and having acted in accordance with the Reasonable and Prudent Standard);
- (ii) could not reasonably have been avoided or overcome by the FM Affected Party or its Representatives (as appropriate);
- (iii) is not due to:
 - (a) the FM Affected Party's fault or negligence (or that of its Representatives), excluding, in the case of the Generator and/or its Representatives (but subject to limb (b)), where such fault or negligence solely comprises the relevant party providing Shared Services in its capacity as a Shared Services Provider; or
 - (b) any failure by the Generator or its Representatives to act in accordance with the Shared Services Reasonable and Prudent Standard when providing Shared Services in its capacity as a Shared Services Provider;
- (iv) is not a T&S Outage Event, a T&S Commissioning Delay Event or a T&S Cessation Event,

provided always that in the case of limb (A) and (B) only:

- (a) neither non-availability of funds nor the lack of funds shall ever constitute Force Majeure; and
- (b) no event or circumstance which has occurred before the Agreement Date of which, at or before the Agreement Date, the Generator or any of its Representatives either was aware, or (if it or they had made all due and careful enquiries and acted to the Reasonable and Prudent Standard) could

be expected to have been aware, shall constitute a Force Majeure;

- (d) The definition of "Longstop Date" shall be deleted and replaced with the following:

"Longstop Date" means the last day of the Longstop Period following the final day of the Target Commissioning Window, as such date may be extended day for day for each day of delay to the Project by reason of:

- (A) *a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (Force Majeure) to be entitled to such extension; or*
- (B) *the failure of the Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor is a party; or*
- (C) *the failure of the Gas Licensed Transporter to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Gas Licensed Transporter is a party; or*
- (D) *a T&S Commissioning Delay Event but only to the extent that the Generator has satisfied the requirements of Conditions 3.37 to 3.39 (Relief due to T&S Commissioning Delay Event) to be entitled to such extension,*

and provided that in the case of delays caused by the reasons set out in limb (B) and/or limb (C) above:

- (i) *the Generator gives notice to the DPA Counterparty as soon as reasonably practicable of the nature and extent of the failure; and*
- (ii) *there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours:*
 - (a) *to mitigate the effects of such failure (including delay to the Project);*
 - (b) *to carry out its obligations under the DPA and each other DPA Document in any way that is reasonably practicable; and*

- (c) *to resume the performance of its obligations under the DPA and each other DPA Document as soon as reasonably practicable;*
- (iii) *such failure is not due to:*
 - (a) *the fault or negligence of the Generator or its Representatives, excluding (subject to limb (b)) where such fault or negligence solely comprises the relevant party providing Shared Services in its capacity as a Shared Services Provider; or*
 - (b) *any failure by the Generator or its Representatives to act in accordance with the Shared Services Reasonable and Prudent Standard when providing Shared Services in its capacity as a Shared Services Provider;*
- (e) The definition of "Representatives" shall be deleted and replaced with the following:

"Representatives" means:

 - (A) *in respect of the DPA Counterparty:*
 - (i) *its directors, officials, officers, employees, agents, consultants and advisers; and*
 - (ii) *the DPA Settlement Services Provider and its directors, officers, employees, agents, consultants and advisers;*
 - (B) *in respect of the Generator:*
 - (i) *its directors, officers or employees;*
 - (ii) *any of its Contractors, agents, consultants and advisers when performing activities for the Generator in connection with the Project, the DPA or any other DPA Document; and*
 - (iii) *the directors, officers, employees, agents, consultants and advisers of any of its Contractors when performing activities for the Generator in connection with the Project, the DPA or any other DPA Document;*
 - (C) *in respect of any Government Entity, its directors, officials, officers, employees, agents, consultants and advisers; or*
 - (D) *in respect of any other person, its directors, officers, officials, employees, agents, consultants and advisers;*
- (f) Limb (B) of the definition of "T&S Connection Confirmation Deadline" shall be deleted and replaced with the following:

- (B) *the failure of the relevant T&S Operator to carry out in a timely manner any required system reinforcement or connection works specified in the T&S Construction Agreement attributable to the T&S Connection Confirmation Requirement,*

and provided that in the case of delays caused by the reasons in limb (B) above:

- (i) the Generator gives notice to the DPA Counterparty as soon as reasonably practicable of the nature and extent of the failure; and*
 - (ii) there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours:*
 - (a) to mitigate the effects of such failure (including delay to the Project);*
 - (b) to carry out its obligations under the DPA in any way that is reasonably practicable; and*
 - (c) to resume the performance of its obligations under the DPA as soon as reasonably practicable;*
 - (iii) such failure is not due to:*
 - (a) the fault or negligence of the Generator or its Representatives, excluding (subject to limb (b)) where such fault or negligence solely comprises the relevant party providing Shared Services in its capacity as a Shared Services Provider; or*
 - (b) any failure by the Generator or its Representatives to act in accordance with the Shared Services Reasonable and Prudent Standard when providing Shared Services in its capacity as a Shared Services Provider;*
- (g) The definition of "T&S Commissioning Delay Event" shall be deleted and replaced with the following:

"T&S Commissioning Delay Event" means an event or circumstance (excluding a T&S Outage Event) that prevents or delays the development, construction, completion, commissioning and/or operation of the relevant T&S Network and as a result prevents or delays the Facility from exporting captured CO₂ Rich Stream to the relevant T&S Network. This includes but is not limited to the failure of the relevant T&S Operator to carry out in a timely manner: (A) any connection works specified in the T&S Construction Agreement; or (B) any required works to the relevant T&S Network in order for the Facility to export captured CO₂ Rich Stream to the relevant T&S Network, and except to the extent that such event or circumstance arises out of or in connection with:

- (A) *any act, omission, breach or default of the Generator or its Representatives (including any breach by the Generator or its Representatives of an Industry Document), excluding (but subject to limb (b)) where such act, omission, breach or default solely comprises the relevant party providing Shared Services in its capacity as a Shared Services Provider; or*
- (B) *any failure by the Generator or its Representatives to act in accordance with the Shared Services Reasonable and Prudent Standard when providing Shared Services in its capacity as a Shared Services Provider;*
- (h) The definition of "Target Commissioning Window" shall be deleted and replaced with the following:

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

- (A) *a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (Force Majeure) to be entitled to such extension; or*
- (B) *the failure of the Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor is a party; or*
- (C) *the failure of the Gas Licensed Transporter to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Gas Licensed Transporter is a party; or*
- (D) *a T&S Commissioning Delay Event but only to the extent that the Generator has satisfied the requirements of Conditions 3.37 to 3.39 (Relief due to T&S Commissioning Delay Event) to be entitled to such extension,*

and provided that in the case of delays caused by the reasons in limb (B) and/or limb (C) above:

- (i) *the Generator gives notice to the DPA Counterparty as soon as reasonably practicable of the nature and extent of the failure; and*
- (ii) *there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours:*

- (a) *to mitigate the effects of such failure (including delay to the Project);*
 - (b) *to carry out its obligations under the DPA in any way that is reasonably practicable; and*
 - (c) *to resume the performance of its obligations under the DPA as soon as reasonably practicable;*
- (iii) *such failure is not due to:*
 - (a) *the fault or negligence of the Generator or its Representatives, excluding (subject to limb (b)) where such fault or negligence solely comprises the relevant party providing Shared Services in its capacity as a Shared Services Provider; or*
 - (b) *any failure by the Generator or its Representatives to act in accordance with the Shared Services Reasonable and Prudent Standard when providing Shared Services in its capacity as a Shared Services Provider;*
- (i) The following definitions shall apply:

"Further Shared Infrastructure Amendment Response Notice" has the meaning given to that term in Condition 7A (Shared Infrastructure Amendments);

"Initial Shared Infrastructure Plans" means the plans forming part of the Initial Shared Infrastructure Register as at the Agreement Date, as set out in Appendix B (Initial Shared Infrastructure Plans) of Part A (Shared Services) of Annex 2 (Modification Agreement);

"Initial Shared Infrastructure Register" means the register, as at the Agreement Date, of the Generator's shared infrastructure with the T&S Operator required to construct, commission and operate the T&S Network, as set out in Appendix A (Initial Shared Infrastructure Register) of Part A (Shared Services) of Annex 2 (Modification Agreement);

"Revised Shared Infrastructure Plans" has the meaning given to that term in Condition 7A.1 (Shared Infrastructure Amendments);

"Revised Shared Infrastructure Register" has the meaning given to that term in Condition 7A.1 (Shared Infrastructure Amendments);

"Shared Infrastructure Amendment Notice" has the meaning given to that term in Condition 7A.1 (Shared Infrastructure Amendments);

"Shared Infrastructure Amendment Response Notice" has the meaning given to that term in Condition 7A.4 (Shared Infrastructure Amendments);

"Shared Infrastructure Plans" means the plans forming part of the Shared Infrastructure Register, being the Initial Shared Infrastructure Plans as may be amended from time to time pursuant to Condition 7A.1 (Shared Infrastructure Amendments);

"Shared Infrastructure Register" means the register of the Generator's shared infrastructure with the T&S Operator required to construct, commission and operate the T&S Network, being the Initial Shared Infrastructure Register as may be amended from time to time pursuant to Condition 7A (Shared Infrastructure Amendments);

"Shared Services" means the services provided in respect of the shared infrastructure set out in the Shared Infrastructure Register;

"Shared Services Provider" means the Generator or its Representatives where acting as a provider of Shared Services;

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

"T&S Network User Expansion Event" means an event where a new User (as defined in the CCS Network Code), excluding the Generator and any other Users who have entered into a Code Agreement or Code Accession Agreement (as defined in the CCS Network Code) with the T&S Operator prior to the date of the relevant Shared Infrastructure Amendment Notice, has entered into a Code Accession Agreement (as defined in the CCS Network Code) with the T&S Operator;

- (j) Insert new Condition 7A immediately after Condition 7 as follows:

7A Shared Infrastructure Amendments

7A.1 The Generator may:

- (A) without prejudice to limb (B), on only one (1) occasion, at any time before the Start Date; or
- (B) if it considers that a T&S Network User Expansion Event has occurred,

give notice to the DPA Counterparty (a **"Shared Infrastructure Amendment Notice"**) to amend the Shared Infrastructure Register and/or the Shared Infrastructure Plans, provided that the Generator shall not be entitled to give such notice where the proposed amendment(s) would significantly increase the scope of Shared

Services provided by the Shared Services Provider. A Shared Infrastructure Amendment Notice shall:

- (i) include an updated version of the Shared Infrastructure Register (the "**Revised Shared Infrastructure Register**"), specifying the amendments being proposed to such register; and/or*
- (ii) include an updated version of the Shared Infrastructure Plans ("**Revised Shared Infrastructure Plans**"), specifying the amendments being proposed to such plans; and*
- (iii) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to demonstrate that:*
 - (a) if the Shared Infrastructure Amendment Notice relates to Condition 7A.1(B):(aa) a T&S Network User Expansion Event has occurred; and (bb) the Revised Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans are required to accommodate the T&S Network User Expansion Event; and/or*
 - (b) the proposed amendment(s) to the Shared Infrastructure Register and/or the Shared Infrastructure Plans will not significantly increase the scope of the Shared Services provided by the Shared Services Provider.*

7A.2 A Shared Infrastructure Amendment Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, such notice.

7A.3 Any Shared Infrastructure Amendment Notice shall be irrevocable. Any Shared Infrastructure Amendment Notice which relates to Condition 7A.1(A) given to the DPA Counterparty after the Start Date shall be invalid and of no effect.

*7A.4 The DPA Counterparty shall, no later than twenty (20) Business Days after receipt of a Shared Infrastructure Amendment Notice, give notice to the Generator (a "**Shared Infrastructure Amendment Response Notice**"). A Shared Infrastructure Amendment Response Notice shall specify whether the DPA Counterparty considers that:*

- (A) if the Shared Infrastructure Amendment Notice relates to Condition 7A.1(B): (a) a T&S Network User Expansion Event has or has not occurred; and (b) the Revised Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans are or are not*

*required to accommodate the T&S Network User Expansion Event;
and*

- (B) the proposed amendment(s) to the Shared Infrastructure Register and/or the Shared Infrastructure Plans will or will not significantly increase the scope of the Shared Services provided by the Shared Services Provider; or*
- (C) it has not been provided with sufficient Supporting Information to determine the matters referred to in limbs (A) and (B), in which case the DPA Counterparty shall provide details of the additional Supporting Information which it requires to determine such matters (the **"Shared Infrastructure Amendment Supporting Information"**).*

7A.5 *If the DPA Counterparty states in a Shared Infrastructure Amendment Response Notice that it:*

- (A) agrees with the Revised Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans on the grounds set out in Condition 7A.4, then Condition 7A.7 shall apply;*
- (B) does not agree with the Revised Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans on the grounds set out in Condition 7A.4, then Condition 7A.8 shall apply; or*
- (C) requires the Generator to provide Shared Infrastructure Amendment Supporting Information pursuant to Condition 7A.4(C), then:*
 - (i) the Generator shall provide the Shared Infrastructure Amendment Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the Shared Infrastructure Amendment Response Notice, or such longer period as is specified by the DPA Counterparty; and*
 - (ii) upon receipt of the Shared Infrastructure Amendment Supporting Information, the DPA Counterparty shall, as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of the same, give a further Shared Infrastructure Amendment Response Notice to the Generator (a **"Further Shared Infrastructure Amendment Response Notice"**). A Further Shared Infrastructure Amendment Response Notice shall specify whether the DPA Counterparty agrees or does not agree with the Revised Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans on the grounds set out in Condition 7A.4.*

- 7A.6 *Nothing in this Condition 7A (Shared Infrastructure Amendments) shall require the DPA Counterparty to specify in any Shared Infrastructure Amendment Response Notice or Further Shared Infrastructure Amendment Response Notice that the DPA Counterparty agrees with any Revised Shared Infrastructure Register and/or any Revised Shared Infrastructure Plans, unless and until the DPA Counterparty is satisfied of the same.*
- 7A.7 *If the DPA Counterparty specifies in a Shared Infrastructure Amendment Response Notice or Further Shared Infrastructure Amendment Response Notice that it agrees with a Revised Shared Infrastructure Register and/or Revised Shared Infrastructure Plans, the Revised Shared Infrastructure Register shall become the Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans shall become the Shared Infrastructure Plans, with effect from the date of the relevant Shared Infrastructure Amendment Response Notice or Further Shared Infrastructure Amendment Response Notice.*
- 7A.8 *If the DPA Counterparty specifies in a Shared Infrastructure Amendment Response Notice or Further Shared Infrastructure Amendment Response Notice that it does not agree with a Revised Shared Infrastructure Register and/or Revised Shared Infrastructure Plans on the grounds set out in Condition 7A.4, then the unamended Shared Infrastructure Register and/or Shared Infrastructure Plans shall continue to apply.*
- (k) Condition 9.4 shall be deleted and replaced with the following:
- "If a T&S Outage Event arises as a result of or in connection with:*
- (A) *any act, omission, breach or default of the Generator or its Representatives (including any breach by the Generator or its Representatives of an Industry Document), excluding (but subject to limb (B)) where such act, omission, breach or default solely comprises the relevant party providing Shared Services in its capacity as a Shared Services Provider; or*
- (B) *any failure by the Generator or its Representatives to act in accordance with the Shared Services Reasonable and Prudent Standard when providing Shared Services in its capacity as the Shared Services Provider,*
- then the Declared CO₂ Capture Rate shall be deemed to be zero (0) for each AP Settlement Unit during the relevant T&S Outage Event."*
- (l) The Shared Infrastructure Amendment Notice in Appendix C of this Annex 2 (Modification Agreement) shall be added as a pro forma notice to Annex 12 (Pro forma notices) of the Conditions.

- (m) The Shared Infrastructure Amendment Response Notice in Appendix D of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.
- (n) The Further Shared Infrastructure Amendment Response Notice in Appendix E of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.

Part B: Electricity Metering

With effect on and from the Agreement Date, the Conditions shall be amended as follows:

- (a) The definition of "Net Dependable Capacity" shall be deleted and replaced with the following:

"Net Dependable Capacity" means the net generating capacity (expressed in MW) of the Facility on a continuous and reliable basis available at the Facility Electricity Metering Point, at Reference Site Conditions. For the purposes of the Availability Payment, the Net Dependable Capacity shall be equal to the lower of: (A) the net generating capacity demonstrated at the Test (excluding the CO₂ Capture Rate Test) that has most recently been carried out by the Generator in accordance with this DPA; and (B) the Net Dependable Capacity Estimate;

- (b) The following definition shall apply to this Part B (*Electricity Metering*):

"Facility Electricity Metering Point" means the point(s) at which the net electrical output of the Facility is measured at the Primary BM Unit as set out in Annex 1 of the Agreement;

- (c) The definition of "Electricity Metering Equipment" shall be deleted and replaced with the following:

"Electricity Metering Equipment" means

- (A) (i) the "Metering Equipment" as defined in, and registered pursuant to, the BSC to measure the flows of electricity at the Facility Electricity Metering Point, (ii) its Metering System, and (iii) its associated BM Unit(s); and
- (B) in the case of a Dual Scheme Facility, the "Metering Equipment" as defined in, and registered pursuant to, the BSC to measure the Imported Input Electricity of the Generating Station;

- (d) The definition of "Facility Connection Points" shall be deleted and replaced with the following:

"Facility Connection Points" means the CO₂ Delivery Points, the Gas Supply Points and/or the Facility Electricity Metering Points (as applicable);

- (e) The definition of "Generation Outage Event" shall be deleted and replaced with the following:

"Generation Outage Event" means an event where the Facility is unavailable, curtailed or derated such that the net generating capacity of the Facility at the Facility Electricity Metering Points at Reference Site Conditions, is reduced by an amount greater than one per cent (1%) of the Net Dependable Capacity, regardless of whether or not the Generator is required to declare such event in accordance with the requirements of UK REMIT;

- (f) The definition of "Net Available Capacity" shall be deleted and replaced with the following:

"Net Available Capacity" means, subject to Condition 9.6 (Outage Relief Events), the declared available net generating capacity (expressed in MW) of the Facility at the Facility Electricity Metering Points at Reference Site Conditions, by the Generator in relation to any Generation Outage Event during an AP Billing Period;

- (g) The definition of "Unadjusted Metered Electricity Output" shall be deleted and replaced with the following:

"Unadjusted Metered Electricity Output" means the BM Unit Metered Volume for the Facility during a Settlement Unit as measured by the Electricity Metering Equipment at the Facility Electricity Metering Point during such period;

- (h) Paragraph 3(A)(ii) of Part A (Initial Conditions Precedent) of Annex 1 (Conditions Precedent) shall be deleted and replaced with the following:

an aerial view of the unique geographical location of the Generation Assets, whether an extract from the Ordnance Survey map or equivalent, showing the existing or proposed locations of: (a) the Generation Assets; (b) the Electricity Metering Equipment; (c) the Gas Supply Metering Equipment; (d) the Facility Electricity Metering Point; and (e) the Electricity Delivery Points; and (f) the Gas Supply Points; and

- (i) Condition 1.2(A) (BSC Definitions) shall be deleted and replaced with the following:

References in these Conditions to "Apparatus", "BM Unit", "BM Unit Metered Volume", "Boundary Point", "BSC Agent", "BSC Company", "Communications Equipment", "Metering System", "Primary BM Unit", "Registrant", "Settlement Run", and "Trading Dispute" have the meanings given to such terms in the BSC.

Part C: T&S Termination Payment

With effect on and from the Agreement Date, the Conditions shall be amended as follows:

- (a) the definition of T&S TP Floor shall be deleted and replaced with the following:

"T&S TP Floor" means:

- (A) *all amounts outstanding at the T&S Prolonged Unavailability Termination Date, including interest and Senior Debt Default Interest accrued as at the T&S Prolonged Unavailability Termination Date, from the Generator to the Senior Lenders under the Senior Financing Agreements in respect of the Permitted Senior Debt Amount; and*
- (B) *all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Generator to the Senior Lenders as a result of a prepayment in respect of the Permitted Senior Debt Amount or, in the case of early termination of interest rate hedging arrangements only, as a result of termination of this DPA, subject to the Generator and the Senior Lender(s) mitigating all such costs to the extent reasonably practicable,*

less, if and only to the extent it is a positive amount, the aggregate of (without double counting in relation to the calculation of the T&S TP Floor or the amounts below):

- (i) *all credit balances in any bank accounts held by or on behalf of the Generator and/or HoldCo on the T&S Prolonged Unavailability Termination Date excluding: (a) any amounts relating to (a) Capital Costs due but unpaid at the T&S Prolonged Unavailability Termination Date and/or due within the next sixty (60) Business Days; and (b) any amounts relating to Operating Costs due but unpaid at the T&S Prolonged Unavailability Termination Date and/or due within the next sixty (60) Business Days; and (c) any T&S Prolonged Unavailability Event Distributable Reserves; and (d) to the extent positive, an amount equal to (x) any amounts held by the Generator on the T&S Prolonged Unavailability Termination Date for the purpose of repaying, prepaying or otherwise discharging amounts outstanding under the Senior Financing Agreements as at the T&S Prolonged Unavailability Termination Date which are not in respect of Permitted Senior Debt Amounts less (y) the T&S Prolonged Unavailability Event Distributable Reserves;*
- (ii) *any amounts claimable on or after the T&S Prolonged Unavailability Termination Date in respect of Shareholder Funding Liabilities;*
- (iii) *all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the*

Senior Lenders to the Generator as a result of prepayment of amounts outstanding in respect of the Permitted Senior Debt Amount, or in the case of early termination of interest rate hedging arrangements only, as a result of termination of this DPA; and

- (iv) *all other amounts received by the Senior Lenders on or after the T&S Prolonged Unavailability Termination Date and before the date on which any compensation is payable by the DPA Counterparty to the Generator, as a result of enforcing any other rights they may have but excluding any such amounts received by the Senior Lenders on or after the T&S Prolonged Unavailability Termination Date from any bank account of the Generator pursuant to any mandatory prepayment mechanisms in the Senior Financing Agreements specifically referable to the serving of the T&S Prolonged Unavailability Termination Notice;*

- (b) the following definition shall apply:

"T&S Prolonged Unavailability Event Distributable Reserves " means any amounts in any bank account held by the Generator on the T&S Prolonged Unavailability Termination Date which would have been available for distribution in accordance with the Senior Financing Agreements in the period between issue of the T&S Prolonged Unavailability Event Notice and the T&S Prolonged Unavailability Termination Date had the T&S Prolonged Unavailability Event Notice not been issued and provided that issue of the T&S Prolonged Unavailability Event Notice was the sole reason for the retention of such amounts;

- (c) Condition 36.23(C) shall be deleted and replaced with the following:

- (C) *specify whether the Generator will use the proceeds of the T&S Termination Payment only to pay the Senior Lenders for some or all amounts outstanding from the Generator to the Senior Lenders under the Senior Financing Agreements at the T&S Prolonged Unavailability Termination Date.*

- (d) Condition 37.6 shall be deleted and replaced with the following:

37.6 *If Condition 37.5 applies, the T&S Termination Payment shall only be payable by the DPA Counterparty where the Generator evidences to the satisfaction of the DPA Counterparty that the Generator:*

- (A) *if the T&S Collateral Amount is greater than zero (0), has transferred or delivered, or procured the transfer or delivery of, Acceptable Collateral to the DPA Counterparty in an amount equal to T&S TP Collateral Amount in accordance with Paragraphs 3.1 and 3.2 of Annex 5 (Post T&S Prolonged Unavailability Event Termination Procedure); and*
- (B) *shall use the proceeds of the T&S Termination Payment only to pay the Senior Lenders for some or all amounts outstanding from the*

Generator to the Senior Lenders under the Senior Financing Agreements at the T&S Prolonged Unavailability Termination Date. Such evidence shall include a letter from the Senior Lenders addressed to the DPA Counterparty confirming the bank account designated by the Generator and the Senior Lenders to receive the T&S Termination Payment.

- (e) the definition of Cash Sweep Calculation Date in Annex 5 (Post T&S Prolonged Unavailability Event Termination Procedure) shall be deleted and replaced with the following:

"Cash Sweep Calculation Date" means:

- (A) 31 March and 30 September each year after the T&S Termination Payment Date; and/or
 - (B) such other date or dates in those years as the DPA Counterparty may (acting reasonably) agree in writing with the Generator, provided that the first Cash Sweep Calculation Date shall be no earlier than three (3) Business Days after the T&S Termination Payment Date;
- (f) Paragraph 2.1 of Annex 5 (Post T&S Prolonged Unavailability Event Termination Procedure) shall be deleted and replaced with the following:

2.1 Preliminary Cash Sweep Report

No later than twenty (20) Business Days after each Cash Sweep Calculation Date, the Generator shall provide the DPA Counterparty with a written report in respect of the Cash Sweep Calculation Period ending immediately prior to the relevant Cash Sweep Calculation Date (a "Preliminary Cash Sweep Report"). Each Preliminary Cash Sweep Report shall:

- (A) *be prepared at the cost and expense of the Generator;*
- (B) *be prepared using the most up-to-date data available to the Generator at the time of its preparation;*
- (C) *be substantially in the form and with the content set out at Appendix 5 (Form of Preliminary Cash Sweep Report) of this Annex 5 and be accompanied by the Information referred to in limb (J);*
- (D) *set out in reasonable detail:*
 - (i) *the Total Cash Amount at the Cash Sweep Calculation Date;*
 - (ii) *the Capital Costs due but unpaid at the Cash Sweep Calculation Date;*
 - (iii) *the Operating Costs due but unpaid at Cash Sweep Calculation Date; and*

- (iv) *in respect of the Cash Sweep Preliminary Period, all payments paid to Senior Lenders on or after the T&S Termination Payment Date from amounts held in any bank account held by the Generator on the T&S Prolonged Unavailability Termination Date for the purpose of repaying, prepaying or otherwise discharging amounts outstanding under the Senior Financing Agreements as at the T&S Prolonged Unavailability Termination Date which are not in respect of the Permitted Senior Debt Amounts less the T&S Prolonged Unavailability Event Distributable Reserves;*
- (E) *contain full details of the payments the Generator has made since the immediately preceding Cash Sweep Calculation Date and of the payments that it forecasts it will make;*
- (F) *give reasons for the Capital Costs and Operating Costs due but unpaid at the Cash Sweep Calculation Date, together with reasonable details of the amounts;*
- (G) *confirm that there has been no failure to perform or comply with one or more of the Cash Sweep Rules or, if such a failure has occurred, full details of the failure and the consequences thereof, including the amount and calculation of any resultant Deemed Relevant Cash Amount;*
- (H) *confirm that there has been no failure to perform or comply with the CS Contracting Policy or, if such an event has occurred, full details of full details of such failure and the consequences thereof, including the amount and calculation of any resultant CS Related Party Discount Amount;*
- (I) *contain full details of the administrative costs and expenses of the Generator has incurred since the immediately preceding Cash Sweep Calculation Date and of the administrative costs and expenses that it forecasts it will incur, in each case in respect of this Annex 5;*
- (J) *contain full details of any Distribution the Generator has made to HoldCo since the immediately preceding Cash Sweep Calculation Date, and any proposed Distribution which is to be made by the Generator to HoldCo; and*
- (K) *be accompanied by:*
 - (i) *a Directors' Certificate from the directors of the Generator in relation to the Information contained in, or enclosed with, the Preliminary Cash Sweep Report;*
 - (ii) *copies of:*

- (a) *the then latest management accounts of the Generator covering the relevant Cash Sweep Calculation Period;*
 - (b) *in respect of the Cash Sweep Preliminary Period, the transaction records for any bank account held by the Generator on the T&S Prolonged Unavailability Termination Date for the purpose of repaying, prepaying or otherwise discharging specific amounts outstanding under the Senior Financing Agreements as at the T&S Prolonged Unavailability Termination Date which are not in respect of the Permitted Senior Debt Amounts, less the T&S Prolonged Unavailability Event Distributable Reserves, for the six (6) month period immediately preceding the T&S Termination Payment Date;*
 - (c) *a reconciliation statement against each of the latest audited accounts and the latest management accounts of the Generator; and*
 - (d) *any other Supporting Information, in reasonable detail, which the Generator considers to be relevant to the matters which are the subject of the Preliminary Cash Sweep Report, for the relevant Cash Sweep Calculation Date;*
- (iii) *a certificate from the Auditors addressed to the DPA Counterparty confirming the statements made in the Preliminary Cash Sweep Report, certifying the management accounts provided pursuant to Paragraph 2.1(K)(ii)(a) above, certifying the transaction records of the accounts provided pursuant to Paragraph 2.1(K)(ii)(b) above and certifying the Relevant Cash Amount, Deemed Relevant Cash Amount in respect of such Cash Sweep Calculation Date together with computations in reasonable detail in support; and*
 - (iv) *an update of the Cash Sweep Reports(s) for earlier Cash Sweep Calculation Date(s) correcting the Cash Sweep Amount calculation thereunder solely for the dates in accordance with the Subsequent CSA Correction.*
- (g) Paragraph 2.15(A) of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*) shall be deleted and replaced with the following:

Third Party Payments

- (A) *The Generator shall not make any payments to any person or entity whether on a Cash Sweep Calculation Date or in any Cash Sweep*

Calculation Period, until the Generator has met its obligations in accordance with Paragraph 2.9 of this Annex 5 in respect of that Cash Sweep Calculation Period (except for: (i) the relevant Operating Costs and Capital Costs detailed in the relevant Cash Sweep Report; and (ii) in the case of the Cash Sweep Preliminary Period, payments made to Senior Lenders of the T&S Termination Payment and, to the extent positive, an amount equal to (x) any such amounts held by the Generator on the T&S Prolonged Unavailability Termination Date for the purpose of repaying, prepaying or otherwise discharging amounts outstanding under the Senior Financing Agreements as at the T&S Prolonged Unavailability Termination Date which are not in respect of Permitted Senior Debt Amounts less (y) the T&S Prolonged Unavailability Event Distributable Reserves (to the extent included in the T&S Termination Payment) on, or within three (3) Business Days of, the T&S Termination Payment Date).

Part D: T&S Delay

With effect on and from the Agreement Date, the Conditions shall be amended as follows:

- (a) The following definitions shall apply:

"Daily T&S Delay Standby Compensation Amount" applicable to this DPA shall be equal to the T&S Delay Standby Compensation Amount divided by thirty-one (31);

"Initial T&S Delay Standby Compensation Amount" has the meaning given to that term in the Agreement;

"Monthly T&S Delay Standby Compensation Amount" has the meaning given to that term in Condition 3.43B;

"Pre-Start Date Billing Period" means a Month, except that the last Pre-Start Date Billing Period shall end on the day immediately prior to the Start Date;

"T&S Connection Confirmation CP Waiver Date" has the meaning given to that term in Condition 3.43A;

"T&S Delay Standby Compensation Amount" means the Initial T&S Delay Standby Compensation Amount, as may be amended from time to time in accordance with the DPA;

"T&S Delay Standby Period" means the two (2) Month period commencing on the first (1st) day of the Target Commissioning Window;

"T&SDSCA Indexation Adjustment" has the meaning given to that term in Condition 3.59;

"T&SDSCA Indexation Anniversary" has the meaning given to that term in Condition 3.60;

- (b) Condition 3.23 shall be deleted and replaced with the following:

3.23 A Start Date Notice shall specify the date that the Generator proposes to be the Start Date for the purposes of the DPA, such date being:

- (A) no earlier than the date on which the OCP Notice relating to the fulfilment of the final Operational Condition Precedent was given;
- (B) no earlier than the first (1st) day of the Target Commissioning Window;
- (C) no later than the Longstop Date;
- (D) no earlier than the date of the Start Date Notice; and

- (E) *if the Start Date Notice is issued during the T&S Delay Standby Period and a T&S Commissioning Delay Event is occurring, no earlier than the earlier of: (i) the first (1st) day after the T&S Delay Standby Period; and (ii) the date on which the Generator satisfies the T&S Connection Confirmation Requirement,*

(the date so notified being, subject to Condition 3.26, the "Start Date").

- (c) Insert new Conditions 3.43A and 3.43B immediately after Condition 3.43 as follows:

3.43A *If:*

- (A) *the T&S Connection Confirmation CP is deemed to have been waived in accordance with Condition 3.41; and*
- (B) *the date that the T&S Connection Confirmation CP is deemed to have been waived (the "**T&S Connection Confirmation CP Waiver Date**") falls during the T&S Delay Standby Period,*

the DPA Counterparty shall pay to the Generator the Monthly T&S Delay Standby Compensation Amount from the T&S Connection Confirmation CP Waiver Date until the earlier of:

- (i) *the last day of the T&S Delay Standby Period; and*
- (ii) *the date on which the Generator satisfies the T&S Connection Confirmation Requirement; and*
- (iii) *the T&S Prolonged Unavailability Termination Date.*

3.43B *If a Monthly T&S Delay Standby Compensation Amount is to be paid:*

- (A) *the DPA Counterparty shall, no later than seven (7) Business Days after the end of each relevant Pre-Start Date Billing Period to which the Monthly T&S Delay Standby Compensation Amount relates, calculate the "**Monthly T&S Delay Standby Compensation Amount**" for the relevant Pre-Start Date Billing Period (m);*
- (B) *the Monthly T&S Delay Standby Compensation Amount shall be calculated as follows:*

$$T\&SDSCA_m = \sum_{i=1}^n DT\&SDSCA_{i,m}$$

where:

$T\&SDSCA_m$ = the Monthly T&S Delay Standby Compensation Amount (£) for the

*relevant Pre-Start Date Billing Period
(m)*

$DT\&SDSCA_{i,m}$ = *the Daily T&S Delay Standby Compensation Amount (£) for each Day (i) in the relevant Pre-Start Date Billing Period (m)*

n = *the total number of calendar days (i) in the relevant Pre-Start Date Billing Period (m) during which Condition 3.43A applies*

(C) *the DPA Counterparty shall, no later than twenty eight (28) calendar days after the end of the relevant the Pre-Start Date Billing Period, pay to the Generator the Monthly T&S Delay Standby Compensation Amount.*

(d) Condition 3.50(B) shall be deleted and replaced with the following:

(B) *if the T&S Connection Confirmation CP is waived pursuant Condition 3.41 (Waiver of T&S Connection Confirmation CP) and the Generator fails to satisfy the T&S Connection Confirmation Requirement within three (3) consecutive AP Billing Periods and/or Pre-Start Date Billing Periods following the T&S Network Availability Date (a "**Suspension T&S Connection Confirmation Requirement Breach**") then:*

(i) *the DPA Counterparty may at any time following such failure, elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which such failure persists, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension. Notwithstanding the foregoing, during such period of suspension, the Availability of Capture shall be deemed to be zero (0) for the purposes of calculating the Availability Payment in accordance with Condition 9.1 (Availability Payment Calculation); and*

(ii) *if the Generator evidences to the satisfaction of the DPA Counterparty that the T&S Connection Confirmation Requirement has been satisfied, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 3.50(B). The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition.*

- (e) Insert new Conditions 3.59, 3.60 and 3.61 immediately after Condition 3.58 as follows:

T&S Delay Standby Compensation Amount Indexation Adjustment

3.59 *The DPA Counterparty shall calculate an indexation adjustment to the T&S Delay Standby Compensation Amount in each calendar year of the Term (each such adjustment, a "**T&SDSCA Indexation Adjustment**") until the first (1st) day of the Summer Season following the Start Date.*

3.60 *Each T&SDSCA Indexation Adjustment shall:*

- (A) *become effective on the first (1st) day of the Summer Season in the calendar year in which the T&SDSCA Indexation Adjustment is calculated (each such date, a "**T&SDSCA Indexation Anniversary**")*; and
- (B) *use the CPI for January of the relevant calendar year save where the CPI for January is not published by the first (1st) day of the Summer Season in such calendar year, in which case the Reference CPI shall be used.*

3.61 *The T&S Delay Standby Compensation Amount which is to apply in each Pre-Start Date Billing Period (m) with effect from each T&SDSCA Indexation Anniversary as a result of the T&SDSCA Indexation Adjustment shall be calculated as follows:*

$$T\&SDSCA_m = T\&SDSCA_{base} * \Pi_i$$

where:

$T\&SDSCA_m$ = *T&S Delay Standby Compensation Amount (£) that applies in each Pre-Start Date Billing Period (m) with effect from each T&SDSCA Indexation Anniversary*

$T\&SDSCA_{base}$ = *Initial T&S Delay Standby Compensation Amount (£)*

Π_i = *Inflation Factor applicable to a calendar day (i)*

Day (i) = *the first (1st) calendar day of the relevant Pre-Start Date Billing Period (m)*

3.62 *The DPA Counterparty shall notify the Generator of the revised T&S Delay Standby Compensation Amount no later than five (5) Business Days after each T&SDSCA Indexation Anniversary.*

- (f) Condition 47.9 shall be deleted and replaced with the following:

47.9 Condition 47.8 shall not operate so as to prejudice or override:

- (A) the express terms of any obligation to pay, indemnity or costs reimbursement provision contained within the DPA or any other DPA Document;*
- (B) the express terms relating to the calculation of any QCiL Compensation or QCiL True-Up Compensation, or the obligation of either Party to pay any QCiL Compensation or QCiL True-Up Compensation to the other Party (or to commence or effect such compensation), in each case in accordance with Part 8 (Changes in Law);*
- (C) the express terms relating to the calculation of the Default Termination Payment or the obligation of the Generator to pay the Default Termination Payment to the DPA Counterparty, in accordance with Condition 37.11, it being agreed that the DPA Counterparty has a legitimate interest to which the Default Termination Payment is proportionate in light of factors including but not limited to the anticipated harm that the DPA Counterparty would suffer and the difficulty of estimation or calculation of actual damages upon early termination of the DPA;*
- (D) the express terms relating to the calculation of the T&S Termination Payment, or the obligation of the DPA Counterparty to pay the T&S Termination Payment to the Generator, in each case in accordance with Conditions 37.4 to 37.9 (Consequences of T&S Prolonged Unavailability Event termination); or*
- (E) the express terms relating to the calculation of T&S Delay Standby Compensation Amount, or the obligation of the DPA Counterparty to pay any T&S Delay Standby Compensation Amount, in accordance with Conditions 3.43A and 3.43B.*

Part E: Escrow Release Condition

With effect on and from the Agreement Date, the Conditions shall be amended as follows:

- (a) The following definitions shall apply:

"Conditions Precedent and Escrow Agreement" means the conditions precedent and escrow agreement entered into or to be entered into in the form agreed between, amongst others, the Secretary of State, the Generator, the relevant T&S Operator and the DPA Counterparty in respect of Licence Award;

"Escrow Documents" has the meaning given to that term in the Conditions Precedent and Escrow Agreement;

"Escrow Longstop Date" has the meaning given to that term in the Conditions Precedent and Escrow Agreement;

"Escrow Longstop Termination Date" has the meaning given to that term in Condition 36A.2 (Termination for failure to fulfil the Escrow Release Condition);

"Escrow Longstop Termination Notice" has the meaning given to that term in Condition 36A.1 (Termination for failure to fulfil the Escrow Release Condition);

"Escrow Release Condition" has the meaning given to that term in the Conditions Precedent and Escrow Agreement;

"Escrow Release Date" means the date on which the Escrow Release Condition occurs;

"Licence Award" has the meaning given to that term in the Conditions Precedent and Escrow Agreement;

- (b) Condition 2.1 shall be deleted and replaced with the following:

Term and duration

2.1

- (A) Subject to Condition 3 (Conditions Precedent), the provisions of, and the rights and obligations of the Parties under, the DPA shall become effective and binding on the Agreement Date; and
- (B) (except in circumstances in which the DPA is terminated pursuant to Conditions 36.1 (Pre-Start Date Termination), 36.5 (Termination for Prolonged Force Majeure), 36.22 (Termination for failing to remedy a T&S Prolonged Unavailability Event), 36.33 (Default Termination), 36.35 (Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements), 36.36 (Termination for failing to satisfy the CO₂ T&S Connection Confirmation Requirement), 36.37 (Qualifying Change in Law termination), 36.39

(QCiL Compensation termination) or 36A.1 (Termination for failure to fulfil the Escrow Release Condition)), the DPA shall continue in full force and effect until the Specified Expiry Date,

*(such period, the "**Term**").*

- (c) Condition 3.2 shall be deleted and replaced with the following:

Initial Conditions Precedent

3.2 *The provisions of, and the rights and obligations of the Parties pursuant to, the Initial CP Provisions are conditional upon:*

(A) *the Initial Conditions Precedent being:*

(i) *fulfilled by the Generator; or*

(ii) *waived by the DPA Counterparty in accordance with Condition 3.28 (Waiver of Conditions Precedent and Default) and/or 3.52 (Waiver of Subsidy Control Declaration Operational CP); and*

(B) *the Escrow Release Condition occurring.*

- (d) Condition 3.5 shall be deleted and replaced with the following:

Operational Conditions Precedent

3.5 *The provisions of, and the rights and obligations of the Parties pursuant to, the Operational CP Provisions are conditional upon:*

(A) *the Initial Conditions Precedent and the Operational Conditions Precedent being:*

(i) *fulfilled by the Generator; or*

(ii) *waived by the DPA Counterparty in accordance with Conditions 3.28 (Waiver of Conditions Precedent and Default) and/or 3.52 (Waiver of Subsidy Control Declaration Operational CP); and*

(B) *the Escrow Release Condition occurring.*

- (e) Insert new Condition 36A immediately after Condition 36 as follows:

Termination for failure to fulfil the Escrow Release Condition

36A.1 *If the Escrow Release Condition has not occurred by the Escrow Longstop Date, either Party shall have the right, but not the obligation, to terminate the DPA with immediate effect upon giving the other Party notice (an "**Escrow Longstop Termination Notice**").*

36A.2 *If either Party gives an Escrow Longstop Termination Notice, the DPA shall terminate on the date of the Escrow Longstop Termination Notice (the "Escrow Longstop Termination Date").*

- (f) Conditions 37.1 and 37.2 shall be deleted and replaced with the following:

Consequences of termination: General

37.1 *Termination of the DPA pursuant to Condition 36.1 (Pre-Start Date Termination), 36.6 (Termination for Prolonged Force Majeure), 36.22 (Termination for failing to remedy a T&S Prolonged Unavailability Event), 36.33 (Default termination), 36.35 (Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements), 36.36 (Termination for failing to satisfy the T&S Connection Confirmation Requirement), 36.37 (Qualifying Change in Law Termination), 36.39 (QCIL Compensation termination) or 36A.1 (Termination for failure to fulfil the Escrow Release Condition):*

(A) *shall not affect, and shall be without prejudice to, the accrued rights and liabilities of each Party and the rights and liabilities of each Party arising as a result of:*

- (i) *any antecedent breach of any provision of the DPA; and*
- (ii) *any breach of any provisions of the DPA which are expressed to survive expiry pursuant to Condition 39 (Survival); and*

(B) *shall be subject to Condition 39 (Survival).*

Consequences of Pre-Start Date termination; termination for Prolonged Force Majeure; termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements, termination for failing to satisfy the T&S Connection Confirmation Requirement, and Termination for failure to fulfil the Escrow Release Condition

37.2 *Subject to Condition 37.1, if the DPA Counterparty terminates the DPA pursuant to Conditions 36.1 (Pre-Start Date Termination), 35.6 (Termination for Prolonged Force Majeure), 36.35 (Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements), 36.36 (Termination for failing to satisfy the T&S Connection Confirmation Requirement) or 36A.1 (Termination for failure to fulfil the Escrow Release Condition):*

(A) *no payment shall be payable by either Party to the other Party as a consequence of such termination;*

(B) *all rights and obligations of the Parties under the DPA shall end; and*

(C) *neither Party shall be entitled to make any claim against the other Party under or in respect of the DPA.*

- (g) The Escrow Longstop Termination Notice in Appendix G of this Annex 2 (Modification Agreement) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.

Part F: Permitted Senior Debt Amount Determination

With effect on and from the Agreement Date, the Conditions shall be amended as follows:

- (a) The following definitions shall apply:

"Agreed Financial Model" means the lender financial model agreed by the Generator and the DPA Counterparty and uploaded to the DPA Counterparty's electronic portal on the Agreement Date;

"Agreed Permitted Senior Debt Amount Table" has the meaning given to that term in Condition 3.68(A);

"Amended First Repayment Date" has the meaning given to that term in Condition 3.72(A);

"Commercial Term Facility Agreement" has the meaning given to that term in the Agreement;

"Debt Deferral Event" means an event where a Senior Debt deferral notice is issued by the Generator under the Senior Financing Agreements;

"Financial Close and Hedging Date" means the later of (i) the date the Generator has entered into the Senior Financing Agreements with the Senior Lenders who are providing Senior Debt; (ii) the date the Generator has satisfied all conditions precedent within the Senior Financing Agreements; and (iii) the date the interest rate and FX swaps under the Senior Financing Agreements have been executed;

"Financial Model Determination Protocol" means the protocol set out in Appendix F (Financial Model Determination Protocol);

"First Repayment Date" means the Scheduled First Repayment Date as may be amended pursuant to Conditions 3.71 to 3.79 (Adjustment to the First Repayment Date)

"First Repayment Date Amendment Notice" has the meaning given to that term in Condition 3.71;

"First Repayment Date Amendment Response Notice" has the meaning given to that term in Condition 3.75;

"First Repayment Date Amendment Supporting Information" has the meaning given to that term in Condition 3.75(C);

"Further First Repayment Date Response Notice" has the meaning given to that term in Condition 3.76(C)(ii);

"Further Permitted Senior Debt Amount Response Notice" has the meaning given to that term in Condition 3.68(B)(ii);

"Hedging Execution Call" means the telephone call between the Generator and the Generator's coordinating hedging bank, in relation to the execution of the interest rate and FX swaps under the Senior Financing Agreements;

"Permitted Senior Debt Amount Notice" has the meaning given to that term in Condition 3.64;

"Permitted Senior Debt Amount Response Notice" has the meaning given to that term in Condition 3.66;

"Permitted Senior Debt Amount Supporting Information" has the meaning given to that term in Condition 3.65(B);

"Permitted Senior Debt Amount Table" means the table setting out the Permitted Senior Debt Amounts, being the Agreed Permitted Senior Debt Amount Table;

"Scheduled First Repayment Date" has the meaning given to that term in the Agreement;

"Scheduled Second Repayment Date" has the meaning given to that term in the Agreement;

"Scheduled Third Repayment Date" has the meaning given to that term in the Agreement;

- (b) Insert new Conditions 3.62 to 3.79 immediately after Condition 3.61 as follows:

Notification of Hedging Execution Call

3.62 The Generator shall notify the DPA Counterparty promptly and in any event at least one (1) Business Day prior to the date on which the Generator intends to conduct the Hedging Execution Call.

3.63 The Generator shall grant the DPA Counterparty (and up to two (2) persons nominated by the DPA Counterparty which the DPA Counterparty considers to be suitably qualified) access to witness the Hedging Execution Call and the Generator's implementation of the Financial Model Determination Protocol.

Notification of Permitted Senior Debt Amount

3.64 The Generator shall, as soon as reasonably practicable and in any event no later than three (3) Business Days after the Financial Close and Hedging Date, give a notice to the DPA Counterparty (a **"Permitted Senior Debt Amount Notice"**). A Permitted Senior Debt Amount Notice shall:

- (A) specify the proposed values for the Permitted Senior Debt Amount, in the form set out in Annex 6 (Form of Permitted Senior Debt

Amount Table), which have been determined in accordance with the Financial Model Determination Protocol;

- (B) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to demonstrate that the proposed values for the Permitted Senior Debt Amount have been determined in accordance with the Financial Model Determination Protocol;*
- (C) include a copy of the Agreed Financial Model which has been updated to reflect the adjustments set out in paragraph 1 (Adjustments to the Agreed Financial Model) of Appendix F (Financial Model Determination Protocol);*
- (D) include a copy of the executed Commercial Term Facility Agreement which includes the inputs set out in paragraph 1 (Adjustments to the Agreed Financial Model) of Appendix F (Financial Model Determination Protocol) (as applicable); and*
- (E) include a copy of the relevant executed hedging documents which includes the inputs set out in paragraph 1 (Adjustments to the Agreed Financial Model) of Appendix F (Financial Model Determination Protocol) (as applicable).*

3.65 A Permitted Senior Debt Amount Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Permitted Senior Debt Amount Notice. Any Permitted Senior Debt Amount Notice shall be irrevocable.

*3.66 The DPA Counterparty shall, no later than three (3) Business Days after receipt of the Permitted Senior Debt Amount Notice, give a notice to the Generator (a **"Permitted Senior Debt Amount Response Notice"**). A Permitted Senior Debt Amount Response Notice shall specify that either:*

- (A) the DPA Counterparty agrees that the proposed values for the Permitted Senior Debt Amount have been determined in accordance with the Financial Model Determination Protocol; or*
- (B) the DPA Counterparty:*
 - (i) has not been provided with sufficient Supporting Information to determine whether the proposed values for the Permitted Senior Debt Amount have been determined in accordance with the Financial Model Determination Protocol; and/or*
 - (ii) subject to Condition 3.67, does not agree that the proposed values for the Permitted Senior Debt Amount have been determined in accordance with the Financial Model Determination Protocol,*

*in which case the Permitted Senior Debt Amount Response Notice shall provide details of any additional or revised Supporting Information which the DPA Counterparty requires to determine whether the proposed values for the Permitted Senior Debt Amount have been determined in accordance with the Financial Model Determination Protocol (the "**Permitted Senior Debt Amount Supporting Information**").*

3.67 *The DPA Counterparty shall only give a Permitted Senior Debt Amount Response Notice pursuant to Condition 3.66(B)(ii) if:*

- (A) the Generator has not complied with and fully implemented the Financial Model Determination Protocol; and/or*
- (B) there is a manifest error or fraud in respect of the Generator's determination of the proposed values for the Permitted Senior Debt Amount.*

3.68 *If the DPA Counterparty:*

- (A) gives a Permitted Senior Debt Amount Response Notice pursuant to Condition 3.66(A), the proposed table of values specified in the Permitted Senior Debt Amount Notice shall become the table of Permitted Senior Debt Amounts with effect from the Financial Close and Hedging Date and such table shall become the "**Agreed Permitted Senior Debt Amount Table**"; or*
- (B) gives a Permitted Senior Debt Amount Response Notice pursuant to Condition 3.66(B):*
 - (i) the Generator shall provide the Permitted Senior Debt Amount Supporting Information and, if Condition 3.66(B)(ii) applies, a response to the reasons for disagreement with the Generator's proposed values for the Permitted Senior Debt Amount and (where relevant) an update to the proposed values for the Permitted Senior Debt Amount in the form set out in Annex 6 (Form of Permitted Senior Debt Amount Table), as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of the Permitted Senior Debt Amount Response Notice, or such longer period as is specified by the DPA Counterparty; and*
 - (ii) upon receipt of the Permitted Senior Debt Amount Supporting Information and, if Condition 3.66(B)(ii) applies, a response to the reasons for disagreement with the Generator's proposed values for the Permitted Senior Debt Amount and (where relevant) an update to the proposed values for the Permitted Senior Debt Amount in the form set out in Annex 6 (Form of Permitted Senior Debt Amount*

Table), the DPA Counterparty shall, no later than ten (10) Business Days after receipt of the same, give a further Permitted Senior Debt Amount Response Notice to the Generator (a **"Further Permitted Senior Debt Amount Response Notice"**). A Further Permitted Senior Debt Amount Response Notice shall specify whether the DPA Counterparty agrees with the proposed values for the Permitted Senior Debt Amount as specified in the Permitted Senior Debt Amount Notice or (where relevant) the update to the proposed values for the Permitted Senior Debt Amount in the form set out in Annex 6 (Form of Permitted Senior Debt Amount Table).

3.69 Nothing in Conditions 3.64 to 3.68 (Notification of Permitted Senior Debt Amount) shall require the DPA Counterparty to specify in any Permitted Senior Debt Amount Response Notice or Further Permitted Senior Debt Amount Response Notice that the DPA Counterparty accepts the Generator's proposed values for the Permitted Senior Debt Amount unless and until the DPA Counterparty is satisfied of the same.

3.70 The Parties acknowledge and agree that the Permitted Senior Debt Amount shall be zero (0) until:

- (A) the DPA Counterparty gives a Permitted Senior Debt Amount Response Notice pursuant to Condition 3.66(A), or a Further Permitted Senior Debt Amount Response Notice pursuant to Condition 3.68(B)(ii) where the DPA Counterparty agrees with the proposed values for the Permitted Senior Debt Amount as specified in the relevant Permitted Senior Debt Amount Notice; or
- (B) the date that the Permitted Senior Debt Amount is otherwise determined pursuant to the Dispute Resolution Procedure,

following which it will be backdated to apply from the Financial Close and Hedging Date with the proposed values for the Permitted Senior Debt Amount.

Amendment to the First Repayment Date

3.71 The Generator may, as soon as reasonably practicable and in any event no later than five (5) Business Days after the occurrence of a Debt Deferral Event, give a notice to the DPA Counterparty (a **"First Repayment Date Amendment Notice"**) to amend:

- (A) if the Debt Deferral Event has occurred prior to the Scheduled First Repayment Date and relates to the deferral of the Scheduled First Repayment Date, the First Repayment Date to the Scheduled Second Repayment Date; and/or

- (B) *if the Debt Deferral Event has occurred after the Scheduled First Repayment Date but prior to the Scheduled Second Repayment Date and relates to the deferral of the First Repayment Date which has previously been amended pursuant to limb (A), the deferred First Repayment Date to the Scheduled Third Repayment Date,*

provided that the Generator shall not be entitled to:

- (i) *extend the Scheduled First Repayment Date by more than twelve (12) months; or*
- (ii) *amend the value of the amounts set out in the column labelled "Permitted Senior Debt Amounts" in the Agreed Permitted Senior Debt Amount Table.*

3.72 *A First Repayment Date Amendment Notice shall:*

- (A) *specify the amended First Repayment Date (the "**Amended First Repayment Date**");*
- (B) *include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to demonstrate that:*
 - (i) *if the First Repayment Date Amendment Notice relates to Condition 3.71(A) the Debt Deferral Event has occurred prior to the First Repayment Date and relates to the deferral of the Scheduled First Repayment Date; and*
 - (ii) *if the First Repayment Date Amendment Notice relates to Condition 3.71(B) the Debt Deferral Event has occurred after the Scheduled First Repayment Date and prior to the Scheduled Second Repayment Date and relates to the deferral of the First Repayment Date which has previously been amended pursuant to Condition 3.71(A); and*
- (C) *include a copy of the relevant debt deferral notice issued by the Generator under the Senior Financing Agreements.*

3.73 *A First Repayment Date Amendment Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the First Repayment Date Amendment Notice.*

3.74 *Any First Repayment Date Amendment Notice shall be irrevocable. Any First Repayment Date Amendment Notice given to the DPA Counterparty shall be invalid and of no effect if the Scheduled First Repayment Date has already been extended by twelve (12) months.*

3.75 *The DPA Counterparty shall, no later than ten (10) Business Days after receipt of a First Repayment Date Amendment Notice, give a notice to the Generator (a "**First Repayment Date Amendment Response Notice**").*

A First Repayment Date Amendment Response Notice shall specify whether the DPA Counterparty considers that:

- (A) if the First Repayment Date Amendment Notice relates to Condition 3.71(A), a Debt Deferral Debt Event has or has not occurred prior to the First Repayment Date and does or does not relate to the deferral of the Scheduled First Repayment Date; or*
- (B) if First Repayment Date Amendment Notice relates to Condition 3.71(B), the Debt Deferral Event has or has not occurred after the Scheduled First Repayment Date and prior to the Scheduled Second Repayment Date and does or does not relate to the deferral of the amended First Repayment Date which has previously been amended pursuant to Condition 3.71(A); or*
- (C) it has not been provided with sufficient Supporting Information to determine the matters referred to in limbs (A) and (B), in which case the DPA Counterparty shall provide details of the additional Supporting Information which it requires to determine such matters (the **"First Repayment Date Amendment Supporting Information"**).*

3.76 If the DPA Counterparty states in a First Repayment Date Amendment Response Notice that it:

- (A) agrees with:*
 - (i) if the First Repayment Date Amendment Notice relates to Condition 3.71(A), the Amended First Repayment Date on the grounds set out in Condition 3.75(A); or*
 - (ii) if the First Repayment Date Amendment Notice relates to Condition 3.71(B), the Amended First Repayment Date on the grounds set out in Condition 3.75(B),*

then Condition 3.78 shall apply;

- (B) does not agree with:*
 - (i) if the First Repayment Date Amendment Notice relates to Condition 3.71(A), the Amended First Repayment Date on the grounds set out in Condition 3.75(A); or*
 - (ii) if the First Repayment Date Amendment Notice relates to Condition 3.71(B), the Amended First Repayment Date on the grounds set out in Condition 3.75(B),*

then Condition 3.79 shall apply; or

(C) *requires the Generator to provide First Repayment Date Amendment Supporting Information pursuant to Condition 3.75(C), then:*

(i) *the Generator shall provide the First Repayment Date Amendment Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the First Repayment Date Amendment Response Notice, or such longer period as is specified by the DPA Counterparty; and*

(ii) *upon receipt of the First Repayment Date Amendment Supporting Information, the DPA Counterparty shall, as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of the same, give a further First Repayment Date Amendment Response Notice to the Generator (a "**Further First Repayment Date Amendment Response Notice**"). A Further First Repayment Date Amendment Response Notice shall specify whether the DPA Counterparty:*

(a) *if the First Repayment Date Amendment Notice relates to Condition 3.71(A), agrees or does not agree with the Amended First Repayment Date on the grounds set out in Condition 3.75(A); or*

(b) *if the First Repayment Date Amendment Notice relates to Condition 3.71(B), agrees or does not agree with the Amended First Repayment Date on the grounds set out in Condition 3.75(B).*

3.77 *Nothing in Conditions 3.71 to 3.76 (Amendment to the First Repayment Date) shall require the DPA Counterparty to specify in any First Repayment Date Amendment Response Notice or Further First Repayment Date Amendment Response Notice that the DPA Counterparty agrees with any Amended First Repayment Date, unless and until the DPA Counterparty is satisfied of the same.*

3.78 *If the DPA Counterparty specifies in a First Repayment Date Amendment Response Notice or Further First Repayment Date Amendment Response Notice that it agrees with any Amended First Repayment Date, the Amended First Repayment Date shall become the First Repayment Date with effect from the date of the First Repayment Date Amendment Response Notice or Further First Repayment Date Amendment Response Notice (as applicable).*

3.79 *If the DPA Counterparty specifies in a First Repayment Date Amendment Response Notice or Further First Repayment Date Amendment Response Notice that it does not agree with any Amended First Repayment Date on the grounds set out in Condition 3.75(A) or Condition 3.75(B) (as*

applicable), then the unamended First Repayment Date shall continue to apply.

- (c) The Permitted Senior Debt Amount Notice in Appendix H of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.
- (d) The Permitted Senior Debt Amount Response Notice in Appendix I of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.
- (e) The Further Permitted Senior Debt Amount Response Notice in Appendix J of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.
- (f) The First Repayment Date Amendment Notice in Appendix K of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.
- (g) The First Repayment Date Amendment Response Notice in Appendix L of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.
- (h) The Further First Repayment Date Amendment Response Notice in Appendix M of this Annex 2 (*Modification Agreement*) shall be added as a pro forma notice to Annex 12 (*Pro forma notices*) of the Conditions.

Part G: Qualifying Change in Law

With effect on and from the Agreement Date, the Conditions shall be amended as follows:

- (a) The following definitions shall apply:

"DCO Change in Law" means a Change in Law (whether or not appealable) the terms of which result in (or will result in) the Facility Development Consent Order ceasing to be in full force and effect;

"Facility Development Consent Order" means the development consent order in relation to the Project issued by the Secretary of State on 16 February 2024 (Ref: ENO010103);

"Net Recoverable Value of the Facility" means initially the anticipated fair market value and once determined the actual selling price of the whole of the Facility or, where it is not reasonably practicable to effect the sale and transfer of the whole of the Facility, the individual components forming part of the Facility (the **"Facility Assets"**), being the amount for which the Facility Assets could be or are exchanged in an arm's length transaction between informed and willing parties, other than in a forced or liquidation sale, in each case whether for re-use or scrap, with such value:

- (A) determined in accordance with IFRS 13 Fair Value Measurement (or any suitable, alternative accounting standard that is agreed by the Parties, acting reasonably);
- (B) based on the assumption that the Facility Assets are in the condition that they would have been in had the Generator operated and/or maintained such assets in accordance with the Reasonable and Prudent Standard (but excluding the costs of any rectification and/or maintenance works that would be required to bring the Facility Assets up to such standard);
- (C) reduced to reflect the reasonable costs of marketing and entering into one or more agreement(s) for the sale and transfer of the Facility Assets (including any external legal and/or accountancy costs);
- (D) reduced to reflect the reasonable costs of disconnecting, disassembling, packaging, handling, removing, transporting and/or delivering the Facility Assets as part of their sale and transfer; and
- (E) deemed to be zero (0), where it is less than zero (0);

- (b) The definition of "QCIL Construction Event" shall be deleted and replaced with the following:

"QCIL Construction Event" means a Qualifying Change in Law which is implemented, occurs or becomes effective after the Agreement Date and before the Start Date and which will permanently prevent the Generator, acting in accordance with the Reasonable and Prudent Standard, from Commissioning the Generation Assets and/or the Capture Assets by virtue of the necessary construction, testing, completion or commissioning of

the Generation Assets and/or the Capture Assets becoming illegal. The Parties acknowledge and agree that:

- (A) *a DCO Change in Law which is appealable shall be a QCiL Construction Event on the earlier of: (i) the date on which the DPA Counterparty terminates the DPA in accordance with Condition 36.39(B)(iii); and (ii) the date on which the DPA Counterparty is required to issue a QCiL Termination Notice in accordance with Condition 27.19; and*
- (B) *a DCO Change in Law which is not appealable or has ceased to be appealable shall be a QCiL Construction Event immediately upon the date on which such DCO Change in Law occurs or ceases to be appealable (as applicable).*
- (c) The definition of "QCiL Construction Event Costs" shall be deleted and replaced with the following:

"QCiL Construction Event Costs" means, in relation to a QCiL Construction Event, all out-of-pocket costs (including QCiL Tax Liabilities) which are irrecoverable and unavoidable by the Generator and which have been, will be or are reasonably likely to be incurred in respect of the Project by the Generator arising directly from such QCiL Construction Event occurring, if and to the extent that such costs constitute:

- (A) *development and pre-development costs in respect of the Facility (including (i) the cost of surveys and environmental impact assessments in respect of the Facility; (ii) costs incurred in satisfying the Secretary of State's assessment with respect to the allocation of the DPA; and (iii) costs incurred in obtaining a planning permission for the Facility) (and including development and pre-development costs in respect of the Facility which the Generator incurs prior to the date of the QCiL Construction Event, which shall be deemed to be irrevocable and unavoidable and arising directly from such QCiL Construction Event occurring);*
- (B) *decommissioning costs in respect of the Facility;*
- (C) *break costs associated with the Generator's contractual or financing arrangements in respect of the Project (including break costs relating to any foreign exchange and/or interest rate hedging placed by the Generator under its financing arrangements);*
- (D) *costs which are wholly attributable to the construction, testing, completion or commissioning of the Facility (including the costs which the Generator incurs in constructing, testing, completing or commissioning the Facility prior to the date of the QCiL Construction Event, which shall be deemed to be irrevocable and unavoidable and arising directly from such QCiL Construction Event occurring);*
- (E) *T&S Charges payable by the Generator which are attributable to the period commencing on the Discontinuance Date,*

but excluding:

- (F) *all other compensation which has been, will be or is reasonably likely to be payable by the Generator in connection with such QCiL Construction Event; and*
- (G) *all costs associated with the Generator's financing arrangements in respect of the Project (including all interest incurred in respect of such financing arrangements) except where expressly specified in any of paragraphs (A) to (E) above; and*
- (H) *except in respect of a DCO Change in Law, including a negative adjustment that the Parties agree, or that is determined pursuant to the Dispute Resolution Procedure, reflects (a) the revenue that the Generator is expected to generate (including wholesale electricity market revenue, balancing system services revenue and ancillary services revenue) in respect of electricity that the Facility is expected to generate from the date on which the QCiL Construction Event occurs to the date on which the Term would have expired but for the occurrence of such QCiL Construction Event, with such revenue calculated:*
 - (i) *based on the Facility's Assumed Unabated Net Dependable Capacity, Assumed Unabated Load Factor and Assumed Unabated Net Efficiency (with each term reflecting forecast degradation factors and other appropriate factors); and*
 - (ii) *based on forecast wholesale electricity market revenues for the day-ahead electricity market, determined in accordance with an operating regime that stacks revenues across the different revenue streams and which balances the objectives of maximising revenue and minimising the volatility of earnings, derived from a GB Power Market Model produced by an Energy Economist,*

minus (b) the operating costs that the Generator is expected to incur to generate such electricity;
- (d) The definition of "QCiL Construction Event Savings" shall be deleted and replaced with the following:

"QCiL Construction Event Savings" *means, in relation to a QCiL Construction Event, the sum of:*
 - (A) *all savings (including avoided out-of-pocket costs, reliefs from or reductions in a QCiL Tax Liability, insurance proceeds and other compensation) which have been, will be or are reasonably likely to be made or received in respect of the Project by the Generator arising directly from such QCiL Construction Event occurring; and*
 - (B) *in respect of a DCO Change in Law only, the Net Recoverable Value of the Facility;*

- (e) The definition of "Qualifying Change in Law" shall be deleted and replaced with the following:

"Qualifying Change in Law" means:

- (A) a Discriminatory Change in Law;
- (B) a Specific Change in Law;
- (C) an Other Change in Law; or
- (D) a DCO Change in Law,

which, in the case of limbs (A) to (C) only, is not a Foreseeable Change in Law, and provided that no decision by any Subsidy Control Competent Authority in respect of the application of the Subsidy Control Rules to the DPA or CCUS Programme DPAs (including the annulment, invalidation, suspension, revocation, modification or replacement of any prior decision pursuant to such rules) shall constitute a Qualifying Change in Law;

- (f) Condition 3.14 shall be deleted and replaced with the following:

Operational Conditions Precedent: Construction Reporting Requirements

3.14 The Generator shall:

- (A) *keep the DPA Counterparty fully informed as to the progress in relation to the Pre-Operation Activities from the Agreement Date until the Start Date and in particular (but without limitation) shall:*
 - (i) *except during the period when limb (ii) applies, on or prior to every 1 February, 1 May, 1 September and 1 November that falls within such period (or, if such date is a day other than a Business Day, on the next Business Day after that date); or*
 - (ii) *from the date which falls two (2) Months after the Agreement Date until the date on which the judicial review challenge of the Facility Development Consent Order has been unsuccessful with no further rights of appeal, on the last day of each Month that falls within such period (or, if such date is a day other than a Business Day, on the next Business Day after that date),*

provide the DPA Counterparty with:

- (a) *reports (in form and content reasonably satisfactory to the DPA Counterparty and including reports from the Lenders' technical advisor (where available)) detailing the progress in relation to the Pre-Operation Activities (which shall cover, in respect of the period when limb (A)(ii) applies, the Pre-Operation Activities carried out up to and*

within the immediately preceding Month). As a minimum, each report shall satisfy the Minimum Reporting Content Requirements; and

- (b) any Supporting Information relating to the matters referred to in limb (a) above; and*

(B) provide the DPA Counterparty with:

- (i) within thirty (30) Business Days following the Agreement Date a report (in form and content reasonably satisfactory to the DPA Counterparty and including reports submitted to the Lenders (where available)) which sets out the development and pre-development costs incurred in respect of the Facility; and*
- (ii) any Supporting Information (including invoices) relating to the costs referred to in limb (i) above as soon as reasonably practicable, and no later than the date the first report is due under Condition 3.14(A)(ii).*

(g) Condition 18.1(G) shall be deleted and replaced with the following:

(G) No litigation: No litigation, arbitration or administrative suit or proceeding, adjudication, expert determination, Tax claim or Tax investigation against the Generator (or, so far as the Generator is aware, relating to the Project) is:

- (i) current;*
- (ii) pending before any court, arbitral or other tribunal, administrative or regulatory body or, as the case may be, expert; or*
- (iii) so far as the Generator is aware, by reason of receipt of a formal written notice before action or similar, threatened,*

and which, if adversely determined, would have or would reasonably be expected to have a Material Adverse Effect, excluding the judicial review challenge in respect of the grant of the Facility Development Consent Order.

(h) Condition 27.1(C) shall be deleted and replaced with the following:

(C) specify why the DPA Counterparty considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the DPA Counterparty considers the Qualifying Change in Law to be a Discriminatory Change in Law, a Specific Change in Law, an Other Change in Law, or a DCO Change in Law; and

(i) Condition 27.8(C) shall be deleted and replaced with the following:

(C) specify why the Generator considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the Generator considers the Qualifying Change in Law to be a Discriminatory Change in Law, a

Specific Change in Law, an Other Change in Law, or a DCO Change in Law (and including Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion);

- (j) Condition 27.11 shall be deleted and replaced with the following:

*27.11 The DPA Counterparty may, by notice to the Generator no later than thirty (30) Business Days (or, in relation to a QCiL Construction Event only, such longer period (which shall not exceed an additional twenty (20) Business Days) as the DPA Counterparty requires, acting reasonably, where the Generator has failed to comply with its obligations in Condition 3.14) after receipt of a Generator QCiL Notice or any Revised Generator QCiL Information, require the Generator to provide such Supporting Information in relation to that Generator QCiL Notice or, as the case may be, the Revised Generator QCiL Information (a "**Generator QCiL Notice Information Request**") as the DPA Counterparty reasonably requests.*

- (k) Conditions 27.14 to 27.16 shall be deleted and replaced with the following:

27.14 As soon as reasonably practicable, and in any event no later than fifteen (15) Business Days, or, in relation to a QCiL Construction Event only, such longer period (which shall not exceed an additional twenty (20) Business Days) as the DPA Counterparty requires, acting reasonably, where the Generator has failed to comply with its obligations in Condition 3.14, after either:

- (A) the DPA Counterparty receives from the Generator a Generator QCiL Notice and the associated Directors' Certificate (or, if the DPA Counterparty gives the Generator a Generator QCiL Notice Information Request, after the DPA Counterparty has received the requested Supporting Information); or*
- (B) the DPA Counterparty receives from the Generator a Generator QCiL Response Notice and the associated Directors' Certificate (or, if the DPA Counterparty gives the Generator a Generator QCiL Response Notice Information Request, after the DPA Counterparty has received the requested Supporting Information),*

the Parties shall meet to discuss and, in good faith, seek to agree as soon as reasonably practicable:

- (i) whether the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law;*
- (ii) in respect of a Qualifying Change in Law:*
 - (a) the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate);*
 - (b) whether the Notified Change in Law will, or is reasonably expected to, result in:*

- (aa) *QCiL Net Operating Costs or QCiL Net Operating Savings;*
- (bb) *QCiL Net Capital Costs or QCiL Net Capital Savings;*
- (cc) *an Adjusted Revenues Period (and, if so, the impact, or the reasonably anticipated impact, of the Notified Change in Law on one (1) or more of the following: (i) the Net Dependable Capacity; (ii) the Availability of Generation; (iii) the Availability of Capture; and/or (iv) the Metered Day Electricity Output);*
- (dd) *a QCiL Construction Event and if so, the Generator's good faith estimate of the QCiL Construction Event Costs and QCiL Construction Event Savings; and/or*
- (ee) *a QCiL Operations Cessation Event and, if so, the Generator's good faith estimate of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings;*
- (c) *the amounts, forecasts and estimates applicable to that Qualifying Change in Law referred to in Condition 27.2(C) or 27.8(D) (as appropriate);*
- (d) *the steps or additional steps, as the case may be, which the Generator should take to comply with Condition 47.3 (Mitigation) and the Reasonable and Prudent Standard; and*
- (e) *any other matters necessary to determine the quantum of the QCiL Compensation;*
- (iii) *the QCiL Compensation in respect of such Qualifying Change in Law; and*
- (iv) *the QCiL Compensation Date.*

27.15 If the Parties are not able to agree any of the matters in Condition 27.14 (in respect of a QCiL Construction Event only, within forty (40) Business Days after the Parties first meet to discuss and agree such matters), either Party may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree in writing that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

27.16 *Subject to Condition 27.17, until the Dispute has been resolved by agreement between the Parties or determination in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no QCiL Compensation payable.*

(l) Insert new Conditions 27.17 to 27.19 immediately following Condition 27.16 as follows:

27.17 *If either Party disputes any part of the QCiL Construction Event Payment pursuant to Condition 27.15, the DPA Counterparty may withhold payment of the part (insofar as the DPA Counterparty is reasonably able to quantify it) which is under dispute, pending agreement or determination of the disputed amount but the DPA Counterparty shall pay any undisputed parts of the QCiL Construction Event Payment and such amounts agreed or determined in accordance with Condition 27.14 in accordance with Condition 29.*

27.18 *Following the service of a DPA Counterparty QCiL Notice or a Generator QCiL Notice relating to a DCO Change in Law which is appealable (the date on which such notice is served being the "**DCO Change in Law Date**"), either Party may convene a meeting for the purpose of addressing the DCO Change in Law. The Parties shall convene to discuss the matter, including what are the proposed solutions to address the impact of the DCO Change in Law to allow the Project to proceed, and seek to reach agreement on a proposed solution.*

27.19 *If the Parties have not reached agreement on a proposed solution by the date falling four (4) months after the date of the relevant DCO Change in Law, the Parties acknowledge and agree that the DPA Counterparty shall issue a QCiL Termination Notice in accordance with Condition 36.37 within ten (10) Business Days of the expiry of the date falling four (4) months after the date of the relevant DCO Change in Law, and the DCO Change in Law shall constitute a QCiL Construction Event from the date on which the DPA Counterparty is required to issue such notice.*

(m) Condition 28.26 shall be deleted and replaced with the following:

28.26 *Any QCiL Construction Event Payment shall be effected at the election of the DPA Counterparty (after consultation with the Generator) as a lump sum payment or staged payments and shall be payable to the Generator by the DPA Counterparty, except for a QCiL Construction Event Payment relating to a DCO Change in Law which shall only be paid as a lump sum to the Generator by the DPA Counterparty.*

(n) Condition 36.37 shall be deleted and replaced with the following:

36.37 *Subject to Condition 36.38 and Condition 27.19, if a Qualifying Change in Law is implemented, occurs or becomes effective and gives rise to or results in a QCiL Construction Event or a QCiL Operations Cessation Event (including a Qualifying Shutdown Event), the DPA Counterparty shall give notice to the Generator terminating the DPA (a "**QCiL Termination Notice**"). A QCiL Termination Notice shall specify the date (on or following the date of the QCiL Termination Notice)*

on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being the "QCiL Termination Date").

- (o) Condition 36.39 shall be deleted and replaced with the following:

36.39 The DPA Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating the DPA if:

(A) a Qualifying Change in Law occurs, is implemented or becomes effective; and

(B) either:

(i)

(a) such Qualifying Change in Law occurs, is implemented or becomes effective before the Start Date and does not constitute a QCiL Construction Event; and

(b) Condition 28.3(A) applies;

(ii)

(a) such Qualifying Change in Law occurs, is implemented or becomes effective on or after the Start Date and does not constitute a QCiL Operations Cessation Event; and

(b) Condition 28.3(B) applies; or

(iii) such Qualifying Change in Law is a DCO Change in Law which is appealable,

(a "QCiL Compensation Termination Notice"). A QCiL Compensation Termination Notice shall specify the date (on or following the date of the QCiL Compensation Termination Notice, but no later than the date which falls twenty (20) Business Days after the date of such notice) on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being a "QCiL Compensation Termination Date").

- (p) Paragraph 4(F) of Part A (*Initial Conditions Precedent*) of Annex 1 (*Conditions Precedent*) shall be deleted and replaced with the following:

(F) Applicable Planning Consents for the Facility and associated infrastructure.

- (q) Insert a new Clause 2.4(B) immediately following Clause 2.4(A) of Annex 7 (*Form of Direct Agreement*) as follows:

(B) The DPA Counterparty and the Generator agree that they shall not enter into any agreement or other arrangement which has the effect of waiving, reducing or

delaying payment of compensation in accordance with Conditions 28.26 to 28.29 of the Contract without the prior written consent of the Security Trustee (and any such agreement or other arrangement entered into without that consent shall not be effective to waive, reduce or delay the compensation to be paid).

Appendix A

(Initial Shared Infrastructure Register)

1. **Site Infrastructure** – The shared common infrastructure (which includes drainage and outfall, road/paving, fencing and lighting) required to construct, commission and operate the T&S Network which is located within the Facility boundary.
2. **Process Buildings** – The relevant infrastructure and equipment required to construct, commission and operate the T&S Network which are located in the following process buildings:
 - (A) Central Control Building (labelled as "CCR" on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*));
 - (B) Administration Building (labelled as "Admin" on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*));
 - (C) Local Equipment Room (LER-SS02) (labelled as "LER-SSO2" on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)); and
 - (D) Local Equipment Room (LER-SS03) (labelled as "LER-SSO3" on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)).
3. **Non-Process Buildings** – The relevant infrastructure and equipment required to construct, commission and operate the T&S Network which are located in the non-process buildings (which include the gate room, workshops, storage buildings and any other auxiliary buildings) shown in the green shaded areas of the plan set out in Appendix B (*Initial Shared Infrastructure Plan*), excluding the waste water treatment works.
4. **Shared Piperack** – The shared pipe rack and instrument and electrical cable trays required to construct, commission and operate the T&S Network which are located within the Facility boundary.
5. **Utility Connections / Interface Points** – The connection and tie-in of external and internal interface points (IP) (which include the high voltage cable) required to construct, commission and operate the T&S Network which are located within Facility boundary.
6. **Raw Water Treatment System** – The raw water treatment system (which includes storage tanks, pumps, and pipework) required to construct, commission and operate the T&S Network which is located within the Facility boundary.
7. **Potable Water Supply System** – The potable water system to supply potable water for the T&S Operator's personnel and normal building occupants required to construct, commission and operate the T&S Network which is located within the Facility boundary.
8. **Fire Water Supply System** – The fire water supply system (which includes the storage tanks, pumps, hydrants, and pipework) within the Facility boundary required to safely operate the T&S Network which supplies fire water to the following areas: (A) the HP compression plant (labelled as such on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)); (B) utility area (labelled as "Utilities" on the plan set out in

Appendix B (*Initial Shared Infrastructure Plan*)); and (C) LER SS-03 (labelled as such on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)).

9. **Nitrogen Supply System** – The nitrogen supply system within the Facility boundary (which includes the nitrogen skid, metering, and pipework) required to construct, commission and operate the T&S Network which supplies nitrogen to the following areas: (A) the HP compression plant (labelled as such on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)); and (B) the utility area (labelled as "Utilities" on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)).
10. **Instrument and Plant Air Supply System** – The instrument and plant air supply system within the Facility boundary (which includes oil free air compressors, absorption driers, common air receivers, filters, and pipework) required to construct, commission and operate the T&S Network which supplies instrument and plant air to the following areas: (A) the HP compression plant (labelled as such on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)); and (B) utility area (labelled as "Utilities" on the plan set out in Appendix B (*Initial Shared Infrastructure Plan*)).
11. **ICSS** – The Integrated Control and Safety System within the Facility boundary (which includes the process control and safety instrument systems) required to construct, commission and operate the T&S Network.
12. **Telecoms** – The telecoms system within the Facility boundary (which include telephones, portable radio, CCTV network infrastructure, and security management systems) required to construct, commission and operate the T&S Network.
13. **OSBL Infrastructure** - The shared outside battery limits common infrastructure (which includes pipeline foundations and supports, culverts, and pipe bridges) required to construct, commission and operate the T&S Network which is located outside the Facility boundary.

Appendix B
(Initial Shared Infrastructure Plans)

(Redacted)

Appendix C
(Shared Infrastructure Amendment Notice)

To: [●] (the "DPA Counterparty")
 [Unique reference number: [●]][Address]

From: [●] (the "Generator")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – SHARED INFRASTRUCTURE AMENDMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between us as the Generator and you as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7A.1.
3. This is an Shared Infrastructure Amendment Notice.
4. ***[We consider that a T&S Network User Expansion Event has occurred, the relevant details of which are [●].]***
5. We enclose a copy of the Revised Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans ***[which are required to accommodate the T&S Network Expansion Event]***. The amendments proposed are as follows [●].
6. We consider that the Revised Shared Infrastructure Register and/or the Revised Shared Infrastructure Plans will not significantly increase the scope of the Shared Services provided by the Shared Services Provider.
7. We enclose ***[by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice]*** Supporting Information, in reasonable detail, which we consider to be relevant to evidence and to be supportive of the information contained in or enclosed with this notice.
8. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

Appendix D
(Shared Infrastructure Amendment Response Notice)

To: [●] (the "Generator")
 [Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – SHARED INFRASTRUCTURE AMENDMENT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7A.4.
3. This is a Shared Infrastructure Amendment Response Notice in relation to the Shared Infrastructure Amendment Notice dated [●].
4. ***[We [do not] agree that a T&S Network User Expansion Event has occurred [and/or] that the Revised Shared Infrastructure Register and/or Revised Shared Infrastructure Plans (as specified in the Shared Infrastructure Amendment Notice) are required to accommodate the T&S Network User Expansion Event.]***
5. ***[We [do not] agree that the Revised Shared Infrastructure Register and/or Revised Shared Infrastructure Plans will not significantly increase the scope of the Shared Services provided by the Shared Services Provider.]***
6. ***[We consider that we have not been provided with sufficient Supporting Information]. [We require the following Supporting Information: [●].]***

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Appendix E
(Further Shared Infrastructure Amendment Response Notice)

To: [●] (the "Generator")
 [Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – FURTHER SHARED INFRASTRUCTURE AMENDMENT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7A.5(C)(ii).
3. This is an Further Shared Infrastructure Amendment Response Notice in relation to the Shared Infrastructure Amendment Notice dated [●] and the Shared Infrastructure Amendment Response Notice dated [●].
4. Following receipt of the Shared Infrastructure Amendment Supporting Information from you on [●], **[we [do not] agree that:**
 - (A) ***[a T&S Network User Expansion Event has occurred and that the Revised Shared Infrastructure Register and/or Revised Shared Infrastructure Plans (as specified in the Shared Infrastructure Amendment Notice) are required to accommodate the T&S Network User Expansion Event;][and/or]***
 - (B) ***[the Revised Shared Infrastructure Register and/or Revised Shared Infrastructure Plans will not significantly increase the scope of the Shared Services provided by the Shared Services Provider.]]***

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Appendix F
(Financial Model Determination Protocol)

1. ADJUSTMENTS TO THE AGREED FINANCIAL MODEL

Following the Financial Close and Hedging Date, the following cells only in the Agreed Financial Model shall be updated as follows in order to calculate the Permitted Senior Debt Amount and populate the table set out in Annex 6 (*Form of Permitted Senior Debt Amount Table*):

(A) Contingencies in Capital Costs:

- (i) cell L54 of tab labelled "InpC" shall be set to zero (0); and
- (ii) line 161 of the tab labelled "InpT" shall be included as the only contingencies input for the capital costs of the Project for the purposes of this calculation;

(B) FX Rate Profiles:

- (i) in section 1.3 of the tab labelled "InpT", update line 91 by inserting the forecast exchange rates for GBP/EUR, which shall be delivered as agreed by the Parties during from the Hedging Execution Call; and then in cell L45 of the tab labelled "InpC" use the drop down function to select line 91 of the tab labelled "InpT" for GBP/EUR rate;
- (ii) in section 1.3 of the tab labelled "InpT", update line 102 by inserting forecast exchange rates for GBP/USD, which shall be delivered as agreed by the Parties during the Hedging Execution Call; and then in cell L46 of the tab labelled "InpC" use the drop down function to select line 102 of the tab labelled "InpT" for GBP/USD rate; and
- (iii) in section 1.3 of the tab labelled "InpT", update line 113 by inserting the forecast exchange rates for GBP/PLN, which shall be delivered as agreed by the Parties during the Hedging Execution Call; and then in cell L47 of the tab labelled "InpC" use the drop down function to select line 113 of the tab labelled "InpT" for GBP/PLN rate;

(C) FX Hedging Inputs:

- (i) in section 9.1 of the tab labelled "InpT", update line 578 by inserting the notional hedge profile amounts for GBP/EUR, as set out in the relevant hedging documents relating to the Senior Debt; and then in cell L272 of the tab labelled "InpC" use the drop down function to select line 578 of the tab labelled "InpT" for GBP/EUR hedge notional;
- (ii) in section 9.2 of the tab labelled "InpT", update line 588 by inserting the notional hedge profile amounts for GBP/USD, as set out in the relevant hedging documents relating to the Senior Debt; and then in cell L273 of

the tab labelled "InpC" use the drop down function to select line 588 of the tab labelled "InpT" for GBP/USD hedge notional; and

- (iii) in section 9.2 of the tab labelled "InpC", update cells L275 – L280 by inserting (as applicable):

- (a) the values of the FX hedging credit margins set out in the relevant hedging documents relating to the Senior Debt; and
- (b) the values of the offered FX forward rates from the Hedging Execution Call or as set out in the relevant hedging documents relating to the Senior Debt;

- (D) **Debt Sizing:** re-run the debt sizing calculation by activating the "Sizing" macro in the tab labelled "Dashboard" (as applicable);

- (E) **Interest Rate Profiles:**

- (i) in section 1.2 of the tab labelled "InpT", update line 69 by inserting the forecast interest rate values for 1 month SONIA, which shall be delivered as agreed by the Parties during the Hedging Execution Call; and then in cell D69 update the month reference in the cell label to reflect the month of the Hedging Execution call; and then in cell L40 of the tab labelled "InpC" use the drop down function to select the new values in line 69 of the tab labelled "InpT"; and
- (ii) in section 1.2 of the tab labelled "InpT", update line 80 by inserting the forecast interest rate values for 6 month SONIA, which shall be delivered as agreed by the Parties during the Hedging Execution Call; and then in cell D80 update the month reference in the cell label to reflect the month of the Hedging Execution call; and then in cell L41 of the tab labelled "InpC" use the drop down function to select the new values in line 80 of the tab labelled "InpT";

- (F) **Interest Rate Hedging Inputs:**

- (i) in section 8 of the tab labelled "InpT", update lines 556 and 566 by inserting the notional interest rate hedge profile amounts for monthly and quarterly, as set out in the relevant hedging documents relating to the Senior Debt; and then in cell L265 of the tab labelled "InpC" use the drop down function to select lines 556 and 566 of the tab labelled "InpT" for notional interest rate hedge; and
- (ii) in section 9.1 of the tab labelled "InpC", update cells L266 – L267 by inserting (as applicable)
 - (a) the values of the interest rate hedging credit margins set out relevant hedging documents relating to the Senior Debt; and

- (b) the values of the offered interest rate swap rates from the Hedging Execution Call or as set out in the relevant hedging documents relating to the Senior Debt; and
- (G) **Debt Sizing:** re-run the debt sizing calculation by activating the "Sizing" macro in the tab labelled "Dashboard".

2. DETERMINATION OF THE PERMITTED SENIOR DEBT AMOUNT

Following the adjustments to the Agreed Financial Model set out in paragraph 1 of this Appendix F, the 'Debt Balance' values from line 123 of the tab labelled "Debt" of the Agreed Financial Model shall be used to determine the Permitted Senior Debt Amount and populate the table set out in Annex 6 (*Form of Permitted Senior Debt Amount Table*) of the Agreement.

The Agreed Financial Model is configured on a calendar quarterly basis and the debt amortisation is six-monthly, and therefore in each row of the table set out in Annex 6 (*Form of Permitted Senior Debt Amount Table*) of the Agreement, the relevant value in line 123 of the tab labelled "Debt" of the Agreed Financial Model that corresponds to the debt balance at the start of the six-monthly period shall be used to determine the Permitted Senior Debt Amount and populate the table set out in Annex 6 (*Form of Permitted Senior Debt Amount Table*) of the Agreement.

Appendix G
(Escrow Longstop Termination Notice)

To: **[●]** [(the "Generator")] [(the "DPA Counterparty")]
 [Unique reference number: [●]][Address]

From: **[●]** [(the "Generator")] [(the "DPA Counterparty")]
 [Unique reference number: [●]] [Address]

Dated: **[●]**

DPA – ESCROW LONGSTOP TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated **[●]** between [you] [us] as the Generator and [you] [us] as the DPA Counterparty in relation to the **[●]** Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Conditions 36A.1.
3. This is an Escrow Longstop Termination Notice.
4. The Escrow Longstop Termination Date is **[●]**.

Yours faithfully,

.....
 For and on behalf of
 the **[DPA Counterparty] [Generator]**

Appendix H
(Permitted Senior Debt Amount Notice)

To: [●] (the "DPA Counterparty")
[Unique reference number: [●]][Address]

From: [●] (the "Generator")
[Unique reference number: [●]] [Address]

Dated: [●]

DPA – PERMITTED SENIOR DEBT AMOUNT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between us as the Generator and you as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.64.
3. This is a Permitted Senior Debt Amount Notice.

The proposed values for the Permitted Senior Debt Amount are [●].
4. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** Supporting Information, in reasonable detail, which we consider to be relevant to demonstrate that the proposed values for the Permitted Senior Debt Amount have been determined in accordance with the Financial Model Determination Protocol.
5. We enclose a copy of:
 - (A) the updated Agreed Financial Model;
 - (B) the executed Commercial Term Facility Agreement; and
 - (C) the executed **[relevant hedging documents]**.
6. We enclose a Director's Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

Appendix I
(Permitted Senior Debt Amount Response Notice)

To: [●] (the "Generator")
 [Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – PERMITTED SENIOR DEBT AMOUNT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.66.
3. This is a Permitted Senior Debt Response Notice in relation to the Permitted Senior Debt Amount Notice dated [●].
4. ***[We [do not] agree that the proposed values for the Permitted Senior Debt Amount (as specified in the Permitted Senior Debt Amount Notice) have been determined in accordance with the Financial Model Determination Protocol.]***
5. ***[We consider that we have not been provided with sufficient Supporting Information to determine whether the proposed values for the Permitted Senior Debt Amount (as specified in the Permitted Senior Debt Amount Notice) have been determined in accordance with the Financial Model Determination Protocol]. [We require the following Supporting Information: [●].]***

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Appendix J
(Further Permitted Senior Debt Amount Response Notice)

To: [●] (the "Generator")
 [Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – FURTHER PERMITTED SENIOR DEBT AMOUNT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.68(B)(ii).
3. This is a Further Permitted Senior Debt Response Notice in relation to the Permitted Senior Debt Amount Notice dated [●] and the Permitted Senior Debt Response Notice dated [●].
4. Following receipt of the Permitted Senior Debt Amount Supporting Information from you on [●], ***[we [do not] agree with the [update to the] proposed values for the Permitted Senior Debt Amount (as specified in the Permitted Senior Debt Amount Notice).]***

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Appendix K
(First Repayment Date Amendment Notice)

To: [●] (the "DPA Counterparty")
 [Unique reference number: [●]][Address]

From: [●] (the "Generator")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – FIRST REPAYMENT DATE AMENDMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between us as the Generator and you as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.71.
3. This is a First Repayment Date Amendment Notice.
4. The Amended First Repayment Date is [●].
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information, in reasonable detail, which we consider to be relevant to demonstrate that:
 - (A) *[the Debt Deferral Event has occurred prior to the First Repayment Date and relates to the deferral of the Scheduled First Repayment Date;]*
 - (B) *[the Debt Deferral Event has occurred after the Scheduled First Repayment Date and prior to the Scheduled Second Repayment Date and relates to the deferral of the First Repayment Date which has previously been amended pursuant to Condition 3.71(A).]*
6. We enclose the debt deferral notice issued by the Generator under the Senior Financing Agreements.
7. We enclose a Director's Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

Appendix L
(First Repayment Date Amendment Response Notice)

To: [●] (the "Generator")
 [Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – FIRST REPAYMENT DATE AMENDMENT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.75.
3. This is a First Repayment Date Response Notice in relation to the First Repayment Date Response Notice dated [●].
4. We consider that:
 - (A) *[a Debt Deferral Event [has/has not] occurred prior to the First Repayment Date and [does/does not] relate to the deferral of the Scheduled First Repayment Date.]*
 - (B) *[a Debt Deferral Event [has/has not] occurred after the Scheduled First Repayment Date and prior to the Scheduled Second Repayment Date and [does/does not] relate to the deferral of the amended First Repayment Date which has previously been amended pursuant to 3.71(A).]*
5. *[We consider that we have not been provided with sufficient Supporting Information to determine the matters contained in Condition [3.75(A)/3.75(B).] [We require the following Supporting Information: [●].]*

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Appendix M
(Further First Repayment Date Amendment Response Notice)

To: [●] (the "Generator")
 [Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
 [Unique reference number: [●]] [Address]

Dated: [●]

DPA – FURTHER FIRST REPAYMENT DATE AMENDMENT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.76(C)(ii).
3. This is a Further First Repayment Date Amendment Response Notice in relation to the First Repayment Date Amendment Notice dated [●] and the First Repayment Date Amendment Response Notice dated [●].
4. Following receipt of the First Repayment Date Amendment Supporting Information from you on [●], ***[we [do not] agree with the Amended First Repayment Date as specified in the First Repayment Date Amendment Notice on the grounds set out in Condition [3.75(A)/3.75(B)].]***

Yours faithfully,

***.....

For and on behalf of
 the **DPA Counterparty**

Annex 3 (Project Commitments)

Part A: General Project Commitments

Delivery to the DPA Counterparty of the following:

- (A) a copy of a resolution of the Generator's board of directors (or an equivalent management committee or body) to:
 - (i) undertake the Project;
 - (ii) approve the total financial commitments required to commission the Project (the "**Total Project Spend**"); and
 - (iii) approve a timetable for undertaking the Project which demonstrates that the Facility can reasonably be expected to be Commissioned no later than the Longstop Date;
- (B) a Directors' Certificate certifying that:
 - (i) the Generator has, or will have, sufficient financial resources to meet the Total Project Spend;
 - (ii) any contract entered into and provided as Supporting Information pursuant to the Milestone Requirement Notice, in the reasonable opinion of the Generator by reference to the facts and circumstances then existing, is:
 - (a) legal, valid and binding; and
 - (b) entered into with one or more counterparties who are each able to perform their obligations under such contract;
 - (iii) the Generator has a leasehold or freehold interest in the site where the Facility is based (the "**Facility Site**") or contractual rights to obtain the same;
 - (iv) the Facility Site is not subject to any covenants, restrictions, agreements, planning obligations, estate contracts, options, rights of way or other encumbrances which materially inhibit the use of the Facility Site for the purposes of the Project;
 - (v) there are available to the Facility Site such rights, easements and services as are necessary to undertake the Project and operate the Facility, or there is a credible strategy in place to obtain the same;
 - (vi) the Generator has identified all necessary consents to undertake the Project (the "**Necessary Consents**"); and

- (vii) there is a credible strategy in place to obtain the Necessary Consents and the Necessary Consents are not subject to any condition for which there does not exist a plan to satisfy that condition, such that the Generator is not aware of any necessary consents which cannot be obtained or complied with,

((iii) to (vii), together the "**Facility Requirements**"); and

- (C) Supporting Information evidencing (in each case in the opinion of the DPA Counterparty acting reasonably) (i) that the Generator has, or will have, sufficient financial resources to meet the Total Project Spend and (ii) the Facility Requirements.

Part B: Technology Specific Project Commitments

1. POST-COMBUSTION TECHNOLOGY

Delivery to the DPA Counterparty of Supporting Information evidencing any one of the following:

- (A) entry by the Generator into an engineering, procurement and construction contract for the Facility, providing for the supply and installation of the Material Equipment;
- (B) entry by the Generator into an agreement for the supply of the Material Equipment; and
- (C) entry by the Generator into: (i) a framework agreement for the supply of the Material Equipment; and (ii) a binding purchase order for the Material Equipment.

For the purpose of this section of Part B, the following definition shall apply to this DPA:

"Material Equipment" means such equipment in respect of the Project, which, acting in accordance with a Reasonable and Prudent Standard, the Generator could reasonably be expected to have ordered and/or concluded a supply agreement in respect of, to enable the Facility to be Commissioned at the start of the Target Commissioning Window, and in any event, such equipment shall include:

Generation Assets

- (i) gas turbine and generator;
- (ii) heat recovery steam generator (boiler);
- (iii) steam turbine and generator;
- (iv) gas turbine / steam turbine step-up (HV) transformers; and
- (v) unit transformers;

Capture Assets

- (vi) absorber column;
- (vii) stripper column; and
- (viii) CO₂ compressors.

Annex 4
(Initial Correction Curves)

(Redacted)

Annex 5
(Initial Heat and Material Balance Diagram)

(Redacted)

Annex 6
(Form of Permitted Senior Debt Amount Table)

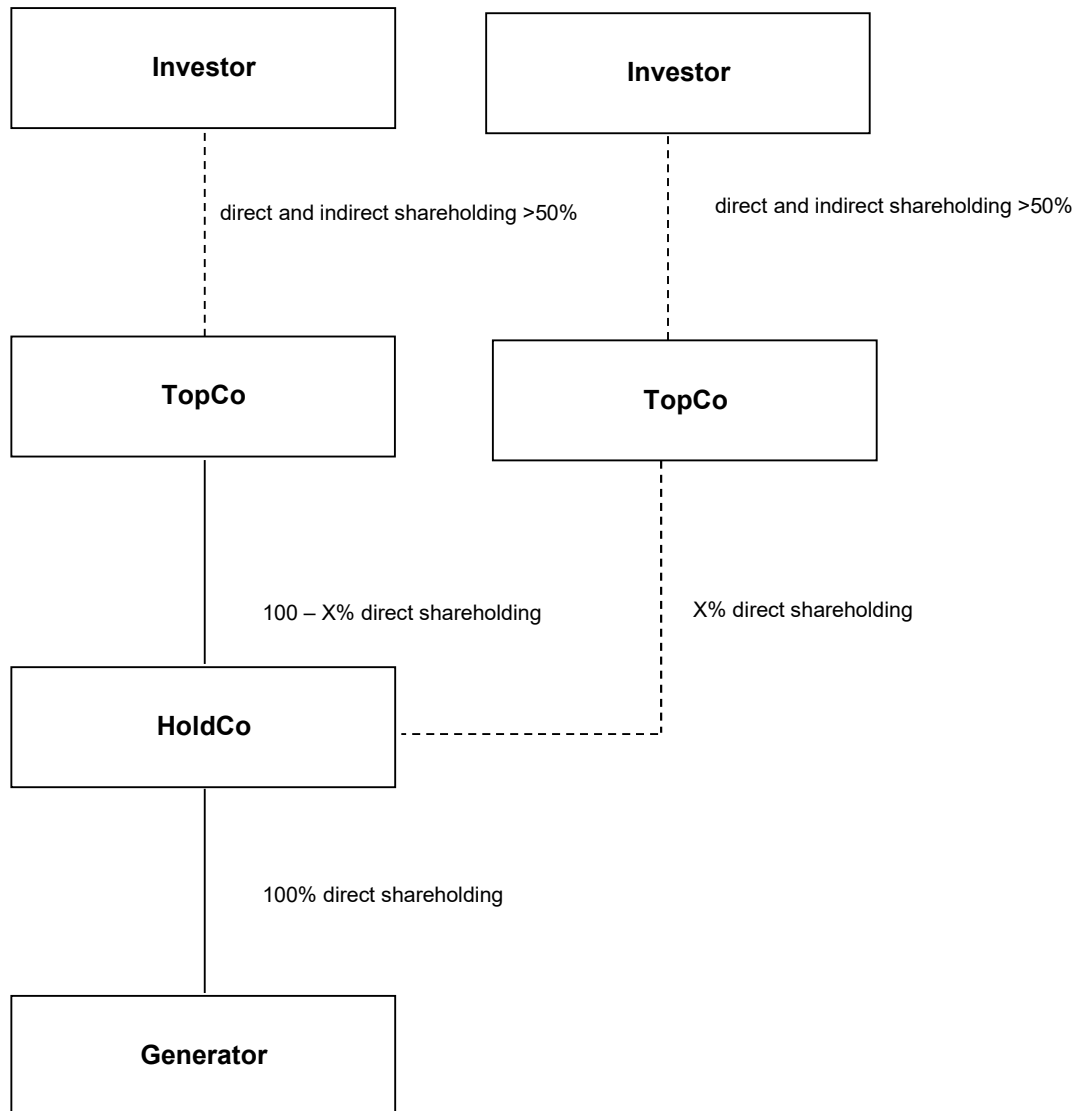
Period	Permitted Senior Debt Amount¹
Agreement Date to the First Repayment Date	
The day following the First Repayment Date to the date that falls six (6) months after the First Repayment Date	
The day following the date that falls six (6) months after the First Repayment Date to the first (1st) anniversary of the First Repayment Date	
The day following the first (1st) anniversary of the First Repayment Date to the date that falls six (6) months after the first (1st) anniversary of the First Repayment Date	
The day following the date six (6) months from the first (1st) anniversary of the First Repayment Date to the second (2nd) anniversary of the First Repayment Date	
The day following the second (2nd) anniversary of the First Repayment Date to the date that falls six (6) months after the second (2nd) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the second (2nd) anniversary of the First Repayment Date to the third (3rd) anniversary of the First Repayment Date	
The day following the third (3rd) anniversary of the First Repayment Date to the date that falls six (6) months after from the third (3rd) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the third (3rd) anniversary of the First Repayment Date to the fourth (4th) anniversary of the First Repayment Date	
The day following the fourth (4th) anniversary of the First Repayment Date to the date that falls six (6) months after from the fourth (4th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the fourth (4th) anniversary of the First Repayment Date to the fifth (5th) anniversary of the First Repayment Date	

¹ Note: This column will state the corresponding outstanding Senior Debt as determined by the Financial Model Determination Protocol.

The day following the fifth (5th) anniversary of the First Repayment Date to the date that falls six (6) months after the fifth (5th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the fifth (5th) anniversary of the First Repayment Date to the sixth (6th) anniversary of the First Repayment Date	
The day following the sixth (6th) anniversary of the First Repayment Date to the date that falls six (6) months after the sixth (6th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the sixth (6th) anniversary of the First Repayment Date to the seventh (7th) anniversary of the First Repayment Date	
The day following the seventh (7th) anniversary of the First Repayment Date to the date that falls six (6) months after the seventh (7th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the seventh (7th) anniversary of the First Repayment Date to the eighth (8th) anniversary of the First Repayment Date	
The day following the eighth (8th) anniversary of the First Repayment Date to the date six (6) months from the eighth (8th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the eighth (8th) anniversary of the First Repayment Date to the ninth (9th) anniversary of the First Repayment Date	
The day following the ninth (9th) anniversary of the First Repayment Date to the date that falls six (6) months after the ninth (9th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the ninth (9th) anniversary of the First Repayment Date to the tenth (10th) anniversary of the First Repayment Date	
The day following the tenth (10th) anniversary of the First Repayment Date to the date that falls six (6) months after the tenth (10th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the tenth (10th) anniversary of the First Repayment Date to the eleventh	

(11th) anniversary of the First Repayment Date	
The day following the eleventh (11th) anniversary of the First Repayment Date to the date that falls six (6) months after the eleventh (11th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the eleventh (11th) anniversary of the First Repayment Date to the twelfth (12th) anniversary of the First Repayment Date	
The day following the twelfth (12th) anniversary of the First Repayment Date to the date that falls six (6) months after the twelfth (12th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the twelfth (12th) anniversary of the First Repayment Date to the thirteenth (13th) anniversary of the First Repayment Date	
The day following the thirteenth (13th) anniversary of the First Repayment Date to the date that falls six (6) months after the thirteenth (13th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the thirteenth (13th) anniversary of the First Repayment Date to the fourteenth (14th) anniversary of the First Repayment Date	
The day following the fourteenth (14th) anniversary of the First Repayment Date to the date that falls six (6) months after the fourteenth (14th) anniversary of the First Repayment Date	
The day following the date that falls six (6) months after the fourteenth (14th) anniversary of the First Repayment Date to the Expiry Date	

Annex 7
(Investment Structure Chart)



Annex 8
(Redacted Terms)

(Redacted)

EXECUTION PAGE**The GENERATOR**

SIGNED BY

.....
Print Namefor and on behalf of **NET ZERO
TEESSIDE POWER LIMITED**

)

)

)

) (Signature of named signatory)

**The DPA Counterparty**SIGNED for and on behalf of **LOW****CARBON CONTRACTS****COMPANY LTD** by

)

)

)

)

.....
Print Name.....
Signature of Director

**DPA
TERMS AND CONDITIONS**

Final Version

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PRELIMINARY

The Conditions as applicable to an Eligible Generator are to be read in conjunction with:

- (A) the offer to contract made to the Eligible Generator by the DPA Counterparty as the designated CfD Counterparty pursuant to section 10 of the EA 2013 and the acceptance of that offer by such Eligible Generator; and
- (B) the Agreement entered into between the DPA Counterparty and the Eligible Generator.

Part 1 Introduction

1. DEFINITIONS AND INTERPRETATION

Definitions

1.1 In these Conditions:

"10-TD Gas Sample Period" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"10-TD UKA Sample Period" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"Acceptable Collateral" means:

- (A) a Letter of Credit;
- (B) in relation to a T&S TP Collateral Amount, a T&S Equity Excess Bond;
- (C) in relation to a T&S TP Collateral Amount, a T&S Equity Excess PCG;
- (D) in relation to a Gain Share Collateral Amount, a Gain Share Bond;
- (E) in relation to a Gain Share Collateral Amount, a Gain Share PCG; and/or
- (F) a cash amount (in pounds) transferred to the credit of a Reserve Account;

"Acceptable Credit Standing Test" means that one (1) or both of the following tests are met by the Investor Groups:

- (A) there is at least one (1) member of a Material Investor Group with a long-term credit rating of not less than BBB+ (from Standard and Poor's or Fitch) or Baa1 (from Moody's); and/or
- (B) one (1) or more member(s) of the Material Investor Groups when considered together have consolidated net assets as determined in accordance with IFRS of no less than the Minimum Net Assets Requirement;

"Acceptable Grounds of Objection" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Achieved and Declared CO₂ Capture Rate Average" means the monthly average of: (i) the Achieved CO₂ Capture Rate; and (ii) the Declared CO₂ Capture Rate, in each case during the relevant AP Billing Period and as calculated by the DPA Counterparty for each AP Billing Period in accordance with the following formula:

$$ADCR = \frac{(ACR_{ph} \times TotalSettlementUnits_{ACRph}) + \sum(DCR_i)}{TotalSettlementUnits}$$

where:

$ADCR$ = Achieved and Declared CO₂ Capture Rate Average
(expressed as a percentage (%))

ACR_{ph}	=	Achieved CO ₂ Capture Rate in the relevant AP Billing Period (<i>expressed as a percentage (%)</i>)
$TotalSettlementUnits_{ACR_{ph}}$	=	Total number of AP Settlement Units where the Achieved CO ₂ Capture Rate is used as the Availability of Capture in the relevant AP Billing Period
DCR_i	=	Declared CO ₂ Capture Rate for each AP Settlement Unit (<i>i</i>) in the relevant AP Billing Period where the Declared CO ₂ Capture Rate is used as the Availability of Capture for that AP Settlement Unit (<i>expressed as a percentage (%)</i>)
$Total_{Settlement\ Units}$	=	Total number of AP Settlement Units in the relevant AP Billing Period

"Achieved CO₂ Capture Rate" (ACR_{ph}) means the CO₂ capture rate (*expressed as a percentage (%)*) for the Facility during each AP Settlement Unit, which shall be equal to the lower of:

- (A) one hundred percent (100%); and
- (B) the value calculated in accordance with the following formula:

$$ACR_{ph} = \frac{(CO2_{exp} - CO2_{imp}) - (CO2_{expCORE} - CO2_{impCORE})}{CO2_{gen} - CO2_{genCORE}}$$

where:

ACR_{ph}	=	Achieved CO ₂ Capture Rate (<i>expressed as a percentage (%)</i>)
$CO2_{exp}$	=	AP Metered CO ₂ Output (tCO ₂)
$CO2_{expCORE}$	=	AP Metered CO ₂ Output with Capture Outage Relief Event (tCO ₂)
$CO2_{gen}$	=	AP Calculated CO ₂ Generated (tCO ₂)
$CO2_{genCORE}$	=	AP Calculated CO ₂ Generated with Capture Outage Relief Event (tCO ₂)
$CO2_{imp}$	=	AP Metered CO ₂ Input (tCO ₂)
$CO2_{impCORE}$	=	AP Metered CO ₂ Input with Capture Outage Relief Event (tCO ₂)

"Actual Decommissioning Costs" means the amount of decommissioning costs in respect of the Relevant Assets that will be incurred in the period from the T&S Prolonged Unavailability Termination Date to the Actual Decommissioning Date, as agreed by the Parties or determined pursuant to the Dispute Resolution Procedure;

"Actual Decommissioning Date" means the date that the Relevant Assets are decommissioned or are reasonably likely to be decommissioned arising directly from a T&S Prolonged Unavailability Event occurring;

"Actual Load Factor" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Actual Net Efficiency" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"ADC NPV Impact Amount" means, in respect of the Relevant Assets and not in respect of any Generation Assets or Capture Assets whose decommissioning dates are unaffected by the T&S Prolonged Unavailability Event, the amount calculated in accordance with the following formula:

$$\text{ADC NPV Impact Amount} = A - B$$

where:

- A = is the present value as at the T&S Prolonged Unavailability Termination Date of the Actual Decommissioning Costs (calculated by applying the Post-Tax Real Discount Rate); and
- B = is the present value as at the T&S Prolonged Unavailability Termination Date of the Assumed Decommissioning Costs (calculated by applying the Post-Tax Real Discount Rate);

"Additional OCP Performance Test Date" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Adjusted Revenues Period" means a period during the Term in which one (1) or more of the following is reduced or increased as a direct result of a Qualifying Change in Law:

- (A) the Net Dependable Capacity;
- (B) the Availability of Generation;
- (C) the Availability of Capture; and/or
- (D) the Metered Day Electricity Output;

"Adjusted Revenues Sub-Period" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Affected Operational CP" has the meaning given to that term in Condition 3.11 (*Operational Conditions Precedent: General Reporting Obligations*);

"Affected Person" means any direct or indirect shareholder of the Generator who is able to evidence to the satisfaction of the DPA Counterparty that if it (or an agent or security trustee on its behalf) has or had the benefit of a Direct Agreement, it is or would be:

- (A) contractually obliged to exercise rights under the relevant Direct Agreement in accordance with the instructions of one (1) or more Lenders (or an agent or security trustee on its or their behalf); or
- (B) party to an agreement regarding the exercise of rights under such Direct Agreement with a person falling within paragraph (A) above;

"Affiliate" means, in relation to a Party, any holding company or subsidiary company of the relevant Party from time to time or any company which is a subsidiary company of a holding company of that Party from time to time;

"Affiliate Tax Arrangement(s)" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Agreement" means the agreement entered into between the DPA Counterparty and the Eligible Generator pursuant to an offer made by the DPA Counterparty pursuant to section 10 of the EA 2013;

"Agreement Date" has the meaning given to that term in the Agreement;

"Agreement Date Provisions" means Part 1 (*Introduction*), Part 2 (*Term*), Part 3 (*Conditions Precedent and Milestone Requirement*), Condition 8 (*Definitions: Part 5*), Condition 9.16 (*APR Indexation Adjustment*), Condition 10.11 (*Other Extra Variable Costs Indexation*), Condition 10.15 (*Base Performance Assumptions Adjustments*), Condition 14 (*Default Interest*), Condition 15 (*Set-off*), Condition 16 (*Deductions and withholdings*), Condition 17 (*Payment accounts*), Condition 18 (*Generator representations and warranties*), Condition 19 (*DPA Counterparty representations and warranties*), Condition 20 (*Generator undertakings: General*), Condition 25 (*Generator undertakings: Information provision and no cumulation of Subsidy, state aid, union funding and/or international funding*), Condition 26 (*Generator undertaking: Supply Chain Reporting*), Part 9 (*Termination*), Part 10 (*Dispute Resolution*) to Part 13 (*Miscellaneous*) (*inclusive*), Annex 1 (*Conditions Precedent*), Annex 3 (*T&S Meter Operational Framework and Technical Specification*), Annex 4 (*Calculation of Default Termination Payment*), Annex 6 (*Change Control Procedure*), Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*), Annex 7 (*Form of Direct Agreement*), Annex 12 (*Pro forma notices*), and the Schedule (*Gain Share*);

"Alternative T&S Network Review Notice" has the meaning given to that term in Condition 36.13(C) (*Termination for T&S Prolonged Unavailability Event*);

"Alternative T&S Network Solution Plan" means a plan developed by the Generator setting out the required milestones and actions in order to connect the Facility to an alternative CO₂ Delivery Point and/or alternative T&S Network or alternative permanent storage (either directly by pipeline, or indirectly by other means of transportation), in order to remedy a T&S Prolonged Unavailability Event;

"Alternative T&S Network Solution Plan Deadline" means the date which falls eighteen (18) Months after the date of a T&S Prolonged Unavailability Event Notice issued by the DPA Counterparty in accordance with Condition 36.8 (*Termination for T&S Prolonged Unavailability Event*);

"Amended DCR Notice" has the meaning given to that term in Condition 24.1(D)(ii) (*Declaration Obligations*);

"Amended DCR Settlement Unit" has the meaning given to that term in Condition 24.1(D) (*Declaration Obligations*);

"Amended Declared CO₂ Capture Rate" has the meaning given to that term in Condition 24.1(D)(i) (*Declaration Obligations*);

"Amendment Notification" has the meaning given to that term in paragraph 2.1 (*Amendment Notifications*) of Annex 6 (*Change Control Procedure*);

"Annual Adjusted NDC" has the meaning given to that term in Condition 7.1(E)(i)(b) (*Undertaking: Annual NDC Test*);

"Annual Adjusted NDC Implementation Date" has the meaning given to that term in the Agreement;

"Annual CO₂ Capture Rate Test Allowance" has the meaning given to that term in Condition 24.14;

"Annual NDC Test" means a test carried out by the Generator pursuant to Condition 7 (*Adjustments to the Net Dependable Capacity: Annual NDC Test*) and in accordance with Annex 2 (*Testing Requirements*);

"Annual NDC Test Access Notice" has the meaning given to that term in Condition 7.11 (*Annual NDC Test Access Right*);

"Annual NDC Test Access Right" has the meaning given to that term in Condition 7.10 (*Annual NDC Test Access Right*);

"Annual NDC Test Date Adjustment Notice" has the meaning given to that term in Condition 7.1(C) (*Undertaking: Annual NDC Test*);

"Annual NDC Test Notice" has the meaning given to that term in Condition 7.1(E) (*Undertaking: Annual NDC Test*);

"Annual NDC Test Notice Deadline" has the meaning given to that term in Condition 7.1(E) (*Undertaking: Annual NDC Test*);

"Annual NDC Test Obligation" has the meaning given to that term in Condition 7.1 (*Undertaking: Annual NDC Test*);

"Annual NDC Test Report" means a test report prepared by the Generator in respect of an Annual NDC Test which shall include the Test Report Minimum Technical Requirements;

"Annual NDC Test Response Notice" has the meaning given to that term in Condition 7.4 (*DPA Counterparty Response Notification*);

"Annual NDC Test Supporting Information" has the meaning given to that term in Condition 7.4(B) (*DPA Counterparty Response Notification*);

"Annual NDC Test Window" means the period between the date which falls four (4) Months before the Annual Adjusted NDC Implementation Date (or, if such date is not a Business Day, the first (1st) Business Day thereafter) and the date which falls one (1) Month before the Annual Adjusted NDC Implementation Date (or, if such date is not a Business Day, the first (1st) Business Day thereafter), in the year of the relevant Annual NDC Test;

"AP Billing Period" means a Month, except that: the first AP Billing Period shall commence on the Start Date and end on the later of: (i) the last day of the Month in which the Start Date occurred; and (ii) last day of the Month in which the DPA Counterparty notifies the Generator pursuant to the OCP Response Notice or the Further OCP Response Notice (as relevant) that it has determined that all of the Operational Conditions Precedent have been satisfied or waived in accordance with Condition 3.28 (*Waiver of Conditions Precedent and Default*) and/or Condition 3.52 (*Waiver of Subsidy Control Declaration Operational CP*) (as applicable), and the last AP Billing Period shall commence on the first day of the last Month of the Term and end on the last day of the Term;

"AP Calculated CO₂ Generated" means the mass quantity of CO₂ (*expressed in tCO₂*) generated by the Facility during an AP Billing Period, based upon the AP Total Metered Fuel Consumption and AP Fuel Composition as applicable for each AP Settlement Unit during such period, converted to an equivalent mass quantity of CO₂ based upon an oxidation factor of 1.0 as per the guidelines set out in "Joint Environmental Programme, Guidance for the Monitoring and Reporting of CO₂ Emissions from Power Stations, EU ETS Phase 2" and with the calculation performed in accordance with ASME-PTC-4.4 (or such equivalent standard as agreed between the Parties);

"AP Calculated CO₂ Generated with Capture Outage Relief Event" means the mass quantity of CO₂ (*expressed in tCO₂*) generated by the Facility during periods of Capture Outage Relief Events in an AP Billing Period, based upon the AP Total Metered Fuel Consumption and AP Fuel Composition as applicable for each AP Settlement Unit during such period converted to an equivalent mass quantity of CO₂ based upon an oxidation factor of 1.0 as per the guidelines in "Joint Environmental Programme, Guidance for the Monitoring and Reporting of CO₂ Emissions from Power Stations, EU ETS Phase 2" and with the calculation performed in accordance with ASME-PTC-4.4 (or such equivalent standard as agreed between the Parties);

"AP Compensatory Interest" means the interest that is due and payable at the AP Compensatory Interest Rate in accordance with Condition 12.6 (*Calculation of AP Compensatory Interest Amounts*);

"AP Compensatory Interest Amount" has the meaning given to that term in Condition 12.6 (*Calculation of AP Compensatory Interest Amounts*);

"AP Compensatory Interest Rate" has the meaning given to that term in Condition 12.6 (*Calculation of AP Compensatory Interest Amounts*);

"AP Fuel Composition" means the composition of fuel used by the Facility in each AP Settlement Unit during an AP Billing Period, as measured at the Gas Supply Point(s) during such period;

"AP Fuel Composition Recalculation Amount" has the meaning given to that term in Condition 9.23 (*Recalculations of Estimated AP Fuel Composition*);

"AP Metered CO₂ Input" means the mass quantity of CO₂ (*expressed in tCO₂*) entering the Facility during an AP Billing Period, as measured by the CO₂ Re-use Metering Equipment at the CO₂ Re-use Point(s) during such period;

"AP Metered CO₂ Input with Capture Outage Relief Event" means the mass quantity of CO₂ (*expressed in tCO₂*) entering the Facility during periods of Capture Outage Relief Events in an AP Billing Period, as measured by the CO₂ Re-use Metering Equipment at the CO₂ Re-use Point(s) during such period;

"AP Metered CO₂ Output" means the mass quantity of CO₂ (*expressed in tCO₂*) entering the T&S Network during an AP Billing Period, as measured by the CO₂ Metering Equipment at the CO₂ Delivery Point(s) during such period;

"AP Metered CO₂ Output with Capture Outage Relief Event" means the mass quantity of CO₂ (*expressed in tCO₂*) entering the T&S Network during periods of Capture Outage Relief Events in an AP Billing Period, as measured by the CO₂ Metering Equipment at the CO₂ Delivery Point(s) during such period;

"AP Other Metered Data" means the AP Total Metered Fuel Consumption, and the AP Metered CO₂ Output (as applicable);

"AP Other Metered Data Cut-Off Time" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"AP Other Metered Data Recalculation Amount" has the meaning given to that term in Condition 9.21 (*Recalculations of Other Metered Data*);

"AP Reconciliation Amounts" has the meaning given to that term in Condition 12.5 (*Calculation of AP Reconciliation Amounts*);

"AP Reconciliation Billing Period" has the meaning given to that term in Condition 12.6 (*Calculation of AP Compensatory Interest Amounts*);

"AP Settlement Unit" means each half hour period in a day divided into half hour-long periods for each day after the Start Date that falls during the Term, and starting at 00:00 on each such day;

"AP Settlement Unit Calculated CO₂ Generated" means the mass quantity of CO₂ (*expressed in tCO₂*) generated by the Facility during an AP Settlement Unit, based upon the AP Total Metered Fuel Consumption and AP Fuel Composition for the relevant AP Settlement Unit, converted to an equivalent mass quantity of CO₂ based upon an oxidation factor of 1.0 as per the guidelines set out in "Joint Environmental Programme, Guidance for the Monitoring and Reporting of CO₂ Emissions from Power Stations, EU ETS Phase 2" and with the calculation performed in accordance with ASME-PTC-4.4 (or such equivalent standard as agreed between the Parties);

"AP Settlement Unit Baseline CO₂ Generated" means the mass quantity of CO₂ (*expressed in tCO₂*) generated by the Facility during an AP Settlement Unit, based upon the AP Total Baseline Fuel Consumption and AP Fuel Composition for the relevant AP Settlement Unit, converted to an equivalent mass quantity of CO₂ based upon an oxidation factor of 1.0 as per the guidelines set out in "Joint Environmental Programme, Guidance for the Monitoring and Reporting of CO₂ Emissions from Power Stations, EU ETS Phase 2" and with the calculation performed in accordance with ASME-PTC-4.4 (or such equivalent standard as agreed between the Parties);

"AP Total Baseline Fuel Consumption" means the baseline full load fuel consumption of the Facility in an AP Settlement Unit (*i*) calculated in accordance with the following formula:

$$BFC_i = \left(\frac{NDC_i}{PNE_i} \right) \times \left(\frac{GCV}{NCV} \right) \times \left(\frac{1800}{105.506} \right)$$

where:

BFC_i = AP Total Baseline Fuel Consumption (*therms*) in AP Settlement Unit (*i*)

NDC_i = Net Dependable Capacity (*MW*) in AP Settlement Unit (*i*)

PNE_i = Plant Net Efficiency (% *NCV basis, expressed as a decimal*) in AP Settlement Unit (*i*)

GCV = Gross Calorific Value of Reference Fuel Composition (*expressed in MJ/kg*)

NCV = Net Calorific Value of Reference Fuel Composition (*expressed in MJ/kg*)

"AP Total Metered Fuel Consumption" means the metered fuel consumption of the Facility (*expressed in therms*) in each AP Settlement Unit during an AP Billing Period, as measured by the Gas Supply Metering Equipment at the Gas Supply Point(s) during such period;

"Applicable Planning Consents" has the meaning given to that term in the Contracts for Difference (Allocation) Regulations 2014 (as at the Agreement Date);

"Applicable Standards" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Approved Alternative T&S Network Solution Plan" has the meaning given to that term in Condition 36.13(C)(i) (*Termination for T&S Prolonged Unavailability Event*);

"Approved Capture Rate Breach Rectification Plan" has the meaning given to that term in Condition 22.5(B)(i) (*Rectification of Minimum CO₂ Capture Rate Obligation breach*);

"Approved Scheme of Funding" has the meaning given to that term in the Agreement;

"Approved Test Procedure" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"ARP Estimate" means a good faith estimate in relation to an Adjusted Revenues Period, including a good faith estimate of: (i) the date on which such Adjusted Revenues Period will commence and end; (ii) the QCiL Adjusted Revenues Payment; and (iii) the impact of the Adjusted Revenues Period on one (1) or more of the following:

- (A) the Net Dependable Capacity;
- (B) the Availability of Generation;
- (C) the Availability of Capture; and/or
- (D) the Metered Day Electricity Output;

"APR Indexation Adjustment" has the meaning given to that term in Condition 9.16 (*APR Indexation Adjustment*);

"APR Indexation Anniversary" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Arbitral Award" has the meaning given to that term in Condition 43.2 (*Arbitration Procedure*);

"Arbitral Tribunal" has the meaning given to that term in the LCIA Arbitration Rules;

"Arbitration Dispute" means any Dispute other than an Expert Dispute;

"Arbitration Procedure" means the rules, obligations and procedures set out in Condition 43 (*Arbitration Procedure*);

"Arbitrator" means any person to whom a Dispute is referred in accordance with the Dispute Resolution Procedure;

"Assumed Abated CO₂ Capture Rate" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Assumed Abated Load Factor" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Assumed Abated Net Dependable Capacity" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Assumed Abated Net Efficiency" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Assumed CO₂ Input Concentration" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Assumed Decommissioning Costs" means the amount of decommissioning costs in respect of the Relevant Assets which were assumed to be incurred in the period from the T&S Prolonged Unavailability Termination Date to the Assumed Decommissioning Date, as such costs are set out in the Agreement;

"Assumed Decommissioning Date" means the Generator's Assumed Decommissioning Date or, if the Start Date has not been notified pursuant to Condition 3.23 at the T&S Prolonged Unavailability Termination Date, the Target Commissioning Date;

"Assumed Unabated Load Factor" means (i) the expected Unadjusted Metered Electricity Output during the relevant period divided by (ii) the maximum Unadjusted Metered Electricity Output for the same period which could be achieved with the Facility operating at full load (unabated), as determined by an analysis of the Facility's relative competitive position in the GB electricity market as derived from a GB Power Market Model procured from an Energy Economist, taking into consideration the Assumed Unabated Net Dependable Capacity and Assumed Unabated Net Efficiency for such period;

"Assumed Unabated Net Dependable Capacity" means the net generating capacity of the Facility operating at full load (unabated) which would have been expected to have been achieved during the relevant period as a result of the occurrence of a T&S Prolonged Unavailability Event;

"Assumed Unabated Net Efficiency" means the plant net efficiency of the Facility operating at full load (unabated) which would have been expected to have been achieved during the relevant period as result of the occurrence of a T&S Prolonged Unavailability Event;

"Audit Notice" has the meaning given to that term in Condition 3.18 (*Reporting Obligations Audit Right*);

"Audit Right" has the meaning given to that term in Condition 3.17 (*Reporting Obligations Audit Right*);

"Authority" means the Gas and Electricity Markets Authority established pursuant to section 1 of the Utilities Act 2000;

"Availability of Capture" (AC_i) means the CO₂ capture rate (*expressed as a percentage (%)*) during each AP Settlement Unit, based on the Achieved CO₂ Capture Rate and the Declared CO₂ Capture Rate during such AP Settlement Unit, calculated in accordance with the following formula:

(A) where a Capture Outage Relief Event occurs during an AP Settlement Unit:

$$AC_i = DCR_i$$

where:

$$DCR_i = \text{Declared CO}_2 \text{ Capture Rate (expressed as a percentage (\%))}$$

- (B) where: (i) no Capture Outage Relief Event occurs during an AP Settlement Unit; and (ii) Metered Electricity Output is equal to or less than zero (0):

$$AC_i = DCR_i$$

where:

$$DCR_i = \text{Declared CO}_2 \text{ Capture Rate (expressed as a percentage (\%))}$$

- (C) where: (i) no Capture Outage Relief Event occurs during an AP Settlement Unit; and (ii) Metered Electricity Output is greater than zero (0):

$$AC_i = ACR_{ph}$$

where:

$$ACR_{ph} = \text{Achieved CO}_2 \text{ Capture Rate (expressed as a percentage (\%))}$$

"Availability of Generation" (AG_i) means the net generating capacity of the Facility (expressed as a percentage (%)) during an AP Settlement Unit, calculated in accordance with the following formula for each such unit:

- (A) where no Generation Outage Event occurs during an AP Settlement Unit:

$$AG_i = 1.00$$

- (B) where a Generation Outage Relief Event occurs during an AP Settlement Unit:

$$AG_i = 1.00$$

- (C) where a Generation Outage Event either starts, continues or ends during the relevant AP Settlement Unit:

$$AG_i = AG_{OE_n} = 1 - \frac{\sum ((NAC_{OE_n} - NAC_j) \times \Delta T_j)}{NAC_{OE_n} \times \Delta T_{\text{Settlement Units}}}$$

where:

$$AG_{OE_n} = \text{Availability of Generation during Generation Outage Event n (expressed as a percentage (\%))}$$

$$NAC_{OE_n} = \text{Net Available Capacity immediately preceding the Generation Outage Event (MW)}$$

$$NAC_j = \text{Net Available Capacity during time segment j (MW)}$$

$$\Delta T_j = \text{Duration of time segment j of the Generation Outage Event (hours)}$$

$$\Delta T_{\text{Settlement Units}} = \text{Generation Outage Event (AP Settlement Unit) Duration (hours)}$$

"Availability Payment" means the payment calculated in accordance with Condition 9.1 (*Availability Payment Calculation*);

"Availability Payment Billing Statement" has the meaning given to that term in Condition 12.1 (*Delivery of Availability Payment Billing Statement*);

"Availability Payment QCiL Differential" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Availability Payment Rate" means the Initial Availability Payment Rate, as adjusted pursuant to Conditions 9.16 to 9.19 (*APR Indexation Adjustment*);

"Available Registered Capacity" has the meaning given to that term in the CCS Network Code;

"Base Performance Assumptions" means:

- (A) the Reference Plant CO₂ Emissions; and
- (B) the Reference Plant Gas Consumption;

"Base Performance Assumptions Adjustments" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Base Rate" means the rate of interest published from time to time by the Bank of England as its base rate;

"Base Year" has the meaning given to that term in the Agreement;

"Base Year CPI" means the value of the CPI for October in the calendar year immediately preceding the Base Year;

"Billing Period" means the AP Billing Period and/or the VP Billing Period (as applicable);

"Billing Statement Dispute Notice" has the meaning given to that term in Condition 13.4 (*Billing Statement Disputes*);

"Billing Statements" means an Availability Payment Billing Statement and/or a Variable Payment Billing Statement (as applicable);

"BSC" means the Balancing and Settlement Code that is provided for in standard condition C3 (*Balancing and Settlement Code*) of the Electricity Transmission Licence;

"Business Day" means a day (other than a Saturday or a Sunday) on which banks are open for general business in London;

"Business Interruption Proceeds" has the meaning given to that term in the CCS Network Code;

"Calculated CO₂ Generated" means the mass quantity of CO₂ (*expressed in tCO₂*) generated by the Facility during the relevant period, based upon the Total Metered Fuel Consumption and Fuel Composition as applicable for each such period, converted to an equivalent mass quantity of CO₂ based upon an oxidation factor of 1.0 as per the guidelines set out in "Joint

Environmental Programme, Guidance for the Monitoring and Reporting of CO₂ Emissions from Power Stations, EU ETS Phase 2" and in accordance with ASME-PTC-4.4 (or such equivalent standard as agreed between the Parties);

"Capture Declaration Capacity Data" has the meaning given to that term in Condition 24.1(E) (*Declaration Obligations*);

"Capital Costs" means any expenditure which, in accordance with IFRS, falls to be treated as capital expenditure and which is incurred or is to be incurred by the Generator in the ordinary course of carrying out the Project excluding Operating Costs, Distributions or any payments in connection with Financial Indebtedness;

"Capture Assets" has the meaning given to that term in the Agreement;

"Capture Outage Event" means an event where the Capture Assets are unavailable, curtailed or derated (which, for the avoidance of doubt, shall include a Full Capture Outage Event);

"Capture Outage Relief Event" means an event where the Facility is unable to export captured CO₂ to the T&S Network, which occurs as a direct result of a T&S Outage Event excluding any T&S Outage Events that arise out of or in connection with any act, omission, breach or default of the Generator or its Representatives (including any breach by the Generator or its Representatives of an Industry Document);

"Capture Rate Breach Deadline" means the date which falls eighteen (18) Months after the date of a Capture Rate Breach Notice, as such date may be extended day for day for each day that the Generator is delayed in achieving a Capture Rate Breach Rectification by reason of:

- (A) a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (*Force Majeure*) to be entitled to such extension; or
- (B) a Capture Outage Relief Event which directly affects the ability of the Generator to achieve a Capture Rate Breach Rectification;

"Capture Rate Breach Notice" has the meaning given to that term in Condition 22.2 (*Notification of Minimum CO₂ Capture Rate Obligation breach*);

"Capture Rate Breach Rectification" has the meaning given to that term in Condition 22.3(A) (*Response to notification of Minimum CO₂ Capture Rate Obligation breach*);

"Capture Rate Breach Rectification Plan" means a plan developed by the Generator and submitted to the DPA Counterparty pursuant to Condition 22.5 (*Rectification of Minimum CO₂ Capture Rate Obligation breach*) setting out the Generator's proposed actions and milestones (and proposed deadlines for completing such actions and milestones) in order to rectify a breach of the Minimum CO₂ Capture Rate Obligation and achieve a Capture Rate Breach Rectification;

"Capture Rate Breach Rectification Review Notice" has the meaning given to that term in Condition 22.5(B) (*Rectification of Minimum CO₂ Capture Rate Obligation breach*);

"Capture Rate Breach Response Notice" has the meaning given to that term in Condition 22.3 (*Response to notification of Minimum CO₂ Capture Rate Obligation breach*);

"Capture Rate Termination Event" means an event as set out in Condition 22.8 (*Failure to remedy Minimum CO₂ Capture Rate Obligation breach*);

"Carbon Market Reference Price" has the meaning given to that term in Condition 10.7 (*Carbon Price calculation*);

"Carbon Market Reference Price Review" means a review of the effective carbon price in the UK carried out by the DPA Counterparty pursuant to Annex 9 (*Carbon Market Reference Price Review*);

"Carbon Price" means the carbon price (*expressed in £/tCO₂*) calculated in accordance with Condition 10.6 (*Carbon Price calculation*);

"Carbon Support Price" means:

- (A) the carbon price support rate as published by HM Treasury (*expressed in £/kWh*) pursuant to the Finance Act 2000 Schedule 6 (*Climate Change Levy*), converted to an equivalent *£/tCO_{2e}* figure, for the purposes of the DPA using the kg of CO_{2e} per kWh (GCV) of Natural Gas conversion factor pursuant to the "UK Government GHG Conversion Factors for Company Reporting" as published from time to time by DESNZ; or
- (B) an alternative carbon support price determined by the DPA Counterparty pursuant to Annex 6 (*Change Control Procedure*);

"Cash Sweep Amount" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Amount Due Date" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Avoidance Event" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Calculation Period" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Discharge Date" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Obligation" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Preliminary Period" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Report" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Rules" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Cash Sweep Secondary Period" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CCP Affected Parties" means, in respect of a General Amendment, the generators which are party to those CCUS Programme DPAs to which the General Amendment is proposed to be made;

"CCS Network Code" means the network code that the Generator is required to comply with in accordance with the Code Agreement;

"CCUS Programme" means a programme, as such programme may be updated from time to time, to deploy a system comprising the following:

- (A) capturing CO₂ that has been produced by, or in connection with, processes including:
 - (i) commercial electricity generation;
 - (ii) commercial industrial processes; or
 - (iii) commercial hydrogen production;
- (B) transporting such CO₂ that has been captured; and
- (C) disposing of such CO₂ that has been captured, by way of permanent storage;

"CCUS Programme DPA" means each DPA entered into between a DPA Counterparty and an Eligible Generator issued pursuant to an offer made by the DPA Counterparty pursuant to section 10 EA 2013;

"Change Control Procedure" means the rules, obligations and procedures set out in Annex 6 (*Change Control Procedure*);

"Change in Applicable Law" means:

- (A) the coming into effect, amendment, supplement, termination, repeal, replacement or withdrawal of or to: (i) any Law or Directive; or (ii) any Industry Document; or
- (B) a change in the interpretation or application of any Law, Directive or Industry Document by any Competent Authority;

"Change in Law" means:

- (A) the coming into effect, amendment, supplement, termination, repeal, replacement or withdrawal of or to: (i) any Law or Directive; (ii) any Industry Document (other than the CCS Network Code); or (iii) any Required Authorisation;
- (B) any termination, repeal, replacement or withdrawal of, or any Modification (as defined in the CCS Network Code) to the CCS Network Code;
- (C) any amendment to the T&S Construction Agreement or T&S Connection Agreement pursuant to a Modification to the CCS Network Code which is expressly stated to apply to and be incorporated into the T&S Construction Agreement or T&S Connection Agreement (but excluding any other amendments to those agreements); or
- (D) a change in the interpretation or application of any Law, Directive, Industry Document or Required Authorisation by any Competent Authority,

in each case after the Agreement Date and save (in each case) to the extent that the Change in Law:

- (i) arises out of, or in connection with, a breach of or default under or with respect to, that Law, Directive, Industry Document, T&S Construction Agreement, T&S Connection Agreement or Required Authorisation by the Generator or any of its Representatives;

- (ii) arises out of, or in connection with, a failure by the Generator or any of its Representatives to act in accordance with the Reasonable and Prudent Standard; or
- (iii) represents no more than a continuous improvement or development of good practice which would be complied with in respect of a generating facility deploying CO₂ Capture Technology by a generator acting in accordance with the Reasonable and Prudent Standard;

"Change of Material Investor" means where, following a Change of Ownership, a person would cease or ceases to be a Material Investor;

"Change of Material Investor Notice" has the meaning given to that term in Condition 64.12 (*Change of Material Investor*);

"Change of Material Investor Response Notice" has the meaning given to that term in Condition 64.14 (*Change of Material Investor*);

"Change of Material Investor Supporting Information" has the meaning given to that term in Condition (*Change of Material Investor*) 64.14(C);

"Change of Ownership" means:

- (A) any sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in the Generator or HoldCo (including the control over the exercise of voting rights conferred on those shares or the control over the right to appoint or remove directors or the rights to dividends); and/or
- (B) any other arrangements that have or may have or which result in the same effect as paragraph (A) above;

"CiAL Dispute" has the meaning given to that term in Condition 34.1 (*Procedure for raising a Dispute*);

"CiAL Dispute Generator" has the meaning given to that term in Condition 34.1 (*Procedure for raising a Dispute*);

"CiAL Dispute Notice" has the meaning given to that term in Condition 34.1 (*Procedure for raising a Dispute*);

"CiAL Dispute Threshold Criterion" has the meaning given to that term in Condition 34.9 (*CiAL Dispute Threshold Criterion*);

"CiAL Dispute Validity Notice" has the meaning given to that term in Condition 34.3 (*Validity of CiAL Dispute Notices*);

"CiAL Request Criterion" has the meaning given to that term in Condition 33.3 (*Requirement to undertake a CiAL Review*);

"CiAL Request Notice" has the meaning given to that term in Condition 33.2 (*Requirement to undertake a CiAL Review*);

"CiAL Request Validity Notice" has the meaning given to that term in Condition 33.5 (*Validity of CiAL Request Notices*);

"CiAL Review" means a review conducted by the DPA Counterparty pursuant to Condition 33.1 (*Requirement to undertake a CiAL Review*) as to whether:

- (A) a Change in Applicable Law: (i) has been implemented, has occurred or has become effective; or (ii) is expected to be implemented, to occur or to become effective and, in each case as a direct result of such Change in Applicable Law being implemented, occurring or becoming effective, one (1) or more of the Required CiAL Amendment Objectives will cease to be met; and
- (B) as a consequence of one (1) or more of the Required CiAL Amendment Objectives ceasing to be met, Required CiAL Amendments are necessary;

"CiAL Review Notice" has the meaning given to that term in Condition 33.6 (*Notification of CiAL Review*);

"CiAL Review Outcome Notice" has the meaning given to that term in Condition 33.9 (*Notification of outcome of CiAL Review*);

"CiAL Review Response Deadline" has the meaning given to that term in Condition 33.6(B) (*Notification of CiAL Review*);

"CiAL Review Response Notice" has the meaning given to that term in Condition 33.7 (*Notification of CiAL Review*);

"CiAL Review Trigger" has the meaning given to that term in Condition 33.1 (*Requirement to undertake a CiAL Review*);

"Civil Procedure Rules" means the Civil Procedure Rules 1998;

"CJA" means the Criminal Justice Act 1993;

"Claimant" has the meaning given to that term in Condition 42.3 (*Expert Determination Procedure*);

"Classification Objection" has the meaning given to that term in paragraph 2.6(B)(ii)(a) (*Technical Amendments (bilateral Proposed Amendments): process*) of Annex 6 (*Change Control Procedure*);

"CMRP Dispute" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Dispute Generator" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Dispute Notice" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Dispute Threshold Criterion" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Dispute Validity Notice" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Expert Appointment Threshold" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Fallback Settlement Unit" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"CMRP Mechanism Amendment" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Prioritisation" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Request Criterion" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Request Notice" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Request Validity Notice" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review Implementation Date" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review Notice" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review Outcome Notice" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review Proposals" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review Response Deadline" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review Response Notice" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Principles Review Trigger" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Quality Criteria" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Source" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CMRP Trading Day" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"CO₂" means carbon dioxide;

"CO₂ Capture Rate Estimate" has the meaning given to that term in the Agreement;

"CO₂ Capture Rate Test" means a test carried out by the Generator pursuant to Condition 24.13 in accordance with paragraph 6 (*CO₂ Capture Rate Test*) of Annex 2 (*Testing Requirements*);

"CO₂ Capture Rate Test Notice" has the meaning given to that term in Condition 24.13 (*Undertaking: Access to and test of Facility*);

"CO₂ Capture Rate Test Report" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"CO₂ Capture Technology" means technology which is installed or implemented pursuant to the CCUS Programme and which:

- (A) captures some or all of the CO₂ or any substance consisting primarily of CO₂; and
- (B) temporarily stores, processes and exports captured CO₂ (or any substance consisting primarily of CO₂) for permanent storage and disposal; or
- (C) carries out any other process which is preparatory or ancillary to limbs (A) and (B) of this definition;

"CO₂ Cost Differential" (CC_i) means the CO₂ cost differential in respect of the Facility (*expressed in £/MWh*) for a VP Settlement Unit (*i*), calculated in accordance with the following formula:

$$CC_i = CP_i \times (CO2E_{CCUS} - CO2E_{Ref})$$

where:

CC _i	=	CO ₂ Cost Differential in VP Settlement Unit (<i>i</i>) (£/MWh)
CP _i	=	Carbon Price in VP Settlement Unit (<i>i</i>) (£/tCO ₂)
CO2E _{CCUS}	=	Facility CO ₂ Emissions in VP Settlement Unit (<i>i</i>) (tCO ₂ /MWh)
CO2E _{Ref}	=	Reference Plant CO ₂ Emissions in VP Settlement Unit (<i>i</i>) (tCO ₂ /MWh)

"CO₂ Delivery Point(s)" means the point(s) of connection of the Facility to the T&S Network pursuant to the T&S Connection Agreement or where CO₂ is transported from the Facility to the T&S Network other than by pipeline, the point(s) of connection where such CO₂ first enters the T&S Network;

"CO₂ Measurement Uncertainty Requirement" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Metered Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Metered Data Breach Response Notice" has the meaning given to that term in Condition 23.3 (*Response to notification of CO₂ Metered Data Obligation breach*);

"CO₂ Metered Data Breach Response Notice Period" has the meaning given to that term in Condition 23.3 (*Response to notification of CO₂ Metered Data Obligation breach*);

"CO₂ Metered Data Obligation" has the meaning given to that term in Condition 23.1 (*Notification of CO₂ Metered Data*);

"CO₂ Metering Dispute" has the meaning given to that term in Condition 13.9 (*CO₂ Metering Dispute*);

"CO₂ Metering Equipment" means: (i) the CO₂ Outlet Metering Equipment; and (ii) in the case of a CO₂ Re-use Service Facility, the CO₂ Re-use Metering Equipment;

"CO₂ Metering Obligation" has the meaning given to that term in Condition 21.2 (*Undertakings: CO₂ Metering Obligation*);

"CO₂ Metering Specification" means: (i) the CO₂ Outlet Metering Specification; and (ii) in the case of a CO₂ Re-use Service Facility, the CO₂ Re-use Metering Specification;

"CO₂ Outlet Metering Equipment" means the metering equipment which is required pursuant to the CO₂ Outlet Metering Specification to meter the Metered CO₂ Output and the Metered CO₂ Rich Stream Output which may include flow meters, composition analysers, associated communications equipment, and any other necessary ancillary equipment and infrastructure;

"CO₂ Outlet Metering Specification" means the specification relating to an Outlet T&S Meter Measurement System set out in Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Outlet T&S Network Analysis Point(s)" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Outlet T&S Network Metering Point(s)" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Flow Meter(s)" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Meter Measurement System" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Meter Measurement System Material Change" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Meter Measurement System Technical Specification" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Meter Measurement Uncertainty Assessment" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Meter Primary Flow and Time Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Metered Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Metering Equipment" means the metering equipment which is required pursuant to the CO₂ Re-use Metering Specification to determine the Metered CO₂ Input and the Metered CO₂ Rich Stream Input which may include flow meters, composition analysers,

temperature measurement equipment, pressure measurement equipment, associated communications equipment, and any other necessary ancillary equipment and infrastructure;

"CO₂ Re-use Metering Point(s)" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Metering Specification" means the specification relating to a CO₂ Re-use Meter Measurement System set out in Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Point(s)" means the point(s) of connection of the T&S Network to the Facility pursuant to the T&S Connection Agreement;

"CO₂ Re-use Rich Stream Measurement Uncertainty Requirement" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Secondary Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Re-use Service Facility" means a Facility that is stated to be a CO₂ Re-use Service Facility in the Agreement;

"CO₂ Re-use Tertiary Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"CO₂ Rich Stream" means a stream consisting primarily of CO₂ which is produced by the Facility and delivered to the relevant T&S Network at the CO₂ Delivery Point(s);

"CO₂ Rich Stream Measurement Uncertainty Requirement" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Code Accession Agreement" means the agreement entered into by the Generator pursuant to which the Generator accedes to the Code Agreement;

"Code Agreement" means the agreement the Generator has entered into, or acceded to, which makes the CCS Network Code binding on such Generator;

"Cold Start" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Commissioned" means that all of the Commissioning Tests have been successfully completed, followed or passed (as appropriate) in relation to the Facility (or a part of the Facility), and grammatical variations thereof shall be construed accordingly;

"Commissioning Tests" means all of the procedures and tests (including performance tests) which, in accordance with the Reasonable and Prudent Standard, and in compliance with industry guidelines, practices and standards, are:

- (A) relevant to generating and CO₂ capture facilities which are the same as, or of a similar type to, the Facility (including those which are relevant to the Facility Generation Technology and/or the Facility Capture Technology);
- (B) required to be completed, followed or passed (as appropriate): (i) in order for a generating facility to generate and export electricity; or (ii) to demonstrate that a generating facility is fit for commercial operation;

- (C) required to be completed, followed or passed (as appropriate): (i) in order for a capturing facility to capture and export CO₂; or (ii) to demonstrate that a capturing facility is fit for commercial operation; and
- (D) required to be carried out in accordance with Annex 2 (*Testing Requirements*);

"Compensatory Interest" means any AP Compensatory Interest and/or VP Compensatory Interest (as applicable);

"Compensatory Interest Amount" means an AP Compensatory Interest Amount and/or a VP Compensatory Interest Amount (as applicable);

"Competent Authority" means:

- (A) any national, federal, regional, state, local, or other court, arbitral tribunal, administrative agency or commission or other governmental, administrative or regulatory body, authority, agency or instrumentality;
- (B) any private body to the extent it carries out one (1) or more public functions; or
- (C) any other body which has jurisdiction in respect of the Facility, the Project, the DPA and/or any other DPA Document,

and includes the Authority, the Economic Regulator, the Environment Agencies and the Secretary of State but excludes the DPA Counterparty;

"Conditions" means these terms and conditions;

"Conditions Precedent" means the Initial Conditions Precedent and the Operational Conditions Precedent and **"Condition Precedent"** shall be construed accordingly;

"Confidential Information" means DPA Counterparty Confidential Information and Generator Confidential Information;

"Connected Dispute" has the meaning given to that term in Condition 44.1(A) (*Consolidation of Connected Disputes*);

"Consolidation Request" has the meaning given to that term in Condition 44.2 (*Consolidation of Connected Disputes*);

"Contractor" means any contractor, sub-contractor, consultant or adviser of or to the Generator but excludes any Electricity Transmission System Operator, Electricity Transmission Licensee, Electricity Licensed Distributor, Gas Licensed Shipper, Gas Licensed Transporter or the T&S Operator;

"Correction Curves" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"CPI" means:

- (A) the all items index of consumer price inflation published each Month by the Office for National Statistics;
- (B) if that index is no longer being published, such index as the DPA Counterparty may reasonably determine to be appropriate in the circumstances; or

- (C) if there is a material change to the basis of that index, such other index as the DPA Counterparty may from time to time reasonably determine to be appropriate in the circumstances;

"Crown Body" means any department, office or agency of the Crown;

"C(RTP) Act" means the Contracts (Rights of Third Parties) Act 1999;

"CS Acquirer" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Agreed Principles" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Contracting Policy" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Cost" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Discount Amount" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Divestment Proceeds" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Related Party Discount Amount" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Related Party Transaction" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Relevant Sale" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Sale Due Date" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Sale Period" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Third Party Transaction" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CS Transaction" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"CUSC" means the Connection and Use of System Code that is provided for in Standard Condition C10 (Connection and Use of System Code (CUSC)) of the Electricity Transmission Licence;

"Cyber Essentials Scheme" means the 'Cyber Essentials' scheme operated by the National Cyber Security Centre;

"Cyber Security Standards" means the standards prescribed by 'Cyber Essentials Plus' pursuant to the Cyber Essentials Scheme, or in the event that Cyber Essentials Plus or the

Cyber Essentials Scheme ceases to operate, such other standards or accreditation issued pursuant to an equivalent scheme as notified to the Generator by the DPA Counterparty;

"DAHS" has the meaning given to that term in paragraph 2 of Annex 3 (T&S Meter Operational Framework and Technical Specification);

"Daily Discount Rate" has the meaning given to that term in Condition 28.34 (*QCIL Operations Cessation Event Payment*);

"Declaration Obligations" has the meaning given to that term in Condition 24.1(H) (*Declaration Obligations*);

"Declaration Access Right" has the meaning given to that term in Condition 24.9 (*Undertaking: Access to and test of Facility*);

"Declaration Access Termination Event" has the meaning given to that term in Condition 24.19 (*Failure to provide Declaration Access Right*);

"Declaration Inspection Notice" has the meaning given to that term in Condition 24.10 (*Undertaking: Access to and test of Facility*);

"Declaration Capacity Data" means the Generation Declaration Capacity Data, the Declared CO₂ Capture Rate and/or the Capture Declaration Capacity Data (as applicable);

"Declared CO₂ Capture Rate" means the CO₂ capture rate (*expressed as a percentage (%)*) that the Facility would have achieved when operating at full load at the time a Declared CO₂ Capture Rate was submitted by the Generator to the DPA Counterparty in accordance with Condition 24.1(C), corrected to Reference Site Conditions, and assuming that a T&S Network was available to enable the Facility to export all captured CO₂ to such T&S Network;

"Deemed Relevant Cash Amount" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Default" means: (i) a Termination Event; or (ii) an event or a circumstance which would (with the passage of time, the giving of notice, the making of any determination pursuant to the DPA or any combination of any of the foregoing) be a Termination Event;

"Default Interest" has the meaning given to that term in Condition 14.1 (*Calculation of Default Interest*);

"Default Termination Date" has the meaning given to that term in Condition 36.33(A) (*Default termination*);

"Default Termination Notice" has the meaning given to that term in Condition 36.33 (*Default termination*);

"Default Termination Payment" means the amount (*expressed in pounds (£)*) calculated in accordance with the formula set out in paragraph 1.1 of Annex 4 (*Calculation of Default Termination Payment*);

"Default Termination Payment Notice" has the meaning given to that term in Condition 37.10(B) (*Consequences of default termination*);

"Deficient T&S TP Collateral Amount" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Delivery CO₂ Quality Standards" means the compositional limits of the CO₂ Rich Stream (including but not limited to the minimum percentage of CO₂ and maximum levels of a range of impurities) that are permissible for entry to the relevant T&S Network, together with the maximum and minimum entry pressure and maximum and minimum entry temperature, as specified in the CCS Network Code and the T&S Connection Agreement, along with any other relevant requirements specified in the relevant T&S Operator's Entry Provisions (as defined in the CCS Network Code);

"Derived Data" means:

- (A) the Gas Cost Differential;
- (B) the Gas Price;
- (C) the Gas Reference Price;
- (D) the CO₂ Cost Differential;
- (E) the Carbon Price; and
- (F) the Carbon Market Reference Price;

"Derived Data Agreement" means an agreement to be entered into between the Generator and the DPA Counterparty relating to the Generator's use of and access to the Derived Data;

"Devolved Legislation" means any: (i) Act of the Scottish Parliament; (ii) Act or Measure of Senedd Cymru; (iii) Scottish statutory instrument within the meaning of section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010; or (iv) Welsh subordinate legislation within the meaning of s.3(2) of the Legislation (Wales) Act 2019;

"Direct Agreement" means an agreement in substantially the form set out in Annex 7 (*Form of Direct Agreement*), or in such other form as may be agreed by the DPA Counterparty (in its sole discretion);

"Directive" means, in relation to any Party, any ordinance, code, decision, directive, order, decree, regulation, determination, award, standard or rule of any Competent Authority:

- (A) which is legally binding upon that Party or, if not legally binding upon that Party, with which that Party would ordinarily comply, acting (in the case of the Generator) in accordance with the Reasonable and Prudent Standard; and
- (B) in circumstances in which the Generator is seeking to invoke the provisions of Part 8 (*Changes in Law*) with which the Generator does in fact comply;

"Directors' Certificate" means a certificate signed by two (2) directors of the Generator or one (1) director of the Generator in the presence of a witness who attests the signature, such directors or director (as applicable) having made, and confirmed in the certificate as having made, all due and careful enquiries in relation to the information set out in such certificate (or set out in the notice, or enclosures or appendices to the notice, which such certificate is accompanying) and certifying that such information is in all material respects true, complete, accurate and not misleading, in each case by reference to the facts and circumstances then existing, provided that where any such information is provided by a third party that is not a holding company or subsidiary of the Generator or a Representative of any such party or the Generator and is marked as such, the certification of the director or directors (as applicable) of that information shall only extend to the certification that that information is in all material respects true, complete, accurate and not misleading to the best of their knowledge and belief having made all due and careful enquiries;

"Discontinuance Date" shall have the meaning given to "User Discontinuance Date" in the CCS Network Code;

"Discriminatory Change in Law" means a Change in Law the terms of which specifically (and not merely indirectly or consequentially or by virtue of the disproportionate effect of any Change in Law that is of general application) apply to:

- (A) the Project and not to the design, development, construction, completion, testing, commissioning, operation, maintenance and decommissioning of any other project;
- (B) the Facility and not to any other generating assets or capture assets; or
- (C) the Generator and not to any other person;

"Dispute" means any dispute or claim in any way relating to or arising out of the DPA or any other DPA Document, whether contractual or non-contractual (and including any dispute or claim regarding: (i) their existence, negotiation, validity or enforceability; (ii) the performance or non-performance of a Party's obligations pursuant to them; or (iii) breach or termination of any of them), but excluding any Electricity Metering Dispute;

"Dispute Information" has the meaning given to that term in Condition 40.7 (*Outline of Dispute Resolution Procedure*);

"Dispute Notice" has the meaning given to that term in Condition 40.3 (*Outline of Dispute Resolution Procedure*);

"Dispute Resolution Procedure" means the rules, obligations and procedures set out in Part 10 (*Dispute Resolution*) including the Arbitration Procedure and the Expert Determination Procedure, but excluding the provisions of Condition 46.1 and 46.2 (*Metering Disputes*);

"Distribution" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Distribution Connection and Use of System Agreement" means the agreement that an Electricity Licensed Distributor is required to prepare or maintain in force in a form approved by the Authority under standard condition 22 (*Distribution Connection and Use of System Agreement*) of an Electricity Distribution Licence;

"DPA" means the Agreement which incorporates these Conditions;

"DPA Counterparty" has the meaning given to that term in the Agreement;

"DPA Counterparty CO₂ Metered Data Breach Notice" has the meaning given to that term in Condition 23.2 (*Notification by DPA Counterparty of CO₂ Metered Data Obligation breach*);

"DPA Counterparty CO₂ Metered Data Breach Response Notice" has the meaning given to that term in Condition 23.7 (*Response to notification of a Generator CO₂ Metered Data Obligation breach*);

"DPA Counterparty Confidential Information" means:

- (A) all Information which is confidential or proprietary in nature and which relates (directly or indirectly) to the DPA Counterparty or a Government Entity (including any such Information relating to the policy of His Majesty's Government of the United Kingdom with respect to matters pertinent to CCUS Programme DPAs or the DPA) which the Generator (or its Representatives) receives or has received from:

- (i) the DPA Counterparty (or its Representatives); or
- (ii) from any third party who receives or has received such Information from the DPA Counterparty (or its Representatives) in respect of the DPA,

in each case including any Information which the Generator prepares which contains or makes explicit reference to such Information or from which such Information is readily ascertainable;

- (B) without prejudice to the generality of paragraph (A) above, all Information relating to any QCiL Compensation, QCiL True-Up Compensation or T&S Termination Payment, including all Information relating to or arising from negotiations, discussions and correspondence in connection with any such QCiL Compensation, QCiL True-Up Compensation or T&S Termination Payment; and
- (C) all Information which relates to or arises from negotiations, discussions and correspondence in connection with the DPA,

but excluding in each case all Excluded Information;

"DPA Counterparty Data" means all data and information, including Confidential Information and any personal data, relating to the DPA Counterparty or any of its respective technology, operations, facilities, assets or programmes, or relating to the DPA Counterparty's personnel or customers, in whatever form that data and information may exist;

"DPA Counterparty Declaration Breach Notice" has the meaning given to that term in Condition 24.3 (*Notification by DPA Counterparty of Declaration Obligation breach*);

"DPA Counterparty Permitted Purposes" means:

- (A) complying with the DPA Counterparty's responsibilities and obligations, and exercising the DPA Counterparty's rights, powers and discretions, under or in connection with the DPA, any other DPA Document or any other CCUS Programme DPA;
- (B) complying with the DPA Counterparty's responsibilities and obligations under or by virtue of the EA 2013, any other Law, or any Directive, policy or guidance;
- (C) reporting on the establishment, administration, performance or operation of, or compliance or non-compliance with, the obligations and arrangements contemplated by, or provided for in, the DPA and/or CCUS Programme DPAs; and
- (D) reporting to the Secretary of State on the performance, operation, and DPA Settlement Activities of the Project to enable or assist the Secretary of State to fulfil its functions in connection with the CCUS Programme DPA and/or CCUS Programme. The Secretary of State's functions include:
 - (i) the development of the CCUS Programme DPA;
 - (ii) the development of the CCUS Programme; and
 - (iii) any examination of the performance, efficiency, and effectiveness of the Project;

"DPA Counterparty QCiL Notice" has the meaning given to that term in Condition 27.1 (*DPA Counterparty QCiL Notice*);

"DPA Counterparty QCiL True-Up Notice" has the meaning given to that term in Condition 30.1 (*DPA Counterparty QCiL True-Up Notice*);

"DPA Counterparty Restricted Purposes" means:

- (A) complying with the DPA Counterparty's responsibilities and obligations, and exercising the DPA Counterparty's rights, powers and discretions, under or in connection with the DPA, any other DPA Document or any other CCUS Programme DPA; and
- (B) complying with the DPA Counterparty's responsibilities and obligations under or by virtue of the EA 2013, any other Law, or any Directive, policy or guidance;

"DPA Documents" means the DPA and each of the agreements entered into between the Parties pursuant to it and **"DPA Document"** shall be construed accordingly;

"DPA Generators" means, at the relevant time, all parties (other than the DPA Counterparty) to CCUS Programme DPAs, provided that, where there are two (2) or more parties to any CCUS Programme DPA other than the DPA Counterparty, only one (1) of them shall be counted for the purposes of this definition;

"DPA Payment Information" means the following information relating to the Payments:

- (A) the Initial Net Dependable Capacity Estimate;
- (B) the Net Dependable Capacity;
- (C) the CO₂ Capture Rate Estimate;
- (D) the Achieved and Declared CO₂ Capture Rate Average;
- (E) the Plant Net Efficiency Estimate;
- (F) the Start Up Times Estimates;
- (G) the Initial Availability Payment Rate;
- (H) the Availability Payment Rate;
- (I) the Initial Other Extra Variable Costs;
- (J) the Other Extra Variable Costs;
- (K) the Initial Reference Plant CO₂ Emissions;
- (L) the Reference Plant CO₂ Emissions;
- (M) the Initial Reference Plant Gas Consumption;
- (N) the Reference Plant Gas Consumption;
- (O) the Facility CO₂ Emissions;
- (P) the Facility Gas Consumption;
- (Q) the Gas Price Source; and
- (R) the CMRP Source;

"DPA Register Information" means the following information to be included and updated in the DPA Counterparty's register:

- (A) name of Facility;
- (B) unique identifier assigned to the Facility by the DPA Counterparty;
- (C) Start Date (including the Generator's expected Start Date);
- (D) Agreement Date;
- (E) the Facility's generation technology and capture technology types;
- (F) if applicable, whether the Facility is a Dual Scheme Facility;
- (G) the Target Commissioning Date;
- (H) the Target Commissioning Window start date;
- (I) the DPA Payment Information;
- (J) the Generator's name, company registered address and company registration number;
- (K) the unique geographical coordinates of the Facility;
- (L) DPA agreement type;
- (M) version name and number of the terms and conditions;
- (N) if applicable, the reference number and date of any modification agreement entered into between the Generator and the DPA Counterparty;
- (O) detail of the type of electricity connection (partial, direct or islanded);
- (P) detail of whether the Facility has a transmission or distribution electricity connection; and
- (Q) if applicable, the termination date of the DPA;

"DPA Reserved T&S Capacity" means the lower of: (i) the T&S Capacity; and (ii) the Maximum T&S Capacity;

"DPA Reserved T&S Delivery Point Size" means the lower of: (i) the T&S Delivery Point Size; and (ii) the Maximum T&S Delivery Point Size;

"DPA Settlement Activities" means the calculation, invoicing, recalculation and settlement of payments to be made pursuant to the DPA;

"DPA Settlement Required Information" means all the Information required by the DPA Counterparty, or the DPA Settlement Services Provider on its behalf, relating to the DPA and required by it to carry out the DPA Settlement Activities;

"DPA Settlement Services Provider" means any person appointed for the time being and from time to time by the DPA Counterparty to carry out any of the DPA Settlement Activities, or who is designated by the Secretary of State to carry out the DPA Settlement Activities, acting in that capacity;

"Dual Scheme Facility" means a Facility that forms part of a Generating Station which includes one (1) or more other Generating Units which are not part of the Facility;

"EA 1989" means the Electricity Act 1989;

"EA 2013" means the Energy Act 2013;

"EA 2013 Regulations" means any statutory instruments made pursuant to any of Chapters 2, 4 and 5 (including the associated schedules to any of those chapters) of Part 2 of the EA 2013;

"Economic Regulator" means the independent economic regulator of the economic regulatory regime for the T&S Networks;

"EIR" means the Environmental Information Regulations 2004, together with (where the context requires) any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown Body in relation to such legislation;

"Electricity Delivery Point(s)" means the point(s) of connection of the Facility to the Electricity Transmission System or the Electricity Distribution System, as applicable (being the Boundary Point);

"Electricity Distribution Code" means the distribution code that an Electricity Licensed Distributor is required to prepare or maintain in force in a form approved by the Authority under standard condition 21 (Distribution Code) of an Electricity Distribution Licence;

"Electricity Distribution Licence" means a licence granted or treated as granted pursuant to section 6(1)(c) of the EA 1989;

"Electricity Distribution System" has the meaning given to that term in section 4(4) of the EA 1989;

"Electricity Licensed Distributor" means a person who is authorised pursuant to an Electricity Distribution Licence to distribute electricity, acting in that capacity;

"Electricity Metering Dispute" has the meaning given to that term in Condition 13.6 (*Electricity Metering Dispute*);

"Electricity Metering Equipment" means: (i) the "Metering Equipment" as defined in, and registered pursuant to, the BSC to measure the flows at the Electricity Delivery Point(s) of electricity with the Facility, its Metering System, and its associated BM Unit(s); and (ii) in the case of a Dual Scheme Facility, the "Metering Equipment" as defined in, and registered pursuant to, the BSC to measure the Imported Input Electricity of the Generating Station;

"Electricity Metering Obligation" has the meaning given to that term in Condition 21.1 (*Undertakings: Electricity Metering Obligation*);

"Electricity Storage", in the electricity system, is the conversion of electrical energy into a form of energy which can be stored, the storing of that energy, and the subsequent reconversion of that energy back into electrical energy;

"Electricity Storage Facility" means a facility where Electricity Storage occurs or can occur and includes all assets performing or contributing to any such Electricity Storage;

"Electricity Supplier" has the meaning given to that term in section 9(10) of the EA 2013;

"Electricity Transmission Licence" means an electricity transmission licence granted or treated as granted under section 6(1)(b) of the EA 1989 that authorises a person to participate in the transmission of electricity;

"Electricity Transmission Licensee" means any person who is authorised by an Electricity Transmission Licence to participate in the transmission of electricity;

"Electricity Transmission System" means those parts of the GB Transmission System that are owned or operated by an Electricity Transmission Licensee within the transmission area specified in its Electricity Transmission Licence;

"Electricity Transmission System Operator" means the holder of an Electricity Transmission Licence in relation to which licence the Authority or the Secretary of State, where appropriate, has issued a Section C (system operator standard conditions) Direction in accordance with such licence and where that direction remains in effect;

"Eligible Generator" has the meaning given to that term in the Contracts for Difference (Definition of Eligible Generator) Regulations 2014 (as amended);

"Energy Consultant" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Energy Consultant Appointment Criteria" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Energy Consultant Appointment Threshold" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Energy Consultant Information Request" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Energy Consultant Minimum Criteria" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Energy Economist" means an internationally recognised, leading energy market consultancy firm (not being an Affiliate of either Party or any other DPA Generator) experienced in advising clients in the UK electricity generation sector;

"Environment Agencies" means: (i) the Environment Agency in England; (ii) Natural Resources Wales; and (iii) the Scottish Environment Protection Agency;

"Equity IRR Model" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Estimated Fuel Billing Period" has the meaning given to that term in Condition 9.22 (*Estimates of AP Fuel Composition*);

"Estimated Fuel Settlement Unit" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Estimated Metered Electricity Output" has the meaning given to that term in Condition 11.3 (*Estimates of Unadjusted Metered Electricity Output*);

"Estimated Output Billing Period" has the meaning given to that term in Condition 11.2 (*Estimates of Unadjusted Metered Electricity Output*);

"Estimated Output Billing Statement" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Estimated Output Settlement Unit" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"European Union" or "EU" means the European Union, established by the Treaty of the European Union signed at Maastricht on 7 February 1992 (as amended, supplemented or replaced by any later Treaty);

"EU(W)A 2018" means the European Union (Withdrawal) Act 2018;

"Ex-Ante" means that the relevant QCiL Compensation will be calculated and paid in advance of the corresponding QCiL Costs, QCiL Savings and/or Adjusted Revenues Period arising;

"Ex-Post" means that the relevant QCiL Compensation will be calculated and paid in arrears of the corresponding QCiL Costs, QCiL Savings and/or Adjusted Revenues Period arising;

"Excluded Change in Law" means a Change in Law which is not a Qualifying Change in Law;

"Excluded Information" means Information:

- (A) in, or which enters, the public domain otherwise than as a consequence of a breach of any provision of the DPA;
- (B) properly in the possession of the recipient on a non-confidential basis and not, to the knowledge of the recipient, as a result of a breach by it, its Representatives or any third party of any duty of confidentiality attaching thereto prior to such Information being acquired by or provided to it; or
- (C) which is DPA Register Information;

"Expected Facility Data" means the Generator's estimate, for each year (from 1 April to 31 March inclusive) of the remainder of the Term, of:

- (A) the total electricity output of the Facility (*expressed in MWh*), which is as it will be measured by the Electricity Metering Equipment;
- (B) the expected CO₂ capture rate of the Facility (*expressed as a percentage (%)*) which is as it will be measured by the CO₂ Metering Equipment;
- (C) the net generating capacity of the Facility (*expressed in MW*);
- (D) the availability of the Facility to capture CO₂ (*expressed as a percentage (%)*);
- (E) in relation to the estimates referred to at paragraphs (A) – (D), an explanation of the underlying assumptions and key uncertainties provided in a format to be determined by the DPA Counterparty (acting reasonably); and
- (F) where a submission of the estimates or data referred to in paragraphs (A) – (E) has been made by the Generator to the DPA Counterparty, and where such estimates or data has changed significantly since the last submission, the reasons for those changes;

"Expected QCiL Effective Date" means the date on which a Qualifying Change in Law is expected to be implemented, occur or become effective;

"Expert" means any person appointed to determine a Dispute in accordance with Condition 42 (*Expert Determination Procedure*);

"Expert Appointment Date" means the date on which an Expert is appointed to determine an Expert Dispute by means of an appointment letter entered into by such Expert and each of the Parties;

"Expert Appointment Threshold" has the meaning given to that term in Condition 34.7 (*Expert Appointment Threshold*);

"Expert Determination Notice" has the meaning given to that term in Condition 42.1 (*Expert Determination Procedure*);

"Expert Determination Procedure" means the rules, obligations and procedures set out in Condition 42 (*Expert Determination Procedure*);

"Expert Determination Response Notice" has the meaning given to that term in Condition 42.3 (*Expert Determination Procedure*);

"Expert Dispute" means a Dispute which, pursuant to the terms of the DPA, is to be referred for determination in accordance with the Expert Determination Procedure;

"Expert Referral Date" has the meaning given to that term in Condition 42.6(A) (*Expert Determination Procedure*);

"Facility" has the meaning given to that term in the Agreement;

"Facility Capture Technology" means, in respect of the Facility, the capture technology deployed by the Facility, as specified in the Agreement;

"Facility CO₂ Emissions" has the meaning given to that term in the Agreement;

"Facility Connection Points" means the CO₂ Delivery Point(s), the Gas Supply Point(s) and/or the Electricity Delivery Point(s) (as applicable);

"Facility Fuel" means the fuel used by the Facility, as specified in the Agreement;

"Facility Gas Consumption" has the meaning given to that term in the Agreement;

"Facility Generation Technology" means, in respect of the Facility, the generation technology deployed by the Facility, as specified in the Agreement;

"Facility Heat and Material Balance Diagram" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Facility Metering Equipment" means the Electricity Metering Equipment, the CO₂ Metering Equipment and/or the Gas Supply Metering Equipment (as applicable);

"Facility Shutdown" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Financial Indebtedness" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"First Submission" has the meaning given to that term in Condition 42.6(B) (*Expert Determination Procedure*);

"First Submission Deadline" has the meaning given to that term in Condition 42.6(B) (*Expert Determination Procedure*);

"Fitch" means Fitch Ratings Limited, an English corporation, and any successor thereto;

"FM Affected Party" has the meaning given to that term in Condition 52.1 (*Relief due to Force Majeure*);

"FoIA" means the Freedom of Information Act 2000 and any subordinate legislation made under that Act, together with (where the context requires) any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown Body in relation to such legislation;

"FoIA Information" means any information of whatever nature, however conveyed, and in whatever form, including written, oral and electronic and in visual or machine-readable form (including CD-ROM, magnetic and digital form);

"Force Majeure" means any event or circumstance including:

- (A) any Change in Law (which expression, for the purposes of this definition, shall not include any Foreseeable Change in Law, and, in the period to the Start Date, shall include any change after the Agreement Date in the policy or guidance of any Competent Authority); and
- (B) any event or circumstance resulting from any action or omission by or of any DPA Settlement Services Provider, any BSC Agent or a BSC Company,

provided that such event or circumstance:

- (i) is beyond the reasonable control of the FM Affected Party or, if relevant, its Representatives (in the case of the Generator and its Representatives, acting and having acted in accordance with the Reasonable and Prudent Standard);
- (ii) could not reasonably have been avoided or overcome by the FM Affected Party or its Representatives (as appropriate);
- (iii) is not due to the FM Affected Party's fault or negligence (or that of its Representatives); and
- (iv) is not a T&S Outage Event, a T&S Commissioning Delay Event or a T&S Cessation Event,

provided always that:

- (a) neither non-availability of funds nor the lack of funds shall ever constitute Force Majeure; and
- (b) no event or circumstance which has occurred before the Agreement Date of which, at or before the Agreement Date, the Generator or any of its Representatives either was aware, or (if it or they had made all due and careful enquiries and acted to the Reasonable and Prudent Standard) could be expected to have been aware, shall constitute a Force Majeure;

"Forecast Data" has the meaning given to that term in Condition 25.2 (*Forecast Data*);

"Foreseeable Change in Law" means, in respect of a Change in Law, that the relevant change:

- (A) was published on or after 01 January 2000 but before the Agreement Date:
 - (i) in a draft Bill;
 - (ii) in a Bill;

- (iii) in an Act of Parliament which had been enacted but which had not (in whole or in part) come into effect;
- (iv) in Devolved Legislation which had not (as regards that Change in Law) come into effect;
- (v) in draft subordinate legislation;
- (vi) in draft Devolved Legislation;
- (vii) in subordinate legislation which had not (as regards that Change in Law) come into effect;
- (viii) in a draft Required Authorisation or Required Authorisation which had been made but which had not (as regards that Change in Law) come into effect;
- (ix) in a draft Directive or in a Directive which had been made but which had not (as regards that Change in Law) come into effect;
- (x) in a draft Treaty or other international agreement in relation to which His Majesty's Government of the United Kingdom had made a public statement (from which it had not prior to the Agreement Date publicly resiled) that it would be a signatory; or
- (xi) in a Treaty or other international agreement to which the United Kingdom was a signatory but which had not (as regards that Change in Law) come into effect,

but only to the extent that the change has substantially the same effect as that which was contemplated in such publication and provided that the change shall not be deemed not to have substantially the same effect solely because it is enacted or brought into effect after the Agreement Date in a different form, or by a different person or Competent Authority, than when published before the Agreement Date;

- (B) is contemplated in a proposal or option(s) which was (or were) published on or after 01 January 2000 but before the Agreement Date:

- (i) in a consultation document of a Competent Authority and which is the stated preferred proposal (or, if only one (1) proposal was made, that proposal) of the Competent Authority (whether or not the Competent Authority is at the Agreement Date consulting (or has completed consulting) or considering (or has considered any) responses to the consultation), unless that proposal has been superseded by another stated preferred proposal or formally withdrawn, or the Competent Authority has formally indicated that it does not intend to proceed with it; or
- (ii) in a final modification report in respect of a relevant Industry Document,

but only to the extent that the change has substantially the same effect as that which was contemplated in such publication and provided that the change shall not be deemed not to have substantially the same effect solely because it is enacted or brought into effect after the Agreement Date in a different form, or by a different person or Competent Authority, than when published before the Agreement Date;

- (C) results from the enactment and implementation of any part of chapters 2, 4 and 5 (including the associated schedules to any of those chapters) of part 2 of the EA 2013;

- (D) occurs as a result of the amendment, supplement, termination, repeal, replacement or withdrawal of all or part of any document which is referred to in any Law, Directive, Industry Document or Required Authorisation in existence at the Agreement Date, provided that:
 - (i) a document setting out the nature of such amendment, supplement, termination, repeal, replacement or withdrawal (whether or not in draft) had been published on or before the Agreement Date; and
 - (ii) such amendment, supplement, termination, repeal, replacement or withdrawal has substantially the same effect as that so published;
- (E) constitutes the re-enactment, re-making or similar of (in whole or in part) any Law, Directive, Industry Document or Required Authorisation, provided that the re-enacted, re-made or similar Law, Directive, Industry Document or Required Authorisation, as the case may be, has substantially the same effect as that of which it is a re-enactment, re-making or similar;
- (F) implements or gives effect to (the whole or part of) any Treaty which has been published on or after 01 January 2000 but before the Agreement Date (and notwithstanding that implementation proposals and/or related sanctions for any part of the United Kingdom have not been published or have not (in whole or in part) come into effect on the Agreement Date), provided that the implementation proposals and/or related sanctions which come into effect in the United Kingdom (or relevant part thereof) have substantially the same application as the provision in the Treaty which it implements;
- (G) results from any Required Authorisation or Directive obtained or made pursuant to or for the purposes of another Required Authorisation or Directive which has been made prior to or is in force on the Agreement Date (the **"First Required Authorisation or Directive"**) unless the Generator is obliged to obtain such a Required Authorisation or Directive because of an unforeseeable amendment to the First Required Authorisation or Directive made after the Agreement Date;
- (H) results from any exercise of the Royal Prerogative where such exercise has the same, or substantially the same effect, as that which was proposed on or after 01 January 2000 but before the Agreement Date;
- (I) constitutes a change in the interpretation or application of a Law, Directive, Industry Document or Required Authorisation by any Competent Authority if such interpretation or application is in accordance with a proposal set out in a document (whether or not in draft) which was published on or after 01 January 2000 but before the Agreement Date and the change has substantially the same effect as that which was proposed in the document;
- (J) results from legal proceedings:
 - (i) commenced;
 - (ii) pending before any court, arbitral or other tribunal, administrative or regulatory body or, as the case may be, expert; or
 - (iii) threatened (by issue of a formal written notice before action or similar),
 against the Generator on or prior to the Agreement Date; or

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

provided always that:

- (a) a Change in Law which imposes a requirement that the Facility permanently ceases operation;
- (b) a Change in Law which is implemented, occurs or becomes effective after the Agreement Date which is enacted pursuant to any proposal or measure contained or set out in:
 - (aa) the Review of Electricity Market Arrangements consultation issued by the Department for Energy Security and Net Zero on 18 July 2022;
 - (bb) the Review of Electricity Market Arrangements: Summary of responses to consultation dated 7 March 2023; and/or
 - (cc) the Review of Electricity Market Arrangements second consultation issued by the Department for Energy Security and Net Zero on 12 March 2024;
- (c) a Change in Law which is implemented, occurs or becomes effective after the Agreement Date which is enacted pursuant to the Retained EU Law (Revocation and Reform) Act 2023, except where such Change in Law is enacted on terms which are equivalent to the terms of the relevant EU law that applied in the United Kingdom prior to the Agreement Date; or
- (d) a Change in Law which is implemented, occurs or becomes effective after the Agreement Date which is enacted pursuant to any proposal or

measure contained or set out in (i) the Hydrogen blending into GB gas distribution networks: consultation issued by the Department for Energy Security and Net Zero on 15 September 2023, (ii) the Hydrogen blending into GB gas distribution networks: government response issued by the Department for Energy Security and Net Zero on 14 December 2023, and/or (iii) the Hydrogen blending into GB gas distribution networks: strategic policy decision issued by the Department for Energy Security and Net Zero on 14 December 2023,

shall not be a Foreseeable Change in Law;

"FSMA" means the Financial Services and Markets Act 2000;

"Fuel Composition" means the composition of fuel used by the Facility during the relevant period, as measured at the Gas Supply Point(s) during such period;

"Full Capture Outage Event" means an event where the Capture Assets are fully unavailable;

"Full Load Operation" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Full Load Test" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Full Load Test Performance Outputs" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Full T&S Outage Event" means an event or circumstance affecting the relevant T&S Network which:

- (A) prevents the Facility from accessing and exporting any captured CO₂ Rich Stream to such T&S Network; or
- (B) as a direct result of the Available Registered Capacity which is made available to the Generator as a consequence of such event or circumstance, means that it is not technically feasible for the Generator to continue capturing and injecting CO₂ Rich Stream into the T&S Network because such Available Registered Capacity is less than the Minimum Turndown Rate;

"Further Annual NDC Test Response Notice" has the meaning given to that term in Condition 7.5(C)(ii) (*DPA Counterparty Response Notification*);

"Further Longstop Date Capacity Response Notice" has the meaning given to that term in Condition 6.5(B)(ii) (*Longstop Date Capacity Notice*);

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

"Further OCP Response Notice" has the meaning given to that term in Condition 3.10(C)(ii) (*Operational Conditions Precedent: General Reporting Obligations*);

"Further Outage Relief Response Notice" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Further T&S Network Availability Response Notice" has the meaning given to that term in Condition 3.46(C)(ii) (*T&S Connection Confirmation Requirement*);

"Further T&S Meter Proving Test Response Notice" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Further TCDE Response Notice" has the meaning given to that term in Condition 3.33(C)(ii) (*T&S Connection Confirmation CP Relief*);

"Gain Share Bond" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Gain Share Parent Company Guarantee" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Gain Share Transaction Documents" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Gas" or **"Natural Gas"** shall have the same meaning as in the Uniform Network Code;

"Gas Act" means the Gas Act 1986 as such act is amended or replaced and any regulations made thereunder as amended or re-enacted from time to time;

"Gas Cost Differential" (GC_i) means the gas cost differential in respect of the Facility (*expressed in £/MWh*) in VP Settlement Unit (*i*) calculated in accordance with the following formula:

$$GC_i = \frac{GP_i}{100} \times (GU_{CCUS} - GU_{Ref})$$

where:

GC_i	=	Gas Cost Differential (£/MWh) in VP Settlement Unit (<i>i</i>)
GP_i	=	Gas Price (<i>pence/therm</i>) in VP Settlement Unit (<i>i</i>)
GU_{CCUS}	=	Facility Gas Consumption (<i>therms/MWh</i>)
GU_{Ref}	=	Reference Plant Gas Consumption (<i>therms/MWh</i>)

"Gas Distribution System" means all or part of a distribution system in Great Britain operated by a Gas Licensed Transporter;

"Gas GB Day Ahead BD Index" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas GB Day Ahead BD Price" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas GB Day Ahead Contract" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas GB Day Ahead N-BD Index" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas GB Day Ahead N-BD Price" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas Licensed Shipper" means a person who is authorised by a Gas Shipper Licence to ship Natural Gas;

"Gas Licensed Transporter" means a person who is authorised by a Gas Transporter Licence to distribute Natural Gas;

"Gas Price" means the Gas price (*expressed in pence/therm*) calculated in accordance with Condition 10.3 (*Gas Price calculation*) in VP Settlement Unit (*i*);

"Gas Price BD Source" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas Price N-BD Source" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas Price Sources" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Gas Reference Price" has the meaning given to that term in Condition 10.4 (*Gas Price calculation*);

"Gas Shipper Licence" means a licence granted under Section 7A of the Gas Act;

"Gas Supply Metering Dispute" has the meaning given to that term in Condition 13.10 (*Gas Supply Metering Dispute*);

"Gas Supply Metering Equipment" means the metering equipment which is required pursuant to the Gas Supply Metering Obligation to meter the Gas supply to the Facility which shall include flow meters, a Gas composition chromatograph, associated communications equipment, and any other necessary ancillary equipment and infrastructure;

"Gas Supply Metering Obligation" has the meaning given to that term in Condition 21.3 (*Undertakings: Gas Supply Metering Obligation*);

"Gas Supply Point(s)" means the point(s) of connection of the Facility to the Gas Distribution System to be identified on a plan which is annexed to the Agreement;

"Gas Transporter Licence" means a licence granted under Section 7 of the Gas Act;

"GB Power Market Model" means a software model that, as a minimum, forecasts GB half hourly electricity market dispatch decisions, load factors, day ahead wholesale electricity market prices out to 2050, along with plant new build and retirement decisions;

"GB System Operator" means the operator of the GB Transmission System, acting in that capacity;

"GB Transmission System" means the system consisting (wholly or mainly) of high voltage electric lines owned by Electricity Transmission Licensees within Great Britain that is used for the transmission of electricity from one (1) generating station to a substation or to another generating station or between substations or to or from any interconnector;

"General Amendment" means any Proposed Amendment which:

- (A) is a Technical Amendment; and
- (B) the DPA Counterparty proposes be effected in respect of either:
 - (i) all CCUS Programme DPAs to which the DPA Counterparty is a party at the time the Amendment Notification in respect of the Proposed Amendment is given; or

- (ii) all CCUS Programme DPAs of a particular category to which the DPA Counterparty is a party at the time the Amendment Notification in respect of the Proposed Amendment is given,

in each case, other than any CCUS Programme DPA to which Annex 6 (*Change Control Procedure*) is expressed not to apply;

"Generating Station" means an installation comprising the Facility and one (1) or more other Generating Units (other than an interconnector and even where those Generating Units are situated separately) which the DPA Counterparty considers (acting reasonably) as being managed as, or comprising, one (1) generating station or one (1) generating site;

"Generating Unit" means any Apparatus which produces electricity;

"Generation Assets" has the meaning given to that term in the Agreement;

"Generation Declaration Capacity Data" has the meaning given to that term in Condition 24.1(A) (*Declaration Obligations*);

"Generation Outage Event" means an event where the Facility is unavailable, curtailed or derated such that the net generating capacity of the Facility at the Electricity Delivery Point(s), at Reference Site Conditions, is reduced by an amount greater than one per cent. (1%) of the Net Dependable Capacity, regardless of whether or not the Generator is required to declare such event in accordance with the requirements of UK REMIT;

"Generation Outage Event (AP Settlement Unit) Duration" means the total duration of all AP Settlement Units impacted by a Generation Outage Event (*expressed in hours*);

"Generation Outage Relief Event" means a Generation Outage Event which occurs as a direct result of the Facility's connection to:

- (A) the Electricity Distribution System and/or Electricity Transmission System being de-energised, disconnected or disrupted; or
- (B) the Gas Distribution System being disconnected or disrupted,

except to the extent that:

- (i) such de-energisation, disconnection and/or disruption arises out of or in connection with any act, omission, breach or default of the Generator or its Representatives (including any breach by the Generator or its Representatives of an Industry Document, or where the Generator has or its Representatives have entered into an interruptible gas supply agreement); and/or
- (ii) prior to such event occurring, the Generator has declared to the DPA Counterparty that the Facility is unavailable due to a Generation Outage Event which is not related to the events set out in (A) or (B) above and such unavailability is continuing;

"Generation Technology" means a generation technology deployed by a generating facility;

"Generator" has the meaning given to that term in the Agreement;

"Generator's Assumed Decommissioning Date" has the meaning given to that term in the Agreement;

"Generator's Revenue" means the Generator's Revenue (Ex-Ante Basis) or Generator's Revenue (Ex-Post Basis) (as applicable);

"Generator Capture Rate Breach Remediation Notice" has the meaning given to that term in Condition 22.7(B) (*Rectification of Minimum CO₂ Capture Rate Obligation breach*);

"Generator CO₂ Metered Data Breach Notice" has the meaning given to that term in Condition 21.5 (*Notification by Generator of CO₂ Metered Data Obligation breach*);

"Generator CO₂ Metered Data System Failure" means a failure by the Generator to make all due and careful enquiries when providing Outlet CO₂ Metered Data to the DPA Counterparty pursuant to Condition 23.1 which has led to the provision of data which is misleading, except where the Generator has, within five (5) Business Days from the date it provides such data to the DPA Counterparty, provided Revised CO₂ Metered Data to the DPA Counterparty pursuant to Condition 23.9;

"Generator Confidential Information" means:

(A) all Information which is confidential or proprietary in nature and which relates (directly or indirectly) to the Generator, the Facility or the Project which the DPA Counterparty (or its Representatives) receives or has received from:

- (i) the Generator (or its Representatives); or
- (ii) any third party who receives or has received such Information from the Generator (or its Representatives) in connection with the DPA;

in each case including any Information which the DPA Counterparty prepares which contains or makes explicit reference to such Information or from which such Information is readily ascertainable;

(B) without prejudice to the generality of paragraph (A) above, all Information relating to:

- (i) any QCiL Compensation or QCiL True-Up Compensation; or
- (ii) any T&S Termination Payment,

including all Information relating to or arising from negotiations, discussions and correspondence in respect of any such QCiL Compensation, QCiL True-Up Compensation or T&S Termination Payment; and

(C) any Information which relates to or arises from negotiations, discussions and correspondence in connection with the DPA,

but excluding in each case all Excluded Information;

"Generator Data" means all data and information, including Confidential Information and any personal data, relating to the Generator or any of its respective technology, operations, facilities, assets or programmes, or relating to the Generator's personnel or customers, in whatever form that data and information may exist;

"Generator Declaration Breach Notice" has the meaning given to that term in Condition 24.4 (*Notification by Generator of Declaration Obligation breach*);

"Generator Declaration Capacity Data System Failure" means a failure by the Generator to make all due and careful enquiries when providing Declaration Capacity Data to the DPA Counterparty pursuant to Condition 24.1 which has led to the provision of data which is

misleading, except where the Generator has, within five (5) Business Days from the date it provides such data to the DPA Counterparty, provided Revised Declaration Capacity Data to the DPA Counterparty pursuant to Condition 24.1(H);

"Generator Metering Remediation Notice" has the meaning given to that term in Condition 21.7(C) (*Resolution of Metering Obligation breach*);

"Generator Metering Remediation Notice Information Request" has the meaning given to that term in Condition 21.8 (*Resolution of Metering Obligation breach*);

"Generator Net Payable Amount" means, in respect of a Billing Period, any amount which is due and payable by the Generator to the DPA Counterparty;

"Generator Objection Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Generator Permitted Purpose" means:

- (A) complying with the Generator's responsibilities and obligations, and exercising the Generator's rights, powers and discretions, under or in connection with the DPA or any other DPA Document; and
- (B) complying with the Generator's responsibilities and obligations under or by virtue of the EA 2013, any other Law, or any Directive, policy or guidance;

"Generator QCiL Notice" has the meaning given to that term in Condition 27.8 (*Generator QCiL Notice*);

"Generator QCiL Notice Information Request" has the meaning given to that term in Condition 27.11 (*Generator QCiL Notice*);

"Generator QCiL Response Notice" has the meaning given to that term in Condition 27.2 (*Generator QCiL Response Notice*);

"Generator QCiL Response Notice Information Request" has the meaning given to that term in Condition 27.6 (*Generator QCiL Response Notice*);

"Generator QCiL True-Up Notice" has the meaning given to that term in Condition 30.8 (*Generator QCiL True-Up Notice*);

"Generator QCiL True-Up Notice Information Request" has the meaning given to that term in Condition 30.11 (*Generator QCiL True-Up Notice*);

"Generator QCiL True-Up Response Notice" has the meaning given to that term in Condition 30.3 (*Generator QCiL True-Up Response Notice*);

"Generator QCiL True-Up Response Notice Information Request" has the meaning given to that term in Condition 30.6 (*Generator QCiL True-Up Response Notice*);

"Generator Repeating Representations" means each of the representations and warranties set out in Condition 18.1 (other than in Conditions 18.1(G) (*No litigation*) and 18.1(H) (*No requirement to deduct or withhold*));

"Generator T&S Connection Works" means the User Works that the Generator is required or elects to carry out and complete pursuant to the T&S Construction Agreement;

"Generator T&S Prolonged Unavailability Remediation Notice" has the meaning given to that term in Condition 36.18(B) (*Failure to comply with T&S Prolonged Unavailability Procedure Obligation: Suspension*);

"Generator T&S Prolonged Unavailability Response Deadline" has the meaning given to that term in Condition 36.8 (*Termination for T&S Prolonged Unavailability Event*);

"Generator T&S Prolonged Unavailability Termination Event Notice" has the meaning given to that term in Condition 36.27 (*Termination for T&S Prolonged Unavailability Event*);

"Generator T&S Prolonged Unavailability Termination Notice Information Request" has the meaning given to that term in Condition 36.29 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*);

"Generator T&S Termination Response Notice" has the meaning given to that term in Condition 36.23 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*);

"Government Entity" means:

- (A) any department, non-departmental public body, authority or agency of His Majesty's Government of the United Kingdom or the Crown;
- (B) any of His Majesty's Secretaries of State and any other Minister of the Crown;
- (C) any body corporate established by statute, some or all of the members of which are appointed by a Secretary of State or Minister of the Crown; and
- (D) any other entity or person directly or indirectly wholly owned by, or held on trust for, any of the foregoing;

"Grid Code" means the grid code that is required to be prepared by the GB System Operator and approved by the Authority pursuant to Standard Condition C14 (*Grid Code*) of the Electricity Transmission Licence;

"Gross Calorific Value of Reference Fuel Composition" is the value given in paragraph 1 of Part B (*Reference Site Conditions*) of Annex 2 (*Testing Requirements*);

"Group" means, in respect of any Party, its subsidiaries, subsidiary undertakings, associated undertakings and any holding company of the Party and all other subsidiaries, subsidiary undertakings and associated undertakings of any such holding company from time to time;

"GRP Dispute" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Dispute Generator" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Dispute Notice" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Dispute Threshold Criterion" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Dispute Validity Notice" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Expert Appointment Threshold" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Fallback Settlement Unit" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"GRP Mechanism Amendment" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Prioritisation" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Request Criterion" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Request Notice" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Request Validity Notice" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Review" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Review Implementation Date" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Review Notice" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Review Proposals" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Review Response Deadline" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Review Response Notice" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Principles Review Trigger" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Quality Criteria" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GRP Trading Day" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"GCV" means gross calorific value;

"Heat and Material Balance Diagram" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"HoldCo" has the meaning given to that term in the Agreement;

"Hot Start" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"ICE Futures Europe Index" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"IFRS" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Imported Input Electricity" means, in respect of a Generating Station, all electricity (*expressed in MWh*) imported from the Electricity Transmission System or from an Electricity Distribution System to that Generating Station, as measured at the Boundary Point;

"Inaccurate CO₂ Re-use Metered Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Inaccurate Outlet CO₂ Metered Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Income, Profits or Gains" includes any income, profits or gains which are deemed to be earned, accrued or received by the Generator for the purposes of any Tax;

"Incomplete AP Billing Period" has the meaning given to that term in Condition 9.20 (*AP Other Metered Data Fallback*);

"Incomplete AP Settlement Unit" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Independent Gas Transporter Network Codes" means the network codes established and maintained by Gas Licensed Transporters in respect of the Gas Distribution System;

"Indexation Anniversary" means an APR Indexation Anniversary and/or a OEVC Indexation Anniversary (as applicable);

"Industry Documents" means any and all agreements, codes, and instruments regulating:

- (A) the generation, transmission, distribution, supply and trading of electricity in Great Britain, including the Grid Code, the SOTO Code, the BSC, the CUSC, the Master Registration Agreement, any Electricity Distribution Code, any Distribution Connection and Use of System Agreement and/or any other connection or use of system agreement with an Electricity Transmission Licensee or Electricity Licensed Distributor;
- (B) the distribution, supply and trading of Gas in Great Britain, including the Uniform Network Code, the Independent Gas Transporter Network Codes and/or any other connection or use of system agreement with a Gas Licensed Transporter or Gas Licensed Shipper; and
- (C) the capture, temporary storage, permanent storage, distribution, transportation, and trading of CO₂ in the United Kingdom, including any CCS Network Code,

and **"Industry Document"** shall be construed accordingly;

"Inflation Factor" means:

- (A) in the absence of any re-basing of the CPI which has taken effect prior to the relevant Indexation Anniversary in respect of each Settlement Unit (*i*):

$$\Pi_i = \frac{CPI_i}{CPI_{base}}$$

where:

- Π_i = is the Inflation Factor;
- CPI_i = denotes the CPI for January of the relevant calendar year or, where the CPI for January is not published by the first (1st) day of the Summer Season in such calendar year, the Reference CPI, which is applicable to the Settlement Unit (*i*);
- CPI_{base} = denotes the Base Year CPI; or

- (B) if the CPI is re-based and such re-basing has taken effect prior to the Indexation Anniversary, in respect of each Settlement Unit (*i*):

$$\Pi_i = \frac{CPI_i^{new}}{CPI_{base}^{old}} \times \frac{CPI_b^{old}}{CPI_{base}^{new}}$$

where:

- Π_i = is the Inflation Factor;
- CPI_i^{new} = is the CPI applicable to Settlement Unit (*i*), using the new (re-based) index;
- CPI_{base}^{old} = is the Base Year CPI, using the original index
- CPI_b^{old} = is the CPI in the Month in which the re-basing has occurred using the original index; and
- CPI_{base}^{new} = is the CPI in the Month in which the re-basing has occurred, using the new (re-based) index;

"Information" means any information of whatever nature and in whatever form, including written, oral and electronic and in visual or machine-readable form (including CD-ROM, magnetic and digital form) and, in relation to any obligation of any person to provide information pursuant to the DPA or any other DPA Document, shall be limited to such information that is within the control of that person, and for these purposes information shall be deemed to be within the control of a person if: (i) it is within the possession of such person; (ii) such person has a right to possession of it; or (iii) such person has a right to inspect or take copies of it;

"Information Commissioner" has the meaning given to that term in the FoIA;

"Information Security Laws" means all applicable laws and regulations in each case pertaining to the security, confidentiality, integrity, availability and protection or privacy of the DPA Counterparty, the SCADA System, the Information Systems, DPA Counterparty Data and any other Information, as amended or re-enacted from time to time;

"Information System" means the computer systems, communications systems and equipment (including network and telecommunications equipment, smartphones and mobile devices), hardware, firmware and software (including associated preparatory materials, user manuals and other related documentation), used in the performance of the DPA and which, in each case, are owned or used by either Party;

"Initial Availability Payment Rate" has the meaning given to that term in the Agreement;

"Initial Base Performance Assumptions" means the Initial Reference Plant CO₂ Emissions and the Initial Reference Plant Gas Consumption;

"Initial CMRP Index" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"Initial Conditions Precedent" means the conditions precedent set out in Part A of Annex 1 (*Conditions Precedent*) and **"Initial Condition Precedent"** shall be construed accordingly;

"Initial Correction Curves" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Initial CP Provisions" means Part 4 (*Adjustments*), Part 8 (*Changes in Law*), Part A (*GRP Review Procedures*) of Annex 8 (*Gas Reference Price Review*), Part A (*CMRP Review Procedures*) of Annex 9 (*Carbon Market Reference Price Review*) and Part A (*Reference Plant Review Procedures*) of Annex 10 (*Reference Plant Review*);

"Initial DCR Settlement Unit" has the meaning given to that term in Condition 24.1(C) (*Declaration Obligations*);

"Initial GRP BD Index" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Initial GRP N-BD Index" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Initial Heat and Material Balance Diagram" has the meaning given to that term in the Agreement;

"Initial Milestone Delivery Date" has the meaning given to that term in the Agreement;

"Initial Minimum Turndown Rate" has the meaning given to that term in the Agreement;

"Initial Net Dependable Capacity Estimate" has the meaning given to that term in the Agreement;

"Initial Notified Annual NDC Test Date" has the meaning given to that term in Condition 7.1(B) (*Undertaking: Annual NDC Test*);

"Initial Other Extra Variable Costs" has the meaning given to that term in the Agreement;

"Initial Reference Plant" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Initial Reference Plant CO₂ Emissions" has the meaning given to that term in the Agreement;

"Initial Reference Plant Gas Consumption" has the meaning given to that term in the Agreement;

"Initial Target Commissioning Window" has the meaning given to that term in the Agreement;

"Inside Information" means Generator Confidential Information which is "inside information" within the meaning of section 118C of the FSMA or section 56 of the CJA in relation to the Generator or any member of its Group;

"Intellectual Property Rights" means:

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

"Interest Rate Methodology" means the average of the Bank of England Sterling Overnight Index Average (SONIA) Compounded Index, plus one (1) percentage point, from the date the Generator receives the Subsidy for the period interest is required to run under Condition 25.13 (*Subsidy Interest*), and subject to Condition 25.13(C) (*Subsidy Interest*);

"Interim Operational Notification" has the meaning given to that term in the Grid Code;

"International Funding" means financial assistance which:

- (A) is given, directly or indirectly, from public resources by any public authority of a country or territory outside the United Kingdom and European Union;
- (B) confers an economic advantage on one (1) or more enterprises;
- (C) is specific, in that it benefits one (1) or more enterprises over one (1) or more other enterprises with respect to the production of goods or the provision of services; and
- (D) has, or is capable of having, an effect on:
 - (i) competition or investment within the United Kingdom;
 - (ii) trade between the United Kingdom and a country or territory outside the United Kingdom; or
 - (iii) investment as between the United Kingdom and a country or territory outside the United Kingdom;

"Investor" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Investor Group Requirements" means that both the Acceptable Credit Standing Test and the Power CCUS Expertise Test are met by the Investor Groups;

"KYC Notice" has the meaning given to that term in Condition 64.17 (*KYC Notification*);

"Law" means:

- (A) any Act of Parliament, any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978;
- (B) any exercise of the Royal Prerogative;

- (C) any provision of Devolved Legislation whose subject matter falls within what was, immediately before IP Completion Day (as defined in s.39 European Union (Withdrawal Agreement) Act 2020), an area of exclusive or shared competence within the meaning of Articles 2, 3, 4 and 6 of the Treaty on the Functioning of the European Union; or
- (D) any assimilated law,

in each case in (A) to (D) (inclusive) in the United Kingdom (or part thereof), including Scotland and Wales; and
- (E) to the extent directly binding on and/or enforceable by or against private persons within the United Kingdom any obligations arising from or provided for in a Treaty or other international agreement to which the United Kingdom is a signatory;

"LCIA" means the London Court of International Arbitration;

"LCIA Arbitration Rules" means the arbitration rules published under that name by the LCIA;

"Legal Reservations" means: (i) the principle that equitable remedies may be granted or refused at the discretion of a court; (ii) the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; (iii) the time barring of claims pursuant to applicable limitation laws; (iv) defences of set-off or counterclaim; and (v) similar principles, rights and defences available at law;

"Lender" means any bank or financial institution (excluding any direct or indirect shareholder of the Generator) which provides debt financing or refinancing in relation to the Facility;

"Letter of Credit" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Letter of Credit Details Notice" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Lock-in Period" means the period commencing on the Agreement Date and ending on the date that falls twelve (12) Months after the Start Date;

"Longstop Date" means the last day of the Longstop Period following the final day of the Target Commissioning Window, as such date may be extended day for day for each day of delay to the Project by reason of:

- (A) a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (*Force Majeure*) to be entitled to such extension; or
- (B) the failure of the Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives); or
- (C) the failure of the Gas Licensed Transporter to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Gas Licensed Transporter is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives); or

- (D) a T&S Commissioning Delay Event but only to the extent that the Generator has satisfied the requirements of Conditions 3.37 to 3.39 (*Relief due to T&S Commissioning Delay Event*) to be entitled to such extension,

and provided that in the case of delays caused by the reasons set out in (B) and/or (C) above:

- (i) the Generator gives notice to the DPA Counterparty as soon as reasonably practicable of the nature and extent of the failure; and
- (ii) there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours:
 - (a) to mitigate the effects of such failure (including delay to the Project);
 - (b) to carry out its obligations under the DPA and each other DPA Document in any way that is reasonably practicable; and
 - (c) to resume the performance of its obligations under the DPA and each other DPA Document as soon as reasonably practicable;

"Longstop Date Performance Tests" means the Commissioning Tests to be carried out and completed by the Generator (whether simultaneously with, or subsequent to, the OCP Performance Tests) in order to demonstrate whether the Generator has satisfied the Minimum Longstop Date Commissioning Requirements;

"Longstop Date Capacity Notice" has the meaning given to that term in Condition 6.1 (*Longstop Date Capacity Notice*);

"Longstop Date Capacity Response Notice" has the meaning given to that term in Condition 6.4 (*Longstop Date Capacity Notice*);

"Longstop Date Capacity Supporting Information" has the meaning given to that term in Condition 6.4(B) (*Longstop Date Capacity Notice*);

"Longstop Period" has the meaning given to that term in the Agreement;

"Loss Adjusted Metered Electricity Output" means the BM Unit Metered Volume for the Facility during a VP Settlement Unit as measured by the Electricity Metering Equipment during such period, adjusted for: (i) the transmission loss multiplier allocated in accordance with the BSC; or (ii) any new or substituted multiplier or factor which is in the nature of, or similar to, a transmission loss multiplier;

"Mandatory T&S Prolonged Unavailability Termination Notice Date" has the meaning given to that term in Condition 36.22(A) (*Termination for failing to remedy a T&S Prolonged Unavailability Event*);

"Master Registration Agreement" means the agreement of that name that an Electricity Licensed Distributor is required to maintain in force in a form approved by the Authority under standard condition 23 (*Master Registration Agreement*) of an Electricity Distribution Licence;

"Material Adverse Effect" means, in respect of any Party, a material adverse effect on the ability of that Party to perform or comply with its obligations under the DPA or any other DPA Document;

"Material Amendment" means any Proposed Amendment which would (taking into account, in the case of a Proposed Amendment providing for more than one (1) amendment, the net

aggregate effect of all the Proposed Amendments contained within the relevant Amendment Notification) have an adverse effect on: (i) the revenues and/or costs of the Generator which are not fully compensated; or (ii) the overall balance of risks, benefits and liabilities of the Generator, in each case, pursuant to the DPA;

"Material Amendment Agreement" has the meaning given to that term in paragraph 2.5 (*Material Amendments: process*) of Annex 6 (*Change Control Procedure*);

"Material Amendment Response Notification" has the meaning given to that term in paragraph 2.2(B) of Annex 6 (*Change Control Procedure*);

"Material Change" means:

- (A) in relation to the Electricity Metering Equipment a "Material Change" as defined in the BSC save that references to "Metering Equipment" within the definition of "Material Change" in the BSC shall be replaced by references to Electricity Metering Equipment;
- (B) in relation to the CO₂ Metering Equipment, a change to the systems and/or processes relating to such equipment which is of such a type or magnitude as to raise the reasonable expectation that the Generator's ability to meet its obligations under the DPA relating to the CO₂ Metering Equipment will be significantly affected; or
- (C) in relation to the Gas Supply Metering Equipment, a change to the systems and/or processes relating to such equipment which is of such a type or magnitude as to raise the reasonable expectation that the Generator's ability to meet its obligations under the DPA relating to the Gas Supply Metering Equipment will be affected;

"Material Equipment" has the meaning given to that term in the Agreement;

"Material Generation Technologies" means a Generation Technology that accounts from time to time for at least one per cent. (1%) of all installed generation capacity (*expressed in MW*) in the United Kingdom;

"Material Investor" means an Investor who holds any legal, beneficial or equitable interest in at least twenty five percent (25%) of the shares in the Generator or HoldCo;

"Material Investor Group" means, in respect of a Material Investor, that Material Investor and its Group;

"Maximum CO₂ Rich Stream Flow Rate" has the meaning given to that term in the Agreement;

"Maximum CO₂ Rich Stream Input Flow Rate Estimate" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Maximum Metered Day Electricity Output" means the product (*expressed in MWh*) of the Net Dependable Capacity (*expressed in MW*) and the total duration (*expressed in hours*) of all AP Settlement Units (excluding an AP Settlement Unit in which there was a Full Capture Outage Event and/or a Full T&S Outage Event starting, ending or continuing) in which the BM Unit Metered Volume for the Facility, as measured by the Electricity Metering Equipment, is greater than zero (0), during each VP Billing Period;

"Maximum Metered Sub-Period Electricity Output" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Maximum T&S Capacity" has the meaning given to that term in the Agreement;

"Maximum T&S Delivery Point Size" has the meaning given to that term in the Agreement;

"Maximum VP Metered CO₂ Rich Stream Output" means the product (*expressed in tCO_{2RS}*) of the Maximum CO₂ Rich Stream Flow Rate (*expressed in t/h*) and the total duration (*expressed in hours*) of all half hour-long periods in which the mass quantity of CO₂ Rich Stream entering the T&S Network from the Facility, as measured by the CO₂ Metering Equipment at the CO₂ Delivery Point(s), is greater than zero (0), during each VP Billing Period;

"Measurement Uncertainty Assessment" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Metered CO₂ Input" means the mass quantity of CO₂ (*expressed in tCO₂*) entering the Facility from the relevant T&S Network during the relevant period, as measured by the CO₂ Re-use Metering Equipment at the CO₂ Re-use Point(s) during such period;

"Metered CO₂ Input Flow Rate" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Metered CO₂ Output" means the mass quantity of CO₂ (*expressed in tCO₂*) entering the T&S Network during the relevant period, as measured by the CO₂ Metering Equipment at the CO₂ Delivery Point(s) during such period;

"Metered CO₂ Output Flow Rate" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Metered CO₂ Rich Stream Input" means the mass quantity of CO₂ Rich Stream (*expressed in tCO_{2RS}*) entering the Facility from the T&S Network during the relevant period, as measured by the CO₂ Re-use Metering Equipment at the CO₂ Re-use Point(s) during such period;

"Metered CO₂ Rich Stream Input Flow Rate" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Metered CO₂ Rich Stream Output" means the mass quantity of CO₂ Rich Stream (*expressed in tCO_{2RS}*) entering the relevant T&S Network from the Facility during the relevant period, as measured at the CO₂ Delivery Point(s) during such period;

"Metered CO₂ Rich Stream Output Flow Rate" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Metered Day Electricity Output" means, in a VP Billing Period, the Unadjusted Metered Electricity Output (*expressed in MWh*) as reported by a BSC Company or BSC Agent to the DPA Counterparty for such period, adjusted to disregard all Unadjusted Metered Electricity Output in any AP Settlement Unit in which there was a Full Capture Outage Event and/or a Full T&S Outage Event starting, ending or continuing. If the actual Metered Day Electricity Output is greater than an amount equal to the Maximum Metered Day Electricity Output, the Metered Day Electricity Output for such VP Billing Period shall be deemed to be equal to the Maximum Metered Day Electricity Output;

"Metered Electricity Output" means the Unadjusted Metered Electricity Output for each Settlement Unit as reported by a BSC Company or a BSC Agent to the DPA Counterparty;

"Metered Electricity Output Cut-Off Time" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Metered Electricity Output Recalculation Amount" has the meaning given to that term in Condition 11.4(B)(ii) (*Recalculations of Estimated Metered Electricity Output*);

"Metered Sub-Period Electricity Output" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Metering Access Right" has the meaning given to that term in Condition 21.15 (*Undertakings: Access to and testing of meters*);

"Metering Access Termination Event" means an event as set out in Condition 21.21 (*Failure to provide Metering Access Right*);

"Metering Breach Notice" has the meaning given to that term in Condition 21.4 (*Notification of Metering Obligation breach*);

"Metering Breach Response Notice" has the meaning given to that term in Condition 21.5 (*Response to notification of Metering Obligation breach*);

"Metering Breach Response Notice Period" has the meaning given to that term in Condition 21.5 (*Response to notification of Metering Obligation breach*);

"Metering Dispute" means an Electricity Metering Dispute, a Gas Supply Metering Dispute and/or a CO₂ Metering Dispute (as applicable);

"Metering Dispute Deadline" means the date which is twenty (20) Months after the Billing Period in which the disputed Settlement Unit occurred;

"Metering Inspection Notice" has the meaning given to that term in Condition 21.16 (*Undertakings: Access to and testing of meters*);

"Metering Obligations" means the Electricity Metering Obligations, the CO₂ Metering Obligations and/or the Gas Supply Metering Obligations (as applicable);

"Metering Remediation Plan" means a plan developed by the Generator setting out appropriate milestones and actions to be taken to remedy a breach of a Metering Obligation;

"Metering Schematic Obligation" has the meaning given to that term in Condition 21.11 (*Undertakings: Metering Schematics*);

"Metering Schematic Obligation Notice" has the meaning given to that term in Condition 21.11(A) (*Undertakings: Metering Schematics*);

"Milestone Assessment Response Notice" has the meaning given to that term in Condition 4.3 (*Milestone Requirement Notice*);

"Milestone Delay Notice" has the meaning given to that term in Condition 4.8 (*Difficulties in achieving the Milestone Requirement*);

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

- (A) a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (*Force Majeure*) to be entitled to such extension; or
- (B) the failure of the Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor is a party (except

to the extent that such failure is due to the fault or negligence of the Generator or its Representatives); or

- (C) the failure of the Gas Licensed Transporter to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Gas Licensed Transporter is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives); or
- (D) a T&S Commissioning Delay Event but only to the extent that the Generator has satisfied the requirements of Conditions 3.37 to 3.39 (*Relief due to T&S Commissioning Delay Event*) to be entitled to such extension,

and provided that in the case of delays caused by the reasons in (B) and/or (C), above:

- (i) the Generator gives notice as soon as reasonably practicable to the DPA Counterparty of the nature and extent of the failure; and
- (ii) there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours:
 - (a) to mitigate the effects of such failure (including delay to the Project);
 - (b) to carry out its obligations under the DPA and each other DPA Document in any way that is reasonably practicable; and
 - (c) to resume the performance of its obligations under the DPA and each other DPA Document as soon as reasonably practicable;

"Milestone Requirement" has the meaning given to that term in Condition 4.1 (*Milestone Requirement Notice*);

"Milestone Requirement Notice" has the meaning given to that term in Condition 4.1 (*Milestone Requirement Notice*);

"Milestone Satisfaction Date" means the date that the Generator has complied with and fulfilled a Milestone Requirement as specified in the Milestone Assessment Response Notice or the Further Milestone Assessment Response Notice (as applicable);

"Minimum CO₂ Capture Rate" means an Achieved and Declared CO₂ Capture Rate Average of seventy per cent. (70%);

"Minimum CO₂ Capture Rate Breach" has the meaning given to that term in Condition 22.2 (*Notification of Minimum CO₂ Capture Rate Obligation breach*);

"Minimum CO₂ Capture Rate Obligation" has the meaning given to that term in Condition 22.1 (*Undertaking: Minimum CO₂ Capture Rate*);

"Minimum CO₂ Purity Requirement" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Minimum Longstop Date Commissioning Requirements" means that:

- (A) the Net Dependable Capacity demonstrated at the Longstop Date Performance Tests is equal to or greater than the Required Net Dependable Capacity;

- (B) the Test Achieved CO₂ Capture Rate demonstrated at the Longstop Date Performance Tests is equal to or greater than the Required CO₂ Capture Rate;
- (C) the Plant Net Efficiency demonstrated at the Longstop Date Performance Tests is equal to or greater than the Required Plant Net Efficiency; and
- (D) the Start Up Times demonstrated at the Longstop Date Performance Tests are equal to or lower than the Required Start Up Times;

"Minimum Longstop Date Termination Notice" has the meaning given to that term in Condition 36.35 (*Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements*);

"Minimum Net Assets Requirement" has the meaning given to that term in the Agreement;

"Minimum OCP Commissioning Requirements" means that:

- (A) a Net Dependable Capacity of not less than eighty five per cent. (85%) of the Net Dependable Capacity Estimate has been Commissioned;
- (B) the OCP Required CO₂ Capture Rate has been Commissioned;
- (C) a Plant Net Efficiency of not less than ninety per cent. (90%) of the Plant Net Efficiency Estimate has been Commissioned; and
- (D) the Start Up Times demonstrated at the OCP Performance Tests are equal to or lower than the Required Start Up Times;

"Minimum Reporting Content Requirements" means the minimum required content of the report to be provided by the Generator to the DPA Counterparty pursuant to Condition 3.14(A) (*Operational Conditions Precedent: Construction Reporting Requirements*) detailing the Generator's progress in relation to the Pre-Operation Activities which shall include, but shall not be limited to, the following:

- (A) an executive summary;
- (B) a summary of the Pre-Operation Activities carried out to date;
- (C) a schedule for the Project which: (i) compares the initial baseline schedule against actual progress achieved to date; and (ii) sets out forecast and actual key events including both critical and near critical path milestones, in each case in relation to the Pre-Operation Activities;
- (D) a baseline critical path together with any updated versions of the same;
- (E) an updated 'S' curve in relation to the Pre-Operation Activities;
- (F) a summary of the progress in obtaining finance for the Project (including equity, debt and other forms of finance) prior to the Milestone Delivery Date;
- (G) an earned value analysis figure showing progress against the earned value baseline, with commentary on any deviations from such baseline;
- (H) Project Cost Data; and
- (I) a summary of key risks relating to cost and schedule outturn for the Pre-Operation Activities, and the associated potential quantified impact of such risks;

"Minimum Terms of Reference Requirements" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Minimum Turndown Rate" means the lower of: (i) the Initial Minimum Turndown Rate; and (ii) the Generator's minimum turndown rate under the T&S Connection Agreement from time to time (*expressed in tCO_{2RS} /hour*);

"Misleading CO₂ Metered Data Termination Event" has the meaning given to that term in Condition 23.12 (*Misleading CO₂ Metered Data*);

"Misleading Declaration Termination Event" has the meaning given to that term in Condition 24.8 (*Misleading Declaration Capacity Data*);

"Month" means a calendar month;

"Moody's" means Moody's Investors Service Inc., a Delaware corporation, and any successor thereto;

"Mutual Appointment Decision" has the meaning given to that term in Condition 43.4 (*Arbitration Procedure*);

"NDCE Adjusted Heat and Material Balance Diagram" has the meaning given to that term in Condition 5.1 (*Adjustment to Net Dependable Capacity Estimate: Permitted Reduction*);

"NDCE Adjustment Deadline" has the meaning given to that term in Condition 5.1 (*Adjustment to Net Dependable Capacity Estimate: Permitted Reduction*);

"NDCE Adjustment Notice" has the meaning given to that term in Condition 5.1 (*Adjustment to Net Dependable Capacity Estimate: Permitted Reduction*);

"Net Available Capacity" means, subject to Condition 9.6 (*Outage Relief Events*), the declared available net generating capacity (*expressed in MW*) of the Facility at the Electricity Delivery Point(s), at Reference Site Conditions, by the Generator in relation to any Generation Outage Event during an AP Billing Period;

"Net Calorific Value of Reference Fuel Composition" is the value given in paragraph 1 of Part B (*Reference Site Conditions*) of Annex 2 (*Testing Requirements*);

"Net Dependable Capacity" means the net generating capacity (*expressed in MW*) of the Facility on a continuous and reliable basis available at the Electricity Delivery Point(s), at Reference Site Conditions. For the purposes of the Availability Payment, the Net Dependable Capacity shall be equal to the lower of: (A) the net generating capacity demonstrated at the Test (excluding the CO₂ Capture Rate Test) that has most recently been carried out by the Generator in accordance with this DPA; and (B) the Net Dependable Capacity Estimate;

"Net Dependable Capacity Estimate" means the Generator's estimate of the Net Dependable Capacity from time to time, being the Initial Net Dependable Capacity Estimate as may be adjusted pursuant to Condition 5 (*Adjustment to Net Dependable Capacity Estimate*) and/or Condition 7 (*Adjustments to the Net Dependable Capacity: Annual NDC Test*);

"No Alternative T&S Solution Reason" has the meaning given to that term in Condition 36.9(A)(iv) (*Termination for T&S Prolonged Unavailability Event*);

"Non-affected Party" has the meaning given to that term in Condition 52.4(A) (*Conditions to Force Majeure relief*);

"Non-Routine T&S Meter DPA Technical Audit" has the meaning given to that term in limb (B) of the definition of T&S Meter DPA Technical Audit;

"Notified Annual NDC Test Date" means the relevant Initial Notified Annual NDC Test Date, or, if Condition 7.1(C) applies, the relevant Revised Notified Annual NDC Test Date;

"Notified Change in Law" means a Change in Law which constitutes a Qualifying Change in Law and to which a DPA Counterparty QCiL Notice, a Generator QCiL Notice or a Generator QCiL Response Notice relates;

"NPA Payment Cure Period" has the meaning given to that term in Condition 38.1(B) (*Termination Events*);

"OCP Non-Compliance Notice" has the meaning given to that term in Condition 3.11 (*Operational Conditions Precedent: General Reporting Obligations*);

"OCP Notice" has the meaning given to that term in Condition 3.7(B) (*Operational Conditions Precedent: General Reporting Obligations*);

"OCP Performance Tests" means the Commissioning Tests to be carried out and completed by the Generator pursuant to paragraphs 3(A), 4(B) and 5(C) of Part B of Annex 1 (*Conditions Precedent*) (whether simultaneously with, or prior to, the Longstop Date Performance Tests), in order to demonstrate whether the Generator has satisfied the Minimum OCP Commissioning Requirements;

"OCP Required CO₂ Capture Rate" means a Test Achieved CO₂ Capture Rate which is equal to or greater than the higher of: (i) ten (10) percentage points lower than the CO₂ Capture Rate Estimate; and (ii) eighty per cent. (80%);

"OCP Response Notice" has the meaning given to that term in Condition 3.9 (*Operational Conditions Precedent: General Reporting Requirements*);

"OCP Supporting Information" has the meaning given to that term in Condition 3.9(B) (*Operational Conditions Precedent: General Reporting Obligations*);

"OEVC Indexation Adjustment" has the meaning given to that term in Condition 10.11 (*Other Extra Variable Costs indexation*);

"OEVC Indexation Anniversary" has the meaning given to that term in Condition 10.12(A) (*Other Extra Variable Costs indexation*);

"OFAC" means the Office of Foreign Assets Control of the US Department of the Treasury;

"Operating Costs" means all costs and expenses of an operational, maintenance or administrative nature which are incurred or are to be incurred by the Generator in the ordinary course of carrying out the Project including Tax but excluding Capital Costs, Distributions or any payments in connection with Financial Indebtedness;

"Operational Conditions Precedent" means the operational conditions precedent set out in Part B of Annex 1 (*Conditions Precedent*) and **"Operational Condition Precedent"** and **"OCP"** shall be construed accordingly;

"Operational CP Provisions" means all of the provisions of the DPA other than the Agreement Date Provisions and the Initial CP Provisions;

"Other CCUS Programme Contract" means a private law contract entered into with the DPA Counterparty or the Secretary of State in relation to the CCUS Programme (which is not a CCUS Programme DPA);

"Other Change in Law" means a Change in Law made by His Majesty's Government of the United Kingdom or which His Majesty's Government of the United Kingdom has formally required a Competent Authority to make and which in either such case has an undue (being not objectively justifiable) discriminatory effect on the out-of-pocket costs incurred or saved by the Generator or the Project when compared with the out-of-pocket costs incurred or saved as a result of such Change in Law by:

- (A) all other generators which operate generating facilities deploying CO₂ Capture Technology;
- (B) all generators which operate generating facilities deploying the same or similar generation technology (or combustion process) as the Facility but which do not deploy CO₂ Capture Technology;
- (C) all generators which operate generating facilities deploying one (1) or more Material Generation Technologies;
- (D) all other generators which operate generating facilities deploying CO₂ Capture Technology other than the Facility's CO₂ Capture Technology; or
- (E) all generators which operate generating facilities deploying CO₂ Capture Technology, the generation output of which is not subject to a CCUS Programme DPA,

in each case in the United Kingdom, provided that the fact that a Change in Law has a disproportionate effect shall not, of itself, mean that it is discriminatory;

"Other Extra Variable Costs" means the Initial Other Extra Variable Costs attributable to the Facility (*expressed in £/MWh*), as adjusted pursuant to Conditions 10.11 to 10.14 (*Other Extra Variable Costs indexation*);

"Other Subsidy" has the meaning given to that term in Condition 25.15(A)(i) (*Waiver of Generator's Obligation to Repay Subsidy, State aid, Union Funding and/or International Funding*);

"Outage Relief Event" means a Generation Outage Relief Event or a Capture Outage Relief Event;

"Outage Relief Notice" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Outage Relief Response Notice" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Outage Relief Supporting Information" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Outlet CO₂ Metered Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet CO₂ Primary Composition Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet CO₂ Primary Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet CO₂ Primary Flow and Time Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet CO₂ Secondary Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet CO₂ Tertiary Data" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet T&S Flow Meter" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet T&S Meter Measurement System" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet T&S Meter Measurement System Material Change" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Outlet T&S Meter Measurement System Technical Specification" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"Parent Company Guarantee Details Notice" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Party" means a party to the DPA;

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

"Payments" means the Availability Payment and the Variable Payment;

"PDE Affected Party" has the meaning given to that term in Condition 51.1 (*Relief due to Payment Disruption Event*);

"PDE Obligations" has the meaning given to that term in Condition 51.1 (*Relief due to Payment Disruption Event*);

"Performance Bond Details Notice" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Performance Test" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Performance Test Access Notice" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Performance Test Access Right" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Performance Test Date Notice" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Performance Test Report" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Permitted Senior Debt Amount" has the meaning given to that term in the Agreement;

"Plant" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Plant Net Efficiency" means the net efficiency on a net calorific basis (*expressed as a percentage (%)*) of the Facility, equal to the PNE Metered Electricity Output divided by PNE Facility Heat Input, at Reference Site Conditions, as demonstrated by either the OCP Performance Test or the Longstop Date Performance Test (where relevant) in accordance with Annex 2 (*Testing Requirements*);

"Plant Net Efficiency Estimate" has the meaning given to that term in the Agreement;

"PNE Facility Heat Input" means the Total Metered Fuel Consumption of the Facility on a net calorific value heat basis (*expressed in MWh*) during each Test Run Period of a Test as measured by the Gas Supply Metering Equipment at the Gas Supply Point(s);

"PNE Metered Electricity Output" means the BM Unit Metered Volume for the Facility (*expressed in MWh*) as measured by the Electricity Metering Equipment during each Test Run Period of a Test;

"Posted T&S Equity Excess Collateral" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Posted T&S Equity Excess Collateral Demand" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

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

"Power CCUS Expertise Test" means that there is at least one (1) member of a Material Investor Group which has at least three (3) years of ongoing and continuous experience operating at least one (1) generation facility deploying thermal generation technology with a net generating capacity equal to or greater than one hundred (100) MWe;

"Preliminary Cash Sweep Report" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Pre-Operation Activities" means the design, procurement, development, construction, completion, testing, and commissioning of the Facility, and grammatical variations thereof shall be construed accordingly;

"Pre-Start Date Termination Date" has the meaning given to that term in Condition 36.1(E)(i) (*Pre-Start Date termination*);

"Pre-Start Date Termination Notice" has the meaning given to that term in Condition 36.1 (*Pre-Start Date termination*);

"Pre-Start Up (Shutdown) Test Conditions" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Previous Subsidy" has the meaning given to that term in Condition 3.53(A)(i) (*Waiver of Subsidy Control Declaration Operational CP*);

"Pro Forma" has the meaning given to that term in Condition 65.2 (*Pro forma notices*);

"Proceedings" means any proceeding, suit or action relating to or arising out of a Dispute, the DPA or any other DPA Document but excluding any Electricity Metering Dispute;

"Project" means the design, development, construction, completion, testing, commissioning, operation, maintenance and decommissioning of the Facility pursuant to the DPA;

"Project Commitments" has the meaning given to that term in the Agreement;

"Project Cost Data" means details of the following costs incurred by the Generator in respect of the Project:

- (A) pre-development costs;
- (B) regulatory and licensing costs;
- (C) engineering, procurement and construction costs, including:
 - (i) mechanical costs;
 - (ii) electrical costs;
 - (iii) control and instrument costs;
 - (iv) civil and architectural costs; and
- (D) infrastructure costs;

"Project Delay Notice" has the meaning given to that term in Condition 3.15 (*Operational Conditions Precedent: Construction Reporting Requirements*);

"Project Gain Share Amount" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Prolonged FM Event" has the meaning given to that term in Condition 36.5 (*Termination for Prolonged Force Majeure*);

"Prolonged FM Event Notice" has the meaning given to that term in Condition 36.5 (*Termination for Prolonged Force Majeure*);

"Prolonged FM Termination Date" has the meaning given to that term in Condition 36.6 (*Termination for Prolonged Force Majeure*);

"Prolonged FM Termination Notice" has the meaning given to that term in Condition 36.6 (*Termination for Prolonged Force Majeure*);

"Prolonged FM Trigger Date" has the meaning given to that term in Condition 36.5 (*Termination for Prolonged Force Majeure*);

"Proposed Amendment" has the meaning given to that term in paragraph 2.1(A) of Annex 6 (*Change Control Procedure*);

"Proposed Amendment Effective Date" has the meaning given to that term in paragraph 2.1(B) of Annex 6 (*Change Control Procedure*);

"Proposed CiAL Expert" has the meaning given to that term in Condition 34.3(A) (*Validity of CiAL Dispute Notices*);

"Proposed CMRP Expert" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"Proposed Correction Curves" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Proposed Energy Consultant" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Proposed Energy Consultant Deadline" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Proposed Energy Consultant Determination Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Proposed GRP Expert" has the meaning given to that term in paragraph 1 of Annex 8 (*Gas Reference Price Review*);

"Proposed Reference Plant Expert" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Proposed Terms of Reference" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"PTP Response Notice" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"QCiL Adjusted Revenues Payment" has the meaning given to that term in Condition 28.1(C) (*Categories of Qualifying Change in Law compensation*);

"QCiL Adjusted Revenues Period Adjustment" means any QCiL Compensation which has been, or will be, made by way of a QCiL Adjusted Revenues Payment;

"QCiL Capex Payment" has the meaning given to that term in Condition 28.1(B) (*Categories of Qualifying Change in Law compensation*);

"QCiL Capex Payment Adjustment Date" means the date on which eighty per cent. (80%) of the Term has expired;

"QCiL Capital Costs" means QCiL Costs that relate to the acquisition, disposal, modification or construction of any asset in respect of the Project (including costs of site preparation, initial delivery and handling costs, installation and assembly costs, costs incurred in testing whether the asset is functioning properly and professional fees, in each case which are directly associated with the acquisition, modification or construction of the relevant asset);

"QCiL Capital Savings" means QCiL Savings that relate to the acquisition, disposal, modification or construction of any asset in respect of the Project (including costs of site preparation, initial delivery and handling costs, installation and assembly costs, costs incurred in testing whether the asset is functioning properly and professional fees, in each case which are directly associated with the acquisition, modification or construction of the relevant asset);

"QCiL Compensation" means: (i) a QCiL Opex Payment; (ii) a QCiL Capex Payment; (iii) a QCiL Adjusted Revenues Payment; (iv) a QCiL Construction Event Payment; (v) a QCiL Operations Cessation Event Payment; and (vi) any combination of any of the foregoing, as

such amounts are calculated in accordance with Condition 28 (*Qualifying Change in Law: Compensation*);

"QCiL Compensation Date" has the meaning given to that term in Condition 29.1 (*Qualifying Change in Law: Effective date and payment*);

"QCiL Compensation Termination Date" has the meaning given to that term in Condition 36.39 (*QCiL Compensation termination*);

"QCiL Compensation Termination Notice" has the meaning given to that term in Condition 36.39 (*QCiL Compensation termination*);

"QCiL Construction Event" means a Qualifying Change in Law which is implemented, occurs or becomes effective after the Agreement Date and before the Start Date and which will permanently prevent the Generator, acting in accordance with the Reasonable and Prudent Standard, from Commissioning the Generation Assets and/or the Capture Assets by virtue of the necessary construction, testing, completion or commissioning of the Generation Assets and/or the Capture Assets becoming illegal;

"QCiL Construction Event Costs" means, in relation to a QCiL Construction Event, all out-of-pocket costs (including QCiL Tax Liabilities) which are irrecoverable and unavoidable by the Generator acting in accordance with the Reasonable and Prudent Standard and which have been, will be or are reasonably likely to be incurred in respect of the Project by the Generator arising directly from such QCiL Construction Event occurring, if and to the extent that such costs constitute:

- (A) development and pre-development costs in respect of the Facility (including (i) the cost of surveys and environmental impact assessments in respect of the Facility; (ii) costs incurred in satisfying the Secretary of State's assessment with respect to the allocation of the DPA; and (iii) costs incurred in obtaining a planning permission for the Facility);
- (B) decommissioning costs in respect of the Facility;
- (C) break costs associated with the Generator's contractual or financing arrangements in respect of the Project;
- (D) costs which are wholly attributable to the construction, testing, completion or commissioning of the Facility; or
- (E) T&S Charges payable by the Generator which are attributable to the period commencing on the Discontinuance Date,

but excluding:

- (F) all other compensation which has been, will be or is reasonably likely to be payable by the Generator in connection with such QCiL Construction Event; and
- (G) all costs associated with the Generator's financing arrangements in respect of the Project (including all interest incurred in respect of such financing arrangements) except where expressly specified in any of paragraphs (A) to (E) above; and

including a negative adjustment that the Parties agree, or that is determined pursuant to the Dispute Resolution Procedure, reflects (i) the revenue that the Generator is expected to generate (including wholesale electricity market revenue, balancing system services revenue and ancillary services revenue) in respect of electricity that the Facility is expected to generate from the date on which the QCiL Construction Event occurs to the date on which the Term

would have expired but for the occurrence of such QCiL Construction Event, with such revenue calculated:

- (H) based on the Facility's Assumed Unabated Net Dependable Capacity, Assumed Unabated Load Factor and Assumed Unabated Net Efficiency (with each term reflecting forecast degradation factors and other appropriate factors); and
- (I) based on forecast wholesale electricity market revenues for the day-ahead electricity market, determined in accordance with an operating regime that stacks revenues across the different revenue streams and which balances the objectives of maximising revenue and minimising the volatility of earnings, derived from a GB Power Market Model produced by an Energy Economist,

minus (ii) the operating costs that the Generator is expected to incur to generate such electricity;

"QCIL Construction Event Payment" has the meaning given to that term in Condition 28.1(D) (*Categories of Qualifying Change in Law compensation*);

"QCIL Construction Event Savings" means, in relation to a QCiL Construction Event, all savings (including avoided out-of-pocket costs, reliefs from or reductions in a QCiL Tax Liability, insurance proceeds and other compensation) which have been, will be or are reasonably likely to be made or received in respect of the Project by the Generator arising directly from such QCiL Construction Event occurring;

"QCIL Costs" means, in relation to a Qualifying Change in Law, all out-of-pocket costs (including QCiL Tax Liabilities) which have been, will be or are reasonably likely to be incurred in respect of the Project by the Generator arising directly as a result or in anticipation of such Qualifying Change in Law being implemented, occurring or becoming effective, but excluding: (i) any Default Termination Payment; (ii) all costs incurred in respect of the agreement or determination of the amount of the Default Termination Payment; and (iii) all costs associated with the Generator's financing arrangements in respect of the Project (including interest incurred in respect of such financing arrangements);

"QCIL Effective Date" means the date on which a Qualifying Change in Law has been implemented, has occurred or has become effective;

"QCIL Net Capital Costs" means, if QCiL Capital Costs exceed QCiL Capital Savings in respect of a Qualifying Change in Law, the QCiL Capital Costs less the QCiL Capital Savings;

"QCIL Net Capital Savings" means, if QCiL Capital Savings exceed QCiL Capital Costs in respect of a Qualifying Change in Law, the QCiL Capital Savings less the QCiL Capital Costs;

"QCIL Net Operating Costs" means, if QCiL Operating Costs exceed QCiL Operating Savings in respect of a Qualifying Change in Law, the QCiL Operating Costs less the QCiL Operating Savings;

"QCIL Net Operating Savings" means, if QCiL Operating Savings exceed QCiL Operating Costs in respect of a Qualifying Change in Law, the QCiL Operating Savings less the QCiL Operating Costs;

"QCIL Operating Costs" means all QCiL Costs other than QCiL Capital Costs;

"QCIL Operating Savings" means all QCiL Savings other than QCiL Capital Savings;

"QCIL Operations Cessation Event" means:

- (A) a Qualifying Change in Law which is implemented, occurs or becomes effective on or after the Start Date and which will permanently prevent the Generator, acting in accordance with the Reasonable and Prudent Standard, from operating the whole of the Facility by virtue of such operation becoming illegal; or
- (B) a Qualifying Shutdown Event which occurs on or after the Start Date;

"QCIL Operations Cessation Event Costs" means, in relation to a QCIL Operations Cessation Event, all out-of-pocket costs (including QCIL Tax Liabilities and break costs associated with the Generator's contractual or financing arrangements in respect of the Project and any T&S Charges payable by the Generator which are attributable to the period commencing on the Discontinuance Date) which are irrecoverable and unavoidable by the Generator acting in accordance with the Reasonable and Prudent Standard and which have been, will be or are reasonably likely to be incurred in respect of the Project by the Generator arising directly from such QCIL Operations Cessation Event occurring, but excluding:

- (A) all other compensation which has been, will be or which is reasonably likely to be payable by the Generator in connection with such QCIL Operations Cessation Event; and
- (B) all costs, other than break costs, associated with the Generator's financing arrangements in respect of the Project (including all interest accrued in respect of such financing arrangements);

"QCIL Operations Cessation Event Payment" has the meaning given to that term in Condition 28.1(E) (*Categories of Qualifying Change in Law compensation*);

"QCIL Operations Cessation Event Savings" means, in relation to a QCIL Operations Cessation Event, all savings (including avoided out-of-pocket costs, reliefs from or reductions in a QCIL Tax Liability, insurance proceeds and other compensation and including the cost that the Generator would have incurred in generating the Generator's Revenue (Ex-Ante Basis)) which have been, will be or are reasonably likely to be made or received in respect of the Project by the Generator arising directly from such QCIL Operations Cessation Event occurring;

"QCIL Opex Payment" has the meaning given to that term in Condition 28.1(A) (*Categories of Qualifying Change in Law compensation*);

"QCIL Response Information" has the meaning given to that term in Condition 27.2 (*Generator QCIL Response Notice*);

"QCIL Savings" means, in relation to a Qualifying Change in Law, all savings (including avoided out-of-pocket costs, reliefs from or reductions in a QCIL Tax Liability, insurance proceeds and other compensation) which have been, will be or are reasonably likely to be made or received in respect of the Project by the Generator arising directly as a result or in anticipation of such Qualifying Change in Law being implemented, occurring or becoming effective;

"QCIL Supporting Information" has the meaning given to that term in Condition 27.8 (*Generator QCIL Notice*);

"QCIL Tax" means any Tax other than any Tax on gross or net Income, Profits or Gains, save to the extent that the rate at which such Tax on gross or net Income, Profits or Gains is chargeable has been introduced or amended by a Qualifying Change in Law or a Qualifying Shutdown Event, as the case may be;

"QCiL Tax Liability" means:

- (A) a liability of the Generator to make an actual payment of a QCiL Tax to a tax authority; and
- (B) the loss to the Generator of, or a reduction to the Generator in the amount of, a right to repayment of Tax to which it would otherwise be entitled but for such amount being set off against any liability of the Generator to make an actual payment of QCiL Tax;

"QCiL Termination Date" has the meaning given to that term in Condition 36.37 (*Qualifying Change in Law termination*);

"QCiL Termination Notice" has the meaning given to that term in Condition 36.37 (*Qualifying Change in Law termination*);

"QCiL True-Up Adjusted Revenues Period Adjustment" means any QCiL True-Up Compensation that has been, or will be, made by way of an adjustment to the Net Dependable Capacity, Availability of Generation and/or Availability of Capture;

"QCiL True-Up Compensation" means the adjustment to the QCiL Compensation which is necessary to reflect the QCiL True-Up Information;

"QCiL True-Up Information" has the meaning given to that term in Condition 30.1 (*DPA Counterparty QCiL True-Up Notice*);

"QCiL True-Up Response Information" has the meaning given to that term in Condition 30.3 (*Generator QCiL True-Up Response Notice*);

"QSE Notice" has the meaning given to that term in Condition 31.1 (*Qualifying Shutdown Event: Procedure*);

"Qualifying Change in Law" means:

- (A) a Discriminatory Change in Law;
- (B) a Specific Change in Law; or
- (C) an Other Change in Law,

which, in each case, is not a Foreseeable Change in Law and provided that no decision by any Subsidy Control Competent Authority in respect of the application of the Subsidy Control Rules to the DPA or CCUS Programme DPAs (including the annulment, invalidation, suspension, revocation, modification or replacement of any prior decision pursuant to such rules) shall constitute a Qualifying Change in Law;

"Qualifying Direct Economic Interest" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Qualifying Guarantor" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Qualifying Issuer" has the meaning given to that term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Qualifying Shutdown Event" means:

- (A) His Majesty's Government of the United Kingdom or the Secretary of State or any other Minister of the Crown or any department of His Majesty's Government of the United Kingdom (each, a **"Government Authority"**): (i) applying, implementing or changing the Law which is in force from time to time; (ii) applying or exercising its powers under such Law; or (iii) applying, implementing and/or changing policy or guidance which has effect from time to time;
- (B) the exercise of powers by a UK Competent Authority, where such exercise of powers was required by a direction made under statutory powers by a Government Authority; or
- (C) the exercise of powers by a UK Competent Authority, where the UK Competent Authority has not acted independently of a Government Authority in such exercise of powers, and for this purpose a UK Competent Authority shall be deemed to have acted independently of a Government Authority unless such exercise of powers was procured by the Government Authority,

other than any application, implementation, change, exercise of powers or other action required by, or necessary for compliance with, international or EU law, policy or guidance (provided such international or EU law, policy or guidance was not promoted by such Government Authority and, in relation to any international or EU law, policy or guidance proposed after the Agreement Date, such Government Authority has used its reasonable endeavours to prevent the adoption of such international or EU law, policy or guidance (such reasonable endeavours not to include an obligation on any Government Authority to take legal proceedings to challenge such adoption)), and which the Generator is able to demonstrate to the satisfaction of an English court of competent jurisdiction: (i) imposes a requirement that permanently prevents the whole of the Facility from operating; or (ii) is the refusal or the failure to give approval, for a period in excess of twenty-four (24) Months, to a request for consent to any re-start of the whole of the Facility, (each, a **"Shutdown Event"**) unless, in any such case, the Shutdown Event was for reasons:

- (i) relating to or in connection with matters of health, safety, security, environment, transport or damage to property (the **"Relevant Matters"**) affecting (directly or indirectly): (1) the Facility or the generation of electricity or the capture of CO₂ therefrom; (2) the Generator; (3) the land on which the Facility is situated; (4) the management of any of (1) to (3); or (5) the generation of electricity using the same Generation Technology as the Facility or the capture of CO₂ using the same CO₂ Capture Technology as the Facility (whether in the UK or elsewhere), but in this case, provided the Relevant Matters also relate or apply to one (1) or more of (1) to (4), where at the time of the Shutdown Event it was justifiable in the circumstances as they related or applied to the relevant one(s) of (1) to (5) to prevent the operation, or refuse to consent to any re-start, of the whole of the Facility;
- (ii) arising out of, in connection with, or resulting from the negligence, breach or fault of, or a failure to act in accordance with the Reasonable and Prudent Standard by, the Generator or any of its Representatives, where at the time of the Shutdown Event it was justifiable in the circumstances to prevent the operation, or refuse to consent to any re-start, of the whole of the Facility; or
- (iii) relating to any decision by any Subsidy Control Competent Authority in respect of the application of the Subsidy Control Rules in the DPA or CCUS Programme DPAs (including the annulment, invalidation, revocation, modification, suspension or replacement of any prior decision pursuant to such rules);

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

"Reconciliation Amount(s)" means an AP Reconciliation Amount(s) and/or a VP Reconciliation Amount(s) (as applicable);

"Reference CPI" means the most recently published CPI;

"Reference Plant" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant CO₂ Emissions" means the Initial Reference Plant CO₂ Emissions (as such term is defined in the Agreement), as may be adjusted by the DPA Counterparty pursuant to Condition 10.15 (*Base Performance Assumptions Adjustments*);

"Reference Plant Criteria" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Methodology" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Commencement Date" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Dispute" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Dispute Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Implementation Date" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Outcome Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Procedure" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Report" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Criteria Review Year" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Dispute" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Dispute Generator" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Dispute Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Dispute Threshold Criterion" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Dispute Validity Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Expert Appointment Threshold" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Gas Consumption" means the Initial Reference Plant Gas Consumption (as such term is defined in the Agreement), as may be adjusted by the DPA Counterparty pursuant to Condition 10.15 (*Base Performance Assumptions Adjustments*);

"Reference Plant Mechanism Amendment" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Prioritisation" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Request Criterion" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Request Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Request Validity Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Dispute" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Dispute Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Implementation Date" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Outcome Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Proposals" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Response Deadline" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Response Notice" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Principles Review Trigger" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Review" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Plant Site Conditions" has the meaning given to that term in paragraph 1 of Annex 10 (*Reference Plant Review*);

"Reference Site Conditions" means the site conditions set out in paragraph 1 (*Reference Site Conditions*) of Part B (*Reference Site Conditions*);

"Registered Capacity" has the meaning given to that term in the CCS Network Code;

"Relevant Assets" means the Generation Assets and/or Capture Assets that are required to be decommissioned earlier than the Assumed Decommissioning Date as a direct result of the T&S Prolonged Unavailability Event;

"Relevant Cash Amount" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Relief Event AP Billing Period" has the meaning given to that term in Condition 9.6(A) (*Outage Relief Events*);

"Relief Event Settlement Unit" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Relief Event Recalculation Amount" has the meaning given to that term in Condition 9.13(B)(ii) (*Outage Relief Events*);

"Representatives" means:

- (A) in respect of the DPA Counterparty:
 - (i) its directors, officials, officers, employees, agents, consultants and advisers; and
 - (ii) the DPA Settlement Services Provider and its directors, officers, employees, agents, consultants and advisers;
- (B) in respect of the Generator:
 - (i) its directors, officers or employees;
 - (ii) any of its Contractors, agents, consultants and advisers which are engaged in connection with the Project, the DPA or any other DPA Document; and
 - (iii) the directors, officers, employees, agents, consultants and advisers of any of its Contractors which are engaged in connection with the Project, the DPA or any other DPA Document;
- (C) in respect of any Government Entity, its directors, officials, officers, employees, agents, consultants and advisers; or

- (D) in respect of any other person, its directors, officers, officials, employees, agents, consultants and advisers;

"Request for Information" means:

- (A) a request for information (as such term is defined in section 8 of the FoIA);
- (B) a request that environmental information (as such term is defined in the EIR) be made available pursuant to the EIR; or
- (C) any apparent request for information under the FoIA or the EIR;

"Requested Milestone Supporting Information" has the meaning given to that term in Condition 4.3(B) (*Milestone Requirement Notice*);

"Required AP Other Metered Data" has the meaning given to that term in Condition 8 (*Definitions: Part 5*) of Part 5 (*Payment Calculations*);

"Required Authorisation" means, in relation to the Generator and at any time, each authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order confirmation, permission or other approval of or from any Competent Authority required to enable the Generator to perform and comply with its obligations under the DPA, the other DPA Documents, and for the Project;

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

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

"Required CO₂ Capture Rate" means a Test Achieved CO₂ Capture Rate which is the higher of: (i) five (5) percentage points lower than the CO₂ Capture Rate Estimate; and (ii) eighty five per cent. (85%);

"Required Correction Curves" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Required Net Dependable Capacity" means ninety per cent. (90%) of the Net Dependable Capacity Estimate;

"Required Plant Net Efficiency" means ninety five per cent. (95%) of the Plant Net Efficiency Estimate;

"Required Start Up Times" means one hundred and twenty five per cent. (125%) of the Start Up Time Estimates;

"Reserve Account" means a bank account in the United Kingdom specified by the DPA Counterparty and to which Acceptable Collateral (in the form of cash) is to be transferred;

"Residual Value Adjustment" means an adjustment that the Parties agree, or that is determined pursuant to the Dispute Resolution Procedure reflects:

- (A) the revenue that the Generator is expected to generate (including wholesale electricity market revenue, balancing system services revenue and ancillary services revenue) in respect of electricity that the Facility is expected to generate from the date on which the DPA terminates as a result of a T&S Prolonged Unavailability Event until the date on which the Term would have expired but for the occurrence of such T&S Prolonged Unavailability Event, with such revenue calculated:
 - (i) based on the Facility's Assumed Unabated Net Dependable Capacity, Assumed Unabated Load Factor and Assumed Unabated Net Efficiency (with each term reflecting forecast degradation factors and other appropriate factors); and
 - (ii) based on forecast wholesale electricity market revenues for the day-ahead electricity market, determined in accordance with an operating regime that stacks revenues across the different revenue streams and which balances the objectives of maximising revenue and minimising the volatility of earnings, derived from a GB Power Market Model produced by an Energy Economist,
- (B) minus the operating costs that the Generator is expected to incur to generate such electricity;

"Resolution Period" has the meaning given to that term in Condition 41.1(A) (*Resolution by Senior Representatives*);

"Respondent" has the meaning given to that term in Condition 42.3 (*Expert Determination Procedure*);

"Response Submission" has the meaning given to that term in Condition 42.6(C) (*Expert Determination Procedure*);

"Restricted Share Transfer" means any Change of Ownership to any person who:

- (A) has been convicted of a criminal offence relating to the conduct of its business or profession;
- (B) has committed an act of grave misconduct in the course of its business or profession;
- (C) has failed to comply with material obligations relating to the payment of Taxes or social security contributions;
- (D) is listed on the Sanctions List, or is owned or controlled, directly or indirectly, by an person listed on the Sanctions List;
- (E) is violating any Sanctions Laws applicable to it;
- (F) is located, organised or resident in a country which is the subject of Sanctions by any Sanctions Authority; or
- (G) is a governmental agency, authority or body or state-owned enterprise of any country which is the subject of Sanctions by any Sanctions Authority;

"Revised CO₂ Metered Data" has the meaning given to that term in Condition 23.9 (*Rectification of CO₂ Metered Data Obligation breach*);

"Revised Declaration Capacity Data" has the meaning given to that term in Condition 24.1(H)(ii) (*Declaration Obligations*);

"Revised Generator QCiL Information" has the meaning given to that term in Condition 27.10(B) (*Generator QCiL Notice*);

"Revised Generator QCiL Response Information" has the meaning given to that term in Condition 27.5(B) (*Generator QCiL Response Notice*);

"Revised Generator QCiL True-Up Information" has the meaning given to that term in Condition 30.10(B) (*Generator QCiL True-Up Notice*);

"Revised Generator QCiL True-Up Response Information" has the meaning given to that term in Condition 30.5(B) (*Generator QCiL True-Up Response Notice*);

"Revised NDCE" has the meaning given to that term in Condition 5.1(A)(ii) (*Adjustment to Net Dependable Capacity Estimate: Permitted Reduction*);

"Revised Notified Annual NDC Test Date" has the meaning given to that term in Condition 7.1(C) (*Undertaking: Annual NDC Test*);

"Routine T&S Meter DPA Technical Audit" has the meaning given to that term in limb (A) of the definition of T&S Meter DPA Technical Audit;

"Sanctions" means economic or financial sanctions or trade embargoes or similar measures enacted, imposed, administered or enforced from time to time by any Sanctions Authority;

"Sanctions Authority" means any of OFAC, the United Nations, the European Union, His Majesty's Government of the United Kingdom or any US federal government entity;

"Sanctions List" means the Specially Designated Nationals and Blocked Persons List maintained by OFAC, the List of Foreign Financial Institutions Subject to Part 561 maintained by OFAC, or any similar sanctions list of individuals or entities maintained by any Sanctions Authority;

"SCADA System" means a Supervisory Control and Data Acquisition system to monitor and control the operation of the Facility and to provide data as required to support the provision of information as required by the Generator and the DPA Counterparty;

"SCADA Systems Obligation(s)" has the meaning given to that term in Condition 21.23 (*Undertakings: SCADA Systems*);

"Season" means a period of six (6) consecutive Months commencing on either 01 April or 01 October;

"Secretary of State" means the Secretary of State for Energy Security and Net Zero, acting in that capacity, unless otherwise expressly stated or the context otherwise requires;

"Section C (system operator standard conditions) Direction" means a direction issued by the Authority or any Secretary of State, where appropriate, in accordance with standard condition A2 (*Application of Section C*) of the Electricity Transmission Licence;

"Senior Debt" means the financing provided by the Senior Lenders under the Senior Financing Agreements;

"Senior Debt Default Interest" means any increased margin that is payable to the Senior Lenders or which accrues as a result of any payment due to the Senior Lenders not being made on the date on which it is due;

"Senior Financing Agreements" has the meaning given to that term in the Agreement;

"Senior Lender(s)" means a person(s) providing finance to the Generator under the Senior Financing Agreements;

"Senior Representative" means a senior employee or officer selected by a Party to represent it in relation to Condition 41 (*Resolution by Senior Representatives*);

"Senior Representatives Settlement" has the meaning given to that term in Condition 41.1(A) (*Resolution by Senior Representatives*);

"Service Agent" has the meaning given to that term in the Agreement (but only if Condition 72 (*Agent for service of process*) is expressed to apply to the DPA in the Agreement);

"Service Document" means a claim form, application notice, order, judgment or other document relating to any Proceedings;

"Settlement Unit" means an AP Settlement Unit or a VP Settlement Unit (as applicable);

"Shareholder Funding Liabilities" means the contingent or future liabilities to subscribe for equity or subordinated debt (if any) at the relevant time of:

- (A) the Investors; and/or
- (B) any other parties providing equity or subordinated debt,

owed under any of the Generator's financing agreements to the Generator, HoldCo and/or the Senior Lenders together with, without double counting, any security (by way of letter of credit, guarantee or otherwise) for those liabilities;

"SOTO Code" means the System Operator – Transmission Owner Code required to be in place pursuant to standard condition B12 (*System Operator – Transmission Owner Code*) of the Electricity Transmission Licence;

"Specific Change in Law" means a Change in Law the terms of which specifically (and not merely indirectly or consequentially or by virtue of the disproportionate effect of any Change in Law that is of general application) apply to:

- (A) generating facilities which deploy CO₂ Capture Technology, or CO₂ Capture Technology forming part of such generating facilities, and not to other generating facilities, or the generation from, or generation related processes carried out at, other generating facilities;
- (B) generating facilities the generation output of which is subject to a CCUS Programme DPA, and not in respect of any generating facilities not subject to a CCUS Programme DPA, or the generation from, or generation-related processes carried out at, any such generating facilities; or
- (C) the holding of shares in companies, the membership of partnerships, limited partnerships or limited liability partnerships, the participation in joint ventures (whether or not incorporated) or the holding of any other economic interest, including by way of debt, in each case whether directly or indirectly, in any undertaking whose main business is the development, construction, operation and maintenance of facilities referred to in paragraph (A) or (B) above and not to other generating facilities;

"Specified Expiry Date" has the meaning given to that term in the Agreement;

"Standard and Poor's" means Standard & Poor's Ratings Service, a division of the McGraw-Hill Companies, Inc., and any successor thereto;

"Start Date" has the meaning given to that term in Condition 3.23 (*Notification of Start Date*);

"Start Date Notice" has the meaning given to that term in Condition 3.22 (*Notification of Start Date*);

"Start Up (Shutdown) Test" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Start Up (Shutdown) Test Commencement" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Start Up Times" means each time taken (*expressed in minutes*) to start up the Facility from a: (i) Hot Start, (ii) Warm Start and (iii) Cold Start, with the Capture Assets achieving (where applicable): (i) the OCP Required CO₂ Capture Rate, as demonstrated by the OCP Performance Test; or (ii) the Required CO₂ Capture Rate, as demonstrated by either the OCP Performance Test or the Longstop Date Performance Test (where relevant) during the applicable Test Run Period;

"Start Up Times Estimates" has the meaning given to that term in the Agreement;

"Subsequent CSA Correction" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Subsidy" shall have the meaning given to the term "subsidy" in the Subsidy Control Act 2022;

"Subsidy Control Competent Authority" means the Competition Appeal Tribunal and/or the Competition and Markets Authority and any successor to any of their respective functions in respect of subsidy control;

"Subsidy Control Declaration Date" means the date the Generator submits an OCP Notice in respect of the Subsidy Control Declaration Operational CP or, where the DPA Counterparty subsequently agrees to waive the Subsidy Control Declaration Operational CP in accordance with Condition 3.52, the date the Generator requests a waiver of the Subsidy Control Declaration Operational CP;

"Subsidy Control Declaration Operational CP" means the Operational Condition Precedent set out in paragraph 6 (*Subsidy Control Declaration Operational CP*) of Part B of Annex 1 (*Conditions Precedent*);

"Subsidy Control Rules" means: (i) any subsidy control provisions in Law or having legally binding effect in the United Kingdom; and (ii) any relevant decisions or judgments of a Subsidy Control Competent Authority;

"Subsidy Interest Rate" has the meaning given to that term in Condition 25.13(B) (*Subsidy Interest*);

"Summer Season" in any calendar year, means the Season commencing on 01 April in that year;

"Supplier Obligation Regulations" means regulations made pursuant to the EA 2013 which make provision for Electricity Suppliers to pay the DPA Counterparty for the purpose of enabling the DPA Counterparty to make payments pursuant to CCUS Programme DPAs;

"Supply Chain Report" means a report prepared by the Generator and submitted to the DPA Counterparty pursuant to Condition 26.1 (*Supply Chain Report*), which shall be substantially in the form attached at Annex 11 (*Form of Supply Chain Report*);

"Supply Chain Report Deadline" has the meaning given to that term in Condition 26.1 (*Supply Chain Report*);

"Supply Chain Report Fees" means the following amounts payable by the Generator to the DPA Counterparty pursuant to Condition 26.6 (*Payment of Supply Chain Report Fees*):

- (A) the sum of one thousand pounds Sterling (£1,000), which shall be due and payable by the date which falls ten (10) Business Days after the date of the relevant Supply Chain Report Response Notice;
- (B) the sum of one thousand pounds Sterling (£1,000), which shall be due and payable by the date which falls one (1) Month and ten (10) Business Days after the date of the relevant Supply Chain Report Response Notice;
- (C) the sum of one thousand pounds Sterling (£1,000), which shall be due and payable by the date which falls two (2) Months and ten (10) Business Days after the date of the relevant Supply Chain Report Response Notice;
- (D) the sum of two thousand five hundred pounds Sterling (£2,500), which shall be due and payable by the date which falls three (3) Months and ten (10) Business Days after the date of the relevant Supply Chain Report Response Notice; and
- (E) the sum of five thousand pounds Sterling (£5,000), which shall be due and payable by the date which falls four (4) Months and ten (10) Business Days after the date of the relevant Supply Chain Report Response Notice, with the same amount to then be due and payable each subsequent Month thereafter;

"Supply Chain Report Response Notice" has the meaning given to that term in Condition 26.4 (*Supply Chain Report*);

"Supporting Information" means any and all calculations, confirmations, data, documentation, evidence (including experts' reports), explanations, information, measurements, readings, reports (including experts' reports), representations and statements (whether in written or documentary form);

"Suspension CO₂ Capture Rate" means fifty per cent. (50%);

"Suspension CO₂ Capture Rate Breach" has the meaning given to that term in Condition 22.9 (*Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension*);

"Suspension T&S Connection Confirmation Requirement Breach" has the meaning given to that term in Condition 3.50 (*Failure to comply with T&S Connection Confirmation Requirement: Suspension*);

"T&S Bypass Stack(s)" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Capacity" means the Generator's Registered Capacity multiplied by the total number of hours in the relevant AP Billing Period (*expressed in tCO_{2RS}/AP Billing Period*);

"T&S Capacity Charge" means the transport and storage capacity charge in respect of the DPA Reserved T&S Capacity (*expressed in pounds (£)*) payable for an AP Billing Period calculated in accordance with the following formula:

- (A) if the Generator is a T&S Onshore User:

$$TSCC = (TSNCR \times DRC) + (TSOFFCR \times DRC)$$

(B) if the Generator is a T&S Offshore User:

$$TSCC = TSOFFCR \times DRC$$

where:

<i>TSCC</i>	=	T&S Capacity Charge (£) in AP Billing Period;
<i>DRC</i>	=	DPA Reserved T&S Capacity (tCO_{2RS}/AP Billing Period) in AP Billing Period;
<i>TSOONCR</i>	=	T&S Onshore Capacity Charge Rate (£/ tCO_{2RS}/AP Billing Period) in AP Billing Period; and
<i>TSOFFCR</i>	=	T&S Offshore Capacity Charge Rate (£/ tCO_{2RS}/AP Billing Period) in AP Billing Period;

"T&S Cessation Event" means the occurrence of any one of the following:

- (A) a notice of discontinuation is issued by the Secretary of State to the relevant T&S Operator pursuant to a discontinuation agreement entered into between the relevant T&S Operator and the Secretary of State; or
- (B) the relevant T&S Operator's licence to operate the relevant T&S Network is: (i) revoked; and (ii) is not transferred to a substitute T&S Operator, such that the relevant T&S Network ceases to operate or the Generator is no longer able to connect to that T&S Network;

"T&S Charges" means the T&S Flow Charge Payment Rate, the T&S Capacity Charge, and the T&S Network Charge;

"T&S Charging Year" means the period from 1 April in any calendar year until and including 31 March in the following year;

"T&S Commissioning Delay Event" means an event or circumstance (excluding a T&S Outage Event) that prevents or delays the development, construction, completion, commissioning and/or operation of the relevant T&S Network and as a result prevents or delays the Facility from exporting captured CO₂ Rich Stream to the relevant T&S Network (except to the extent that such event or circumstance arises out of or in connection with an act, omission breach or default of the Generator or its Representatives, including any breach by the Generator or its Representatives of an Industry Document). This includes but is not limited to the failure of the relevant T&S Operator to carry out in a timely manner: (A) any connection works specified in the T&S Construction Agreement; or (B) any required works to the relevant T&S Network in order for the Facility to export captured CO₂ Rich Stream to the relevant T&S Network;

"T&S Composition Analysis Equipment" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Composition Analysis Measurement Period" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Connection Agreement" means the agreement between the relevant T&S Operator and the Generator relating to the export of captured CO₂ Rich Stream to the relevant T&S Network by the Generator;

"T&S Connection Confirmation CP" has the meaning given to that term in paragraph 4(D) of Part B of Annex 1 (*Conditions Precedent*);

"T&S Connection Confirmation Deadline" means the date which falls six (6) Months after the T&S Network Availability Date, as such date may be extended day for day for each day that the Generator is delayed in achieving the T&S Connection Confirmation Requirement by reason of:

- (A) a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (*Force Majeure*) to be entitled to such extension; or
- (B) the failure of the relevant T&S Operator to carry out in a timely manner any required system reinforcement or connection works specified in the T&S Construction Agreement attributable to the T&S Connection Confirmation Requirement and (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives),

and provided that in the case of delays caused by the reasons in (B) above:

- (i) the Generator gives notice to the DPA Counterparty as soon as reasonably practicable of the nature and extent of the failure; and
- (ii) there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours:
 - (a) to mitigate the effects of such failure (including delay to the Project);
 - (b) to carry out its obligations under the DPA in any way that is reasonably practicable; and
 - (c) to resume the performance of its obligations under the DPA as soon as reasonably practicable;

"T&S Connection Confirmation Requirement" means, where the T&S Connection Confirmation CP is deemed to have been waived in accordance with Condition 3.41 (*Waiver of T&S Connection Confirmation CP*), the delivery by the Generator to the DPA Counterparty of evidence, in form and content satisfactory to the DPA Counterparty, that the Facility has connected to the T&S Network in accordance with the relevant T&S Operator's Entry Provisions (as defined in the CCS Network Code);

"T&S Construction Agreement" means the agreement between the relevant T&S Operator and the Generator relating to the construction of infrastructure connecting the Capture Assets to the relevant T&S Network at the CO₂ Delivery Point(s);

"T&S Delivery Point Size" means, in relation to each CO₂ Delivery Point, the maximum possible throughput of CO₂ at that CO₂ Delivery Point as set out in the T&S Connection Agreement multiplied by the total number of hours in the relevant AP Billing Period (expressed in tCO_{2RS}/AP Billing Period);

"T&S Equity Excess Bond" means a bond issued by a Qualifying Bond Provider substantially in the form set out in Appendix 4 (*Form of T&S Equity Excess Bond*) of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"T&S Equity Excess Guarantee Events" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"T&S Equity Excess Guarantor" means a holding company of the Generator who is a Qualifying Guarantor who enters into a T&S Equity Excess PCG;

"T&S Equity Excess PCG" means a guarantee provided by the T&S Equity Excess Guarantor in favour of the DPA Counterparty substantially in the form set out in Appendix 3 (*Form of T&S Equity Excess PCG*) of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"T&S Flow Charge Payment Rate" means the transport and storage flow charge payment rate in respect of the Facility (*expressed in £/MWh*) calculated in accordance with the following formula:

(A) if the Generator is a T&S Onshore User:

$$TSFC_{PR} = \left(TSONFR \times \frac{CO2_{exp}}{MWh} \right) + \left(TSOFFFR \times \frac{CO2_{exp}}{MWh} \right)$$

(B) if the Generator is a T&S Offshore User:

$$TSFC_{PR} = TSOFFFR \times \frac{(CO2_{exp})}{MWh}$$

where:

$TSFC_{PR}$	=	T&S Flow Charge Payment Rate (£/MWh) in VP Billing Period;
$TSONFR$	=	T&S Onshore Flow Charge Rate (£/tCO _{2RS}) in VP Billing Period;
$TSOFFFR$	=	T&S Offshore Flow Charge Rate (£/tCO _{2RS}) in VP Billing Period;
$CO2_{exp}$	=	VP Metered CO ₂ Rich Stream Output (tCO _{2RS}) in VP Billing Period; and
MWh	=	Metered Day Electricity Output (MWh) in VP Billing Period;

"T&S Flow Meter(s)" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter DPA Technical Audit" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Invitee" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Measurement System" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Measurement System Material Change" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Measurement System Technical Details" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Measurement System Technical Specification" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Proving Test" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Proving Test Notice" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Proving Test Response Notice" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Proving Test Supporting Information" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Technical Assurance" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Technical Assurance Agent" has the meaning given to that term in paragraph 2 of Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Network" means a network including but not limited to:

- (A) pipelines used for the transportation of captured CO₂ Rich Stream from one (1) or more capture plant(s) to a storage facility or to or from any captured CO₂ Rich Stream pipeline network; and
- (B) storage facilities for the permanent storage of captured CO₂ Rich Stream,

owned or operated by a T&S Operator within the United Kingdom, which may include onshore and offshore components;

"T&S Network Availability Date" has the meaning given to that term in Condition 3.44(C) (*T&S Connection Confirmation Requirement*);

"T&S Network Availability Notice" has the meaning given to that term in Condition 3.44 (*T&S Connection Confirmation Requirement*);

"T&S Network Availability Proposer" has the meaning given to that term in Condition 3.45 (*T&S Connection Confirmation Requirement*);

"T&S Network Availability Respondent" has the meaning given to that term in Condition 3.45 (*T&S Connection Confirmation Requirement*);

"T&S Network Availability Response Notice" has the meaning given to that term in Condition 3.45 (*T&S Connection Confirmation Requirement*);

"T&S Network Charge" means the transport and storage network charge in respect of the DPA Reserved T&S Delivery Point Size (*expressed in pounds (£)*) for an AP Billing Period calculated in accordance with the following formula:

- (A) if the Generator is a T&S Onshore User:

$$TSNC = (TSOONNCR \times DRDPS) + (TSOFFNCR \times DRDPS)$$

- (B) if the Generator is a T&S Offshore User:

$$TSNC = TSOFFNCR \times DRDPS$$

where:

<i>TSNC</i>	=	T&S Network Charge (£) in AP Billing Period;
<i>TSOONNCR</i>	=	T&S Onshore Network Charge Rate (£/tCO _{2RS} /AP Billing Period) in AP Billing Period;
<i>DRDPS</i>	=	DPA Reserved T&S Delivery Point Size (tCO _{2RS} /AP Billing Period) in AP Billing Period; and
<i>TSOFFNCR</i>	=	T&S Offshore Network Charge Rate (£/tCO _{2RS} /AP Billing Period) in AP Billing Period;

"T&S Offshore Capacity Charge Rate" means the transport and storage offshore capacity charge rate for the relevant T&S Charging Year as set out in the relevant Use of System Charging Statement, multiplied by the total number of hours in the relevant AP Billing Period (*expressed in £/tCO_{2RS}/AP Billing Period*);

"T&S Offshore Flow Charge Rate" means the transport and storage offshore flow charge rate for the relevant T&S Charging Year as set out in the relevant Use of System Charging Statement (*expressed in (£/tCO_{2RS})*);

"T&S Offshore Network Charge Rate" means the transport and storage offshore network charge rate for the relevant T&S Charging Year as set out in the relevant Use of System Charging Statement multiplied by the total number of hours in the relevant AP Billing Period (*expressed in £/tCO_{2RS}/AP Billing Period*);

"T&S Offshore Transportation and Storage System" has the meaning given to the term "Offshore Transportation and Storage System" in the CCS Network Code;

"T&S Offshore User" means a Generator with a CO₂ Delivery Point which connects directly to the T&S Network at the T&S Offshore Transportation and Storage System;

"T&S Onshore Capacity Charge Rate" means the transport and storage onshore capacity charge rate for the relevant T&S Charging Year as set out in the relevant Use of System Charging Statement, multiplied by the total number of hours in the relevant AP Billing Period (*expressed in £/tCO_{2RS}/AP Billing Period*);

"T&S Onshore Flow Charge Rate" means the transport and storage onshore flow charge rate for the relevant T&S Charging Year as set out in the relevant Use of System Charging Statement (*expressed in £/tCO_{2RS}*);

"T&S Onshore Network Charge Rate" means the transport and storage onshore network charge rate for the relevant T&S Charging Year as set out in the relevant Use of System Charging Statement multiplied by the total number of hours in the relevant AP Billing Period (*expressed in £/tCO_{2RS}/AP Billing Period*);

"T&S Onshore Transportation System" has the meaning given to that term in the CCS Network Code;

"T&S Onshore User" means a Generator with a CO₂ Delivery Point which connects directly to the T&S Network at the T&S Onshore Transportation System;

"T&S Operator" means a licensed company operating and maintaining a T&S Network;

"T&S Outage Event" means an event or circumstance affecting the relevant T&S Network (excluding a T&S Commissioning Delay Event or a T&S Cessation Event), that prevents the Facility from accessing the full entry capacity to the relevant T&S Network that the Generator has reserved under the T&S Connection Agreement (which, for the avoidance of doubt, shall include a Full T&S Outage Event);

"T&S Prolonged Unavailability Event" means:

- (A) a T&S Commissioning Delay Event which has been continuing for a continuous period of at least six (6) Months;
- (B) a Full T&S Outage Event which has not arisen out of or in connection with any act, omission, breach or default by the Generator or its Representatives (including any breach by the Generator or its Representatives of any Industry Document) and which has been continuing for a continuous period of at least six (6) Months; or
- (C) a T&S Cessation Event;

"T&S Prolonged Unavailability Event Notice" has the meaning given to that term in Condition 36.8 (*Termination for T&S Prolonged Unavailability Event*);

"T&S Prolonged Unavailability Further Response Notice" has the meaning given to that term in Condition 36.12(B)(ii) (*Termination for T&S Prolonged Unavailability Event*);

"T&S Prolonged Unavailability Procedure Obligation" has the meaning given to that term in Condition 36.16 (*Failure to comply with T&S Prolonged Unavailability Procedure Obligation: Suspension*);

"T&S Prolonged Unavailability Remediation Deadline" has the meaning given to that term in Condition 36.8 (*Termination for T&S Prolonged Unavailability Event*) as such deadline may be extended in accordance with Condition 36.26 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*);

"T&S Prolonged Unavailability Response Notice" has the meaning given to that term in Condition 36.9 (*Termination for T&S Prolonged Unavailability Event*);

"T&S Prolonged Unavailability Review Notice" has the meaning given to that term in Condition 36.11 (*Termination for T&S Prolonged Unavailability Event*);

"T&S Prolonged Unavailability Termination Date" has the meaning given to that term in Condition 36.22 (*Termination for T&S Prolonged Unavailability Event*);

"T&S Prolonged Unavailability Termination Event" means where:

- (A) subject to limbs (B), (C) and (D), the T&S Prolonged Unavailability Event has not been remedied by the T&S Prolonged Unavailability Remediation Deadline;
- (B) where Condition 36.12(C)(i) applies, the Generator has delivered evidence to the satisfaction of the DPA Counterparty that the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to a No Alternative T&S Solution Reason;
- (C) where Condition 36.13 applies, the DPA Counterparty rejects the draft Alternative T&S Network Solution Plan pursuant to Condition 36.13(C)(iv) unless the Generator submits an amended draft Alternative T&S Network Solution Plan pursuant to Condition 36.14(B); or

- (D) where Condition 36.13(C)(i) applies but no earlier than the T&S Prolonged Unavailability Remediation Deadline, and subject to Condition 36.26, the Generator fails to commence and continue to implement an Approved Alternative T&S Network Solution Plan in accordance with its terms in order to remedy the T&S Prolonged Unavailability Event (notwithstanding that the T&S Prolonged Unavailability Event has not been remedied by the T&S Prolonged Unavailability Remediation Deadline);

"T&S Prolonged Unavailability Termination Notice" has the meaning given to that term in Condition 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*);

"T&S Prolonged Unavailability Termination Supporting Information" has the meaning given to that term in Condition 36.27 (*Termination for T&S Prolonged Unavailability Event*);

"T&S Termination Amount" means the amount calculated in accordance with Condition 37.4 (*Consequences of T&S Prolonged Unavailability Event termination*) in respect of the termination of the DPA as a result of a T&S Prolonged Unavailability Event;

"T&S Termination Costs" means all out-of-pocket costs which are irrecoverable and unavoidable by the Generator acting in accordance with the Reasonable and Prudent Standard and which have been, will be or are reasonably likely to be incurred in respect of the Project by the Generator arising directly from a T&S Prolonged Unavailability Event occurring, if and to the extent that such costs constitute:

- (A) development and pre-development costs in respect of the Generation Assets and/or Capture Assets (including: (i) the costs of surveys and environmental impact assessments in respect of the Generation Assets and/or Capture Assets; (ii) costs incurred in respect of the Generator's successful allocation of the DPA; and (iii) costs incurred in obtaining planning permission for the Generation Assets and/or Capture Assets);
- (B) the ADC NPV Impact Amount;
- (C) break costs associated with the Generator's contractual or financing arrangements in respect of the Project; or
- (D) costs which are wholly attributable to the construction, installation, testing, completion or commissioning of the Generation Assets and/or Capture Assets,

provided that:

- (i) such costs exclude: (a) all other compensation which will be or which is reasonably likely to be payable by the Generator in connection with such T&S Prolonged Unavailability Event; and (b) all costs associated with the Generator's financing arrangements in respect of the Project (including all interest incurred in respect of such financing arrangements), except where expressly specified in any of paragraphs (A) to (D) above, and
- (ii) the sum of the costs referred to in paragraphs (A) and (D) shall not exceed the Total Project Pre-Commissioning Costs (Real);

"T&S Termination Payment" means the compensation in respect of the termination of the DPA as a result of a T&S Prolonged Unavailability Event calculated in accordance with Conditions 37.4 to 37.9 (*Consequences of T&S Prolonged Unavailability Event termination*) which shall be equal to:

- (A) the T&S Termination Amount; plus

(B) if Condition 37.5 applies, the T&S TP Equity Compensation Excess;

"T&S Termination Payment Date" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"T&S Termination Payment Notice" has the meaning given to that term in Condition 37.3 (*Consequences of T&S Prolonged Unavailability Event termination*);

"T&S Termination Savings" means, all savings (including avoided out-of-pocket costs and insurance proceeds) which have been, will be or are reasonably likely to be made by the Generator in respect of the Project arising directly from the T&S Prolonged Unavailability Event;

"T&S TP Collateral Amount" means an amount equal to the lower of:

- (A) the T&S TP Equity Compensation Excess; and
- (B) the Residual Value Adjustment,

as reduced by payments made to the DPA Counterparty pursuant to Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"T&S TP Collateral Correction Notice" has the meaning given to that term in paragraph 3.4(A) of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"T&S TP Equity Compensation Excess" means an amount (expressed in pounds) equal to:

- (A) the T&S TP Floor; less
- (B) the T&S Termination Amount calculated in accordance with Condition 37.4 (*Consequences of T&S Prolonged Unavailability Event termination*),

provided that where the T&S TP Equity Compensation Excess is less than zero (0) it shall be deemed to be zero (0);

"T&S TP Floor" means:

- (A) all amounts outstanding at the T&S Prolonged Unavailability Termination Date, including interest and Senior Debt Default Interest accrued as at the T&S Prolonged Unavailability Termination Date, from the Generator to the Senior Lenders under the Senior Financing Agreements in respect of the Permitted Senior Debt Amount; and
- (B) all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Generator to the Senior Lenders as a result of a prepayment in respect of the Permitted Senior Debt Amount or, in the case of early termination of interest rate hedging arrangements only, as a result of termination of this DPA, subject to the Generator and the Senior Lender(s) mitigating all such costs to the extent reasonably practicable,

less, if and only to the extent it is a positive amount, the aggregate of (without double counting in relation to the calculation of the T&S TP Floor or the amounts below):

- (i) all credit balances in any bank accounts held by or on behalf of the Generator and/or HoldCo on the T&S Prolonged Unavailability Termination Date excluding any amounts relating to: (a) Capital Costs due but unpaid at the T&S Prolonged Unavailability Termination Date and/or due within the next sixty (60) Business Days; and (b) Operating Costs due but unpaid at the T&S Prolonged

Unavailability Termination Date and/or due within the next sixty (60) Business Days;

- (ii) any amounts claimable on or after the T&S Prolonged Unavailability Termination Date in respect of Shareholder Funding Liabilities;
- (iii) all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Senior Lenders to the Generator as a result of prepayment of amounts outstanding in respect of the Permitted Senior Debt Amount, or in the case of early termination of interest rate hedging arrangements only, as a result of termination of this DPA; and
- (iv) all other amounts received by the Senior Lenders on or after the T&S Prolonged Unavailability Termination Date and before the date on which any compensation is payable by the DPA Counterparty to the Generator, as a result of enforcing any other rights they may have;

"Target Commissioning Date" has the meaning given to that term in the Agreement;

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

- (A) a Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (*Force Majeure*) to be entitled to such extension; or
- (B) the failure of the Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives); or
- (C) the failure of the Gas Licensed Transporter to carry out in a timely manner any required system reinforcement or connection works specified in the construction agreement attributable to the Facility and to which any Gas Licensed Transporter is a party (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives); or
- (D) a T&S Commissioning Delay Event but only to the extent that the Generator has satisfied the requirements of Conditions 3.37 to 3.39 (*Relief due to T&S Commissioning Delay Event*) to be entitled to such extension,

and provided that in the case of delays caused by the reasons in (B) and/or (C) above:

- (i) the Generator gives notice to the DPA Counterparty as soon as reasonably practicable of the nature and extent of the failure; and
- (ii) there shall be no extension for any day of delay to the Project that could have been avoided by the Generator and its Representatives using reasonable endeavours:
 - (a) to mitigate the effects of such failure (including delay to the Project);

- (b) to carry out its obligations under the DPA in any way that is reasonably practicable; and
- (c) to resume the performance of its obligations under the DPA as soon as reasonably practicable;

"Tax" means any taxes, levies, duties, imposts and any charges, deductions or withholdings in the nature of tax including taxes on gross or net Income, Profits or Gains and taxes on receipts, sales, use, occupation, development, franchise, employment, value added and personal property, together with any penalties, charges and interest relating to any of them;

"TCDE Deadline" has the meaning given to that term in Condition 3.30 (*T&S Connection Confirmation CP Relief*);

"TCDE Notice" has the meaning given to that term in Condition 3.30 (*T&S Connection Confirmation CP Relief*);

"TCDE Response Notice" has the meaning given to that term in Condition 3.32 (*T&S Connection Confirmation CP Relief*);

"TCDE Supporting Information" has the meaning given to that term in Condition 3.32(D) (*T&S Connection Confirmation CP Relief*);

"TCDE Termination Notice" has the meaning given to that term in Condition 36.36 (*Termination for failing to satisfy the T&S Connection Confirmation Requirement*);

"Technical Amendment" means any Proposed Amendment which is: (i) not a Material Amendment; (ii) required to correct a manifest error; or (iii) subject to paragraph 2.13 of Annex 6 (*Change Control Procedure*), required in order to identify a replacement carbon support price to reflect the representative Tax on the CO₂ emissions produced by the Facility including by reference to the consumption of fuel gas, in circumstances where the Carbon Support Price has been or is proposed to be novated or replaced;

"Technical Amendment Agreement" has the meaning given to that term in paragraph 2.10 of Annex 6 (*Change Control Procedure*);

"Technical Amendment Response Notification" has the meaning given to that term in paragraph 2.6(B)(ii) of Annex 6 (*Change Control Procedure*);

"Technical Amendment Response Period" has the meaning given to that term in paragraph 2.6 of Annex 6 (*Change Control Procedure*);

"Technical Compliance Termination Event" means an event as set out in Condition 21.10 (*Failure to remedy Metering Obligation breach*);

"Term" has the meaning given to that term in Condition 2.1 (*Term and duration*);

"Termination Event" has the meaning given to that term in Condition 38.1 (*Termination Events*);

"Termination Fee Rate" has the meaning given to that term in paragraph 1.1 of Annex 4 (*Calculation of Default Termination Payment*);

"Test" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Test Achieved CO₂ Capture Rate" means the CO₂ capture rate (*expressed as a percentage (%)*) for the Facility during a Test and calculated as follows:

$$TACRph = \frac{(CO2_{exp} - CO2_{imp})}{CO2_{gen}}$$

where:

$TACRph$	=	Test Achieved CO ₂ Capture Rate (<i>expressed as a percentage (%)</i>)
$CO2_{exp}$	=	Metered CO ₂ Output in a Test Run Period (tCO_2)
$CO2_{gen}$	=	Calculated CO ₂ Generated in a Test Run Period (tCO_2)
$CO2_{imp}$	=	Metered CO ₂ Input in a Test Run Period (tCO_2)

"Test Performance Standards" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Test Procedure" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Test Procedure Notice" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*);

"Test Report" means the Performance Test Report or the Annual NDC Test Report (as applicable);

"Test Report Minimum Technical Requirements" has the meaning given to that term in paragraph 1 of this Annex 2 (*Testing Requirements*);

"Test Run Period" means the applicable period of time during which each Test needs to be carried out as specified in Annex 2 (*Testing Requirements*);

"Third Party" has the meaning given to that term in Condition 68.1 (*Third party rights*);

"Third Party Provisions" has the meaning given to that term in Condition 68.1 (*Third party rights*);

"Total Cash Amount" has the meaning given to that term in paragraph 1 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*);

"Total Metered Fuel Consumption" means the metered fuel consumption of the Facility during the relevant period, as measured at the Gas Supply Point(s) during such period;

"Total Project Pre-Commissioning Costs (Nominal)" has the meaning given to that term in the Agreement;

"Total Project Pre-Commissioning Costs (Real)" has the meaning given to that term in the Agreement;

"Transfer" has the meaning given to that term in Condition 64.1 (*Restriction on Transfers*);

"Transfer Scheme" means a transfer scheme made under paragraph 1(1) of schedule 1 or paragraph 16 of schedule 2 to the EA 2013;

"Transferee" has the meaning given to that term in Condition 64.1 (*Restriction on Transfers*);

"Transferring Rights and Obligations" has the meaning given to that term in Condition 64.5(A) (*General provisions relating to permitted transfers*);

"Treaty" has the meaning given to that term in Article 2(1)(a) of the Vienna Convention on the law of treaties 1969;

"Tribunal" has the meaning given to that term in the FoIA;

"UK Allowance" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"UKA Futures December Contract" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"UKA Futures December Contract Trading Price" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"UKA Futures Index" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

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

"UK Emissions Trading Registry" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"UK Emissions Trading Scheme" has the meaning given to that term in paragraph 1 of Annex 9 (*Carbon Market Reference Price Review*);

"UK REMIT" means the dedicated 'REMIT' section of the Insights Solution platform operated by Elexon pursuant to Regulation (EU) No 1227/2011 as it forms part of domestic law by virtue of the EU(W)A 2018;

"Ultimate Investor" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Unadjusted Metered Electricity Output" means the BM Unit Metered Volume for the Facility during a Settlement Unit as measured by the Electricity Metering Equipment during such period;

"Uniform Network Code" means the uniform network code prepared pursuant to the Gas Transporter Licence;

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

"Use of System Charging Statement" has the meaning given to that term in the CCS Network Code;

"User Works" has the meaning given to that term in the CCS Network Code;

"Variable Payment" means the payment calculated in accordance with Condition 10.1 (*Variable Payment Calculation*);

"Variable Payment Billing Statement" has the meaning given to that term in Condition 12.8 (*Delivery of Variable Payment Billing Statement*);

"Variable Payment Rate" means the payment rate (*expressed in £/MWh*) calculated in accordance with Condition 10.1 (*Variable Payment calculation*);

"Virus" means: (i) a program code, programming instruction or set of instructions intentionally constructed with the ability to damage, destroy, disable, interfere with or otherwise adversely affect computer programs, data files or operations; or (ii) other code typically designated to be a virus, worm, trojan horse, time lock or time bomb or anything similar;

"VP Billing Period" means the period starting at 00:00 on a day and ending at 23:59 on the same day;

"VP Compensatory Interest" means the interest that is due and payable at the VP Compensatory Interest Rate in accordance with Condition 12.13 (*Calculation of VP Compensatory Interest Amount*);

"VP Compensatory Interest Amount" has the meaning given to that term in Condition 12.13 (*Calculation of VP Compensatory Interest Amount*);

"VP Compensatory Interest Rate" has the meaning given to that term in Condition 12.13 (*Calculation of VP Compensatory Interest Amount*);

"VP Metered CO₂ Rich Stream Output" means:

- (A) subject to limb (B), the Metered CO₂ Rich Stream Output, as measured by the CO₂ Metering Equipment, during a VP Billing Period; or
- (B) in the case of a CO₂ Re-use Service Facility, the Metered CO₂ Rich Stream Output minus the Metered CO₂ Rich Stream Input,

and, if the actual VP Metered CO₂ Rich Stream Output is greater than an amount equal to the Maximum VP Metered CO₂ Rich Stream Output, the VP Metered CO₂ Rich Stream Output for such VP Billing Period shall be deemed to be equal to the Maximum VP Metered CO₂ Rich Stream Output;

"VP Net Payable Amount" has the meaning given to that term in Condition 12.14 (*Calculation of VP Net Payable Amount*);

"VP Reconciliation Amounts" has the meaning given to that term in Condition 12.12 (*Calculation of VP Reconciliation Amounts*);

"VP Reconciliation Billing Period" has the meaning given to that term in Condition 12.13 (*Calculation of VP Compensatory Interest Amount*);

"VP Settlement Unit" means each day occurring during the Term after the Start Date and starting at 00:00 on a day and ending at 23:59 on the same day;

"Warm Start" has the meaning given to that term in paragraph 1 of Annex 2 (*Testing Requirements*); and

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

BSC definitions

1.2

- (A) References in these Conditions to **"Apparatus"**, **"BM Unit"**, **"BM Unit Metered Volume"**, **"Boundary Point"**, **"BSC Agent"**, **"BSC Company"**, **"Communications**

Equipment", "Metering System", "Registrant", "Settlement Run", and "Trading Dispute" have the meanings given to such terms in the BSC.

- (B) Condition 1.2(A) shall operate without prejudice to the application of Part 8 (*Changes in Law*) to changes in the meaning of those terms under the BSC after the Agreement Date.

Interpretation

1.3 Any reference in the DPA to:

- (A) (save as provided in (C)) a Law, Directive or other similar enactment or instrument (each, an **"enactment"**) includes references to:
- (i) that enactment as amended, supplemented or applied by or pursuant to any other enactment before, on or after the Agreement Date;
 - (ii) any enactment which re-enacts, restates or replaces (in each case with or without modification) that enactment; and
 - (iii) any subordinate legislation made (before, on or after the Agreement Date) pursuant to any enactment, including an enactment falling within Condition 1.3(A)(i) or 1.3(A)(ii);
- (B) an Industry Document includes references to such Industry Document as amended, supplemented, restated, novated or replaced from time to time; and
- (C) an internationally or nationally recognised standard includes references to such internationally or nationally recognised standard as amended, supplemented, restated, novated or replaced from time to time,

except, in each case, for the purposes of Part 8 (*Changes in Law*) or where otherwise expressly specified; or

- (D) a specific European Union instrument shall not include any amendment, supplement, re-enactment, restatement or replacement of such European Union instrument that:
- (i) is made by a Competent Authority of the European Union; and
 - (ii) is not required to be implemented by, and does not have effect in the United Kingdom by reason of, any Law or otherwise pursuant to an international agreement to which the United Kingdom is a signatory.

1.4 Unless otherwise expressly specified:

- (A) any reference in the DPA or any other DPA Document (or in any certificate or other document made or delivered pursuant to the DPA or any other DPA Document) to:
- (i) these Conditions shall be deemed to include the Annexes and the Schedule (*Gain Share*);
 - (ii) the DPA shall be deemed to include any schedules or annexes to the Agreement;
 - (iii) a **"company"** shall be construed as including any corporation or other body corporate, wherever and however incorporated or established;

- (iv) the expressions **"holding company"** and **"subsidiary"** shall have the meanings respectively ascribed to them by section 1159 of the Companies Act 2006, the expressions **"parent undertaking"** and **"subsidiary undertaking"** shall have the meanings respectively ascribed to them by section 1162 of the Companies Act 2006 and the expression **"associated undertaking"** shall have the meaning ascribed to it in Schedule 6 to The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2013 (but for this purpose ignoring paragraph 19(1)(b) of those regulations);
 - (v) a **"person"** shall be construed as including any individual, firm, company, unincorporated organisation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any other entity;
 - (vi) a person shall be construed as including its successors, permitted assignees and permitted transferees and, where a person ceases to exist, any other person to which some or all of its duties, functions, liabilities, obligations, powers or responsibilities may from time to time be transferred;
 - (vii) an **"agreement"** shall be construed as including any commitment or arrangement, whether legally binding or not, and references to being party to an agreement or having agreed to do anything shall be construed accordingly;
 - (viii) any agreement or document shall be construed as a reference to that agreement or document as amended, supplemented, restated, novated or replaced from time to time;
 - (ix) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be treated as including what most nearly approximates in that jurisdiction to the English legal term;
 - (x) time shall be a reference to time in London, England;
 - (xi) words in the singular shall be interpreted as including the plural and vice versa;
 - (xii) in the definition of Qualifying Shutdown Event and Foreseeable Change in Law, the term EU law shall include any assimilated law other than as that body of law is added to or otherwise modified under the EU(W)A 2018 or other domestic law; and
 - (xiii) the expression **"assimilated law"** shall have the meaning given to that expression in section 6 of the EU(W)A 2018 (as amended by the Retained EU Law (Revocation and Reform) Act 2023).
- (B) in construing the DPA or any other DPA Document (or any certificate or other document made or delivered pursuant to the DPA or any other DPA Document):
- (i) the rule of interpretation known as the *ejusdem generis* rule shall not apply and, accordingly, general words introduced by the word **"other"** shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and
 - (ii) general words such as **"including"** and **"without limitation"** shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;

- (C) any reference in these Conditions to a **"paragraph"**, **"Condition"**, **"Part"** or **"Annex"** or **"Schedule"** is a reference to a paragraph, Condition or Part of, or Annex or Schedule to these Conditions; and
 - (D) any reference in the Agreement to a **"paragraph"**, **"Condition"**, **"Part"**, **"Annex"** or **"Schedule"** is a reference to a paragraph or Condition of, or Annex or Schedule to, the Agreement.
- 1.5 These Conditions form part of the DPA and shall have the same force and effect as if expressly set out in the body of the DPA, and any reference to the DPA shall include the Annexes and the Schedules.
- 1.6 Headings and sub-headings used in the DPA are for ease of reference only and shall not affect the interpretation of the DPA.
- 1.7 If there is a conflict between:
- (A) subject to the Paragraph 1.3 of Part A (*Introduction*) of the Schedule (*Gain Share*), the main body of these Conditions and any Annex or Schedule, the main body of these Conditions shall prevail; or
 - (B) these Conditions and the Agreement, the Agreement shall prevail.
- 1.8 Condition 1.4(A)(vi) shall apply (without limitation) to any references in the DPA to the Authority, the Economic Regulator, the Environment Agencies and the Secretary of State.

Symbols and currency

- 1.9 Any reference in these Conditions to **"£"** or **"pounds"** or **"pence"** or **"Sterling"** is to the lawful currency of the United Kingdom.
- 1.10 Any reference in these Conditions to **"MW"** is to megawatts, to **"MWh"** is to megawatt hours and to **"MWe"** is to electrical megawatts.
- 1.11 Any reference in these Conditions to **"tCO₂"** is to tonnes of carbon dioxide, **"tCO_{2RS}"** is to tonnes of carbon dioxide rich stream and to **"tCO_{2e}"** is to tonnes of carbon dioxide equivalent.
- 1.12 Any reference in these conditions to **"therms"** is to thermal units of natural gas.
- 1.13 Any value referenced in these Conditions as being expressed as a percentage (%) is to be expressed as a decimal fraction for the purposes of any calculations.

No interest in the Facility

- 1.14 Nothing in the DPA is intended to create, or shall create, a legal or beneficial interest in the Facility, the Generating Station or the Project in favour of any person other than the Generator.

Part 2 Term

2. TERM

Term and duration

2.1

- (A) Subject to Condition 3 (*Conditions Precedent*), the provisions of, and the rights and obligations of the Parties under, the DPA shall become effective and binding on the Agreement Date; and
- (B) (except in circumstances in which the DPA is terminated pursuant to Conditions 36.1 (*Pre-Start Date Termination*), 36.5 (*Termination for Prolonged Force Majeure*), 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*), 36.33 (*Default Termination*), 36.35 (*Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements*), 36.36 (*Termination for failing to satisfy the T&S Connection Confirmation Requirement*), 36.37 (*Qualifying Change in Law Termination*) or 36.39 (*QCIL Compensation termination*)), the DPA shall continue in full force and effect until the Specified Expiry Date,

(such period being the "**Term**").

Consequences of expiry

- 2.2 Subject to Condition 2.3: (i) the DPA shall expire automatically on the Specified Expiry Date; and (ii) upon expiry of the DPA:

- (A) no termination payment shall be payable by either Party to the other Party;
- (B) all rights and obligations of the Parties under the DPA shall end; and
- (C) neither Party shall be entitled to make any claim against the other Party pursuant to the DPA.

2.3 The expiry of the DPA:

- (A) shall not affect, and shall be without prejudice to, accrued rights and liabilities and rights and liabilities arising as a result of:
 - (i) any antecedent breach of any provision of the DPA; and
 - (ii) any breach of any provisions of the DPA which are expressed to survive expiry pursuant to Condition 39 (*Survival*); and
- (B) shall be subject to Condition 39 (*Survival*).

Part 3
Conditions Precedent and Milestone Requirement

3. CONDITIONS PRECEDENT

Provisions effective and binding from Agreement Date

- 3.1 The provisions of, and the rights and obligations of the Parties pursuant to, the Agreement Date Provisions shall become effective and binding on the Agreement Date.

Initial Conditions Precedent

- 3.2 The provisions of, and the rights and obligations of the Parties pursuant to, the Initial CP Provisions are conditional upon the Initial Conditions Precedent being:
- (A) fulfilled by the Generator; or
 - (B) waived by the DPA Counterparty in accordance with Condition 3.28 (*Waiver of Conditions Precedent and Default*).
- 3.3 The Generator shall use reasonable endeavours to fulfil or procure the fulfilment of the Initial Conditions Precedent as soon as reasonably practicable, and in any event no later than twenty (20) Business Days after the Agreement Date.
- 3.4 The DPA Counterparty shall notify the Generator as soon as reasonably practicable after the DPA Counterparty considers that the Initial Conditions Precedent have been fulfilled or after the DPA Counterparty has decided to waive such conditions in accordance with Condition 3.28 (*Waiver of Conditions Precedent and Default*).

Operational Conditions Precedent

- 3.5 The provisions of, and the rights and obligations of the Parties pursuant to, the Operational CP Provisions are conditional upon the Initial Conditions Precedent and the Operational Conditions Precedent being:
- (A) fulfilled by the Generator; or
 - (B) waived by the DPA Counterparty in accordance with Conditions 3.28 (*Waiver of Conditions Precedent and Default*) and/or 3.52 (*Waiver of Subsidy Control Declaration Operational CP*).
- 3.6 The Generator shall use reasonable endeavours to fulfil or procure the fulfilment of the Operational Conditions Precedent (save for the Subsidy Control Declaration Operational CP) as soon as reasonably practicable, and in any event before the Longstop Date. The Generator shall use reasonable endeavours to fulfil or procure the fulfilment of the Subsidy Control Declaration Operational CP before the Longstop Date.

Operational Conditions Precedent: General Reporting Obligations

- 3.7 The Generator shall keep the DPA Counterparty reasonably informed as to progress towards fulfilment of the Operational Conditions Precedent and in particular (but without limitation) shall:
- (A) provide the DPA Counterparty with reports (in form and content reasonably satisfactory to the DPA Counterparty and in accordance with the reasonable requirements of the DPA Counterparty as to the timing and frequency of such reports) of the progress made in or towards fulfilment of the Operational Conditions Precedent; and

- (B) give the DPA Counterparty a notice each time the Generator considers an Operational Condition Precedent has been fulfilled (an "**OCP Notice**"). Each OCP Notice shall:
 - (i) identify the Operational Condition Precedent which the Generator considers to have been fulfilled; and
 - (ii) include such Supporting Information as the Generator considers to be relevant to evidence the fulfilment of the relevant Operational Condition Precedent.
- 3.8 Each OCP Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the OCP Notice.
- 3.9 The DPA Counterparty shall, no later than ten (10) Business Days after receipt of an OCP Notice, give a notice to the Generator (an "**OCP Response Notice**"). An OCP Response Notice shall specify whether the DPA Counterparty considers that:
- (A) the Generator has or has not fulfilled the Operational Condition Precedent to which the OCP Notice relates; or
 - (B) it has not been provided with sufficient Supporting Information to determine whether the Generator has fulfilled the Operational Condition Precedent to which the OCP Notice relates and, if so, details of the additional Supporting Information which the DPA Counterparty requires to determine whether the Generator has fulfilled the Operational Condition Precedent (the "**OCP Supporting Information**").
- 3.10 If the DPA Counterparty states in the OCP Response Notice that:
- (A) the Generator has fulfilled the Operational Condition Precedent, then the Operational Condition Precedent will be deemed to have been fulfilled for the purposes of the DPA;
 - (B) the Generator has not fulfilled the Operational Condition Precedent, then the Operational Condition Precedent will be deemed not to have been fulfilled for the purposes of the DPA unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or
 - (C) the Generator has not provided the DPA Counterparty with sufficient Supporting Information to determine whether the Generator has fulfilled the Operational Condition Precedent:
 - (i) the Generator shall provide the OCP Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the OCP Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the OCP Supporting Information, the DPA Counterparty shall as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of such OCP Supporting Information, give a further OCP Response Notice to the Generator (a "**Further OCP Response Notice**"). A Further OCP Response Notice shall specify whether the DPA Counterparty considers that the Generator has or has not fulfilled the Operational Condition Precedent.
- 3.11 The Generator shall give the DPA Counterparty a notice promptly upon the Generator becoming aware:
- (A) of any fact, matter or circumstance which will or is reasonably likely to prevent any of the Operational Conditions Precedent from being fulfilled by the Longstop Date; or

- (B) that any of the Operational Conditions Precedent which had previously been notified to the DPA Counterparty as fulfilled pursuant to Condition 3.7(B) is no longer fulfilled at any time prior to the Start Date,

(any such notice, an "**OCP Non-Compliance Notice**" and the Operational Condition Precedent referenced in such notice, an "**Affected Operational CP**"). Each such OCP Non-Compliance Notice shall:

- (i) identify the Affected Operational CP;
- (ii) specify the reasons why the Affected Operational CP:
 - (a) will, or is reasonably likely, not to be fulfilled; or
 - (b) is no longer fulfilled;
- (iii) include such Supporting Information as the Generator considers to be relevant to the content of the OCP Non-Compliance Notice; and
- (iv) include details of any remedial action that the Generator is taking or proposes to take,

provided that no OCP Non-Compliance Notice need be given by the Generator to the DPA Counterparty if the Affected Operational CP has been waived by the DPA Counterparty in accordance with Conditions 3.28 (*Waiver of Conditions Precedent and Default*) and/or 3.52 (*Waiver of Subsidy Control Declaration Operational CP*).

- 3.12 Each OCP Non-Compliance Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the OCP Non-Compliance Notice.
- 3.13 Nothing in this Condition 3 (*Conditions Precedent*) shall require the DPA Counterparty to specify in any OCP Response Notice or Further OCP Response Notice that the DPA Counterparty accepts that an Operational Condition Precedent has been fulfilled unless and until the DPA Counterparty is satisfied of the same.

Operational Conditions Precedent: Construction Reporting Requirements

- 3.14 The Generator shall keep the DPA Counterparty fully informed as to the progress in relation to the Pre-Operation Activities from the Agreement Date until the Start Date and in particular (but without limitation) shall, on or prior to every 1 February, 1 May, 1 September and 1 November that falls within such period (or, if such date is a day other than a Business Day, on the next Business Day after that date):
- (A) provide the DPA Counterparty with reports (in form and content reasonably satisfactory to the DPA Counterparty) detailing the progress in relation to the Pre-Operation Activities. As a minimum, each report shall satisfy the Minimum Reporting Content Requirements; and
 - (B) provide the DPA Counterparty with any Supporting Information provided to the Generator's board of directors (or an equivalent body or committee, as applicable) relating to the matters referred to in Condition 3.14(A).
- 3.15 The Generator shall notify the DPA Counterparty in writing (a "**Project Delay Notice**"), together with Supporting Information, promptly upon the Generator becoming aware of any

fact, matter or circumstance which will or is reasonably likely to delay the Start Date, with such notice to include:

- (A) details of the relevant fact, matter or circumstance;
- (B) any remedial action that the Generator is taking or proposes to take in relation to such fact, matter or circumstance;
- (C) a revised Project timetable (by reference to the Target Commissioning Date, the Target Commissioning Window and the Longstop Date); and
- (D) the estimated additional costs to the Project arising as a result of such fact, matter or circumstance.

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

Reporting Obligations Audit Right

3.17 With effect from the Agreement Date and until the date which falls thirty (30) calendar days after the Start Date, the Generator shall grant the DPA Counterparty (and any and all persons nominated by the DPA Counterparty which the DPA Counterparty considers to be suitably qualified) access in accordance with Conditions 3.18 to 3.20 to:

- (A) (i) the Facility; and (ii) any plant, machinery, property, processing or storage facility associated with the Facility, in each case owned, occupied or controlled by the Generator and to which the Generator can lawfully grant access; and
- (B) the Generator's personnel, systems, books, records and any other information,

in each case as the DPA Counterparty considers reasonably necessary for the DPA Counterparty to assess the Generator's compliance with Conditions 3.7 to 3.16 (the "**Audit Right**").

3.18 If the DPA Counterparty intends to exercise its Audit Right, it shall give written notice to the Generator (an "**Audit Notice**"). An Audit Notice shall:

- (A) specify that the DPA Counterparty (or any suitably qualified persons nominated by it under Condition 3.17) intends to exercise the Audit Right; and
- (B) specify a date and time during regular office hours by which the Generator must, in accordance with Condition 3.19, permit the exercise of the Audit Right.

3.19 On receipt of the Audit Notice, the Generator shall permit the DPA Counterparty to exercise the Audit Right at such time as the DPA Counterparty may nominate provided that it is no earlier than two (2) Business Days after the Generator's receipt of the Audit Notice.

3.20 The Generator shall cooperate and provide, and shall procure that any Representative cooperates and provides, all required access, assistance and information to enable the DPA Counterparty to exercise its Audit Right.

3.21 The Generator shall reimburse the DPA Counterparty for all out-of-pocket costs, expenses and fees incurred by the DPA Counterparty arising out of or in connection with exercising the Audit Right.

Notification of Start Date

- 3.22 The Generator shall, after giving the OCP Notice relating to the fulfilment of the final Operational Condition Precedent, and in any event no later than ten (10) Business Days after the OCP Response Notice or the Further OCP Response Notice confirming that the DPA Counterparty considers such Operational Condition Precedent to have been fulfilled is received, give a notice to the DPA Counterparty (a **"Start Date Notice"**).
- 3.23 A Start Date Notice shall specify the date that the Generator proposes to be the Start Date for the purposes of the DPA, such date being:
- (A) no earlier than the date on which the OCP Notice relating to the fulfilment of the final Operational Condition Precedent was given;
 - (B) no earlier than the first (1st) day of the Target Commissioning Window;
 - (C) no later than the Longstop Date; and
 - (D) no earlier than the date of the Start Date Notice,
- (the date so notified being, subject to Condition 3.26, the **"Start Date"**).
- 3.24 Each Start Date Notice shall be accompanied by a Directors' Certificate in relation to the Information specified in Condition 3.26(C).
- 3.25 On the Start Date (unless the date of the Start Date Notice is the same as the Start Date), the Generator shall deliver to the DPA Counterparty a Directors' Certificate in relation to the Information specified in Condition 3.26(C).
- 3.26 A Start Date Notice shall be effective in determining the Start Date only if:
- (A) the Generator complies with its obligations pursuant to Conditions 3.24 and 3.25;
 - (B) the DPA Counterparty specifies in an OCP Response Notice or a Further OCP Response Notice (as relevant) that it has determined that all of the Operational Conditions Precedent have been satisfied or waived in accordance with Conditions 3.28 or 3.52; and
 - (C) on the date such Start Date Notice is given and on the proposed Start Date specified in the Start Date Notice:
 - (i) the Generator Repeating Representations are true, accurate and not misleading by reference to the facts and circumstances then existing;
 - (ii) the representations set out in Conditions 18.1(G), 18.1(H) and 18.2 are true, accurate and not misleading by reference to the facts and circumstances then existing;
 - (iii) no Default has occurred which is continuing unremedied and which has not been waived by the DPA Counterparty in accordance with Condition 3.28; and
 - (iv) all Conditions Precedent (except those waived by the DPA Counterparty in accordance with Conditions 3.28 and/or 3.52) continue to be fulfilled.
- 3.27 If the Generator gives a Start Date Notice to the DPA Counterparty and such notice is, pursuant to Condition 3.26, ineffective, this shall not, subject to Part 9 (*Termination*), preclude the Generator from giving a further Start Date Notice to the DPA Counterparty. Conditions 3.22 to

3.26 (inclusive) shall apply, with the necessary modifications, to any such further Start Date Notice.

Waiver of Conditions Precedent and Default

3.28 Subject to Condition 3.52, the DPA Counterparty may agree by notice to the Generator to waive:

- (A) the fulfilment of any of the Conditions Precedent; and
- (B) any Default which is continuing unremedied and which would otherwise prevent the Start Date Notice from being effective in determining the Start Date.

3.29 Conditions 48 (*No waiver*) and 49 (*Consents*) shall apply to any waiver given by the DPA Counterparty pursuant to Conditions 3.28 and 3.52.

T&S Connection Confirmation CP Relief

3.30 The Generator may, if it considers that a T&S Commissioning Delay Event has occurred and is continuing, give a notice to the DPA Counterparty (a "**TCDE Notice**"). A TCDE Notice must be given to the DPA Counterparty no later than the Longstop Date (the "**TCDE Deadline**") and shall:

- (A) specify:
 - (i) the Generator's request for an extension to one (1) or more of the Milestone Delivery Date, the Target Commissioning Window and/or the Longstop Date, for any delay to the Project if and to the extent that such delay is by reason of a T&S Commissioning Delay Event; or
 - (ii) the Generator's request for the DPA Counterparty to waive the T&S Connection Confirmation CP in accordance with Condition 3.41 (*Waiver of T&S Connection Confirmation CP*) in order for the Generator to issue a Start Date Notice pursuant to Condition 3.22 (*Notification of Start Date*); and
- (B) include such Supporting Information as the Generator considers to be relevant to:
 - (i) evidence the occurrence and continuation of the T&S Commissioning Delay Event; and
 - (ii) if the TCDE Notice relates to Condition 3.30(A)(ii), evidence that the Generator has fully completed the Generator T&S Connection Works.

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

3.32 The DPA Counterparty shall, no later than twenty (20) Business Days after receipt of a TCDE Notice, give a notice to the Generator (a "**TCDE Response Notice**"). A TCDE Response Notice shall specify whether the DPA Counterparty considers (giving reasons) that:

- (A) a T&S Commissioning Delay Event has or has not occurred; and
- (B) a T&S Commissioning Delay Event is or is not continuing as at the date of the TCDE Response Notice; and
- (C) if the TCDE Notice relates to Condition 3.30(A)(ii), the Generator has or has not fully completed the Generator T&S Connection Works; or

- (D) acting reasonably, it has not been provided with sufficient Supporting Information to determine whether:
- (i) a T&S Commissioning Delay Event has occurred;
 - (ii) a T&S Commissioning Delay Event is continuing;
 - (iii) if the TCDE Notice relates to Condition 3.30(A)(ii), the Generator has or has not fully completed the Generator T&S Connection Works; and/or
 - (iv) any combination of the foregoing,

in which case the DPA Counterparty shall provide details of the additional Supporting Information which the DPA Counterparty requires to determine (as relevant) whether a T&S Commissioning Delay Event has occurred and is continuing and, if the TCDE Notice relates to Condition 3.30(A)(ii), whether the Generator has fully completed the Generator T&S Connection Works (the "**TCDE Supporting Information**").

3.33 If the DPA Counterparty states in the TCDE Response Notice that it:

- (A) considers that a T&S Commissioning Delay Event has not occurred and/or is not continuing as at the date of the TCDE Response Notice:
 - (i) if the TCDE Notice relates to Condition 3.30(A)(i), the Milestone Delivery Date, the Target Commissioning Window and/or the Longstop Date shall remain unadjusted for the purposes of the DPA unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; and
 - (ii) if the TCDE Notice relates to Condition 3.30(A)(ii), the Generator T&S Connection Works will be deemed not to have been fully completed for the purposes of the DPA unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure;
- (B) considers that a T&S Commissioning Delay Event has occurred and is continuing:
 - (i) if the TCDE Notice relates to Condition 3.30(A)(i), then the TCDE Response Notice shall include a confirmation of the Generator's entitlement to an extension to any of the Milestone Delivery Date, the Target Commissioning Window and/or the Longstop Date pursuant to Condition 3.37 (*Relief due to T&S Commissioning Delay Event*); and
 - (ii) if the TCDE Notice relates to Condition 3.30(A)(ii), then (except where the DPA Counterparty has requested TCDE Supporting Information relating to the Generator T&S Connection Works) the TCDE Response Notice shall:
 - (a) confirm that the Generator has fully completed the Generator T&S Connection Works, in which case the Generator T&S Connection Works will be deemed to have been fully completed for the purposes of the DPA; or
 - (b) state that the Generator has not fully completed the Generator T&S Connection Works, in which case the Generator T&S Connection Works will be deemed not to have been fully completed for the purposes of the DPA unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or

- (C) requires the Generator to provide the TCDE Supporting Information:
- (i) the Generator shall provide the TCDE Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the TCDE Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the TCDE Supporting Information, the DPA Counterparty shall, no later than ten (10) Business Days after receipt of such TCDE Supporting Information, give a further TCDE Response Notice to the Generator (a **"Further TCDE Response Notice"**). A Further TCDE Response Notice shall contain one of the statements set out in Conditions 3.33(A) or 3.33(B).
- 3.34 Nothing in Conditions 3.30 to 3.33 (*T&S Connection Confirmation CP Relief*) shall require the DPA Counterparty to specify in any TCDE Response Notice or Further TCDE Response Notice that a T&S Commissioning Delay Event has occurred, is continuing or, if the TCDE Notice relates to Condition 3.30(A)(ii), that the DPA Counterparty accepts that the Generator T&S Connection Works have been fully completed, unless and until the DPA Counterparty is satisfied of the same.
- 3.35 Any TCDE Notice shall be irrevocable and, if the T&S Connection Confirmation CP is waived pursuant to Condition 3.41 (*Waiver of T&S Connection Confirmation CP*), the Generator may not subsequently issue a TCDE Notice which relates to Condition 3.30(A)(i).
- 3.36 Any TCDE Notice received by the DPA Counterparty after the TCDE Deadline shall be invalid and of no effect.

Relief due to T&S Commissioning Delay Event

- 3.37 Subject to Condition 3.38, the Generator shall be entitled to an extension to one (1) or more of the Milestone Delivery Date, the Target Commissioning Window and/or the Longstop Date where it is agreed under Condition 3.33(B) or determined pursuant to the Dispute Resolution Procedure that any delay to the Project is by reason of a T&S Commissioning Delay Event, until the T&S Connection Confirmation CP is waived pursuant to Condition 3.41 (*Waiver of T&S Connection Confirmation CP*).
- 3.38 The Generator's entitlement to an extension to one (1) or more of the Milestone Delivery Date, the Target Commissioning Window and/or the Longstop Date pursuant to Condition 3.37 shall be subject to and conditional upon the Generator using reasonable endeavours to:
- (A) mitigate the effects of the T&S Commissioning Delay Event (including the consequential delay to the Project) including by preserving and maintaining the Facility in accordance with the Reasonable and Prudent Standard;
 - (B) carry out its obligations under the DPA and each other DPA Document in any way that is reasonably practicable; and
 - (C) resume the performance of its obligations under the DPA and each other DPA Document as soon as reasonably practicable.
- 3.39 Nothing in Conditions 3.30 to 3.38 shall affect the DPA Counterparty's right to terminate the DPA pursuant to Condition 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*).

Waiver of T&S Connection Confirmation CP

- 3.40 Condition 3.41 to Condition 3.43 (*Waiver of T&S Connection Confirmation CP*) inclusive shall only apply if the TCDE Notice relates to Condition 3.30(A)(ii).
- 3.41 The fulfilment of the T&S Connection Confirmation CP shall be deemed to have been waived where it is agreed under Condition 3.33(B) or determined pursuant to the Dispute Resolution Procedure that: (i) a T&S Commissioning Delay Event has occurred and is continuing; and (ii) the Generator T&S Connection Works have been fully completed.
- 3.42 If the T&S Connection Confirmation CP is deemed to have been waived in accordance with Condition 3.41 and the T&S Connection Confirmation CP is the final Operational Condition Precedent to be fulfilled by the Generator for the purposes of Condition 3.22:
- (A) the request for a waiver in accordance with Condition 3.30, including the Supporting Information and Directors' Certificate, shall be treated as the OCP Notice, and
 - (B) the waiver shall be treated as the OCP Response Notice.
- 3.43 If the T&S Connection Confirmation CP is deemed to have been waived in accordance with Condition 3.41, the Generator shall:
- (A) using reasonable endeavours, mitigate the effects of the T&S Network not being available (including the Facility being unable to export captured CO₂ to the T&S Network);
 - (B) using reasonable endeavours, continue to carry out its obligations under the DPA and each other DPA Document;
 - (C) give notice as soon as reasonably practicable to the DPA Counterparty of:
 - (i) the steps being taken by the Generator to mitigate the effect of the T&S Network not being available (including the Facility being unable to export captured CO₂ to the T&S Network);
 - (ii) the anticipated date of the T&S Network becoming available to enable the Facility to export captured CO₂ Rich Stream to the T&S Network to enable the Generator to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement;
 - (iii) such other details relating to the availability of the T&S Network and its effects on the Facility as may be reasonably requested by the DPA Counterparty,

and, to the extent that such information is not available at the time of a notice is given, the Generator shall provide such Information to the DPA Counterparty as soon as it becomes available to it; and
 - (D) give notice to the DPA Counterparty every twenty (20) Business Days of any update to the Information provided pursuant to limb (C) and shall give notice as soon as reasonably practicable to the DPA Counterparty upon the Generator becoming aware of any material developments or additional material Information relating to the availability of the T&S Network and whether the Facility can export captured CO₂ Rich Stream to the T&S Network to enable the Generator to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement.

T&S Connection Confirmation Requirement

3.44 If:

- (A) the Generator is entitled to an extension to one (1) or more of the Milestone Delivery Date, the Target Commissioning Window and/or the Longstop Date pursuant to Condition 3.37 (*Relief due to T&S Commissioning Delay Event*); or
- (B) the T&S Connection Confirmation CP is waived pursuant Condition 3.41 (*Waiver of T&S Connection Confirmation CP*),

either Party shall give notice to the other Party that the relevant T&S Network is available to enable the Facility to export captured CO₂ Rich Stream to the relevant T&S Network to enable the Generator to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement (a **"T&S Network Availability Notice"**). A T&S Network Availability Notice shall:

- (C) specify the date on which the relevant T&S Network is available to enable the Facility to export captured CO₂ Rich Stream to the relevant T&S Network (a **"T&S Network Availability Date"**); and
- (D) include such Supporting Information, in reasonable detail, which the relevant Party considers to be relevant to and supportive of the foregoing.

3.45 The Party receiving the T&S Network Availability Notice (the **"T&S Network Availability Respondent"**) shall, no later than ten (10) Business Days after receipt of the T&S Network Availability Notice, give notice (a **"T&S Network Availability Response Notice"**) to the other Party (the **"T&S Network Availability Proposer"**). A T&S Network Availability Response Notice shall specify whether or not the T&S Network Availability Respondent accepts the T&S Network Availability Notice.

3.46 If the T&S Network Availability Respondent states in the T&S Network Availability Response Notice that it:

- (A) considers that the T&S Network is not available to enable the Facility to export captured CO₂ Rich Stream to the T&S Network to enable the Generator to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement, then the proposed T&S Network Availability Date in the relevant T&S Network Availability Notice will be deemed not to have occurred unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure;
- (B) considers that the relevant T&S Network is available to enable the Facility to export captured CO₂ Rich Stream to the relevant T&S Network to enable the Generator to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement, the proposed T&S Network Availability Date in the relevant T&S Network Availability Notice will be deemed to have occurred and Condition 3.49 shall apply.
- (C) requires the T&S Network Availability Proposer to provide the necessary Supporting Information to determine whether the relevant T&S Network is available to enable the Facility to export captured CO₂ Rich Stream to the relevant T&S Network to enable the Generator to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement:
 - (i) the T&S Network Availability Proposer shall provide the necessary Supporting Information as soon as reasonably practicable, and in any event no later than

ten (10) Business Days after receipt of the T&S Network Availability Response Notice, or such longer period as is specified by the DPA Counterparty; and

- (ii) upon receipt of the Supporting Information, the T&S Network Availability Respondent shall, no later than ten (10) Business Days after receipt of such Supporting Information, give a further T&S Network Availability Response Notice to the T&S Network Availability Proposer (a **"Further T&S Network Availability Response Notice"**). A Further T&S Network Availability Response Notice shall contain one of the statements set out in Conditions 3.46(A) or 3.46(B).

- 3.47 Nothing in Conditions 3.45 to 3.46 shall require the DPA Counterparty to specify in any T&S Network Availability Response Notice or Further T&S Network Availability Response Notice that the DPA Counterparty accepts that the T&S Network is available to enable the Facility to export captured CO₂ Rich Stream to the T&S Network, unless and until the DPA Counterparty is satisfied of the same.
- 3.48 Any T&S Network Availability Notice given by the Generator to the DPA Counterparty shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with such notice.
- 3.49 The Generator shall use reasonable endeavours to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement as soon as reasonably practicable, and in any event before the T&S Connection Confirmation Deadline.

Failure to comply with T&S Connection Confirmation Requirement

- 3.50 Without prejudice to Condition 36.36 (*Termination for failing to satisfy the T&S Connection Confirmation Requirement*):
 - (A) if the Generator is entitled to relief pursuant to Condition 3.37 (*Relief due to T&S Commissioning Delay Event*), the Generator's entitlement to an extension to one (1) or more of the Milestone Delivery Date, the Target Commissioning Window and/or the Longstop Date shall end on the earliest of:
 - (i) only if the Generator subsequently issues a TCDE Notice which relates to Condition 3.30(A)(ii), the date on which the T&S Connection Confirmation CP is waived pursuant to Condition 3.41 (*Waiver of T&S Connection Confirmation CP*);
 - (ii) the T&S Network Availability Date;
 - (iii) the date on which the Generator fully implements an Approved Alternative T&S Network Solution Plan such that the T&S Prolonged Unavailability Event has been remedied; and
 - (iv) the T&S Prolonged Unavailability Termination Date; or
 - (B) if the T&S Connection Confirmation CP is waived pursuant Condition 3.41 (*Waiver of T&S Connection Confirmation CP*) and the Generator fails to satisfy the T&S Connection Confirmation Requirement within three (3) consecutive AP Billing Periods following the T&S Network Availability Date (a **"Suspension T&S Connection Confirmation Requirement Breach"**) then:
 - (i) the DPA Counterparty may at any time following such failure, elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which such failure persists, provided that, prior to effecting any such suspension, the DPA Counterparty

shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension. Notwithstanding the foregoing, during such period of suspension, the Availability of Capture shall be deemed to be zero (0) for the purposes of calculating the Availability Payment in accordance with Condition 9.1 (*Availability Payment Calculation*); and

- (ii) if the Generator evidences to the satisfaction of the DPA Counterparty that the T&S Connection Confirmation Requirement has been satisfied, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 3.50. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition.

- 3.51 Nothing in Conditions 3.30 (*Relief due to T&S Commissioning Delay Event*) to 3.50 (Failure to comply with T&S Connection Confirmation Requirement) inclusive shall affect the DPA Counterparty's right to terminate the DPA pursuant to Condition 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*).

Waiver of Subsidy Control Declaration Operational CP

- 3.52 The DPA Counterparty shall agree by notice to the Generator to waive the fulfilment of the Subsidy Control Declaration Operational CP if the Generator evidences to the satisfaction of the DPA Counterparty that the granter(s) of such Subsidy, State aid, Union Funding, and/or International Funding refuses or is unable to accept the repayment of the Subsidy, State aid, Union Funding, and/or International Funding (as adjusted for interest in accordance with Condition 25.13 (*Subsidy Interest*)), in full or in part. If the Generator seeks a waiver of the Subsidy Control Declaration Operational CP, the Generator shall:

- (A) provide the DPA Counterparty with such Supporting Information as the Generator considers to be relevant to evidence that the granter refuses or is unable to accept repayment, in accordance with this Condition 3.52; and
- (B) provide the DPA Counterparty with such additional Supporting Information as the DPA Counterparty reasonably requires, as soon as reasonably practicable, and in any event no later than ten (10) Business Days following receipt of the DPA Counterparty's request,

in each case accompanied with a Directors' Certificate in respect of such Supporting Information.

- 3.53 If the DPA Counterparty agrees to waive the Subsidy Control Declaration Operational CP in accordance with Condition 3.52:

- (A) the DPA Counterparty shall also notify the Generator of:
 - (i) the amount of Subsidy, State aid, Union Funding and/or International Funding (excluding the Subsidy arising under the DPA and/or any other Approved Scheme of Funding) (as adjusted for interest in accordance with Condition 25.13 (*Subsidy Interest*)) which has not been repaid to the granter as at that date ("**Previous Subsidy**"); and
 - (ii) the Subsidy Interest Rate currently applicable;
- (B) Condition 3.55 shall apply; and

(C) where the Subsidy Control Declaration Operational CP is the final Operational Condition Precedent to be fulfilled, for the purposes of Condition 3.22:

- (i) the request for a waiver in accordance with Condition 3.52, including the Supporting Information and Directors' Certificate, shall be treated as the OCP Notice, and
- (ii) the waiver shall be treated as the OCP Response Notice.

3.54 Nothing in this Condition 3 (*Conditions Precedent*) shall require the DPA Counterparty to waive the Subsidy Control Declaration Operational CP, unless the DPA Counterparty is satisfied that the requirements of Condition 3.52 have been met.

Set-off of Previous Subsidy

3.55 The Previous Subsidy (as adjusted for interest in accordance with Condition 25.13 (Subsidy Interest)) shall be set off against any amounts payable to the Generator under the DPA, so that no payment shall be made to the Generator until such amount has been set off in its entirety.

3.56 Where any provision of the DPA would, but for this Condition 3.56, require:

- (A) the DPA Counterparty to make any payment or otherwise do anything (including without limitation, the making of any adjustment payment under any Initial CP Provision) which would amount to the giving of Subsidy, no such payment or thing shall be required to be made or done unless and until the Subsidy Control Declaration Operational CP has been satisfied or waived; or
- (B) any payment to be made by the DPA Counterparty on a date falling prior to the satisfaction or waiver of the Subsidy Control Declaration Operational CP, such payment shall not fall due for payment until the date falling ten (10) Business Days following the satisfaction or waiver of the Subsidy Control Declaration Operational CP. No interest shall accrue in respect of any such payment.

3.57 Subject to Condition 3.58, not less than three (3) Months before the Generator's intended Start Date, the Generator shall give the DPA Counterparty a written confirmation, in form and content satisfactory to the DPA Counterparty (acting reasonably), of whether any Subsidy, State aid, Union Funding and/or International Funding has been received by the Generator or by any other person in relation to the costs of the Project, and, where applicable, details of all such Subsidy, State aid, Union Funding and/or International Funding, accompanied by a Directors' Certificate in relation to the confirmation and the information accompanying it.

3.58 The Generator is not required to give a confirmation to the DPA Counterparty under Condition 3.57 if the Subsidy Control Declaration Operational CP has previously been fulfilled (or waived in accordance with Condition 3.52).

4. MILESTONE REQUIREMENT

Milestone Requirement Notice

4.1 No later than the Milestone Delivery Date, the Generator shall give a notice to the DPA Counterparty (a "**Milestone Requirement Notice**") that the Generator considers that it has complied with and fulfilled a Milestone Requirement. A Milestone Requirement Notice shall include either:

- (A) such invoices, payment receipts and other Supporting Information with respect to the Project as the Generator considers relevant to evidence that it and its direct

shareholders have in aggregate spent ten per cent. (10%) or more of the Total Project Pre-Commissioning Costs (Nominal) on the Project; or

- (B) such Information as is specified, identified or listed as the Project Commitments and such Supporting Information as the Generator considers relevant to evidence compliance with or fulfilment of the Project Commitments (and for this purpose, where the Project Commitments relate to Material Equipment, taking into consideration the need to demonstrate to the DPA Counterparty's satisfaction that contracts, agreements and purchase orders relating to such Material Equipment constitute significant financial commitments that are real, genuine and made in good faith),

(each, a **"Milestone Requirement"**).

For the purposes of paragraph (A) above:

- (i) money spent by a direct shareholder of the Generator to acquire an interest in the Generator may be taken into account but only to the extent that the consideration paid for the acquisition exceeds the amount spent on the Project by the Generator and its direct shareholders in the period prior to the time at which such acquisition took place; and
- (ii) money spent by the Generator for the purpose of connecting the Facility to any relevant Electricity Transmission System, Electricity Distribution System, Gas Distribution System or T&S Network may be taken into account, notwithstanding that assets comprised or to be comprised within any such Electricity Transmission System, Electricity Distribution System, Gas Distribution System or T&S Network do not form part of the Facility.

4.2 A Milestone Requirement Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Milestone Requirement Notice.

4.3 The DPA Counterparty shall, no later than twenty (20) Business Days after receipt of a Milestone Requirement Notice, give a notice to the Generator (a **"Milestone Assessment Response Notice"**). A Milestone Assessment Response Notice shall specify whether the DPA Counterparty considers that:

- (A) the Generator has or has not complied with and fulfilled a Milestone Requirement; or
- (B) it has not been provided with sufficient Supporting Information to determine whether the Generator has complied with and fulfilled a Milestone Requirement and, if so, details of the additional Supporting Information which the DPA Counterparty requires to determine whether the Generator has complied with and fulfilled a Milestone Requirement (the **"Requested Milestone Supporting Information"**).

4.4 If the DPA Counterparty states in a Milestone Assessment Response Notice that:

- (A) the Generator has complied with and fulfilled a Milestone Requirement, then the Milestone Requirement will be deemed to have been complied with and fulfilled for the purposes of the DPA;
- (B) the Generator has not complied with and fulfilled a Milestone Requirement, then the Milestone Requirement will be deemed not to have been complied with and fulfilled for the purposes of the DPA unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or

- (C) the Generator has not provided the DPA Counterparty with sufficient Supporting Information to determine whether the Generator has complied with and fulfilled a Milestone Requirement:
- (i) the Generator shall provide the Requested Milestone Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of a Milestone Assessment Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the Requested Milestone Supporting Information, the DPA Counterparty shall as soon as reasonably practicable, and in any event no later than twenty (20) Business Days after receipt of such Requested Milestone Supporting Information, give a further Milestone Assessment Response Notice to the Generator (a **"Further Milestone Assessment Response Notice"**). A Further Milestone Assessment Response Notice shall specify whether the DPA Counterparty considers that the Generator has or has not complied with and fulfilled a Milestone Requirement.

4.5 Nothing in this Condition 4 (*Milestone Requirement*) shall require the DPA Counterparty to specify in any Milestone Assessment Response Notice or Further Milestone Assessment Response Notice that the DPA Counterparty accepts that a Milestone Requirement has been complied with and fulfilled unless and until the DPA Counterparty is satisfied of the same.

Waiver of Milestone Requirement

- 4.6 The DPA Counterparty may agree by notice to the Generator to waive the fulfilment of any Milestone Requirement.
- 4.7 Conditions 48 (*No waiver*) and 49 (*Consents*) shall apply to any waiver given by the DPA Counterparty pursuant to Condition 4.6.

Difficulties in achieving the Milestone Requirement

- 4.8 The Generator shall give the DPA Counterparty a written notice (a **"Milestone Delay Notice"**) promptly upon the Generator becoming aware of any fact, matter or circumstance which will or is reasonably likely to prevent the Generator fulfilling the Milestone Requirement by the Milestone Delivery Date.
- 4.9 A Milestone Delay Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, such notice.

Effectiveness of a Milestone Requirement Notice

- 4.10 If the Generator gives a Milestone Requirement Notice to the DPA Counterparty and such notice is ineffective, this shall not, subject to Part 9 (*Termination*), preclude the Generator from giving a further Milestone Requirement Notice to the DPA Counterparty.
- 4.11 Without limitation, a Milestone Requirement Notice shall be deemed to be ineffective if:
- (A) it does not include the Information specified in either Condition 4.1(A) or Condition 4.1(B);
 - (B) it is not accompanied by a Directors' Certificate in accordance with Condition 4.2; or
 - (C) the DPA Counterparty states in the Milestone Assessment Response Notice that the Generator has not complied with and fulfilled a Milestone Requirement.

Part 4 Adjustments

5. **ADJUSTMENT TO NET DEPENDABLE CAPACITY ESTIMATE: PERMITTED REDUCTION**

5.1 The Generator may, if it considers that the Net Dependable Capacity will be lower than the Net Dependable Capacity Estimate, give a notice to the DPA Counterparty (an **"NDCE Adjustment Notice"**). An NDCE Adjustment Notice must be given to the DPA Counterparty no later than the Milestone Delivery Date (the **"NDCE Adjustment Deadline"**) and shall:

- (A) specify:
 - (i) the amount by which the Net Dependable Capacity will be lower than the Net Dependable Capacity Estimate; and
 - (ii) the new Net Dependable Capacity Estimate which is to apply to the Facility as a result of such reduction (the **"Revised NDCE"**);
- (B) include details of any change in the Facility which will result from the reduction to the Net Dependable Capacity Estimate (which shall include revised details of the assets comprising the Facility and any revised aerial view of the unique geographical location of (a) the Facility, (b) the Facility Metering Equipment, and (c) the Facility Connection Points, as well as any change to the geographical coordinates specified in Annex 1 (*Conditions Precedent*) of the Agreement);
- (C) include such Supporting Information as the Generator considers to be relevant to evidence any changes to the asset comprising the Facility which will result from the reduction to the Net Dependable Capacity Estimate; and
- (D) if there are any changes to the Initial Heat and Material Balance Diagram as a result of such reduction, include the proposed Heat and Material Balance Diagram which will apply for the purposes of the DPA (**"NDCE Adjusted Heat and Material Balance Diagram"**) and any Supporting Information as the Generator considers to be relevant to evidence such changes to the Initial Heat and Material Balance Diagram.

5.2 Subject to Condition 5.5, the Revised NDCE shall constitute the Net Dependable Capacity Estimate with effect from the date of the NDCE Adjustment Notice, provided that if an NDCE Adjustment Notice specifies a Revised NDCE which is less than ninety per cent (90%) of the Initial Net Dependable Capacity Estimate, such NDCE Adjustment Notice shall be invalid and of no effect.

5.3 An NDCE Adjustment Notice shall be irrevocable and the Generator may not subsequently increase the Net Dependable Capacity Estimate.

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

5.5 If the NDCE Adjustment Notice includes an NDCE Adjusted Heat and Material Balance Diagram, the DPA Counterparty shall confirm whether it approves such NDCE Adjusted Heat and Material Balance Diagram within twenty (20) Business Days of receipt of the NDCE Adjustment Notice (such approval not to be unreasonably withheld or delayed).

5.6 An NDCE Adjusted Heat and Material Balance Diagram included in an NDCE Adjustment Notice shall constitute the Facility Heat and Material Balance Diagram for the purposes of the DPA, with effect from the date of the DPA Counterparty's approval pursuant to Condition 5.5,

unless further adjusted pursuant to paragraphs 1.1 to 1.5 (*Test Procedure*) of Part A (*Testing Requirements*).

6. LONGSTOP DATE CAPACITY NOTICE

6.1 The Generator shall, following the Start Date, and in any event no later than ten (10) Business Days after the Longstop Date, give a notice to the DPA Counterparty (a **"Longstop Date Capacity Notice"**). A Longstop Date Capacity Notice shall:

- (A) specify:
 - (i) the Net Dependable Capacity;
 - (ii) the Test Achieved CO₂ Capture Rate;
 - (iii) the Plant Net Efficiency; and
 - (iv) the Start Up Times,

demonstrated by the Longstop Date Performance Tests and which have been Commissioned as at the date of such notice;
- (B) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to demonstrate that the Minimum Longstop Date Commissioning Requirements have been met; and
- (C) include a description of the Facility (as prescribed in Annex 1 (*Conditions Precedent*), Part A (*Initial Conditions Precedent*) as at the date of such notice).

6.2 A Longstop Date Capacity Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Longstop Date Capacity Notice.

6.3 The Generator shall not give to the DPA Counterparty more than one (1) Longstop Date Capacity Notice.

6.4 The DPA Counterparty shall, no later than twenty (20) Business Days after receipt of the Longstop Date Capacity Notice, give a notice to the Generator (a **"Longstop Date Capacity Response Notice"**). A Longstop Date Capacity Response Notice shall specify that either:

- (A) the DPA Counterparty agrees with the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times as specified in the Longstop Date Capacity Notice and considers that the Generator has met the Minimum Longstop Date Commissioning Requirements; or
- (B) the DPA Counterparty:
 - (i) has not been provided with sufficient Supporting Information to: (a) determine the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times; (b) determine whether the Generator has met the Minimum Longstop Date Commissioning Requirements; and/or (c) identify the assets comprising the Facility (as prescribed in Annex 1 (*Conditions Precedent*), Part A (*Initial Conditions Precedent*)); and/or
 - (ii) does not agree with the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times which have been Commissioned as specified in the Longstop Date Capacity Notice (giving

reasons), and therefore considers that the Generator has not demonstrated the Minimum Longstop Date Commissioning Requirements,

as at the date of the Longstop Date Capacity Notice, in which case the Longstop Date Capacity Response Notice shall provide details of any additional or revised Supporting Information which the DPA Counterparty requires to: (a) determine the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times; (b) determine whether the Minimum Longstop Date Commissioning Requirements have been met; and/or (c) identify the assets comprising the Facility, in each case as at the date of the Longstop Date Capacity Notice (the "**Longstop Date Capacity Supporting Information**").

6.5 If the DPA Counterparty:

- (A) gives a Longstop Date Capacity Response Notice pursuant to Condition 6.4(A), the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times shall be the values so specified in the Longstop Date Capacity Notice with effect from the date of the Longstop Date Capacity Notice; or
- (B) gives a Longstop Date Capacity Response Notice pursuant to Condition 6.4(B):
 - (i) the Generator shall provide the Longstop Date Capacity Supporting Information, and where relevant if Condition 6.4(B)(ii) applies, a response to the reasons for disagreement with the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times as proposed by the DPA Counterparty as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of the Longstop Date Capacity Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the Longstop Date Capacity Supporting Information, and where relevant if Condition 6.4(B)(ii) applies, a response to the reasons for disagreement with the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times as proposed by the DPA Counterparty, the DPA Counterparty shall, no later than twenty (20) Business Days after receipt of the Longstop Date Capacity Supporting Information, give a further Longstop Date Capacity Response Notice to the Generator (a "**Further Longstop Date Capacity Response Notice**"). A Further Longstop Date Capacity Response Notice shall specify whether the DPA Counterparty agrees with the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times as specified in the Longstop Date Capacity Notice and whether the DPA Counterparty considers that the Generator has or has not demonstrated the Minimum Longstop Date Commissioning Requirements.

6.6 Nothing in this Condition 6 (*Longstop Date Capacity Notice*) shall require the DPA Counterparty to specify in any Longstop Date Capacity Response Notice that the DPA Counterparty accepts the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times notified to it by the Generator unless and until the DPA Counterparty is satisfied of the same.

6.7 Without prejudice to the DPA Counterparty's right to terminate the DPA pursuant to Condition 36.35 (*Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements*), if the Generator does not give the DPA Counterparty a Longstop Date Capacity Notice on or prior to the date which is ten (10) Business Days after the later of:

- (A) the Longstop Date; and
- (B) the date which is ten (10) Business Days after the DPA Counterparty has given notice to the Generator (on or at any time after the date falling ten (10) Business Days prior to the Longstop Date) reminding the Generator of the requirement to give a Longstop Date Capacity Notice,

then with effect from the Longstop Date:

- (i) the Net Dependable Capacity shall be deemed to be eighty per cent. (80%) of the lower of:
 - (a) the Net Dependable Capacity that has been Commissioned as stated in the OCP Notice and agreed by the DPA Counterparty pursuant to an OCP Response Notice or a Further OCP Response Notice (as applicable); or
 - (b) if the Net Dependable Capacity Operational Conditions Precedent specified in paragraph 3(A) of Part B (*Operational Conditions Precedent*) of Annex 1 (*Conditions Precedent*) has been waived pursuant to Condition 3.28 (*Waiver of Conditions Precedent and Default*), and the DPA Counterparty has agreed that a temporary Net Dependable Capacity figure will apply under the DPA, that temporary Net Dependable Capacity; and
- (ii) the Test Achieved CO₂ Capture Rate shall be deemed to be eighty per cent. (80%) of the lower of:
 - (a) the Test Achieved CO₂ Capture Rate that has been Commissioned as stated in the OCP Notice and agreed by the DPA Counterparty pursuant to a OCP Response Notice or a Further OCP Response Notice (as applicable); or
 - (b) if the OCP Required CO₂ Capture Rate has been waived pursuant to Condition 3.28 (*Waiver of Conditions Precedent and Default*), and the DPA Counterparty has agreed that a temporary CO₂ capture rate will apply under the DPA, that temporary CO₂ capture rate.

6.8 Without prejudice to the DPA Counterparty's right to terminate the DPA pursuant to Condition 36.35 (*Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements*), if:

- (A) the Generator does not provide the additional or revised Longstop Date Capacity Supporting Information which is sufficient for the DPA Counterparty to: (i) determine the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times; (ii) determine whether the Generator has demonstrated that the Minimum Longstop Date Commissioning Requirements have been met; and/or (iii) identify the assets comprising the Facility; or
- (B) the Generator fails to: (i) demonstrate the determination of the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and/or the Start Up Times; and/or (ii) fulfil the Minimum Longstop Date Commissioning Requirements to the satisfaction of the DPA Counterparty,

then within ten (10) Business Days after receipt of the Further Longstop Date Capacity Response Notice, or such longer period as is specified by the DPA Counterparty:

- (i) the Net Dependable Capacity shall be deemed to be eighty per cent. (80%) of the lower of:
 - (a) the Net Dependable Capacity that has been Commissioned as stated in the OCP Notice and agreed by the DPA Counterparty pursuant to an OCP Response Notice or a Further OCP Response Notice (as applicable); or
 - (b) if the Net Dependable Capacity Operational Conditions Precedent specified in paragraph 3(A) of Part B (*Operational Conditions Precedent*) of Annex 1 (*Conditions Precedent*) has been waived pursuant to Condition 3.28 (*Waiver of Conditions Precedent and Default*), and the DPA Counterparty has agreed that a temporary Net Dependable Capacity figure will apply under the DPA, that temporary Net Dependable Capacity; and
- (ii) the Test Achieved CO₂ Capture Rate shall be deemed to be eighty per cent. (80%) of the lower of:
 - (a) the Test Achieved CO₂ Capture Rate that has been Commissioned as stated in the OCP Notice and agreed by the DPA Counterparty pursuant to a OCP Response Notice or a Further OCP Response Notice (as applicable); or
 - (b) if the OCP Required CO₂ Capture Rate has been waived pursuant to Condition 3.28 (*Waiver of Conditions Precedent and Default*), and the DPA Counterparty has agreed that a temporary CO₂ capture rate will apply under the DPA, that temporary CO₂ capture rate.

until such time as the DPA Counterparty agrees that the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times fulfil the Minimum Longstop Date Commissioning Requirements.

7. ADJUSTMENTS TO THE NET DEPENDABLE CAPACITY: ANNUAL NDC TEST

Undertaking: Annual NDC Test

7.1 With effect from the Start Date, the Generator undertakes to the DPA Counterparty to:

- (A) conduct an Annual NDC Test during the Annual NDC Test Window in each year during the Term, with the first such test to be carried out in the year after the year in which the Start Date occurs;
- (B) no later than twenty (20) Business Days prior to the start of an Annual NDC Test Window, give a notice to the DPA Counterparty specifying the date within the Annual NDC Test Window that the Generator intends to carry out the relevant Annual NDC Test (an "**Initial Notified Annual NDC Test Date**");
- (C) if the Generator proposes to change the date that it will carry out the relevant Annual NDC Test from the Initial Notified Annual NDC Test Date, the Generator shall give a notice to the DPA Counterparty (an "**Annual NDC Test Date Adjustment Notice**"). The Generator shall give such Annual NDC Test Date Adjustment Notice to the DPA Counterparty at least three (3) Business Days prior to carrying out the relevant Annual NDC Test and the Annual NDC Test Date Adjustment Notice shall:

- (i) specify the new date within the Annual NDC Test Window on which the Generator proposes to carry out the relevant Annual NDC Test (the **"Revised Notified Annual NDC Test Date"**); and
 - (ii) include such Supporting Information as the Generator considers to be relevant to evidence the reasons for the change from the Initial Notified Annual NDC Test Date to the Revised Notified Annual NDC Test Date;
- (D) conduct the relevant Annual NDC Test on the Notified Annual NDC Test Date; and
- (E) promptly following an Annual NDC Test and in any event no later than thirty (30) Business Days after the date of such Annual NDC Test (an **"Annual NDC Test Notice Deadline"**), give the DPA Counterparty a notice (an **"Annual NDC Test Notice"**):
 - (i) specifying:
 - (a) the net generating capacity demonstrated at the relevant Annual NDC Test; and
 - (b) the Net Dependable Capacity which reflects such demonstrated capacity which will apply for the purposes of the DPA (an **"Annual Adjusted NDC"**); and
 - (ii) including:
 - (a) the relevant Annual NDC Test Report;
 - (b) such Supporting Information as the Generator considers to be relevant to the Annual NDC Test; and
 - (c) a Directors' Certificate in relation to the information contained in, and enclosed with, the Annual NDC Test Notice,

(each of limbs (A) to (E) an **"Annual NDC Test Obligation"** and together the **"Annual NDC Test Obligations"**).

Suspension of Payments (Annual NDC Test Obligation breach)

- 7.2 If the Generator is in breach of an Annual NDC Test Obligation, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of such Annual NDC Test Obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 7.3 If the Generator subsequently complies with the relevant Annual NDC Test Obligation(s), then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 7.2. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 7.3.

DPA Counterparty Response Notification

- 7.4 The DPA Counterparty shall, no later than thirty (30) Business Days after receipt of an Annual NDC Test Notice, give a notice to the Generator (an **"Annual NDC Test Response Notice"**). An Annual NDC Test Response Notice shall specify whether the DPA Counterparty:

- (A) agrees or does not agree with the Annual Adjusted NDC; or
- (B) has not been provided with sufficient Supporting Information to determine whether to agree with the Annual Adjusted NDC to which the Annual NDC Test Response Notice relates and, if so, details of the additional Supporting Information which the DPA Counterparty requires to determine whether to agree with the Annual Adjusted NDC (the "**Annual NDC Test Supporting Information**").

7.5 If the DPA Counterparty states in an Annual NDC Test Response Notice that the DPA Counterparty:

- (A) does not agree with the Annual Adjusted NDC specified in the Annual NDC Test Notice, then Condition 7.9 shall apply;
- (B) agrees with the Annual Adjusted NDC specified in the Annual NDC Test Notice, then the Annual Adjusted NDC shall constitute the Net Dependable Capacity with the effect from the Annual Adjusted NDC Implementation Date; or
- (C) requires the Generator to provide the Annual NDC Test Supporting Information to determine whether to agree with the Annual Adjusted NDC then:
 - (i) the Generator shall provide the Annual NDC Test Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the Annual NDC Test Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the Annual NDC Test Supporting Information, the DPA Counterparty shall, as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of such Annual NDC Test Supporting Information, give a further Annual NDC Test Response Notice to the Generator (a "**Further Annual NDC Test Response Notice**"). A Further Annual NDC Test Response Notice shall specify whether the DPA Counterparty agrees or does not agree with the Annual Adjusted NDC.

7.6 Nothing in this Condition 7 (*Adjustments to Net Dependable Capacity: Annual NDC Test*) shall require the DPA Counterparty to specify in any Annual NDC Test Response Notice or Further Annual NDC Test Response Notice that the DPA Counterparty agrees with any Annual Adjusted NDC unless and until the DPA Counterparty is satisfied of the same.

7.7 Any Annual NDC Test Notice shall be irrevocable and the Generator may give an Annual NDC Test Notice on only one (1) occasion in an Annual NDC Test Window.

Revised NDC Effective Date

7.8 If the Parties agree an Annual Adjusted NDC in accordance with Conditions 7.4 and 7.5, the Annual Adjusted NDC shall constitute the Net Dependable Capacity for the purposes of calculating the Availability Payment from the Annual Adjusted NDC Implementation Date.

7.9 Without prejudice to the DPA Counterparty's right to suspend payments pursuant to Condition 7.2 (*Suspension of Payments (Annual NDC Test Obligation breach)*), if the Generator fails to obtain the DPA Counterparty's agreement to the Annual Adjusted NDC on or prior to the Annual Adjusted NDC Implementation Date, then with effect from the Annual Adjusted NDC Implementation Date, the Net Dependable Capacity shall be deemed to be eighty per cent. (80%) of the Net Dependable Capacity immediately prior to the Annual Adjusted NDC Implementation Date until such time as the DPA Counterparty agrees pursuant to Condition

7.5(B), or it is determined that, the Annual Adjusted NDC constitutes the Net Dependable Capacity.

Annual NDC Test Access Right

- 7.10 With effect from the Start Date, the Generator shall grant the DPA Counterparty (and any and all persons nominated by the DPA Counterparty and considered by the DPA Counterparty to be suitably qualified) access to the Facility if the DPA Counterparty intends to witness an Annual NDC Test (the "**Annual NDC Test Access Right**").
- 7.11 If the DPA Counterparty intends to exercise the Annual NDC Test Access Right it shall give a notice to the Generator (an "**Annual NDC Test Access Notice**"). An Annual NDC Test Access Notice shall specify that the DPA Counterparty (and any and all persons nominated by the DPA Counterparty and considered by the DPA Counterparty to be suitably qualified) intends to exercise the Annual NDC Test Access Right.
- 7.12 On receipt of an Annual NDC Test Access Notice, the Generator shall permit the DPA Counterparty to exercise the Annual NDC Test Access Right on the date which the Generator notifies the DPA Counterparty the Generator intends to carry out the relevant Annual NDC Test in accordance with Condition 7.1(B) provided that it is no earlier than one (1) Business Day after receipt of the Annual NDC Test Access Notice.

Suspension of Payments (Annual NDC Test Access Right breach)

- 7.13 If the Generator is in breach of its obligation to permit the DPA Counterparty to exercise the Annual NDC Test Access Right, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of such obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 7.14 If the Generator subsequently complies with its obligation to permit the DPA Counterparty to exercise the Annual NDC Test Access Right, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 7.13. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 7.14.

Part 5
Payment Calculations

8. **DEFINITIONS: PART 5**

In this Part 5 (*Payment Calculations*):

"AP Other Metered Data Cut-Off Time" means, in relation to each AP Billing Period, 14:00 on the fifth (5th) Business Day following such AP Billing Period;

"APR Indexation Anniversary" has the meaning given to that term in Condition 9.17 (*APR Indexation Adjustment*);

"CMRP Fallback Settlement Unit" has the meaning given to that term in Condition 10.7(B) (*Carbon Price calculation*);

"Estimated Fuel Settlement Unit" has the meaning given to that term in Condition 9.22 (*Estimates of AP Fuel Composition*);

"Estimated Output Billing Statement" has the meaning given to that term in Condition 11.2 (*Estimates of Unadjusted Metered Electricity Output*);

"Estimated Output Settlement Unit" has the meaning given to that term in Condition 11.2 (*Estimates of Unadjusted Metered Electricity Output*);

"Further Outage Relief Response Notice" has the meaning given to that term in Condition 9.9(C)(ii) (*Outage Relief Events*);

"GRP Fallback Settlement Unit" has the meaning given to that term in Condition 10.4(B) (*Gas Price calculation*);

"Incomplete AP Settlement Unit" has the meaning given to that term in Condition 9.20 (*AP Other Metered Data Fallback*);

"Maximum Metered Sub-Period Electricity Output" means for each sub-period (i) between 0:00 and 04:59, and (ii) between 05:00 and 23:59, falling within each VP Billing Period, the product of the Net Dependable Capacity and the total duration (*expressed in hours*) of all AP Settlement Units (excluding any AP Settlement Unit in which there was a Full Capture Outage Event and/or a Full T&S Outage Event starting, ending and/or continuing) in which the BM Unit Metered Volume for the Facility, as measured by the Electricity Metering Equipment, is greater than zero (0) for such sub-period;

"Metered Electricity Output Cut-Off Time" means, in relation to each Billing Period, 14:00 on the sixth (6th) Business Day following such Billing Period;

"Metered Sub-Period Electricity Output" means, in a VP Billing Period, the Unadjusted Metered Electricity Output (*expressed in MWh*) as reported by a BSC Company or BSC Agent to the DPA Counterparty for the sub-periods; (i) between 0:00 and 04:59; and (ii) between 05:00 and 23:59, adjusted to disregard all Unadjusted Metered Electricity Output in any AP Settlement Unit in which there was a Full Capture Outage Event and/or a Full T&S Outage Event starting, ending and/or continuing. If the actual Metered Sub-Period Electricity Output for either sub-period (i) or (ii) is greater than an amount equal to the Maximum Metered Sub-Period Electricity Output for the relevant sub-period (i) or (ii), the Metered Sub-Period Electricity Output for the relevant sub-period (i) or (ii) be deemed to be equal to the Maximum Metered Sub-Period Electricity Output for the relevant sub-period (i) or (ii);

"Outage Relief Event" means a Generation Outage Relief Event or a Capture Outage Relief Event;

"Outage Relief Notice" has the meaning given to that term in Condition 9.6 (*Outage Relief Events*);

"Outage Relief Response Notice" has the meaning given to that term in Condition 9.8 (*Outage Relief Events*);

"Outage Relief Supporting Information" has the meaning given to that term in Condition 9.8(C) (*Outage Relief Events*);

"Reference Site Conditions" has the meaning given to that term in paragraph 1 of Part B (*Reference Site Conditions*) of Annex 2 (*Testing Requirements*);

"Relief Event Settlement Unit" has the meaning given to that term in Condition 9.6(A) (*Outage Relief Events*); and

"Required AP Other Metered Data" has the meaning given to that term in Condition 9.20 (*AP Other Metered Data Fallback*).

9. AVAILABILITY PAYMENT CALCULATION

- 9.1 The **"Availability Payment"** in respect of each AP Billing Period shall be calculated in accordance with the following formula:

$$AP = \left(\sum_{i=1}^n (AG_i \times AC_i \times NDC \times APR_i) \right) + TSCC + TSNC$$

where:

AP	=	Availability Payment (£) in AP Billing Period;
AG_i	=	Availability of Generation (<i>expressed as a percentage (%)</i>) in AP Settlement Unit (i);
AC_i	=	Availability of Capture (<i>expressed as a percentage (%)</i>) in AP Settlement Unit (i);
NDC	=	Net Dependable Capacity (MW)
APR_i	=	Availability Payment Rate (£/MW) in AP Settlement Unit (i);
$TSCC$	=	T&S Capacity Charge (£) in AP Billing Period;
$TSNC$	=	T&S Network Charge (£) in AP Billing Period; and
n	=	the number of Settlement Units (i) in the relevant AP Billing Period.

Application of the Declared CO₂ Capture Rate

- 9.2 Where the Declared CO₂ Capture Rate is applicable to an AP Settlement Unit pursuant to the definition of **"Availability of Capture"** (as such term is defined in Condition 8 (*Definitions: Part 5*)), the Declared CO₂ Capture Rate shall be equal to the Declared CO₂ Capture Rate for that

AP Settlement Unit provided by the Generator to the DPA Counterparty pursuant to Condition 24.1(C) (*Declaration Obligation*), subject to Conditions 9.3 and 9.4.

- 9.3 If the Generator notifies the DPA Counterparty of an Amended Declared CO₂ Capture Rate pursuant to Condition 24.1(D):
- (A) then, subject to Condition 9.3(B), the Declared CO₂ Capture Rate shall be deemed to be equal to the Amended Declared CO₂ Capture Rate for the relevant Amended DCR Settlement Unit upon the DPA Counterparty's receipt of the Amended DCR Notice; and
 - (B) if the Generator fails to provide an Amended DCR Notice within two (2) Business Days of the Amended DCR Settlement Unit, the DPA Counterparty shall be entitled to disregard the Amended DCR Notice and deem the Declared CO₂ Capture Rate to be zero (0) in the relevant Amended DCR Settlement Unit.
- 9.4 If a T&S Outage Event arises as a result of or in connection with any act, omission, breach or default of the Generator or its Representatives (including any breach by the Generator or its Representatives of an Industry Document), then the Declared CO₂ Capture Rate shall be deemed to be zero (0) for each AP Settlement Unit during the relevant T&S Outage Event.
- 9.5 If a CO₂ Capture Rate Test is carried out pursuant to Condition 24.13 or Condition 24.1(J):
- (A) the Declared CO₂ Capture Rate shall be deemed to be equal to the Test Achieved CO₂ Capture Rate specified in the CO₂ Capture Rate Test Report on a forward looking basis, for each AP Settlement Unit from the date the relevant CO₂ Capture Rate Test is carried out until:
 - (i) the next AP Settlement Unit where the Achieved CO₂ Capture Rate is applicable pursuant to the definition of Availability of Capture;
 - (ii) the next AP Settlement Unit where a valid CO₂ Capture Rate Test has been carried out in accordance with the DPA; or
 - (iii) the Generator can demonstrate to the satisfaction of the DPA Counterparty that an alternative Declared CO₂ Capture Rate should apply; and
 - (B) if the Test Achieved CO₂ Capture Rate specified in the relevant CO₂ Capture Rate Test Report is equal to or greater than two (2) percentage points lower than the Declared CO₂ Capture Rate for the AP Settlement Unit for which the CO₂ Capture Rate Test was requested by the DPA Counterparty, then the Declared CO₂ Capture Rate shall be deemed to be equal to the Test Achieved CO₂ Capture Rate to apply on a backward looking basis to each AP Settlement Unit where the Declared CO₂ Capture Rate is higher than the Test Achieved CO₂ Capture Rate, from the date the relevant CO₂ Capture Rate Test was carried out until the nearest AP Settlement Unit where: (i) the Achieved CO₂ Capture Rate was applicable pursuant to the definition of Availability of Capture; or (ii) a previous CO₂ Capture Rate Test had been undertaken in accordance with the DPA.

Outage Relief Events

- 9.6 The Generator shall give the DPA Counterparty a notice promptly following the occurrence of an Outage Relief Event (an "**Outage Relief Notice**"). An Outage Relief Notice shall:
- (A) specify the AP Settlement Unit(s) in which the Outage Relief Event occurred (a "**Relief Event Settlement Unit**") within the relevant AP Billing Period(s) (a "**Relief Event AP Billing Period**");

- (B) describe the Outage Relief Event (including the impact, if any, of the Outage Relief Event on the Net Dependable Capacity, Availability of Generation and/or Achieved CO₂ Capture Rate);
 - (C) in relation to a Capture Outage Relief Event, specify whether the Generator considers that:
 - (i) a Full T&S Outage Event has or has not occurred; and
 - (ii) a Full T&S Outage Event is or is not continuing as at the date of the Outage Relief Notice;
 - (D) include evidence relating to the Outage Relief Event from (as applicable):
 - (i) in relation to a Generation Outage Relief Event:
 - (a) the Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor; and
 - (b) the Gas Licensed Transporter; or
 - (ii) in relation to a Capture Outage Relief Event, the relevant T&S Operator;
 - (E) include such Supporting Information as the Generator considers to be relevant to the Outage Relief Event (including the impact, if any, of the Outage Relief Event on the Net Dependable Capacity, Availability of Generation and/or Achieved CO₂ Capture Rate); and
 - (F) include details of the steps that the Generator has taken and/or proposes to take to mitigate the effect of the relevant Outage Relief Event.
- 9.7 Each Outage Relief Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Outage Relief Notice.
- 9.8 The DPA Counterparty shall, no later than ten (10) Business Days after receipt of an Outage Relief Notice, give a notice to the Generator (an "**Outage Relief Response Notice**"). An Outage Relief Response Notice shall specify whether the DPA Counterparty considers that:
- (A) the Outage Relief Event to which the Outage Relief Notice relates has or has not occurred; and/or
 - (B) in relation to a Capture Outage Relief Event, specify whether the DPA Counterparty considers that:
 - (i) a Full T&S Outage Event has or has not occurred; and
 - (ii) a Full T&S Outage Event is or is not continuing as at the date of the Outage Relief Response Notice; or
 - (C) it has not been provided with sufficient Supporting Information to determine whether the Outage Relief Event to which the Outage Relief Response Notice relates has occurred and, if so, details of the additional Supporting Information which the DPA Counterparty requires to determine whether the Outage Relief Event to which the Outage Relief Response Notice relates has occurred (the "**Outage Relief Supporting Information**").
- 9.9 If the DPA Counterparty states in the Outage Relief Response Notice that:

- (A) the Outage Relief Event to which the Outage Relief Response Notice relates has occurred, then an Outage Relief Event will be deemed to have occurred for the purposes of the DPA;
 - (B) the Outage Relief Event to which the Outage Relief Response Notice relates has not occurred, then an Outage Relief Event will be deemed not to have occurred for the purposes of the DPA unless and until a resolution or determination to the contrary is made pursuant to the Expert Determination Procedure; or
 - (C) the Generator has not provided the DPA Counterparty with sufficient Supporting Information to determine whether the Outage Relief Event to which the Outage Relief Response Notice relates has occurred then:
 - (i) the Generator shall provide the Outage Relief Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the Outage Relief Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the Outage Relief Supporting Information, the DPA Counterparty shall, as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of such Outage Relief Supporting Information, give a further Outage Relief Response Notice to the Generator (a **"Further Outage Relief Response Notice"**). A Further Outage Relief Response Notice shall specify whether the DPA Counterparty considers that the Outage Relief Event to which the Outage Relief Response Notice relates has occurred.
- 9.10 Nothing in Conditions 9.6 to 9.9 (*Outage Relief Events*) shall require the DPA Counterparty to specify in any Outage Relief Response Notice or Further Outage Relief Response Notice that the Outage Relief Event has or has not occurred, unless and until the DPA Counterparty is satisfied of the same.
- 9.11 The Generator shall give a notice (an **"Outage Relief Event Update Notice"**) to the DPA Counterparty as soon as reasonably practicable upon becoming aware of any update to the Information contained in an Outage Relief Event Notice provided pursuant to Condition 9.6.
- 9.12 Each Outage Relief Event Update Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Outage Relief Event Update Notice.
- 9.13 If an Outage Relief Event is deemed to have occurred in accordance with Condition 9.9(A) or 9.9(C)(ii) and such event is:
- (A) a Generation Outage Relief Event, the Availability of Generation for each applicable Relief Event Settlement Unit shall be equal to one (1); and/or
 - (B) a Capture Outage Relief Event, the Availability of Capture for each applicable Relief Event Settlement Unit shall be equal to the Declared CO₂ Capture Rate,
- and for the purposes of calculating the Availability Payment in accordance with Condition 9.1 (*Availability Payment Calculation*):
- (i) the DPA Counterparty shall recalculate the Availability Payment for such Relief Event Settlement Unit; and

- (ii) the DPA Counterparty shall calculate any adjustment to the Availability Payment for the Relief Event AP Billing Period ("**Relief Event Recalculation Amount**"); and
- (iii) such Relief Event Recalculation Amount shall be included as such in the Availability Payment Billing Statement which is next issued by the DPA Counterparty.

T&S Capacity Charge and T&S Network Charge

9.14 If there is a T&S Commissioning Delay Event then:

- (A) the T&S Capacity Charge and T&S Network Charge components of the Availability Payment shall not be payable by the DPA Counterparty to the Generator until the T&S Commissioning Delay Event has ceased and the relevant T&S Network has been commissioned in accordance with the CCS Network Code; and
- (B) the T&S Capacity Charge and the T&S Network Charge shall be deemed to be zero (0) for the purposes of calculating the Availability Payment in accordance with Condition 9.1 (*Availability Payment Calculation*) during any period in which there is a T&S Commissioning Delay Event.

Availability Payment Rate

9.15 The Availability Payment Rate shall be adjusted only in accordance with the express provisions of the DPA.

APR Indexation Adjustment

9.16 The DPA Counterparty shall calculate an indexation adjustment to the Availability Payment Rate in each calendar year of the Term (each such adjustment, an "**APR Indexation Adjustment**").

9.17 Each APR Indexation Adjustment shall:

- (A) become effective on the first (1st) day of the Summer Season in the calendar year in which the APR Indexation Adjustment is calculated (each such date, an "**APR Indexation Anniversary**"); and
- (B) use the CPI for January of the relevant calendar year save where the CPI for January is not published by the first (1st) day of the Summer Season in such calendar year, in which case the Reference CPI shall be used.

9.18 The Availability Payment Rate which is to apply with effect from each APR Indexation Anniversary as a result of the APR Indexation Adjustment shall be calculated by the DPA Counterparty in accordance with the following formula:

$$APR = APR_{Base} \times \Pi_i$$

where:

APR = Availability Payment Rate

APR_{Base} = Initial Availability Payment Rate

Π_i = the Inflation Factor applicable to AP Settlement Unit (i)

- 9.19 The DPA Counterparty shall notify the Generator of the revised Availability Payment Rate no later than five (5) Business Days after each APR Indexation Anniversary.

AP Other Metered Data Fallback

- 9.20 If the DPA Counterparty has not received from the Generator one (1) or more of the AP Other Metered Data (such missing data being the **"Required AP Other Metered Data"**) for any AP Settlement Unit (an **"Incomplete AP Settlement Unit"**) which falls within an AP Billing Period (an **"Incomplete AP Billing Period"**) on or prior to the AP Other Metered Data Cut-Off Time, the Incomplete AP Settlement Unit will not be taken into account by the DPA Counterparty for the purpose of calculating the Achieved CO₂ Capture Rate in such Incomplete AP Billing Period.

Recalculations of Other Metered Data

- 9.21 If the Generator subsequently notifies the DPA Counterparty of the Required AP Other Metered Data relating to an Incomplete AP Settlement Unit the DPA Counterparty shall recalculate the Availability Payment for the affected AP Billing Period(s) using such AP Other Metered Data and any adjustment to the Availability Payment for the affected AP Billing Period(s) (**"AP Other Metered Data Recalculation Amount"**) shall be included in the Availability Payment Billing Statement which is next issued by the DPA Counterparty.

Estimates of AP Fuel Composition

- 9.22 If the DPA Counterparty has not received from the Generator all required data relating to the AP Fuel Composition for any AP Settlement Unit (an **"Estimated Fuel Settlement Unit"**) within an AP Billing Period (an **"Estimated Fuel Billing Period"**) on or prior to the AP Other Metered Data Cut-Off Time, the AP Fuel Composition for such Estimated Fuel Settlement Unit as set out in the Availability Payment Billing Statement relating to such Estimated Fuel Billing Period, shall be deemed to be equal to the AP Fuel Composition in the most recent AP Settlement Unit in respect of which the DPA Counterparty has received all required data relating to the AP Fuel Composition from the Generator.

Recalculations of Estimated AP Fuel Composition

- 9.23 If the Generator subsequently provides all required data relating to the AP Fuel Composition for an Estimated Fuel Settlement Unit the DPA Counterparty shall recalculate the Availability Payment for the affected AP Billing Period(s) using such Estimated Fuel Settlement Unit and any adjustment to the Availability Payment for the affected AP Billing Period(s) (**"AP Fuel Composition Recalculation Amount"**) shall be included in the Availability Payment Billing Statement which is next issued by the DPA Counterparty.

10. VARIABLE PAYMENT CALCULATION

- 10.1 The **"Variable Payment"** in respect of each VP Billing Period shall be calculated in accordance with the following formula:

$$VP = VPR \times MWh$$

$$VPR = GC + CC + OC + TSFC_{PR}$$

where:

VP = Variable Payment (£) in VP Billing Period;

VPR = Variable Payment Rate (£/MWh) in VP Billing Period;

MWh	=	Metered Day Electricity Output (MWh) in VP Billing Period;
GC	=	Gas Cost Differential ($£/MWh$) in VP Billing Period;
CC	=	CO ₂ Cost Differential ($£/MWh$) in VP Billing Period;
OC	=	Other Extra Variable Costs ($£/MWh$) in VP Billing Period; and
$TSFC_{PR}$	=	T&S Flow Charge Payment Rate ($£/MWh$) in VP Billing Period;

Variable Payment

10.2 If, in respect of a VP Settlement Unit, the Variable Payment:

- (A) is greater than zero (0), the DPA Counterparty shall pay the Generator such Variable Payment for the relevant VP Settlement Unit; or
- (B) is less than or equal to zero (0), no Variable Payment will be due by either Party for the relevant VP Settlement Unit.

Gas Price calculation

10.3 The DPA Counterparty shall calculate the Gas Price in respect of each VP Settlement Unit. The "Gas Price" shall be expressed in pence/therm and shall, in respect of each VP Settlement Unit, be calculated in accordance with the following formula:

$$Gas\ Price = \frac{((GRP)_{k1} \times MWh_{k1}) + ((GRP)_{k2} \times MWh_{k2})}{Total_{MWh}}$$

where:

$Gas\ Price$	=	Gas Price in respect of VP Settlement Unit (<i>i</i>) (<i>pence/therm</i>)
GRP_{k1}	=	The applicable Gas Reference Price between 0:00 and 04:59 of VP Settlement Unit (<i>i</i>) (<i>pence/therm</i>)
MWh_{k1}	=	The Metered Sub-Period Electricity Output between 0:00 and 04:59 of VP Settlement Unit (<i>i</i>) (MWh)
GRP_{k2}	=	The applicable Gas Reference Price between 05:00 and 23:59 of VP Settlement Unit (<i>i</i>) (<i>pence/therm</i>)
MWh_{k2}	=	The Metered Sub-Period Electricity Output between 05:00 and 23:59 of VP Settlement Unit (<i>i</i>) (MWh)
$Total_{MWh}$	=	Metered Day Electricity Output in VP Settlement Unit (<i>i</i>) (MWh)

10.4 The "**Gas Reference Price**" shall be expressed in pence/therm and shall, in respect of each VP Settlement Unit, be calculated as follows:

- (A) subject to Condition 10.4(B), the Gas Reference Price in relation to VP Settlement Unit (*i*)

- (i) which falls on a Business Day, shall be equal to the Gas GB Day Ahead BD Price in VP Settlement Unit (i) in a Business Day as published by the operator of the Gas Price BD Source (t); or
 - (ii) which falls on a non-Business Day, shall be equal to the Gas GB Day Ahead N-BD Price in VP Settlement Unit (i) in a non-Business Day as published by the operator of the Gas Price N-BD Source (t); and
 - (B) if no Gas Reference Price is capable of being calculated (whether due to the unavailability of the relevant Gas Price Source, the unavailability of the relevant Gas Price Source on commercially reasonable terms or otherwise) in respect of any VP Settlement Unit (a **"GRP Fallback Settlement Unit"**), the Gas Reference Price for such GRP Fallback Settlement Unit shall be the Gas Reference Price as calculated in accordance with Condition 10.4(A) for the VP Settlement Unit corresponding to the nearest prior corresponding day to the GRP Fallback Settlement Unit for which a Gas Reference Price has been calculated in accordance with Condition 10.4(A).
- 10.5 Condition 8 (*Definitions: Part 5*) and Conditions 10.3 and 10.4 (*Gas Price calculation*) may be amended, supplemented or replaced in accordance with Annex 8 (*Gas Reference Price Review*).

Carbon Price calculation

- 10.6 The DPA Counterparty shall calculate the Carbon Price respect of each VP Settlement Unit. The **"Carbon Price"** shall be expressed in £/tCO₂ and shall, in respect of each VP Settlement Unit, be equal to the sum of the prevailing: (i) Carbon Support Price; and (ii) Carbon Market Reference Price, for such VP Settlement Unit.
- 10.7 The **"Carbon Market Reference Price"** shall be expressed in £/tCO₂e and shall, in respect of each VP Settlement Unit, be calculated as follows:
- (A) subject to Condition 10.7(B), the Carbon Market Reference Price in relation to VP Settlement Unit (i) shall be equal to the UKA Futures December Contract Trading Price (£/tCO₂e) in a CMRP Trading Day as published by the operator of the CMRP Source (t); and
 - (B) if no Carbon Market Reference Price is capable of being calculated (whether due to the unavailability of the CMRP Source, the unavailability of the CMRP Source on commercially reasonable terms or otherwise) in respect of any VP Settlement Unit (a **"CMRP Fallback Settlement Unit"**), the Carbon Market Reference Price for such CMRP Fallback Settlement Unit shall be the Carbon Market Reference Price as calculated in accordance with Condition 10.7(A) for the VP Settlement Unit corresponding to the nearest prior corresponding day to the CMRP Fallback Settlement Unit for which a Carbon Market Reference Price has been calculated in accordance with Condition 10.7(A).
- 10.8 Condition 8 (*Definitions: Part 5*) and Conditions 10.6 to 10.8 (*Carbon Price calculation*) may be amended, supplemented or replaced in accordance with Annex 9 (*Carbon Market Reference Price Review*).
- 10.9 The DPA Counterparty may amend, supplement or replace the Carbon Support Price in accordance with Annex 6 (*Change Control Procedure*).

Other Extra Variable Costs

- 10.10 The Other Extra Variable Costs shall be adjusted only in accordance with the express provisions of the DPA.

Other Extra Variable Costs indexation

- 10.11 The DPA Counterparty shall calculate an indexation adjustment to the Other Extra Variable Costs in each calendar year of the Term (each such adjustment, an **"OEVC Indexation Adjustment"**).

- 10.12 Each OEVC Indexation Adjustment shall:

- (A) become effective on the first (1st) day of the Summer Season in the calendar year in which the OEVC Indexation Adjustment is calculated (each such date, an **"OEVC Indexation Anniversary"**); and
- (B) use the CPI for January of the relevant calendar year save where the CPI for January is not published by the first (1st) day of the Summer Season in such calendar year, in which case the Reference CPI shall be used.

- 10.13 The Other Extra Variable Costs which are to apply with effect from each OEVC Indexation Anniversary as a result of the OEVC Indexation Adjustment shall be calculated by the DPA Counterparty in accordance with the following formula:

$$OEVC = OEVC_{Base} \times \Pi_i$$

where:

$OEVC$ = Other Extra Variable Costs

$OEVC_{Base}$ = Initial Other Extra Variable Costs

Π_i = the Inflation Factor applicable to VP Settlement Unit (i)

- 10.14 The DPA Counterparty shall notify the Generator of the revised Other Extra Variable Costs no later than five (5) Business Days after each OEVC Indexation Anniversary.

Base Performance Assumptions Adjustments

- 10.15 The Base Performance Assumptions may be amended, supplemented or replaced in accordance with Annex 10 (*Reference Plant Review*).

11. METERED ELECTRICITY OUTPUT

Metered Day Electricity Output calculation

- 11.1 The DPA Counterparty shall calculate:

- (A) the Metered Day Electricity Output in respect of each VP Settlement Unit; and
- (B) the Metered Electricity Output in respect of each AP Settlement Unit and VP Settlement Unit.

Estimates of Unadjusted Metered Electricity Output

- 11.2 If the DPA Counterparty has not received notification from a BSC Company or a BSC Agent of the Unadjusted Metered Electricity Output for any Settlement Unit (an **"Estimated Output Settlement Unit"**) within a Billing Period (an **"Estimated Output Billing Period"**) on or prior to the Metered Electricity Output Cut-Off Time, the Unadjusted Metered Electricity Output for the Estimated Output Settlement Unit, as set out in the Billing Statement relating to such Estimated Output Billing Period (an **"Estimated Output Billing Statement"**), shall be calculated by the DPA Counterparty in accordance with Condition 11.3.
- 11.3 The estimated Unadjusted Metered Electricity Output for each Estimated Output Settlement Unit comprised within an Estimated Output Billing Period (the **"Estimated Metered Electricity Output"**) shall be calculated by the DPA Counterparty as being the Unadjusted Metered Electricity Output in the most recent Settlement Unit prior to the Estimated Output Settlement Unit for which the DPA Counterparty has received notification of the Unadjusted Metered Electricity Output from a BSC Company or a BSC Agent.

Recalculations of Estimated Metered Electricity Output

- 11.4 If a BSC Company or a BSC Agent subsequently notifies the DPA Counterparty of the Unadjusted Metered Electricity Output for an Estimated Output Settlement Unit:
- (A) the DPA Counterparty shall recalculate the Metered Electricity Output for such Settlement Unit using such Unadjusted Metered Electricity Output; and
 - (B) if the calculation performed by the DPA Counterparty pursuant to Condition 11.4(A) results in a different Metered Electricity Output than that calculated by the DPA Counterparty in relation to the Estimated Output Settlement Unit and reflected in the relevant Estimated Output Billing Statement, then:
 - (i) the recalculated Metered Electricity Output shall be used by the DPA Counterparty to recalculate the Payment for the relevant Estimated Output Settlement Unit; and
 - (ii) any adjustment to the Payment for the Estimated Output Billing Period (**"Metered Electricity Output Recalculation Amount"**) shall be included as such in the Billing Statement which is next issued by the DPA Counterparty.

Part 6
Billing and payment

12. BILLING STATEMENTS

Delivery of Availability Payment Billing Statement

12.1 The DPA Counterparty:

(A) may, in relation to any period from and including the Agreement Date to, but excluding, the Start Date; and

(B) shall, in relation to each AP Billing Period,

deliver a billing statement to the Generator (each, an **"Availability Payment Billing Statement"**) in relation to the previous AP Billing Period.

12.2 Each Availability Payment Billing Statement issued pursuant to Condition 12.1(A) shall be delivered to the Generator no later than seven (7) Business Days after the Start Date.

12.3 Subject to Conditions 12.1 and 12.2, each Availability Payment Billing Statement issued pursuant to Condition 12.1(B) shall be delivered to the Generator no later than seven (7) Business Days after the end of the relevant AP Billing Period.

Contents of Availability Payment Billing Statement

12.4 Each Availability Payment Billing Statement shall set out or identify:

Identification information

(A) the AP Billing Period or other period to which the Availability Payment Billing Statement relates;

(B) the name of the Generator (or a unique identifier attributed to the Generator by the DPA Counterparty);

(C) the details of the Facility (or a unique identifier attributed to the Facility by the DPA Counterparty);

Availability Payment calculation

(D) in respect of each Availability Payment Billing Statement issued on or after the date on which the Start Date Notice is given:

(i) the Availability Payment for the relevant AP Billing Period;

(ii) the Availability of Generation in respect of each AP Settlement Unit falling within the relevant AP Billing Period;

(iii) the Availability of Capture in respect of each AP Settlement Unit falling within the relevant AP Billing Period;

(iv) the Availability Payment Rate in respect of each AP Settlement Unit falling within the relevant AP Billing Period;

(v) the T&S Capacity Charge for the relevant AP Billing Period;

(vi) the T&S Onshore Capacity Charge Rate for the relevant AP Billing Period;

- (vii) the T&S Offshore Capacity Charge Rate for the relevant AP Billing Period;
- (viii) the T&S Network Charge for the relevant AP Billing Period;
- (ix) the T&S Onshore Network Charge Rate for the relevant AP Billing Period;
- (x) the T&S Offshore Network Charge Rate for the relevant AP Billing Period;
- (xi) the Net Dependable Capacity for each AP Settlement Unit falling within the relevant AP Billing Period;

Availability of Generation calculation

- (xii) the Net Available Capacity for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xiii) if applicable, the duration of each Generation Outage Event for each AP Settlement Unit falling within the relevant AP Billing Period where a Generation Outage Event occurs;
- (xiv) if applicable, the duration of each Generation Outage Relief Event for each AP Settlement Unit falling within the relevant AP Billing Period where a Generation Outage Relief Event occurs;

Availability of Capture calculation

- (xv) the Achieved CO₂ Capture Rate for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xvi) the AP Metered CO₂ Output for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xvii) in the case of a CO₂ Re-use Service Facility, the AP Metered CO₂ Input for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xviii) the AP Calculated CO₂ Generated for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xix) the AP Total Metered Fuel Consumption for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xx) the AP Fuel Composition (or, if relevant, the Estimated AP Fuel Composition) for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xxi) if applicable, the AP Calculated CO₂ Generated with Capture Outage Relief Event for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xxii) if applicable, the AP Metered CO₂ Output with Capture Outage Relief Event for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xxiii) if applicable, the AP Metered CO₂ Input with Capture Outage Relief Event for each AP Settlement Unit falling within the relevant AP Billing Period;
- (xxiv) if applicable, the duration of each Capture Outage Relief Event for each AP Settlement Unit falling within the relevant AP Billing Period where a Capture Outage Relief Event occurs and the corresponding Declared CO₂ Capture Rate for each such AP Settlement Unit;

(xxv) if applicable, the Declared CO₂ Capture Rate for each AP Settlement Unit falling within the relevant AP Billing Period; and

(xxvi) the Metered Electricity Output (or, if relevant, the Estimated Metered Electricity Output) for each AP Settlement Unit falling within the relevant AP Billing Period.

Additional components

(E) any AP Reconciliation Amounts;

(F) any AP Compensatory Interest Amount;

AP Net Payable Amount

(G) the AP Net Payable Amount in respect of the relevant AP Billing Period or other period to which the Availability Payment Billing Statement relates;

Subsidy Control Set Off Amount

(H) any amount set off against the AP Net Payable Amount pursuant to Condition 3.55 (*Set-off of Previous Subsidy*) or Condition 25.17 (*Set Off of Other Subsidy*); and

Project Gain Share Amount

(I) any Project Gain Share Amount.

Calculation of AP Reconciliation Amounts

12.5 The "**AP Reconciliation Amounts**" shall, in respect of each AP Billing Period (or such other period prior to the Start Date in respect of which an Availability Payment Billing Statement is issued), comprise any revisions to the AP Net Payable Amount in respect of any preceding AP Billing Period (or any other prior period in respect of which an Availability Payment Billing Statement was issued) which are required to reflect:

(A) any Settlement Runs;

(B) the resolution of any Metering Disputes;

(C) any Metered Electricity Output Recalculation Amount pursuant to Condition 11.4 (*Recalculations of Estimated Metered Electricity Output*);

(D) any AP Other Metered Data Recalculation Amount pursuant to Condition 9.21 (*Recalculations of Other Metered Data*);

(E) any AP Fuel Composition Recalculation Amount pursuant to Condition 9.23 (*Recalculations of Estimated AP Fuel Composition*);

(F) any Relief Event Recalculation Amount pursuant to Condition 9.10 (*Outage Relief Events*);

(G) any amount payable pursuant to:

- (i) Conditions 7.2 (*Suspension of Payments (Annual NDC Test Obligation breach)*), 7.13 (*Suspension of Payments (Annual NDC Test Access Right breach)*), Condition 20.2 (*Failure to comply with compliance of technology undertaking*), Condition 21.13 (*Failure to comply with Metering Schematic Obligation*), Condition 21.19 (*Failure to provide Metering Access Right*), Condition 21.24

(Failure to comply with SCADA Systems Obligations), Condition 22.9 (Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension), 23.10 (Suspension of payments (Failure to provide CO₂ Metered Data)), Condition 24.6 (Suspension of Payments (Failure to provide Declaration Capacity Data)), Condition 24.17 (Failure to provide Declaration Access Right), Condition 36.16 (Failure to comply with T&S Prolonged Unavailability Procedure Obligation: Suspension), or Condition 3.50 (Failure to comply with T&S Connection Confirmation Requirement: Suspension); or

- (ii) *Conditions 25.8 (Suspension of Payments), 25.11 (Suspension of Payments (Failure to Provide Information)) or 25.14 (Waiver of Generator's Obligation to Repay Subsidy, State aid, Union Funding and/or International Funding);*
- (H) any agreed or determined adjustment to the Net Dependable Capacity;
- (I) any QCiL Compensation (including any QCiL Adjusted Revenues Payments effected as an adjustment to the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture);
- (J) any QCiL True-Up Compensation (including any QCiL Adjusted Revenues Period Adjustment);
- (K) any APR Indexation Adjustment;
- (L) any Business Interruption Proceeds received by the Generator (including by way of direct payment from the relevant T&S Operator or by way of set off against amounts that the Generator would have otherwise paid the relevant T&S Operator) from the relevant T&S Operator; and
- (M) the correction of any error in any previous Availability Payment Billing Statement.

Calculation of AP Compensatory Interest Amount

12.6 The **"AP Compensatory Interest Amount"** shall, in respect of each AP Billing Period (or such other period prior to the Start Date in respect of which an Availability Payment Billing Statement is issued), comprise interest due and payable in relation to each AP Reconciliation Amount reflected in the Availability Payment Billing Statement for the relevant AP Billing Period or such other period (an **"AP Reconciliation Billing Period"**), calculated on the basis that interest on each AP Reconciliation Amount shall accrue on such amount at the AP Compensatory Interest Rate for the period from (and including):

- (A) the relevant AP Settlement Unit(s) in the AP Billing Period to which a Settlement Run relates in respect of any AP Reconciliation Amount resulting from a Settlement Run;
- (B) the relevant AP Settlement Unit(s) in the AP Billing Period to which a Metering Dispute relates in respect of any AP Reconciliation Amount resulting from the resolution of a Metering Dispute;
- (C) the earlier of: (i) the Longstop Date; and (ii) the date of the Longstop Date Capacity Notice, in respect of any AP Reconciliation Amount resulting from the agreement or determination of the Net Dependable Capacity;
- (D) the Annual Adjusted NDC Implementation Date, in respect of any AP Reconciliation Amount resulting from the agreement or determination of the Net Dependable Capacity;
- (E) the Estimated Output Billing Period to which an adjustment to Metered Electricity Output pursuant to Condition 11.4 (*Recalculations of Estimated Metered Electricity Output*);

- (F) the Incomplete AP Billing Period to which an adjustment to the AP Other Metered Data relates pursuant to Condition 9.21 (*Recalculations of Other Metered Data*);
- (G) the Estimated Fuel Billing Period to which an adjustment to the AP Fuel Composition relates pursuant to Condition 9.23 (*Recalculations of Estimated AP Fuel Composition*);
- (H) the Relief Event AP Billing Period to which an adjustment to the Availability of Generation or Availability of Capture relates pursuant to Condition 9.10;
- (I) the QCiL Compensation Date in respect of any AP Reconciliation Amount to reflect any QCiL Compensation (including any QCiL Adjusted Revenues Payments effected as an adjustment to the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture) or QCiL True-Up Compensation (including any QCiL Adjusted Revenues Period Adjustment);
- (J) the relevant Indexation Anniversary in respect of any APR Indexation Adjustment;
- (K) the relevant AP Settlement Unit(s) in the AP Billing Period to which any Business Interruption Proceeds received by the Generator (including by way of direct payment from the relevant T&S Operator or by way of set off against amounts that the Generator would have otherwise paid the relevant T&S Operator) from the relevant T&S Operator relates; and
- (L) the relevant AP Settlement Unit(s) in the AP Billing Period to which any adjustment to correct any error in any previous Availability Payment Billing Statement relates in respect of any AP Reconciliation Amount to correct such an error (or if such AP Reconciliation Amount to correct such error was included in an Availability Payment Billing Statement issued prior to the Start Date, the date of the prior Availability Payment Billing Statement in which such error was included),

to the final AP Settlement Unit in the relevant AP Reconciliation Billing Period. For this purpose: (i) interest shall accrue on such amounts from day to day and shall be calculated on the basis of the actual number of days elapsed and a year of 365 days; and (ii) the **"AP Compensatory Interest Rate"** shall be the prevailing Base Rate on each day during the relevant calculation period.

Calculation of AP Net Payable Amount

- 12.7 The **"AP Net Payable Amount"** shall, in respect of each AP Billing Period (or such other period prior to the Start Date in respect of which an Availability Payment Billing Statement is issued), be an amount (*expressed in pounds (£)*) calculated in accordance with the following formula:

$$AP \text{ Net Payable Amount} = AP + APRA + APCIA$$

where:

- | | | |
|-------------|---|--|
| <i>AP</i> | = | is the Availability Payment in respect of such AP Billing Period; |
| <i>APRA</i> | = | is any AP Reconciliation Amount in respect of such AP Billing Period (or such other period to which the Availability Payment Billing Statement relates); and |

APCIA = is any AP Compensatory Interest Amount in respect of such AP Billing Period (or such other period to which the Availability Payment Billing Statement relates),

and if such amount is:

- (i) positive, it shall represent an amount payable by the DPA Counterparty to the Generator; or
- (ii) negative, it shall represent an amount payable by the Generator to the DPA Counterparty.

Delivery of Variable Payment Billing Statement

12.8 The DPA Counterparty:

- (A) may in relation to any period from and including the Agreement Date to, but excluding, the Start Date; and
- (B) shall in relation to each VP Billing Period,

deliver a billing statement to the Generator (each, a "**Variable Payment Billing Statement**") in relation to the previous VP Billing Period.

12.9 Each Variable Payment Billing Statement issued pursuant to Condition 12.8(A) after the date on which the Start Date Notice is given shall be delivered to the Generator no later than seven (7) Business Days after the end of the relevant VP Billing Period.

12.10 Subject to Conditions 12.8 and 12.9, each Variable Payment Billing Statement issued pursuant to Condition 12.8(B) shall be delivered to the Generator no later than seven (7) Business Days after the end of the relevant VP Billing Period.

Contents of Variable Payment Billing Statement

12.11 Each Variable Payment Billing Statement shall set out or identify:

Identification information

- (A) the VP Billing Period or other period to which the Variable Payment Billing Statement relates;
- (B) the name of the Generator (or a unique identifier attributed to the Generator by the DPA Counterparty);
- (C) the details of the Facility (or a unique identifier attributed to the Facility by the DPA Counterparty);

Variable Payment calculation

- (D) in respect of each Variable Payment Billing Statement issued on or after the date on which the Start Date Notice is given:
 - (i) the Variable Payment for the relevant VP Billing Period;
 - (ii) the Metered Day Electricity Output in respect of the relevant VP Billing Period;

- (iii) the Metered Electricity Output (or, if relevant, the Estimated Metered Electricity Output) in respect of the relevant VP Billing Period;
- (iv) the Variable Payment Rate for the relevant VP Billing Period including the following:
 - (a) subject to Condition 12.15, the Gas Cost Differential for the relevant VP Billing Period;
 - (b) subject to Condition 12.15, the CO₂ Cost Differential for the relevant VP Billing Period;
 - (c) the Other Extra Variable Costs for the relevant VP Billing Period;
 - (d) the T&S Flow Charge Payment Rate for the relevant VP Billing Period;
 - (e) subject to Condition 12.15, the Gas Price in respect of the relevant VP Billing Period;
 - (f) subject to Condition 12.15, the Gas Reference Price in respect of the relevant VP Billing Period;
 - (g) subject to Condition 12.15, the Carbon Price in respect of the relevant VP Billing Period;
 - (h) subject to Condition 12.15, the Carbon Market Reference Price in respect of the relevant VP Billing Period;
 - (i) the Carbon Support Price in respect of the relevant VP Billing Period;
 - (j) the T&S Onshore Flow Charge Rate in respect of the relevant VP Billing Period;
 - (k) the T&S Offshore Flow Charge Rate in respect of the relevant VP Billing Period; and
 - (l) the VP Metered CO₂ Rich Stream Output in respect of the relevant VP Billing Period;

Additional components

- (E) any VP Reconciliation Amounts;
- (F) any VP Compensatory Interest Amount; and

Net Payable Amount

- (G) the VP Net Payable Amount in respect of the relevant VP Billing Period or other period to which the Variable Payment Billing Statement relates.

Calculation of VP Reconciliation Amounts

- 12.12 The **"VP Reconciliation Amounts"** shall, in respect of each VP Billing Period (or such other period prior to the Start Date in respect of which a Variable Payment Billing Statement is issued), comprise any revisions to the VP Net Payable Amount in respect of any preceding VP Billing Period (or any other prior period in respect of which a Variable Payment Billing Statement was issued) which are required to reflect:

- (A) any Settlement Runs;
- (B) the resolution of any Metering Dispute;
- (C) any Metered Electricity Output Recalculation Amount pursuant to Condition 11.4 (*Recalculations of Estimated Metered Electricity Output*);
- (D) any amount payable pursuant to:
 - (i) Conditions 7.2 (*Suspension of Payments (Annual NDC Test Obligation breach)*), 7.13 (*Suspension of Payments (Annual NDC Test Access Right breach)*), Condition 20.2 (*Failure to comply with compliance of technology undertaking*), Condition 21.13 (*Failure to comply with Metering Schematic Obligation*), Condition 21.19 (*Failure to provide Metering Access Right*), Condition 21.24 (*Failure to comply with SCADA Systems Obligations*), Condition 22.9 (*Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension*), Condition 23.10 (*Suspension of payments (Failure to provide CO₂ Metered Data)*), Condition 24.6 (*Suspension of Payments (Failure to provide Declaration Capacity Data)*), Condition 24.17 (*Failure to provide Declaration Access Right*), Condition 36.16 (*Failure to comply with T&S Prolonged Unavailability Procedure Obligation: Suspension*), or 3.50 (*Failure to comply with T&S Connection Confirmation Requirement: Suspension*); or
 - (ii) Conditions 25.8 (*Suspension of Payments*), 25.11 (*Suspension of Payments (Failure to Provide Information)*) or 25.14 (*Waiver of Generator's Obligation to Repay Subsidy, State aid, Union Funding and/or International Funding*);
- (E) any QCiL Compensation (including any adjustments to the Variable Payment);
- (F) any QCiL True-Up Compensation (including any adjustments to the Variable Payment);
- (G) any agreed or determined adjustment to the Base Performance Assumptions; and
- (H) the correction of any error in any previous Variable Payment Billing Statement.

Calculation of VP Compensatory Interest Amount

12.13 The **"VP Compensatory Interest Amount"** shall, in respect of each VP Billing Period (or such other period prior to the Start Date in respect of which a Variable Payment Billing Statement is issued), comprise interest due and payable in relation to each VP Reconciliation Amount reflected in the Variable Payment Billing Statement for the relevant VP Billing Period or such other period (a **"VP Reconciliation Billing Period"**), calculated on the basis that interest on each VP Reconciliation Amount shall accrue on such amount at the VP Compensatory Interest Rate for the period from (and including):

- (A) the VP Billing Period to which a Settlement Run relates in respect of any VP Reconciliation Amount resulting from a Settlement Run;
- (B) the VP Billing Period to which a Metering Dispute relates in respect of any VP Reconciliation Amount resulting from the resolution of a Metering Dispute;
- (C) the Estimated Output Billing Period to which an adjustment to the Metered Electricity Output relates pursuant to Condition 11.4 (*Recalculations of Estimated Metered Electricity Output*);

- (D) the Reference Plant Criteria Review Implementation Date, in respect of any VP Reconciliation Amount resulting from the agreement or determination of the Base Performance Assumptions;
- (E) the QCiL Compensation Date in respect of any VP Reconciliation Amount to reflect any QCiL Compensation (including any QCiL Adjusted Revenues Payments effected as an adjustment to the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture) or QCiL True-Up Compensation (including any QCiL Adjusted Revenues Period Adjustment); and
- (F) the VP Billing Period to which any adjustment to correct any error in any previous Variable Payment Billing Statement relates in respect of any VP Reconciliation Amount to correct such an error (or if such VP Reconciliation Amount to correct such error was included in an Variable Payment Billing Statement issued prior to the Start Date, the date of the prior Variable Payment Billing Statement in which such error was included),

to (but excluding) the date of the relevant VP Reconciliation Billing Period. For this purpose: (i) interest shall accrue on such amounts from day to day and shall be calculated on the basis of the actual number of days elapsed and a year of 365 days; and (ii) the "VP Compensatory Interest Rate" shall be the prevailing Base Rate on each day during the relevant calculation period.

Calculation of VP Net Payable Amount

- 12.14 The **"VP Net Payable Amount"** shall, in respect of each VP Billing Period (or such other period prior to the Start Date in respect of which an Variable Payment Billing Statement is issued), be an amount (*expressed in pounds (£)*) calculated in accordance with the following formula:

$$VP \text{ Net Payable Amount} = VP + VPRA + VPCIA$$

where:

<i>VP</i>	=	is the Variable Payment in respect of such VP Billing Period;
<i>VPRA</i>	=	is any VP Reconciliation Amount in respect of such VP Billing Period (or such other period to which the Variable Payment Billing Statement relates); and
<i>VPCIA</i>	=	is any VP Compensatory Interest Amount in respect of such VP Billing Period (or such other period to which the Variable Payment Billing Statement relates),

and if such amount is:

- (i) positive, it shall represent an amount payable by the DPA Counterparty to the Generator; or
- (ii) negative, it shall represent an amount payable by the Generator to the DPA Counterparty.

Access to Derived Data

- 12.15 The Generator acknowledges and agrees that:

- (A) unless and until the Generator has entered into a Derived Data Agreement; or

- (B) if, following the entry by the Generator into a Derived Data Agreement, such Derived Data Agreement is terminated or otherwise becomes void, voidable, unenforceable, invalid, or otherwise ineffective,

the Generator shall not be entitled to access the Derived Data and the DPA Counterparty shall not be required to provide the Generator with the Derived Data in the Variable Payment Billing Statement.

13. SETTLEMENT

Payment from Generator

- 13.1 If the AP Net Payable Amount is a negative number, no later than the end of the tenth (10th) Business Day following the delivery of the relevant Availability Payment Billing Statement, the Generator shall pay to the DPA Counterparty the absolute value of the AP Net Payable Amount in Sterling by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the Generator pursuant to Condition 17(A).
- 13.2 If the VP Net Payable Amount is a negative number, no later than the end of the tenth (10th) Business Day following the delivery of the relevant Variable Payment Billing Statement, the Generator shall pay to the DPA Counterparty the absolute value of the VP Net Payable Amount in Sterling by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the Generator pursuant to Condition 17(A).

Payment from DPA Counterparty

- 13.3 Subject to Condition 3.55 (*Set-Off of Previous Subsidy*) and Condition 25.17 (*Set-off of Other Subsidy*):
 - (A) if the AP Net Payable Amount is a positive number, no later than twenty eight (28) calendar days following the AP Billing Period or other period to which the Availability Payment Billing Statement relates, the DPA Counterparty shall pay to the Generator the AP Net Payable Amount in relation to the relevant AP Billing Period in accordance with the Availability Payment Billing Statement; and
 - (B) if the VP Net Payable Amount is a positive number, no later than twenty eight (28) calendar days following the VP Billing Period or other period to which the Variable Payment Billing Statement relates, the DPA Counterparty shall pay to the Generator the VP Net Payable Amount in relation to the relevant VP Billing Period in accordance with the Variable Payment Billing Statement,

such payments shall be made in Sterling by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the DPA Counterparty pursuant to Condition 17(B).

Billing Statement Disputes

- 13.4 Conditions 13.1 to 13.3 (inclusive) shall apply notwithstanding any dispute with respect to any Billing Statement and, if a Party wishes to dispute any amount shown in a Billing Statement, it shall give a notice to the other Party (a "**Billing Statement Dispute Notice**") which shall:
 - (A) specify the Billing Statement(s) to which the Dispute relates;
 - (B) specify the name of the Generator (or the unique identifier attributed to the Generator by the DPA Counterparty);

- (C) specify the name of the Facility (or the unique identifier attributed to the Facility by the DPA Counterparty);
- (D) specify the Billing Statement items to which the Dispute relates;
- (E) specify the amount in dispute and the apportionment of such amount in relation to the relevant Billing Statement items;
- (F) include details of any other Billing Statement dispute which the referring Party considers should be consolidated with or joined to the dispute;
- (G) specify the position the Party considers is correct and the Party's reasons for that position;
- (H) include copies of any Supporting Information on which the referring Party intends to rely; and
- (I) include any other Information that the Party deems relevant in relation to the dispute.

13.5 The making of a payment pursuant to Condition 13.1, 13.2 or 13.3 shall not prevent a Party from raising a dispute pursuant to Condition 13.4.

Electricity Metering Dispute

13.6 If a dispute or part of a dispute pursuant to Condition 13.4 relates to the calculation of the Metered Electricity Output in respect of a Settlement Unit (an "**Electricity Metering Dispute**"):

- (A) such Electricity Metering Dispute shall be treated as a Trading Dispute pursuant to the BSC and shall be resolved in accordance with the provisions set out therein (to the exclusion of the Dispute Resolution Procedure);
- (B) the Parties shall continue to comply with their obligations under the DPA notwithstanding such Electricity Metering Dispute;
- (C) the final determination of the Electricity Metering Dispute in accordance with Condition (A) shall be binding on the Parties; and
- (D) neither Party shall dispute or attempt to dispute a final determination made in accordance with Condition (A).

13.7 Any Electricity Metering Dispute must be brought by the Party within the limitation period set out in the BSC with respect to Trading Disputes.

13.8 The Generator shall inform the DPA Counterparty as soon as reasonably practicable (and, in respect of Condition 13.6(A), no later than five (5) Business Days) after the Generator:

- (A) commences or becomes engaged in any Trading Dispute; or
- (B) becomes aware of any fact, matter or circumstance which will or is reasonably likely to give rise to a Trading Dispute,

where (in either case) the resolution of such Trading Dispute will or may impact the calculation of the Unadjusted Metered Electricity Output for the purposes of the DPA.

CO₂ Metering Dispute

- 13.9 If a dispute or part of a dispute pursuant to Condition 13.4 relates to the calculation of the Metered CO₂ Output and/or the Metered CO₂ Rich Stream Output in respect of a Settlement Unit (a **"CO₂ Metering Dispute"**):
- (A) such CO₂ Metering Dispute shall be resolved in accordance with the Dispute Resolution Procedure (except for those provisions of the Dispute Resolution Procedure which are expressly stated not to apply to CO₂ Metering Disputes);
 - (B) such CO₂ Metering Dispute must be brought by the Party before the Metering Dispute Deadline in relation to all Settlement Units to which the CO₂ Metering Dispute relates;
 - (C) the Parties shall continue to comply with their obligations under the DPA notwithstanding such CO₂ Metering Dispute;
 - (D) the final determination of the CO₂ Metering Dispute in accordance with the Dispute Resolution Procedure (except for those provisions of the Dispute Resolution Procedure which are expressly stated not to apply to CO₂ Metering Disputes) shall be binding on the Parties; and
 - (E) neither Party shall dispute or attempt to dispute a final determination made in accordance with the Dispute Resolution Procedure (except for those provisions of the Dispute Resolution Procedure which are expressly stated not to apply to CO₂ Metering Disputes).

Gas Supply Metering Dispute

- 13.10 If a dispute or part of a dispute pursuant to Condition 13.4 relates to the calculation of the AP Calculated CO₂ Generated in respect of a Settlement Unit (a **"Gas Supply Metering Dispute"**):
- (A) such Gas Supply Metering Dispute shall be resolved in accordance with the Dispute Resolution Procedure (except for those provisions of the Dispute Resolution Procedure which are expressly stated not to apply to Gas Supply Metering Disputes);
 - (B) such Gas Supply Metering Dispute must be brought by the Party before the Metering Dispute Deadline in relation to all Settlement Units to which the CO₂ Metering Dispute relates;
 - (C) the Parties shall continue to comply with their obligations under the DPA notwithstanding such Gas Supply Metering Dispute;
 - (D) the final determination of the Gas Supply Metering Dispute in accordance with the Dispute Resolution Procedure (except for those provisions of the Dispute Resolution Procedure which are expressly stated not to apply to Gas Supply Metering Disputes) shall be binding on the Parties; and
 - (E) neither Party shall dispute or attempt to dispute a final determination made in accordance with the Dispute Resolution Procedure (except for those provisions of the Dispute Resolution Procedure which are expressly stated not to apply to Gas Supply Metering Disputes).

14. DEFAULT INTEREST

Calculation of Default Interest

- 14.1 **"Default Interest"** as applied for any period (a **"calculation period"**) shall be calculated as follows:

$$\prod_{i=1}^D \left\{ 1 + \frac{\text{Base Rate} + 5\%}{365} \right\}$$

where:

- | | | |
|-----------|---|--|
| i | = | is a series of whole numbers from one (1) to "D" each representing the relevant day in chronological order from, and including, the first (1st) day in such calculation period; |
| D | = | is the number of days in such calculation period; and |
| Base Rate | = | means the prevailing Base Rate on the relevant day in the calculation period. |

Application of Default Interest

- 14.2 Subject to Conditions 14.4, 14.5 and 66 (*Costs*), if either Party fails to pay any sum payable by it pursuant to the DPA (including any amounts payable under any Arbitral Award or Expert determination) on the due date for payment, Default Interest shall accrue on that sum for the period from the due date for payment to the date of actual payment of that sum (after as well as before award or judgment).
- 14.3 The right to receive Default Interest pursuant to the DPA (and as calculated in accordance with this Condition 14 (*Default Interest*)) is not exclusive of any rights and remedies provided by law in respect of the failure to pay the relevant sum on the due date or at all, provided that the Late Payment of Commercial Debts (Interest) Act 1988 shall not apply in respect of any unpaid sum due pursuant to the DPA.
- 14.4 Default Interest shall be payable by the DPA Counterparty only in circumstances in which the DPA Counterparty is in breach of Condition 54.2, 54.3 or 54.4 (*DPA Counterparty payment undertakings*), but not otherwise.
- 14.5 Subject to Condition 14.4, no Default Interest shall be payable by one Party to the other Party in relation to a Reconciliation Amount in respect of the period during which a Compensatory Interest Amount has accrued and been calculated pursuant to Condition 12.6 or Condition 12.13, except that Default Interest shall accrue in respect of any Compensatory Interest Amount (and the Reconciliation Amount to which it relates) if and to the extent that such Compensatory Interest Amount has accrued and become due and payable and has not been paid.

15. SET-OFF

Each Party may set off any matured obligations due by the other Party pursuant to the DPA against any matured obligation owed by that Party to the other Party pursuant to the DPA.

16. **DEDUCTIONS AND WITHHOLDINGS**

Subject to Condition 15 (*Set-off*), all payments required to be made by the Generator pursuant to the DPA shall be made in full, free and clear of any right of set-off and from any restriction, condition or deduction because of any counterclaim.

17. **PAYMENT ACCOUNTS**

Any payments made pursuant to or in connection with the DPA and made to:

- (A) the DPA Counterparty shall be made to such account as may be notified to the Generator by the DPA Counterparty from time to time; and
- (B) the Generator shall be made to such account in the United Kingdom as may be notified to the DPA Counterparty by the Generator from time to time.

Part 7
Representations, warranties and undertakings

18. GENERATOR REPRESENTATIONS AND WARRANTIES

Agreement Date representations

18.1 The Generator represents and warrants to the DPA Counterparty that, as at the Agreement Date, the following statements are true, accurate and not misleading:

- (A) *Status*: The Generator:
 - (i) is duly formed and validly existing under the laws of its jurisdiction of formation; and
 - (ii) has the power to own its assets and carry on its business as it is currently being conducted and as contemplated by the DPA and the other DPA Documents.
- (B) *Power and authority*: The Generator has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the DPA and the other DPA Documents (including the obligations of the Generator, and the transactions contemplated by or provided for by the DPA and the other DPA Documents).
- (C) *Enforceability*: The obligations expressed to be assumed by the Generator pursuant to the DPA and the other DPA Documents are legal, valid, binding and enforceable subject only to the Legal Reservations.
- (D) *Non-conflict with other obligations*: The entry into, delivery and performance by the Generator of, and the transactions contemplated by, the DPA and the other DPA Documents does not conflict with:
 - (i) its constitutional documents;
 - (ii) any Law or Directive applicable to it to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect;
 - (iii) any Required Authorisations to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect; or
 - (iv) any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect.
- (E) *Required Authorisations*:
 - (i) All Required Authorisations which are required to be obtained or effected by the Generator on or before the date on which this representation and warranty is made or deemed to be repeated by the Generator have been obtained or effected by the Generator and are in full force and effect, save to the extent that failure to do so has not had and is not reasonably expected to have a Material Adverse Effect.
 - (ii) All conditions of, and all obligations and liabilities under, Required Authorisations which are required to be performed, complied with or satisfied by the Generator on or before the date on which this representation and warranty is made or deemed to be repeated by the Generator have been performed, complied with

or satisfied, save where failure to do so has not had and is not reasonably expected to have a Material Adverse Effect.

- (F) *No Default*: No Default with respect to the Generator has occurred and is continuing or might reasonably be expected to result from its entry into or performance of the DPA or any of the other DPA Documents.
- (G) *No litigation*: No litigation, arbitration or administrative suit or proceeding, adjudication, expert determination, Tax claim or Tax investigation against the Generator (or, so far as the Generator is aware, relating to the Project) is:
 - (i) current;
 - (ii) pending before any court, arbitral or other tribunal, administrative or regulatory body or, as the case may be, expert; or
 - (iii) so far as the Generator is aware, by reason of receipt of a formal written notice before action or similar, threatened,

and which, if adversely determined, would have or would reasonably be expected to have a Material Adverse Effect.
- (H) *No requirement to deduct or withhold*: The Generator is not required by any Law or Directive applicable to it, as applied, interpreted or modified by the published practice of any relevant Competent Authority of any jurisdiction in which it is resident for Tax purposes, to make any deduction or withholding for or on account of any Tax from any payment to be made by it to the DPA Counterparty pursuant to the DPA or any of the other DPA Documents.
- (I) *CO₂ capture*: As far as the Generator is aware (having made all due and careful enquiries), the CO₂ captured by the Facility and transferred to a T&S Network (including CO₂ Rich Stream and/or CO₂ that is imported in accordance with the CCS Network Code by a CO₂ Re-use Service Facility) will be ultimately permanently stored.
- (J) *Generator Ownership*: The legal and beneficial ownership of the Generator and HoldCo is as set out in the Agreement and that, other than any shareholder pre-emption rights, no arrangements are in place that will or may result in any Change of Ownership.

Start Date representation

18.2 The Generator represents and warrants to the DPA Counterparty that, as at and from the Start Date, the following statements are true, accurate and not misleading:

- (A) *Ownership*: The Generator is the legal and beneficial owner of the Facility, subject only to such rights and benefits as have been assigned by way of security to or in favour of any Lender, Affected Person or parent undertaking of the Generator (or an agent or security trustee on its behalf) in accordance with Condition 64 (*Transfers*).
- (B) *Compliance of technology*:
 - (i) The generation and capture technology deployed by the Facility is the Facility Generation Technology and the Facility Capture Technology (as applicable).
 - (ii) The fuel used by the Facility is the Facility Fuel.

Repeating representations

18.3 The Generator Repeating Representations are deemed to be repeated by the Generator on the Start Date in each case by reference to the facts and circumstances then existing.

19. DPA COUNTERPARTY REPRESENTATIONS AND WARRANTIES

19.1 The DPA Counterparty represents and warrants to the Generator that as at the Agreement Date, the following statements are true, accurate and not misleading:

(A) *Status*: The DPA Counterparty:

- (i) is a limited liability company, duly incorporated and validly existing pursuant to the laws of England and Wales; and
- (ii) has the power to own its assets and carry on its business as contemplated by the DPA and the other DPA Documents.

(B) *Power and authority*: The DPA Counterparty has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the DPA and the other DPA Documents (including the obligations of the DPA Counterparty, and the transactions contemplated by or provided for by the DPA and the other DPA Documents).

(C) *Enforceability*: The obligations expressed to be assumed by the DPA Counterparty pursuant to the DPA and the other DPA Documents are legal, valid, binding and enforceable subject only to the Legal Reservations.

(D) *Non-conflict with other obligations*: The entry into, delivery and performance by the DPA Counterparty of the DPA and the other DPA Documents does not conflict with:

- (i) its constitutional documents;
- (ii) any Law or Directive applicable to it to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect;
- (iii) any authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order, confirmation or other approval of or from any Competent Authority required to enable it to perform and comply with its obligations under the DPA and the other DPA Documents to which it is a party, to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect; or
- (iv) any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect.

(E) *No requirement to deduct or withhold*: The DPA Counterparty is not required by any Law or Directive applicable to it, as applied, interpreted or modified by the published practice of any relevant Competent Authority of any jurisdiction in which it is resident for Tax purposes, to make any deduction or withholding for or on account of any Tax from any payment to be made by it to the Generator pursuant to the DPA or any of the other DPA Documents.

19.2 The representations in Conditions 19.1(A) to 19.1(D) are deemed to be repeated by the DPA Counterparty on the Start Date in each case by reference to the facts and circumstances then existing.

20. GENERATOR UNDERTAKINGS: GENERAL

20.1 The Generator undertakes to the DPA Counterparty as follows:

- (A) *Compliance with Laws and Directives*: The Generator shall at all times comply with all Laws and Directives to which it may be subject if failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (B) *Required Authorisations*: The Generator shall: (i) promptly obtain all Required Authorisations; (ii) at all times perform, comply with and satisfy all conditions of, and all obligations and liabilities under, all Required Authorisations; and (iii) do all that is necessary to maintain in full force and effect all Required Authorisations, to the extent, in each case, that failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (C) *Industry Documents*: The Generator shall at all times comply with all terms of those Industry Documents to which it is a party or by which it is bound if failure to do so would have or would reasonably be expected to have a Material Adverse Effect.
- (D) *No insolvency action*: The Generator shall not petition, apply for, institute, support or vote for the administration, winding-up or liquidation of the DPA Counterparty or seek any other relief as against the DPA Counterparty under any administration, insolvency or bankruptcy law or similar law affecting creditors' rights generally.
- (E) *Ownership*: The Generator shall at all times be the legal and beneficial owner of the Facility, subject only to any third party rights arising by reason of any security interest created or subsisting over or in respect of the Facility.
- (F) *Compliance of technology*: The Generator shall at all times ensure that:
 - (i) the generation technology deployed by the Facility is the Facility Generation Technology; and
 - (ii) the capture technology deployed by the Facility is the Facility Capture Technology,

provided that (without prejudice to any other provision of the DPA) Condition 20.1(F)(i) and Condition 20.1(F)(ii) shall not prevent the operation of the Generation Assets in unabated mode; and

 - (iii) the fuel used by the Facility is the Facility Fuel.
- (G) *Notification*: The Generator shall:
 - (i) provide the DPA Counterparty as soon as reasonably practicable with such Information regarding compliance or non-compliance by the Generator with the undertakings in this Condition 20.1 as the DPA Counterparty may reasonably request; and
 - (ii) give notice to the DPA Counterparty as soon as reasonably practicable upon becoming aware of the occurrence of any Default (together with details of the steps, if any, being taken to remedy it).

Failure to comply with compliance of technology undertaking

20.2 If the Generator fails to comply with Condition 20.1(F), the DPA Counterparty:

- (A) may withhold payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator which are attributable to the period during which the Generator is not in compliance with such Condition; and
- (B) shall be entitled to recover from the Generator any amounts paid by the DPA Counterparty to the Generator which are attributable to the period during which the Generator is not in compliance with such Condition.

21. GENERATOR UNDERTAKINGS: METERING

Undertakings: Electricity Metering Obligation

21.1 With effect from the Start Date, the Generator undertakes to the DPA Counterparty to:

- (A) ensure that at all times, the Electricity Metering Equipment relating to the Facility:
 - (i) has been installed at the metering point(s) identified in the Agreement;
 - (ii) has been and is installed, configured, registered and maintained in accordance with the requirements of the BSC;
- (B) ensure that at all times:
 - (i) the Electricity Metering Equipment accurately records the BM Unit Metered Volume, such BM Unit Metered Volume comprising:
 - (a) all output electricity generated by the Facility; and
 - (b) all input electricity used by the Facility (excluding, if the Facility is a Dual Scheme Facility, the Imported Input Electricity); and
 - (ii) where the Facility is a Dual Scheme Facility, the Electricity Metering Equipment accurately records all Imported Input Electricity in relation to the Generating Station;
- (C) without prejudice to Condition (E), ensure that at all times, the Electricity Metering Equipment measures the input and output electricity referred to in Condition (B) separately from any other input and output electricity;
- (D) investigate any fault or issue with the Electricity Metering Equipment of which it is notified by the DPA Counterparty or which it is required to investigate pursuant to the BSC; and
- (E) ensure that at all times that no Electricity Storage Facility shall be used by or otherwise associated with the Facility,

(each an "**Electricity Metering Obligation**" and together the "**Electricity Metering Obligations**").

Undertakings: CO₂ Metering Obligation

21.2 With effect from the Start Date, the Generator undertakes to the DPA Counterparty to:

- (A) ensure that at all times the CO₂ Outlet Metering Equipment relating to the Facility:

- (i) has been installed at the CO₂ Delivery Point(s) identified in the schematic diagram delivered to the DPA Counterparty in accordance with paragraph 4(C) of Part B of Annex 1 (*Conditions Precedent*);
 - (ii) has been and is installed, configured, registered, operated and maintained in accordance with the requirements of the CO₂ Outlet Metering Specification, including to ensure that captured CO₂ Rich Stream which fails to comply with the Delivery CO₂ Quality Standards is not exported to a T&S Network;
 - (iii) is configured exclusively in relation to the Facility and no other CO₂ Rich Stream output is metered through such CO₂ Outlet Metering Equipment; and
 - (iv) is operational and capable of measuring accurately the CO₂ Rich Stream output and the CO₂ output from the Facility at the CO₂ Delivery Point(s);
- (B) ensure that at all times the Facility does not import any CO₂ Rich Stream and/or CO₂ from the relevant T&S Network except where the Facility is a CO₂ Re-use Service Facility which imports CO₂ Rich Stream and/or imported CO₂ in accordance with the CCS Network Code;
- (C) if the Facility is a CO₂ Re-use Service Facility, ensure that at all times the CO₂ Re-use Metering Equipment relating to the Facility:
- (i) has been installed at the CO₂ Re-use Point(s) identified in the schematic diagram delivered to the DPA Counterparty in accordance with paragraph 4(C) of Part B of Annex 1 (*Conditions Precedent*);
 - (ii) has been and is installed, configured, registered, operated and maintained in accordance with the requirements of the CO₂ Re-use Metering Specification;
 - (iii) is configured exclusively in relation to the Facility and no other imported CO₂ Rich Stream is metered through such CO₂ Re-use Metering Equipment; and
 - (iv) is operational and capable of measuring accurately the imported CO₂ Rich Stream and the imported CO₂ from the T&S Network at the CO₂ Re-use Point(s);
- (D) ensure that at all times the captured CO₂ Rich Stream from the Facility complies with the Delivery CO₂ Quality Standards; and
- (E) investigate any fault or issue with the CO₂ Metering Equipment of which it is notified by the DPA Counterparty or which it is required to investigate pursuant to Annex 3 (*T&S Meter Operational Framework and Technical Specification*),

(each a "**CO₂ Metering Obligation**" and together the "**CO₂ Metering Obligations**").

Undertakings: Gas Supply Metering Obligation

21.3 With effect from the Start Date, the Generator undertakes to the DPA Counterparty to:

- (A) ensure that at all times the Gas Supply Metering Equipment relating to the Facility:
- (i) has been installed at the metering point(s) identified in the schematic diagram delivered to the DPA Counterparty in accordance with paragraph 5(B) of Part B of Annex 1 (*Conditions Precedent*);
 - (ii) has been installed, configured, registered, operated and maintained in accordance with the requirements of the Uniform Network Code;

- (iii) is configured exclusively in relation to the Facility and no other Gas supply is metered through such meters; and
- (iv) is operational and capable of measuring accurately the Gas supply to the Facility at the Gas Supply Point for each AP Settlement Unit; and
- (B) investigate any fault or issue with the Gas Supply Metering Equipment of which it is notified by the DPA Counterparty or which it is required to investigate pursuant to the Uniform Network Code,

(each a **"Gas Supply Metering Obligation"** and together the **"Gas Supply Metering Obligations"**).

Notification of Metering Obligation breach

- 21.4 The DPA Counterparty may at any time submit a notice to the Generator (a **"Metering Breach Notice"**) if it considers that the Generator is in breach of a Metering Obligation. A Metering Breach Notice shall:
- (A) specify which Metering Obligation the DPA Counterparty considers that the Generator has breached; and
 - (B) be accompanied by such Supporting Information as the DPA Counterparty considers necessary to evidence the breach of the relevant Metering Obligation.

Response to notification of Metering Obligation breach

- 21.5 No later than ten (10) Business Days after receipt of a Metering Breach Notice (a **"Metering Breach Response Notice Period"**), the Generator shall investigate whether it is in breach of the relevant Metering Obligation and submit a notice to the DPA Counterparty (a **"Metering Breach Response Notice"**). A Metering Breach Response Notice shall state that either:
- (A) the Generator accepts that there has been a breach of the relevant Metering Obligation (and, in such case, the notice shall include confirmation of the date from which the Generator accepts that there has been a breach of the relevant Metering Obligation); or
 - (B) the Generator does not accept that there has been a breach of the relevant Metering Obligation.
- 21.6 If:
- (A) the Generator submits a Metering Breach Response Notice in accordance with Condition 21.5(A), the provisions of Condition 21.7 shall apply; or
 - (B) the Generator fails to submit a Metering Breach Response Notice within the Metering Breach Response Notice Period or submits a Metering Breach Response Notice in accordance with Condition 21.5(B), the Expert Determination Procedure shall apply to determine whether there has been a breach of the relevant Metering Obligation and if the Expert Determination Procedure applied pursuant to this Condition 21.6(B) determines that:
 - (i) there has not been a breach of the relevant Metering Obligation, then neither Party shall be required to take any further steps in relation to the Metering Breach Notice; or

- (ii) there has been a breach of the relevant Metering Obligation, the provisions of Condition 21.7 shall apply.

Rectification of Metering Obligation breach

21.7 If this Condition 21.7 applies:

- (A) the Generator shall provide a copy of a Metering Remediation Plan to the DPA Counterparty for approval no later than fifteen (15) Business Days after:
 - (i) if Condition 21.6(A) applies, the expiry of the Metering Breach Response Notice Period; and
 - (ii) if Condition 21.6(B) applies, the date on which an Expert makes a determination in accordance with Condition 21.6(B)(ii);
- (B) as soon as reasonably practicable after the date referred to in paragraph (A) above and in any event no later than sixty (60) Business Days after the DPA Counterparty has approved the Metering Remediation Plan, the Generator shall:
 - (i) implement the Metering Remediation Plan and remedy the breach of the relevant Metering Obligation; and
 - (ii) provide the DPA Counterparty with written confirmation that:
 - (a) in the case of a breach of an Electricity Metering Obligation, the relevant BSC Company has confirmed that the breach of the Electricity Metering Obligation has been remedied, to the satisfaction of such relevant BSC Company;
 - (b) in the case of a breach of a CO₂ Metering Obligation, that the breach of the CO₂ Metering Obligation has been remedied to the satisfaction of the DPA Counterparty; and
 - (c) in the case of a breach of a Gas Supply Metering Obligation, that the breach of the Gas Supply Metering Obligation has been remedied to the satisfaction of the DPA Counterparty; and
- (C) the Generator shall submit a notice to the DPA Counterparty confirming the fulfilment of its obligations pursuant to Condition (B) no later than five (5) Business Days after remedying the breach and in any event no later than sixty (60) Business Days after DPA Counterparty has approved the Metering Remediation Plan (a "**Generator Metering Remediation Notice**") together with such Supporting Information as is reasonably necessary to evidence that the breach has been remedied.

21.8 The DPA Counterparty may, by notice to the Generator no later than twenty (20) Business Days after receipt of a Generator Metering Remediation Notice, require the Generator to provide such Supporting Information in relation to that Generator Metering Remediation Notice (a "**Generator Metering Remediation Notice Information Request**") as the DPA Counterparty reasonably requests.

21.9 If the DPA Counterparty issues a Generator Metering Remediation Notice Information Request, the Generator shall, no later than twenty (20) Business Days, or such longer period as is specified by the DPA Counterparty, after receipt of the request, prepare and deliver such further Supporting Information to the DPA Counterparty.

Failure to remedy Metering Obligation breach

- 21.10 If the Generator has not complied with its obligations under Condition 21.7 or 21.9, then a **"Technical Compliance Termination Event"** will be deemed to have occurred.

Undertakings: Metering Schematics

- 21.11 If there is a Material Change to the Facility Metering Equipment, then the Generator shall:
- (A) notify the DPA Counterparty as soon as reasonably practicable and in any event no later than two (2) Business Days after the Material Change occurs, setting out details of the Material Change that has been effected (a **"Metering Schematic Obligation Notice"**); and
 - (B) provide an updated version of the relevant schematic diagram referred to in paragraph 3(C), 4(C) or 5(B) of Part B of Annex 1 (*Conditions Precedent*) (as applicable) and Supporting Information including any technical datasheets relating to the Facility Metering Equipment as soon as reasonably practicable and in any event no later than ten (10) Business Days after the Material Change occurs,
- (the **"Metering Schematic Obligation"**).
- 21.12 Any:
- (A) Metering Schematic Obligation Notice shall be accompanied by a Directors' Certificate in relation to the details of the Material Change referred to in the Metering Schematic Obligation Notice; and
 - (B) copy of the relevant schematic diagram provided pursuant to Condition 21.11(B) shall be accompanied by a Directors' Certificate in relation to the relevant schematic diagram and Supporting Information (including the date of such diagram and the version number thereof).

Failure to comply with Metering Schematic Obligation

- 21.13 If the Generator is in breach of the Metering Schematic Obligation, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of the Metering Schematic Obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 21.14 If the Generator subsequently complies with its Metering Schematic Obligation, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 21.13. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 21.14.

Undertakings: Access to and testing of meters

- 21.15 With effect from the Start Date, the Generator shall grant (or, if the Generator is not the Registrant of the Facility Metering Equipment, shall procure that the Registrant grants) the DPA Counterparty (and any and all persons nominated by the DPA Counterparty and considered by the DPA Counterparty to be suitably qualified) access to the Facility, the Facility Metering Equipment and to such plant, property or assets owned, occupied or controlled by the Generator (or the Registrant if the Generator is not the Registrant of the Facility Metering Equipment) and to which the Generator (or the Registrant if the Generator is not the Registrant

of the Facility Metering Equipment) can lawfully grant access as may be reasonably necessary for the DPA Counterparty to read, test or verify the Facility Metering Equipment and inspect and conduct tests in respect of the Facility Metering Equipment from time to time (the **"Metering Access Right"**).

- 21.16 If the DPA Counterparty intends to exercise the Metering Access Right it shall give a notice to the Generator (a **"Metering Inspection Notice"**). A Metering Inspection Notice shall:
- (A) specify that the DPA Counterparty (or suitably qualified persons nominated by it in accordance with Condition 21.15) intends to exercise the Metering Access Right; and
 - (B) specify the date by which the Generator must, in accordance with Condition 21.17, permit the exercise of the Metering Access Right.
- 21.17 If the Generator:
- (A) is the Registrant of the Facility Metering Equipment, it shall permit the DPA Counterparty to exercise the Metering Access Right no later than the later of: (i) ten (10) Business Days after receipt of the Metering Inspection Notice; and (ii) the date specified in the Metering Inspection Notice; and
 - (B) is not the Registrant of the Facility Metering Equipment, it shall procure that the DPA Counterparty is permitted to exercise the Metering Access Right no later than the later of: (i) fifteen (15) Business Days after receipt of the Metering Inspection Notice; and (ii) the date specified in the Metering Inspection Notice.
- 21.18 The DPA Counterparty shall (and shall procure that any suitably qualified persons nominated by it in accordance with Condition 21.15 shall):
- (A) take or refrain from taking all such other action as may be reasonably required by the Generator in order to comply with health and safety rules relating to the Facility; and
 - (B) obtain each authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order confirmation, permission or other approval of or from a Competent Authority that is necessary for it to exercise the Metering Access Right.

Failure to provide Metering Access Right

- 21.19 If the Generator is in breach of its obligation to permit the DPA Counterparty to exercise the Metering Access Right, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of such obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 21.20 If the Generator subsequently complies with its obligation to permit the DPA Counterparty to exercise the Metering Access Right, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 21.19. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 21.20.
- 21.21 If the Generator:
- (A) fails to comply with its obligations under Condition 21.17; and

- (B) has not permitted the DPA Counterparty to exercise its Metering Access Right within twenty (20) Business Days following the latest permitted date for compliance with its obligations pursuant to Condition 21.17(A) or 21.17(B) (as applicable),

then a **"Metering Access Termination Event"** will be deemed to have occurred.

Metering Access Right costs

- 21.22 If, pursuant to or as a result of the exercise of the Metering Access Right, it is agreed or determined that there has been a breach of a Metering Obligation, the Generator shall promptly on demand from time to time, indemnify the DPA Counterparty, and keep the DPA Counterparty fully and effectively indemnified, against any and all out-of-pocket costs properly incurred by the DPA Counterparty in exercising the Metering Access Right.

Undertakings: SCADA Systems

- 21.23 With effect from the Start Date, the Generator shall ensure that:

- (A) a SCADA System is installed and maintained at the Facility in accordance with the Reasonable and Prudent Standard; and
- (B) the DPA Counterparty has full access to all necessary Information from the SCADA System in order to: (i) administer, and discharge all of its obligations under and functions in relation to, the DPA; and (ii) assess compliance by the Generator with all of its obligations under the DPA. Such necessary Information shall include but shall not be limited to live operational data, Facility dispatch information, fuel gas consumption and composition information, CO₂ import and export information, and Facility equipment data relevant to the status of the Capture Assets (e.g. stored solvent regeneration). The Generator shall provide the DPA Counterparty with such Information via a data communications link or other applicable data link as agreed between the Parties (such agreement not to be unreasonably withheld or delayed by the Generator),

(each a **"SCADA Systems Obligation"** and together the **"SCADA Systems Obligations"**).

Failure to comply with SCADA Systems Obligations

- 21.24 If the Generator is in breach of a SCADA Systems Obligation, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of the SCADA Systems Obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 21.25 If the Generator subsequently complies with such SCADA Systems Obligation, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 21.24. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 21.25.

22. GENERATOR UNDERTAKING: MINIMUM CO₂ CAPTURE RATE

Undertaking: Minimum CO₂ Capture Rate

- 22.1 With effect from the Start Date, the Generator undertakes to the DPA Counterparty that for each AP Billing Period, the Achieved and Declared CO₂ Capture Rate Average will be equal to or greater than the Minimum CO₂ Capture Rate (a **"Minimum CO₂ Capture Rate Obligation"**).

Notification of Minimum CO₂ Capture Rate Obligation breach

- 22.2 If the Generator is in breach of the Minimum CO₂ Capture Rate Obligation for either three (3) consecutive AP Billing Periods or three (3) non-consecutive AP Billing Periods within six (6) consecutive AP Billing Periods (a **"Minimum CO₂ Capture Rate Breach"**), then the DPA Counterparty may at any time following the occurrence of such breach give notice to the Generator (a **"Capture Rate Breach Notice"**). A Capture Rate Breach Notice shall:
- (A) specify the Capture Rate Breach Deadline, being the date on and from which the DPA Counterparty may, subject to the remainder of this Condition 22, give the Generator a Default Termination Notice in respect of the Minimum CO₂ Capture Rate Breach in accordance with Condition 36.33; and
 - (B) be accompanied by such Supporting Information as the DPA Counterparty considers necessary to evidence the Minimum CO₂ Capture Rate Breach.

Response to notification of Minimum CO₂ Capture Rate Obligation breach

- 22.3 No later than twenty (20) Business Days after receipt of the Capture Rate Breach Notice, the Generator shall submit a notice to the DPA Counterparty (a **"Capture Rate Breach Response Notice"**). A Capture Rate Breach Response Notice shall specify that the Generator intends to either:
- (A) rectify the Minimum CO₂ Capture Rate Breach by achieving an Achieved and Declared CO₂ Capture Rate Average equal to or greater than eighty five per cent. (85%) for three (3) consecutive AP Billing Periods (a **"Capture Rate Breach Rectification"**) on or before the Capture Rate Breach Deadline; or
 - (B) provide the DPA Counterparty with and implement a Capture Rate Breach Rectification Plan, following which Condition 22.5 shall apply.
- 22.4 If the Generator fails to submit a Capture Rate Breach Response Notice to the DPA Counterparty in accordance with Condition 22.3, then the Generator will be deemed to have notified the DPA Counterparty that it intends to achieve a Capture Rate Breach Rectification on or before the Capture Rate Breach Deadline in accordance with Condition 22.3(A).

Rectification of Minimum CO₂ Capture Rate Obligation breach

- 22.5 If this Condition 22.5 applies:
- (A) the Generator shall prepare and submit to the DPA Counterparty for approval a draft Capture Rate Breach Rectification Plan (with such Supporting Information as the Generator considers to be relevant to the content of the Capture Rate Breach Rectification Plan) no later than sixty (60) Business Days after the date of the Capture Rate Breach Notice, during which period the Generator shall use its best endeavours to mitigate the effects of the Minimum CO₂ Capture Rate Breach; and
 - (B) the DPA Counterparty shall, no later than sixty (60) Business Days after receipt of the draft Capture Rate Breach Rectification Plan (and Supporting Information), provide a notice to the Generator (a **"Capture Rate Breach Rectification Review Notice"**) which shall specify whether the DPA Counterparty:
 - (i) approves the draft Capture Rate Breach Rectification Plan without amendment, following which the draft Capture Rate Breach Rectification Plan shall become the **"Approved Capture Rate Breach Rectification Plan"**;

- (ii) requires the Generator to provide additional Supporting Information in relation to the draft Capture Rate Breach Rectification Plan, in order for the DPA Counterparty to determine whether or not to approve such plan;
- (iii) requires amendments to the draft Capture Rate Breach Rectification Plan, in which case the Capture Rate Breach Rectification Review Notice shall provide the Generator with sufficient detail in relation to such amendments; or
- (iv) in its sole and absolute discretion, rejects the draft Capture Rate Breach Rectification Plan, in which case the Capture Rate Breach Rectification Review Notice shall provide the Generator with sufficient detail in relation to such rejection and the Generator acknowledges and agrees that it shall not be entitled to refer any decision made by the DPA Counterparty pursuant to this Condition (iv) to the Dispute Resolution Procedure.

22.6 The Generator shall no later than fifteen (15) Business Days after receipt of a Capture Rate Breach Rectification Review Notice, submit to the DPA Counterparty:

- (A) if Condition 22.5(B)(ii) applies, the relevant additional Supporting Information specified in the Capture Rate Breach Rectification Review Notice;
- (B) if Condition 22.5(B)(iii) applies, an amended draft Capture Rate Breach Rectification Plan which includes the amendments specified in the Capture Rate Breach Rectification Review Notice; or
- (C) if Condition 22.5(B)(iv) applies, an amended draft Capture Rate Breach Rectification Plan,

following which Condition 22.5(B) shall then reapply.

22.7 If Condition 22.5(B)(i) applies:

- (A) as soon as reasonably practicable after receipt of the Capture Rate Breach Rectification Review Notice, and in any event no later than sixty (60) Business Days after such date, the Generator shall commence the implementation of the Approved Capture Rate Breach Rectification Plan, and the Generator shall continue to implement the Approved Capture Rate Breach Rectification Plan in accordance with its terms in order to remedy the Minimum CO₂ Capture Rate Breach; and
- (B) the Generator shall notify the DPA Counterparty in writing no later than five (5) Business Days following the date on which the Generator fully implements the Approved Capture Rate Breach Rectification Plan in accordance with its terms in order to achieve a Capture Rate Breach Rectification (a "**Generator Capture Rate Breach Remediation Notice**"), together with such Supporting Information as is reasonably necessary to evidence that the breach has been remedied.

Failure to remedy Minimum CO₂ Capture Rate Obligation breach

22.8 If:

- (A) subject to Condition 22.8(B), the Generator fails to achieve a Capture Rate Breach Rectification by the Capture Rate Breach Deadline; or
- (B) Condition 22.5(B)(i) applies and at and/or following the Capture Rate Breach Deadline the Generator has failed to commence the implementation of and/or continue to implement an Approved Capture Rate Breach Rectification Plan in accordance with its terms in order to achieve a Capture Rate Breach Rectification,

then a **"Capture Rate Termination Event"** will be deemed to have occurred.

Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension

- 22.9 Without prejudice to Conditions 22.1 to 22.7, if the Generator's Achieved and Declared CO₂ Capture Rate Average is less than the Suspension CO₂ Capture Rate for either three (3) consecutive AP Billing Periods or three (3) non-consecutive AP Billing Periods within six (6) consecutive AP Billing Periods (a **"Suspension CO₂ Capture Rate Breach"**), then the DPA Counterparty may at any time following the occurrence of such breach, elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of such obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 22.10 If the Generator evidences to the satisfaction of the DPA Counterparty that it has achieved a Capture Rate Breach Rectification, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable (which, for the avoidance of doubt, shall be based on the Availability of Capture that is achieved during the suspension period) but for the operation of Condition 22.9. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition 22.10.
- 22.11 Any evidence provided by the Generator to the DPA Counterparty pursuant to Condition 22.10 shall be accompanied by a Directors' Certificate in respect of such evidence.

Relief due to Force Majeure and Capture Outage Relief Event

- 22.12 The Generator shall be relieved from liability, and deemed not to be in breach of the Minimum CO₂ Capture Rate Obligation and/or Condition 22.8 (*Failure to remedy Minimum CO₂ Capture Rate Obligation breach*), for any failure or delay in the performance of such obligations if and to the extent such failure or delay is directly attributable to the occurrence and continuance of either:
- (A) Force Majeure in respect of which the Generator is the FM Affected Party but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (*Force Majeure*);
 - (B) a Capture Outage Relief Event which directly affects the Generator; or
 - (C) without prejudice to Condition 22.8 (*Failure to remedy Minimum CO₂ Capture Rate Obligation breach*), the implementation of the Approved Capture Rate Breach Rectification Plan but only to the extent the Generator is using reasonable endeavours to:
 - (i) implement the Approved Capture Rate Breach Rectification Plan in accordance with its terms;
 - (ii) mitigate the effects of the implementation of the Approved Capture Rate Breach Rectification Plan; and
 - (iii) resume the performance of the Minimum CO₂ Capture Rate Obligation as soon as reasonably practicable.

23. GENERATOR UNDERTAKING: CO₂ METERED DATA

Notification of CO₂ Metered Data

23.1 With effect from the Start Date, the Generator undertakes to the DPA Counterparty to:

- (A) submit CO₂ Metered Data to the DPA Counterparty, together with Supporting Information in form and content satisfactory to the DPA Counterparty (acting reasonably) and with the frequency that the CO₂ Metered Data is required to be provided in accordance with the CO₂ Metering Specification; and
- (B) ensure that all CO₂ Metered Data provided by or on behalf of the Generator pursuant to Condition 23.1(A) is true, complete and accurate in all material respects and is not misleading;

(each, a "**CO₂ Metered Data Obligation**" and together the "**CO₂ Metered Data Obligations**").

Notification by DPA Counterparty of CO₂ Metered Data Obligation breach

23.2 The DPA Counterparty may at any time give a notice to the Generator (a "**DPA Counterparty CO₂ Metered Data Breach Notice**") if it considers that the Generator is in breach of a CO₂ Metered Data Obligation. A DPA Counterparty CO₂ Measurement Data Breach Notice shall:

- (A) specify which CO₂ Metered Data Obligation the DPA Counterparty considers that the Generator has breached;
- (B) if the breach relates to the CO₂ Metered Data Obligation under Condition 23.1(B), specify whether the DPA Counterparty considers the breach to constitute a Generator CO₂ Metered Data System Failure; and
- (C) be accompanied by such Supporting Information as the DPA Counterparty considers necessary to evidence the breach of the relevant CO₂ Metered Data Obligation.

Response to notification of CO₂ Metered Data Obligation breach

23.3 No later than ten (10) Business Days after receipt of a DPA Counterparty CO₂ Metered Data Breach Notice (a "**CO₂ Metered Data Breach Response Notice Period**"), the Generator shall investigate whether it is in breach of the relevant CO₂ Metered Data Obligation and submit a notice to the DPA Counterparty (a "**CO₂ Metered Data Breach Response Notice**"). A CO₂ Metered Data Breach Response Notice shall state that either:

- (A) the Generator accepts that there has been a breach of the relevant CO₂ Metered Data Obligation and whether the Generator considers that:
 - (i) it is technically feasible to correct such breach; or
 - (ii) it is not technically feasible to correct such breach; or
- (B) the Generator does not accept that there has been a breach of the relevant CO₂ Metered Data Obligation.

23.4 If:

- (A) the Generator submits a CO₂ Metered Data Breach Response Notice in accordance with Condition 23.3(A)(i), the provisions of Condition 23.9 shall apply;

- (B) the Generator submits a CO₂ Metered Data Breach Response Notice in accordance with Condition 23.3(A)(ii), then during the period in which the Generator is in breach of the relevant CO₂ Metered Data Obligation:
 - (i) the relevant Outlet CO₂ Metered Data shall not be included in the calculation of the Achieved CO₂ Capture Rate and/or the T&S Flow Charge Payment Rate (as applicable); and/or
 - (ii) the relevant CO₂ Re-use Metered Data shall be calculated using the Maximum CO₂ Rich Stream Input Flow Rate Estimate in substitution for the Metered CO₂ Rich Stream Input Flow Rate; or
- (C) the Generator fails to submit a CO₂ Metered Data Breach Response Notice within the CO₂ Metered Data Breach Response Notice Period or submits a CO₂ Metered Data Breach Response Notice in accordance with Condition 23.3(B), the Expert Determination Procedure shall apply to determine whether there has been a breach of a CO₂ Metered Data Obligation and if so, whether it is technically feasible to correct such breach. If the Expert Determination Procedure which is applied pursuant to this Condition 23.4(C) determines that:
 - (i) there has not been a breach of a CO₂ Metered Data Obligation, then neither Party shall be required to take any further steps in relation to the DPA Counterparty CO₂ Metered Data Breach Notice;
 - (ii) there has been a breach of a CO₂ Metered Data Obligation and it is technically feasible to correct such breach, the provisions of Condition 23.9 shall apply; or
 - (iii) there has been a breach of a CO₂ Metered Data Obligation and it is not technically feasible to correct such breach, then during the period in which the Generator is in breach of the relevant CO₂ Metered Data Obligation:
 - (a) the relevant Outlet CO₂ Metered Data shall not be included in the calculation of the Achieved CO₂ Capture Rate and/or the T&S Flow Charge Payment Rate (as applicable); and/or
 - (b) the relevant CO₂ Re-use Metered Data shall be calculated using the Maximum CO₂ Rich Stream Input Flow Rate Estimate in substitution for the Metered CO₂ Rich Stream Input Flow Rate.

Notification by Generator of CO₂ Metered Data Obligation breach

- 23.5 The Generator shall promptly give a notice to the DPA Counterparty (a "**Generator CO₂ Metered Data Breach Notice**") if it becomes aware that it is in breach of a CO₂ Metered Data Obligation. A Generator CO₂ Metered Data Breach Notice shall:
- (A) specify which CO₂ Metered Data Obligation the Generator considers that it has breached and whether the Generator considers that:
 - (i) it is technically feasible to correct such breach; or
 - (ii) it is not technically feasible to correct such breach;
 - (B) if the breach relates to the CO₂ Metered Data Obligation under Condition 23.1(B), specify whether the Generator considers the breach to constitute a Generator CO₂ Metered Data System Failure; and

- (C) be accompanied by such Supporting Information as the Generator considers to be relevant to evidence the breach of the CO₂ Metered Data Obligation.

23.6 Each Generator CO₂ Metered Data Breach Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Generator CO₂ Metered Data Breach Notice.

Response to notification of an Generator CO₂ Metered Data Obligation breach

23.7 No later than ten (10) Business Days after the date of a Generator CO₂ Metered Data Breach Notice, the DPA Counterparty shall investigate whether the Generator is in breach of the relevant CO₂ Metered Data Obligation and shall submit a notice to the Generator (a **"DPA Counterparty CO₂ Metered Data Breach Response Notice"**). A DPA Counterparty CO₂ Metered Data Breach Response Notice shall state that either:

- (A) the DPA Counterparty agrees that there has been a breach of the relevant CO₂ Metered Data Obligation and the DPA Counterparty considers that:
 - (i) it is technically feasible to correct such breach; or
 - (ii) it is not technically feasible to correct such breach; or
- (B) the DPA Counterparty considers that there has not been a breach of the relevant CO₂ Metered Data Obligation.

23.8 If:

- (A) the Generator submits a Generator CO₂ Metered Data Breach Notice in accordance with Condition 23.5(A)(i) and the DPA Counterparty submits a DPA Counterparty CO₂ Metered Data Breach Response Notice in accordance with Condition 23.7(A)(i), the provisions of Condition 23.9 shall apply;
- (B) the Generator submits a Generator CO₂ Metered Data Breach Notice in accordance with Condition 23.5(A)(ii) and the DPA Counterparty submits a DPA Counterparty CO₂ Metered Data Breach Response Notice in accordance with Condition 23.7(A)(ii), then during the period in which the Generator is in breach of the relevant CO₂ Metered Data Obligation:
 - (i) the relevant Outlet CO₂ Metered Data shall not be included in the calculation of the Achieved CO₂ Capture Rate and/or the T&S Flow Charge Payment Rate (as applicable); and/or
 - (ii) the relevant CO₂ Re-use Metered Data shall be calculated using the Maximum CO₂ Rich Stream Input Flow Rate Estimate in substitution for the Metered CO₂ Rich Stream Input Flow Rate;
- (C) the Generator submits a Generator CO₂ Metered Data Breach Notice in accordance with Condition 23.5(A)(i) and the DPA Counterparty submits a DPA Counterparty CO₂ Metered Data Breach Response Notice in accordance with Condition 23.7(A)(ii) or the Generator submits a Generator CO₂ Metered Data Breach Notice in accordance with Condition 23.5(A)(ii) and the DPA Counterparty submits a DPA Counterparty CO₂ Metered Data Breach Response Notice in accordance with Condition 23.7(A)(i), the Expert Determination Procedure shall apply to determine whether it is technically feasible to correct such breach. If the Expert Determination Procedure applied pursuant to this Condition 23.8(C) determines that:

- (i) it is technically feasible to correct such breach, the provisions of Condition 23.9 shall apply; or
- (ii) it is not technically feasible to correct such breach, then during the period in which the Generator is in breach of the relevant CO₂ Metered Data Obligation:
 - (a) the relevant Outlet CO₂ Metered Data shall not be included in the calculation of the Achieved CO₂ Capture Rate and/or the T&S Flow Charge Payment Rate (as applicable); and/or
 - (b) the relevant CO₂ Re-use Metered Data shall be calculated using the Maximum CO₂ Rich Stream Input Flow Rate Estimate in substitution for the Metered CO₂ Rich Stream Input Flow Rate; or
- (D) the DPA Counterparty submits a DPA Counterparty CO₂ Metered Data Breach Response Notice in accordance with Condition 23.7(B), then the Generator shall not be required to take any further steps in relation to the Generator CO₂ Metered Data Breach Notice.

Rectification of CO₂ Metered Data Obligation breach

- 23.9 If this Condition 23.9 applies, the Generator shall provide the DPA Counterparty with updated CO₂ Metered Data and Supporting Information which is true, complete and accurate in all material respects and is not misleading (the "**Revised CO₂ Metered Data**"), together with a Directors' Certificate and Supporting Information in relation to such CO₂ Metered Data as soon as reasonably practicable after the date that the Parties agree, or it is determined pursuant to the Dispute Resolution Procedure, that it is technically feasible to correct the relevant breach.

Suspension of payments (Failure to provide CO₂ Metered Data)

- 23.10 If the Generator is in breach of a CO₂ Metered Data Obligation, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of such CO₂ Metered Data Obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.
- 23.11 Without prejudice to Condition 23.12, if the Generator subsequently rectifies the breach of the relevant CO₂ Metered Data Obligation, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 23.10. The DPA Counterparty may elect to make such payment on a lump sum or staged basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition 23.11.

Misleading CO₂ Metered Data

- 23.12 If any CO₂ Metered Data provided pursuant to Condition 23.1 is misleading in any respect, or the Generator's failure to provide CO₂ Metered Data is misleading in any respect, provided that:
- (A) the Generator knew that such CO₂ Metered Data was, or such failure to provide such CO₂ Metered Data would be, misleading;
 - (B) the Generator acted recklessly in providing or failing to provide such CO₂ Metered Data; or

- (C) there have been three (3) or more Generator CO₂ Metered Data System Failures in any rolling three (3) year period,

then a **"Misleading CO₂ Metered Data Termination Event"** will be deemed to have occurred.

24. GENERATOR UNDERTAKING: DECLARATION OBLIGATIONS

Declaration Obligations

24.1 With effect from the Start Date, the Generator undertakes to the DPA Counterparty to:

- (A) submit electricity capacity data declarations and details of Generation Outage Events, including:
- (i) the Net Available Capacity immediately preceding a Generation Outage Event;
 - (ii) the Net Available Capacity during each time segment of a Generation Outage Event;
 - (iii) the duration, start time, and end time of each time segment of a Generation Outage Event; and
 - (iv) the reason for a Generation Outage Event (including, if applicable, a Generation Outage Relief Event),

in all cases, but subject to Condition 24.1(B), in accordance with UK REMIT (the **"Generation Declaration Capacity Data"**);

- (B) if UK REMIT is unavailable at any time, promptly provide the Generator Declaration Capacity Data to the DPA Counterparty, in a form and content satisfactory to the DPA Counterparty (acting reasonably), and with the frequency that such data would have been provided had UK REMIT been available;

- (C) submit a Declared CO₂ Capture Rate in respect of AP Settlement Units where:

- (i) the Metered Electricity Output is equal to or less than zero (0); and/or
- (ii) a T&S Outage Event occurs,

in a form and content satisfactory to the DPA Counterparty (acting reasonably). For each AP Settlement Unit where: (i) the Metered Electricity Output is equal to or less than zero (0); and/or (ii) a T&S Outage Event occurs immediately following an AP Settlement Unit where the Metered Electricity Output is more than zero (0) and a T&S Outage Event has not occurred (**"Initial DCR Settlement Unit"**), the Declared CO₂ Capture Rate shall be equal to the lower of:

- (a) the lowest Achieved CO₂ Capture Rate in an AP Settlement Unit which falls within the most recent continuous four (4) hour period of eight (8) consecutive AP Settlement Units where: (i) the AP Settlement Unit Calculated CO₂ Generated was equal to or higher than, eighty five per cent. (85%) of the AP Settlement Unit Baseline CO₂ Generated; and (ii) there was no regeneration of additional stored (non-circulating) solvent; and
- (b) (where applicable) the latest Test Achieved CO₂ Capture Rate (as applicable) prior to the Initial DCR Settlement Unit;

- (D) if the Declared CO₂ Capture Rate in respect of an AP Settlement Unit will not be equal to the Declared CO₂ Capture Rate for the previous AP Settlement Unit ("**Amended DCR Settlement Unit**"), notify the DPA Counterparty:
 - (i) as soon as reasonably practicable of the revised Declared CO₂ Capture Rate ("**Amended Declared CO₂ Capture Rate**") for the Amended DCR Settlement Unit; and
 - (ii) of the reasons for the change in the Declared CO₂ Capture Rate, together with Supporting Information in respect of the reasons for such a change and the impact on the Declared CO₂ Capture Rate, such notification to be provided promptly, and no later than two (2) Business Days following the Amended DCR Settlement Unit ("**Amended DCR Notice**");
 - (E) submit details (to the nearest minute) of the duration, start time and end time of a Full Capture Outage Event and/or a Full T&S Outage Event (as applicable) where a Full Capture Outage Event and/or a Full T&S Outage Event occurs and is continuing, in a form and content satisfactory to the DPA Counterparty (acting reasonably) and no later than five (5) calendar days following the VP Billing Period in which the last such outage event ceases to apply (the "**Capture Declaration Capacity Data**");
 - (F) submit details of each Full Capture Outage Event and/or a Full T&S Outage Event (as applicable), including details of the cause of such event(s), together with Supporting Information in respect of such event(s);
 - (G) ensure that all Declaration Capacity Data provided by or on behalf of the Generator pursuant to Conditions 24.1(A), 24.1(B), 24.1(C), 24.1(D) 24.1(E) and 24.1(F) is true, complete and accurate in all material respects and is not misleading;
 - (H) if the Generator becomes aware at any time that any Declaration Capacity Data (and/or Supporting Information) submitted pursuant to Condition 24.1(A), 24.1(B), 24.1(C), 24.1(D) or 24.1(E) was not true, complete and accurate in all material respects and/or was misleading as at the date of submission, promptly:
 - (i) notify the DPA Counterparty of the relevant error(s); and
 - (ii) provide the DPA Counterparty with updated Declaration Capacity Data and Supporting Information which is true, complete and accurate in all material respects and is not misleading (the "**Revised Declaration Capacity Data**"), together with a Directors' Certificate and Supporting Information in relation to such data;
 - (I) if the DPA Counterparty notifies the Generator that the DPA Counterparty considers that any Declaration Capacity Data (and/or Supporting Information) submitted pursuant to Condition 24.1(A), 24.1(B), 24.1(C), 24.1(D) or 24.1(E) was not true, complete and accurate in all material respects and/or was misleading as at the date of submission, promptly investigate such issue and provide the DPA Counterparty with Revised Declaration Capacity Data together with a Directors' Certificate and Supporting Information in relation to such data, and
 - (J) if the DPA Counterparty requests a CO₂ Capture Rate Test pursuant to Condition 24.13, perform the CO₂ Capture Rate Test by the date specified in the CO₂ Capture Rate Test Notice,
- (each, a "**Declaration Obligation**" and together the "**Declaration Obligations**").

24.2 If the Generator fails to submit the Capture Declaration Capacity Data to the DPA Counterparty in accordance with Condition 24.1(E) for two (2) or more consecutive AP Settlement Units in which:

- (i) the Metered Electricity Output is greater than zero (0); and
- (ii) subject to limb (iii), the Metered CO₂ Output is equal to or less than zero (0); or
- (iii) in the case of a CO₂ Re-use Service Facility, the Metered CO₂ Output minus Metered CO₂ Input is equal to or less than zero (0),

the Generator will be deemed to be in breach of the Declaration Obligations.

Notification by DPA Counterparty of Declaration Obligation breach

24.3 The DPA Counterparty may at any time give a notice to the Generator if it considers that the Generator is in breach of a Declaration Obligation (a "**DPA Counterparty Declaration Breach Notice**"), with such notice to:

- (A) specify which Declaration Obligation the DPA Counterparty considers that the Generator has breached; and
- (B) be accompanied by such Supporting Information as the DPA Counterparty considers necessary to evidence the breach of the relevant Declaration Obligation.

Notification by Generator of Declaration Obligation breach

24.4 The Generator shall promptly give a notice to the DPA Counterparty if it becomes aware that it is in breach of a Declaration Obligation (a "**Generator Declaration Breach Notice**"). A Generator Declaration Breach Notice shall:

- (A) specify which Declaration Obligation the Generator considers that it has breached; and
- (B) be accompanied by such Supporting Information as the Generator considers to be relevant to evidence the breach of the relevant Declaration Obligation.

24.5 Each Generator Declaration Breach Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Generator Declaration Breach Notice.

Suspension of Payments (Failure to provide Declaration Capacity Data)

24.6 If the Generator is in breach of a Declaration Obligation, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of such Declaration Obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.

24.7 Without prejudice to Condition 24.8, if the Generator subsequently rectifies the breach of the relevant Declaration Obligation, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 24.6. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition 24.7.

Misleading Declaration Capacity Data

- 24.8 If any Declaration Capacity Data provided pursuant to Condition 24.1 is misleading, or the Generator's failure to provide Declaration Capacity Data is misleading, provided that: (i) the Generator knew that such data was, or a failure to provide such data would be, misleading; (ii) the Generator acted recklessly in providing or failing to provide such data; or (iii) there have been three (3) or more Generator Declaration Capacity Data System Failures in any rolling three (3) year period, then a **"Misleading Declaration Termination Event"** will be deemed to have occurred.

Undertaking: Access to and test of Facility

- 24.9 With effect from the Start Date, the Generator shall grant the DPA Counterparty (and any and all persons nominated by the DPA Counterparty from time to time and considered by the DPA Counterparty to be suitably qualified) access to the Facility and to such plant, property or assets owned, occupied or controlled by the Generator and to which the Generator can lawfully grant access as may be reasonably necessary for the DPA Counterparty to read, test or verify any Declaration Capacity Data or Revised Declaration Capacity Data (or to test or verify whether the Generator should have provided Declaration Capacity Data or Revised Declaration Capacity Data where it has failed to do so) and inspect and conduct tests (including CO₂ Capture Rate Tests, with such tests to be carried out in accordance with the Reasonable and Prudent Standard, and in compliance with industry guidelines, practices and standards) in respect of the Declaration Capacity Data from time to time (the **"Declaration Access Right"**).
- 24.10 If the DPA Counterparty intends to exercise the Declaration Access Right it shall give a notice to the Generator (a **"Declaration Inspection Notice"**). A Declaration Inspection Notice shall:
- (A) specify that the DPA Counterparty (or suitably qualified persons nominated by it in accordance with Condition 24.9) intends to exercise the Declaration Access Right; and
 - (B) specify the date by which the Generator must, in accordance with Condition 24.11, permit the exercise of the Declaration Access Right.
- 24.11 The Generator shall permit the DPA Counterparty to exercise the Declaration Access Right on:
- (A) if Condition 24.13 applies, the date of the CO₂ Capture Rate Test; and
 - (B) in all other cases, no later than the later of: (i) one (1) Business Day after receipt of the Declaration Inspection Notice; and (ii) the date specified in the Declaration Inspection Notice.
- 24.12 The DPA Counterparty shall (and shall procure that any suitably qualified persons nominated by it in accordance with Condition 24.9 shall):
- (A) take or refrain from taking all such other action as may be reasonably required by the Generator in order to comply with health and safety rules relating to the Facility; and
 - (B) obtain each authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order confirmation, permission or other approval of or from a Competent Authority that is necessary for it to exercise the Declaration Access Right.
- 24.13 Subject to Conditions 24.14 and 24.15, the DPA Counterparty may request a CO₂ Capture Rate Test at any time to verify a Declared CO₂ Capture Rate. If the DPA Counterparty intends to request that the Generator carry out a CO₂ Capture Rate Test, it shall give a notice to the Generator (a **"CO₂ Capture Rate Test Notice"**). A CO₂ Capture Rate Test Notice shall specify:
- (i) the window within which the Generator must carry out the CO₂ Capture Rate Test (which

shall commence no earlier than the date of the CO₂ Capture Rate Test Notice and end no later than three (3) days after the DPA Counterparty issues the CO₂ Capture Rate Test Notice to the Generator); and (ii) the Generator must submit the CO₂ Capture Rate Test Report as soon as reasonably practicable after the completion of the CO₂ Capture Rate Test.

24.14 Subject to Condition 24.15, the DPA Counterparty may request up to four (4) CO₂ Capture Rate Tests in each calendar year following the Start Date ("**Annual CO₂ Capture Rate Test Allowance**"). If the Test Achieved CO₂ Capture Rate specified in the relevant CO₂ Capture Rate Test Report is:

- (A) less than two (2) percentage points lower than the Declared CO₂ Capture Rate for the AP Settlement Unit in respect of which the relevant CO₂ Capture Rate Test was requested by the DPA Counterparty, then the CO₂ Capture Rate Test shall accrue against the DPA Counterparty's Annual CO₂ Capture Rate Test Allowance for the relevant calendar year; or
- (B) equal to or greater than two (2) percentage points lower than the Declared CO₂ Capture Rate for the AP Settlement Unit in respect of which the relevant CO₂ Capture Rate Test was requested by the DPA Counterparty, then the CO₂ Capture Rate Test shall not accrue against the DPA Counterparty's Annual CO₂ Capture Rate Test Allowance, and the remaining Annual CO₂ Capture Rate Test Allowance prior to such CO₂ Capture Rate Test shall remain unchanged for such calendar year.

24.15 If the DPA Counterparty utilises its full Annual CO₂ Capture Rate Test Allowance in any given calendar year, the DPA Counterparty may request that a further CO₂ Capture Rate Test is carried out in the relevant calendar year provided that if the Test Achieved CO₂ Capture Rate specified in the relevant CO₂ Capture Rate Test Report is:

- (A) less than two (2) percentage points lower than the Declared CO₂ Capture Rate for the AP Settlement Unit in respect of which the relevant CO₂ Capture Rate Test was requested by the DPA Counterparty, then the DPA Counterparty shall pay ten per cent. (10%) of the Generator's out-of-pocket costs, expenses and fees arising as a direct result of such CO₂ Capture Rate Test; or
- (B) equal to or greater than two (2) percentage points lower than the Declared CO₂ Capture Rate for the AP Settlement Unit in respect of which the relevant CO₂ Capture Rate Test was requested by the DPA Counterparty, then all costs, expenses and fees arising as a direct result of the CO₂ Capture Rate Test shall be borne by the Generator.

24.16 The Generator shall notify the DPA Counterparty at least twenty four (24) hours (or such shorter period approved by the DPA Counterparty (acting reasonably)) prior to the hour in which the Generator will commence the CO₂ Capture Rate Test.

Failure to provide Declaration Access Right

24.17 If the Generator is in breach of its obligation to permit the DPA Counterparty to exercise the Declaration Access Right, the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of such obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.

24.18 If the Generator subsequently complies with its obligation to permit the DPA Counterparty to exercise the Declaration Access Right, then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 24.17. The

DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 24.18.

24.19 If the Generator:

- (A) fails to comply with its obligations under Condition 24.9 to permit the DPA Counterparty to exercise the Declaration Access Right; and
- (B) has not permitted the DPA Counterparty to exercise its Declaration Access Right within four (4) Business Days of the date on which the DPA Counterparty or its appointed representative first sought to exercise the Declaration Access Right,

then a **"Declaration Access Termination Event"** will be deemed to have occurred.

Declaration Access Right costs

24.20 If, pursuant to or as a result of the exercise of the Declaration Access Right, it is agreed or determined that there has been a breach of a Declaration Obligation, the Generator shall promptly on demand from time to time, indemnify the DPA Counterparty, and keep the DPA Counterparty fully and effectively indemnified, against any and all out-of-pocket costs properly incurred by the DPA Counterparty in exercising the Declaration Access Right.

25. GENERATOR UNDERTAKINGS: INFORMATION PROVISION AND NO CUMULATION OF SUBSIDY, STATE AID, UNION FUNDING AND/OR INTERNATIONAL FUNDING

Provision of Information to the DPA Counterparty

25.1 In addition and without prejudice to its obligations under Condition 3.7 (*Operational Conditions Precedent: General Reporting Obligations*), Condition 4.8 (*Difficulties in achieving the Milestone Requirement*), Condition 20 (*Generator Undertakings: General*) and Condition 52.4 (*Provision of Force Majeure information*), the Generator, acting in accordance with the Reasonable and Prudent Standard, shall provide the DPA Counterparty (and, if requested by the DPA Counterparty, the DPA Settlement Services Provider) with:

- (A) the Generator's estimate of:
 - (i) the expected Start Date;
 - (ii) the Net Dependable Capacity, Plant Net Efficiency, Start Up Times and the Test Achieved CO₂ Capture Rate as at the Start Date;
 - (iii) the Achieved CO₂ Capture Rate and the Availability of Generation during the first AP Billing Period; and
 - (iv) the commissioning profile of the Facility,

each such estimate to be provided on the Agreement Date and at monthly intervals thereafter;

- (B) all Information requested by the DPA Counterparty (acting reasonably): (i) to comply with its responsibilities and obligations under the DPA (including the DPA Settlement Required Information); (ii) in relation to the exercise of its rights, powers or discretions under the DPA; or (iii) where it has the right to receive such Information under the DPA, such Information to be provided, unless otherwise expressly stated under the DPA, as soon as reasonably practicable, and no later than five (5) Business Days (or, if such Information is not within the possession of the Generator, no later than ten (10)

Business Days) or such longer period as is specified by the DPA Counterparty, after the Information is requested;

- (C) all Information requested by the DPA Counterparty to conduct "know your customer" or similar identification procedures or checks under all applicable laws and regulations in respect of the transactions contemplated by the DPA and the other DPA Documents, such Information to be provided as soon as reasonably practicable, and in any event no later than twenty (20) Business Days (or, if such Information is not within the possession of the Generator, no later than thirty (30) Business Days) or such longer period as is specified by the DPA Counterparty, following receipt of the DPA Counterparty's request. Any Information provided by a Generator to the DPA Counterparty under this Condition 25.1(C) shall be accompanied by a Directors' Certificate in respect of such Information;
- (D) all Information relating to the T&S Charges (including any invoice provided by the relevant T&S Operator to the Generator), such Information to be provided as soon as reasonably practicable, and no later than three (3) Business Days after the relevant T&S Operator has notified the Generator of the same;
- (E) the Forecast Data, such Forecast Data to be provided:
 - (i) no later than ten (10) Business Days after the Agreement Date, for the period from the projected Start Date to the following 31 March and in respect of each Month (or part of a Month) during such period (but only if the Start Date is projected to occur before the following 31 March);
 - (ii) not later than 31 January in each year (or, in relation to the first (1st) such forecast, and if the Agreement Date is after 31 January, no later than ten (10) Business Days after the Agreement Date) for the twelve (12) Month period commencing on 01 April in the following year in respect of each Month (or part of a Month) during such period, provided that either:
 - (a) such period commences after the Start Date; or
 - (b) the Start Date is projected to occur during such period; and
 - (iii) not later than six (6) Months prior to the expected Start Date (as provided by the Generator at intervals in accordance with Condition 25.1(A)(i)), for the twelve (12) Month period commencing on the expected Start Date; and
 - (iv) not later than five (5) Business Days prior to the first (1st) day of each Month after the Start Date in respect of the next thirty six (36) Months;
- (F) notification of the occurrence of any event or circumstance which will or is reasonably likely to affect significantly the:
 - (i) Net Dependable Capacity;
 - (ii) Availability of Capture;
 - (iii) Availability of Generation;
 - (iv) Metered Electricity Output;
 - (v) Achieved CO₂ Capture Rate;
 - (vi) Declared CO₂ Capture Rate;

- (vii) Metered CO₂ Input;
- (viii) Metered CO₂ Rich Stream Input;
- (ix) T&S Charges; and
- (x) any Information provided by the Generator pursuant to Condition 25.1(C),

together with Supporting Information in respect of the reasons for such event or circumstance and the impact on (i) to (vii), such notification to be provided as soon as reasonably practicable, and no later than five (5) Business Days after the Generator has become aware of such an event or circumstance;

- (G) all Information reasonably requested by the DPA Counterparty regarding the financial condition, business or operations of the Generator to enable or assist the DPA Counterparty to fulfil the DPA Counterparty Permitted Purposes, such Information to be provided as soon as soon as reasonably practicable and no later than ten (10) Business Days, or such longer period as is specified by the DPA Counterparty, after such Information is requested;
- (H) all Information reasonably requested by the DPA Counterparty for the purposes of: (i) compiling and evaluating statistics relating to the outcomes of the DPA and the CCUS Programme and the impact of the CCUS Programme across a range of social and economic factors; and (ii) publishing material relating thereto, including announcements and reports describing the general outcomes, merits and achievements relating to the CCUS Programme, such Information to be provided as soon as soon as reasonably practicable and no later than ten (10) Business Days, or such longer period as is specified by the DPA Counterparty, after such Information is requested;
- (I) as soon as reasonably practicable upon request, all Information reasonably requested by the DPA Counterparty for the purposes of assessing compliance by the Generator with the Metering Obligations, CO₂ Metered Data Obligations and Declaration Obligations;
- (J) as soon as reasonably practicable upon becoming aware of them, the details of any litigation, arbitration or administrative suit or proceeding, adjudication, expert determination, Tax claim, or Tax investigation against the Generator which is current; pending before any court, arbitral or other tribunal, administrative or regulatory body or, as the case may be, expert; or, so far as the Generator is aware, for which a formal written notice before action or similar threatening such suit or proceedings has been received and which, if adversely determined, would have or would be reasonably likely to have a Material Adverse Effect;
- (K) the Expected Facility Data, such Expected Facility Data to be provided:
 - (i) no later than two (2) Months after the Agreement Date;
 - (ii) no later than two (2) Months after the Milestone Delivery Date;
 - (iii) no later than the 31 January in each year during the Term, starting with the year after the year in which the Milestone Delivery Date falls,

except that where the Expected Facility Data has not changed significantly since the last submission by the Generator to the DPA Counterparty of such information, the Generator is not required to resubmit the Expected Facility Data but must submit to the DPA Counterparty a written confirmation, in form and

content satisfactory to the DPA Counterparty (acting reasonably), that such information has not changed significantly since the last submission;

- (iv) as soon as reasonably practicable and in any event no later than ten (10) Business Days after the Generator has become aware of the occurrence of any event or circumstance which will, or is reasonably likely to, significantly affect the accuracy of the Expected Facility Data last submitted; and
- (v) as soon as reasonably practicable and in any event no later than ten (10) Business Days after receipt of a written request by the DPA Counterparty;
- (L) as soon as reasonably practicable, all Information (kept to the Reasonable and Prudent Standard) reasonably requested that represents the status and progress of the Project to date against contractual and Project milestones, showing the critical path of the Project towards these milestones up to the delivery of a Longstop Date Capacity Notice; and
- (M) all Information the Generator receives from the relevant T&S Operator relating to any Capacity Constraint (as defined under the CCS Network Code), such information to be provided as soon as reasonably practicable and in any event no later than three (3) Business Days after the relevant T&S Operator provides such Information to the Generator.

Forecast Data

25.2 For the purposes of Condition 25.1(E), the "**Forecast Data**" means:

- (A) Net Dependable Capacity;
- (B) Availability of Capture;
- (C) Availability of Generation;
- (D) Metered Electricity Output;
- (E) Achieved CO₂ Capture Rate; and
- (F) T&S Charges,

in each case in relation to the period referred to in Condition 25.1(E).

Accuracy of Information

25.3 The Generator shall ensure that:

- (A) all forecasts, forward-looking statements and data provided by or on behalf of the Generator pursuant to Condition 25.1 are prepared in good faith, on a reasonable basis and with due care and attention; and
- (B) all other Information provided by or on behalf of the Generator pursuant to Condition 25.1 is true, complete and accurate in all material respects and is not misleading.

Suspension of Payments (Failure to provide KYC Information)

25.4 If the Generator fails to comply with Condition 25.1(C), the DPA Counterparty may elect to suspend payment of any amount(s) which would otherwise be payable by the DPA Counterparty in any period during which the Generator is not in compliance with such Condition,

provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.

- 25.5 If the Generator subsequently provides the DPA Counterparty with the Information (accompanied by a Directors' Certificate) requested pursuant to Condition 25.1(C), any suspension under Condition 25.4 shall cease and the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 25.4. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition.

Warranty: No cumulation of Subsidy

- 25.6 The Generator represents and warrants to the DPA Counterparty that, as at the Start Date, the following statement is true, accurate and not misleading:

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

Undertaking: No cumulation of Subsidy, State aid, Union Funding and/or International Funding

- 25.7 With effect from the Subsidy Control Declaration Date, the Generator undertakes to the DPA Counterparty as follows:

- (A) the Generator shall at all times ensure that no Subsidy, State aid, Union Funding and/or International Funding is received in relation to the costs of the Project (regardless of whether such subsidy, aid and/or funding is received by the Generator or by any other person), other than the subsidy arising under the DPA and where relevant any Subsidy, State aid, Union Funding and/or International Funding of the types described at Condition 25.6(A)(i) and 25.6(A)(ii);
- (B) *Notification*: the Generator shall:
 - (i) give notice to the DPA Counterparty as soon as reasonably practicable upon becoming aware that any Subsidy, State aid, Union Funding and/or International Funding has been received in relation to the costs of the Project (regardless of whether such subsidy, aid and/or funding is received by the Generator or by any other person, or is received before, on or after the Subsidy Control Declaration Date) (other than any Subsidy, State aid, Union Funding and/or International Funding of the types described at Condition 25.6(A)(i) and 25.6(A)(ii)); and
 - (ii) provide the DPA Counterparty with such Supporting Information regarding compliance or non-compliance by the Generator with the undertaking in Condition 25.7(A) as the DPA Counterparty reasonably requires, as soon as reasonably practicable and in any event no later than thirty (30) Business Days following receipt of the DPA Counterparty's request. Any Supporting Information provided by a Generator to the DPA Counterparty under this Condition 25.7(B)(ii)

shall be accompanied by a Directors' Certificate in respect of such Supporting Information; and

- (C) *Repayment*: the Generator shall repay or procure the repayment of any Subsidy, State aid, Union Funding and/or International Funding which has been received in relation to the costs of the Project (regardless of whether such subsidy, aid and/or funding is received by the Generator or by any other person or is received before, on or after the Subsidy Control Declaration Date) (as adjusted for interest in accordance with Condition 25.13 (*Subsidy Interest*)) to the granter of such subsidy, aid or funding (other than any Subsidy, State aid, Union Funding and/or International Funding of the types described at Condition 25.6(A)(i) and 25.6(A)(ii)).

Suspension of Payments

25.8 If the Generator breaches Condition 25.6 or fails to comply with Condition 25.7(A), the DPA Counterparty shall:

- (A) suspend payment of any amount(s) which would otherwise be payable by the DPA Counterparty to the Generator, from the date the DPA Counterparty becomes aware that the Generator has breached or failed to comply with such Condition (or as soon as reasonably practicable thereafter); and
- (B) notify the Generator of any suspension as soon as reasonably practicable.

25.9 If the Generator evidences to the satisfaction of the DPA Counterparty that the Subsidy, State aid, Union Funding and/or International Funding (as adjusted for interest in accordance with Condition 25.13 (*Subsidy Interest*)) has been repaid in full to the granter, any suspension under Condition 25.8 shall cease and the DPA Counterparty shall (subject to Condition 25.11, where applicable) pay any amounts to the Generator which would have been payable but for the operation of Condition 25.8. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition 25.9.

25.10 Any evidence provided by the Generator to the DPA Counterparty pursuant to Condition 25.9 shall be accompanied by a Directors' Certificate in respect of such evidence.

Suspension of Payments (Failure to Provide Information)

25.11 If the Generator fails to comply with Condition 25.7(B)(ii), the DPA Counterparty shall:

- (A) suspend payment of any amount(s) which would otherwise be payable by the DPA Counterparty to the Generator, from the date the DPA Counterparty becomes aware that the Generator failed to comply with such Condition (or as soon as reasonably practicable thereafter); and
- (B) notify the Generator of any suspension as soon as reasonably practicable.

25.12 Subject to Condition 25.8 and 25.17, if the Generator subsequently provides the DPA Counterparty with the Supporting Information (accompanied by a Directors' Certificate) requested pursuant to Condition 25.7(B)(ii), any suspension under Condition 25.11 shall cease and the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 25.11. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable to the Generator pursuant to this Condition 25.12.

Subsidy Interest

- 25.13 Interest shall be due and payable in relation to any amount of Subsidy, State aid, Union Funding and/or International Funding which has been received in relation to the costs of the Project (regardless of whether such subsidy, aid and/or funding is received by the Generator or any other person), calculated on the basis that interest shall accrue on the outstanding balance of any such amount at the Subsidy Interest Rate from (and including) the date that the Subsidy, State aid, Union Funding and/or International Funding was received, to (but excluding): (i) the date that the Subsidy, State aid, Union Funding and/or International Funding and interest is repaid in full to the granter; or (ii) where Condition 25.18 applies, the date that payments equivalent to the amount of Subsidy, State aid, Union Funding and/or International Funding and interest are recovered in full; or (iii) where Condition 3.55 (*Set-off of Previous Subsidy*) or 25.17 (*Set-off of Other Subsidy*) applies, the date the Subsidy, State aid, Union Funding and/or International Funding and interest are set off in full. For this purpose:
- (A) interest shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a year of 365 days;
 - (B) the "**Subsidy Interest Rate**" shall be either:
 - (i) the interest rate set out by the UK awarding body of the Subsidy;
 - (ii) the interest rate set out in any recovery order issued by a Subsidy Control Competent Authority; or
 - (iii) in the case of State aid, Union Funding or International Funding only, the interest rate that applies to recovery under the relevant State aid, Union Funding or International Funding scheme;

in each case as applicable, and if none of (i) to (iii) is applicable, the interest rate determined by the DPA Counterparty in accordance with the Interest Rate Methodology; and
 - (C) to the extent that interest accrues for more than a year, the Subsidy Interest Rate shall be recalculated on an annual basis by the DPA Counterparty in accordance with the applicable methodology, and interest shall be compounded annually, so that interest accruing in the previous year shall be subject to interest in any subsequent year.

For the avoidance of doubt, interest pursuant to this Condition 25.13 shall not be due and payable in relation to any subsidy arising under the DPA.

Waiver of Generator's Obligation to Repay Subsidy, State aid, Union Funding and/or International Funding

- 25.14 The DPA Counterparty shall agree by notice to waive the Generator's obligation under Condition 25.7(C) if the Generator evidences to the satisfaction of the DPA Counterparty that the granter of such Subsidy, State aid, Union Funding and/or International Funding refuses or is unable to accept the repayment of the Subsidy, State aid, Union Funding and/or International Funding (as adjusted for interest in accordance with Condition 25.13), in full or in part. If the Generator seeks a waiver, the Generator shall:
- (A) provide the DPA Counterparty with such Supporting Information as the Generator considers to be relevant to evidence that the granter refuses or is unable to accept repayment in accordance with this Condition 25.14; and

- (B) provide the DPA Counterparty with such additional Supporting Information as the DPA Counterparty reasonably requires, as soon as reasonably practicable, and in any event no later than ten (10) Business Days following receipt of the DPA Counterparty's request,

in each case accompanied by a Directors' Certificate in respect of such Supporting Information.

- 25.15 If the DPA Counterparty agrees to waive the Generator's obligation to repay Subsidy, State aid, Union Funding and/or International Funding pursuant to Condition 25.7(C):

- (A) the DPA Counterparty shall also notify the Generator of:
 - (i) the amount of Subsidy, State aid, Union Funding and/or International Funding (as adjusted for interest in accordance with Condition 25.13) which has not been repaid to the grantor as at that date (the "**Other Subsidy**"); and
 - (ii) the Subsidy Interest Rate currently applicable;
- (B) Condition 25.17 shall apply; and
- (C) subject to Condition 25.17, the suspension under Condition 25.8(A) shall cease and the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 25.8(A). The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amounts payable pursuant to this Condition 25.15(C).

- 25.16 Nothing in this Condition 25 (*Generator Undertakings: Information Provision and no Cumulation of Subsidy, State aid, Union Funding and/or International Funding*) shall require the DPA Counterparty to waive the Generator's obligation under Condition 25.7(C), unless the DPA Counterparty is satisfied that the requirements of Condition 25.14 have been met.

Set-off of Other Subsidy

- 25.17 Any amount of Other Subsidy (as adjusted for interest in accordance with Condition 25.13) shall be set off against any amounts payable to the Generator under the DPA, so that no payment shall be made to the Generator until such amount has been set off in its entirety.

Recovery

- 25.18 If the DPA expires or terminates and any amount of Subsidy, State aid, Union Funding and/or International Funding (as adjusted for interest in accordance with Condition 25.13) has not yet been repaid in full pursuant to Condition 25.7(C) or set off in full, pursuant to Condition 3.55 (*Set-off of Previous Subsidy*) or Condition 25.17 (*Set-off of Other Subsidy*), the DPA Counterparty shall be entitled to recover any payments made to the Generator under the DPA, up to the value of the outstanding amount. The DPA Counterparty shall give notice to the Generator of the outstanding amount and the currently applicable Subsidy Interest Rate and the Generator shall repay or procure the repayment of the notified amount (as adjusted for interest in accordance with Condition 25.13) to the DPA Counterparty within ten (10) Business Days from the date of the notice.

26. GENERATOR UNDERTAKING: SUPPLY CHAIN REPORTING

Supply Chain Report

- 26.1 The Generator shall provide the DPA Counterparty with a Supply Chain Report (together with such Supporting Information as the Generator considers to be relevant to the content of the Supply Chain Report):
- (A) no earlier than six (6) Months prior to the Milestone Delivery Date and no later than the Milestone Delivery Date;
 - (B) no earlier than six (6) Months prior to the third (3rd) anniversary of the Start Date and no later than the third (3rd) anniversary of the Start Date; and
 - (C) no earlier than six (6) Months prior to the seventh (7th) anniversary of the Start Date and no later than the seventh (7th) anniversary of the Start Date,
- (each a **"Supply Chain Report Deadline"** and together the **"Supply Chain Report Deadlines"**).
- 26.2 Each Supply Chain Report shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Supply Chain Report.
- 26.3 The Generator acknowledges and agrees that each Supply Chain Report shall be provided by the DPA Counterparty to the Secretary of State.
- 26.4 The DPA Counterparty shall:
- (A) if the Generator has failed to submit a Supply Chain Report by the relevant Supply Chain Report Deadline, no later than seven (7) Business Days after the relevant Supply Chain Report Deadline; or
 - (B) if the Generator has submitted a Supply Chain Report by the relevant Supply Chain Report Deadline, no later than forty (40) Business Days after the relevant Supply Chain Report Deadline,
- give a notice to the Generator (a **"Supply Chain Report Response Notice"**). A Supply Chain Report Response Notice shall specify whether the Generator:
- (i) has or has not submitted a Supply Chain Report by the relevant Supply Chain Report Deadline; and/or
 - (ii) has or has not submitted a Supply Chain Report which complies with the requirements set out in Annex 11 (*Form of Supply Chain Report*).
- 26.5 If the DPA Counterparty states in a Supply Chain Report Response Notice that:
- (A) the Supply Chain Report complies with the requirements of a Supply Chain Report as set out in Annex 11 (*Form of Supply Chain Report*), then such Supply Chain Report shall be deemed to be approved by the DPA Counterparty as a valid Supply Chain Report and no Supply Chain Report Fees shall be payable in relation to such Supply Chain Report; or
 - (B) the:

- (i) Supply Chain Report does not comply with the requirements set out in Annex 11 (*Form of Supply Chain Report*) and is therefore not a valid Supply Chain Report; or
- (ii) Generator has failed to submit a valid Supply Chain Report by the relevant Supply Chain Report Deadline,

then the Supply Chain Report Fees shall be payable by the Generator.

Payment of Supply Chain Report Fees

- 26.6 Subject to Condition 26.7, if Condition 26.5(B) applies, the Generator shall pay the Supply Chain Report Fees in respect of the relevant Supply Chain Report to the DPA Counterparty by the date each Supply Chain Report Fee is due and payable, provided that if at any time after the relevant Supply Chain Report Deadline the Generator submits the relevant Supply Chain Report to the DPA Counterparty which the DPA Counterparty subsequently confirms under Condition 26.5(A) complies with the requirements set out in Annex 11 (*Form of Supply Chain Report*), then no further Supply Chain Report Fees shall be payable by the Generator in relation to such Supply Chain Report.
- 26.7 Any Supply Chain Report Fees that accrue prior to the Start Date shall not be due and payable by the Generator unless and until the Start Date has occurred, except to the extent that any amounts become due and payable by the DPA Counterparty to the Generator prior to the Start Date whereby such Supply Chain Report Fees shall become due and payable.

Set-off of Supply Chain Report Fees

- 26.8 Without prejudice to the generality of Condition 15 (*Set-off*), the DPA Counterparty may set off any Supply Chain Report Fees that are due and payable by the Generator against any amounts that are due and payable to the Generator under the DPA.

Part 8
Changes in Law

27. QUALIFYING CHANGE IN LAW: PROCEDURE

DPA Counterparty QCiL Notice

- 27.1 If the DPA Counterparty considers that a Qualifying Change in Law has been implemented, occurred or become effective (or is shortly to be implemented, to occur or to become effective), it may give a notice to the Generator (a "**DPA Counterparty QCiL Notice**"). A DPA Counterparty QCiL Notice shall:
- (A) include reasonable details of the relevant Qualifying Change in Law;
 - (B) specify the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate);
 - (C) specify why the DPA Counterparty considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the DPA Counterparty considers the Qualifying Change in Law to be a Discriminatory Change in Law, a Specific Change in Law or an Other Change in Law; and
 - (D) (if the DPA Counterparty considers it reasonably practicable to do so) specify whether the DPA Counterparty considers that the Notified Change in Law will give rise to or result in:
 - (i) QCiL Operating Costs or QCiL Operating Savings;
 - (ii) QCiL Capital Costs or QCiL Capital Savings;
 - (iii) an Adjusted Revenues Period (and, if so, the DPA Counterparty's ARP Estimate);
 - (iv) a QCiL Construction Event; and/or
 - (v) a QCiL Operations Cessation Event.

Generator QCiL Response Notice

- 27.2 If the DPA Counterparty gives a DPA Counterparty QCiL Notice to the Generator, the Generator shall as soon as reasonably practicable, and in any event no later than forty (40) Business Days after receipt of such DPA Counterparty QCiL Notice, give a notice to the DPA Counterparty (a "**Generator QCiL Response Notice**"). A Generator QCiL Response Notice shall:
- (A) specify whether the Generator considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law (and, if the Generator does not consider that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, the Generator shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion);
 - (B) include either:
 - (i) a statement that the Generator agrees with the QCiL Effective Date or the Expected QCiL Effective Date specified in the DPA Counterparty QCiL Notice; or

- (ii) if the Generator does not agree with the QCiL Effective Date or the Expected QCiL Effective Date specified in the DPA Counterparty QCiL Notice, an alternative QCiL Effective Date or Expected QCiL Effective Date;
- (C) specify whether the Generator considers that the Notified Change in Law will give rise to or result in:
 - (i) QCiL Operating Costs or QCiL Operating Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
 - (ii) QCiL Capital Costs or QCiL Capital Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
 - (iii) an Adjusted Revenues Period and, if so the Generator's ARP Estimate;
 - (iv) a QCiL Construction Event and, if so, the Generator's good faith estimate of the QCiL Construction Event Costs and QCiL Construction Event Savings; and/or
 - (v) a QCiL Operations Cessation Event and, if so, the Generator's good faith estimate of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings,

together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing;
- (D) in respect of Conditions 27.2(C)(i), 27.2(C)(iii), and 27.2(C)(v), include Supporting Information evidencing the impact of the Qualifying Change in Law on the Facility's:
 - (i) process heat and mass balance data;
 - (ii) cost base data and related process consumption parameters; and
 - (iii) load factor and short run marginal cost; and
- (E) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with Condition 47.3 (*Mitigation*) and the Reasonable and Prudent Standard,

(the information referred to or specified in paragraphs (A) to (E) above being "**QCiL Response Information**").

- 27.3 If the Generator, in a Generator QCiL Response Notice, indicates that it does not consider that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, it shall nonetheless provide the QCiL Response Information on the basis of an assumption that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law.
- 27.4 Any Generator QCiL Response Notice shall be accompanied by a Directors' Certificate in relation to the QCiL Response Information which states (without prejudice to the generality of the certification required pursuant to this Condition 27.4) whether, in the opinion of the Generator, having made all due and careful enquiries, the Notified Change in Law is or will be a Qualifying Change in Law.
- 27.5 If the Generator becomes aware before any QCiL Compensation is agreed or determined, or paid, commenced or effected, pursuant to this Part 8 (*Changes in Law*) that any of the QCiL Response Information is no longer true, complete and accurate in all material respects or is

misleading (or was not true, complete and accurate in all material respects or was misleading as at the date of the Directors' Certificate referred to in Condition 27.4), the Generator shall as soon as reasonably practicable:

- (A) notify the DPA Counterparty that this is the case; and
- (B) provide the DPA Counterparty with the updated, corrected information (the **"Revised Generator QCiL Response Information"**), together with a Directors' Certificate in relation to the Revised Generator QCiL Response Information.

27.6 The DPA Counterparty may, by notice to the Generator no later than thirty (30) Business Days after receipt of a Generator QCiL Response Notice or any Revised Generator QCiL Response Information, require the Generator to provide such Supporting Information in relation to that Generator QCiL Response Notice or, as the case may be, the Revised Generator QCiL Response Information (a **"Generator QCiL Response Notice Information Request"**) as the DPA Counterparty reasonably requests.

27.7 If the DPA Counterparty gives a Generator QCiL Response Notice Information Request to the Generator, the Generator shall, no later than thirty (30) Business Days, or such longer period as is specified by the DPA Counterparty, after receipt of the request, prepare and deliver such further Supporting Information to the DPA Counterparty.

Generator QCiL Notice

27.8 If the Generator considers that a Qualifying Change in Law has been implemented, occurred or become effective or is shortly to be implemented, occur or become effective, it may give a notice to the DPA Counterparty (a **"Generator QCiL Notice"**). A Generator QCiL Notice shall:

- (A) include reasonable details of the relevant Qualifying Change in Law;
- (B) specify the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate);
- (C) specify why the Generator considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the Generator considers the Qualifying Change in Law to be a Discriminatory Change in Law, a Specific Change in Law or an Other Change in Law (and including Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion);
- (D) specify whether the Generator considers that the Notified Change in Law will give rise to or result in:
 - (i) QCiL Operating Costs or QCiL Operating Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
 - (ii) QCiL Capital Costs or QCiL Capital Savings and, if so, include the Generator's good faith estimate of such amounts and the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable);
 - (iii) an Adjusted Revenues Period and, if so the Generator's ARP Estimate;
 - (iv) a QCiL Construction Event and, if so, the Generator's good faith estimate of the QCiL Construction Event Costs and QCiL Construction Event Savings; and/or

- (v) a QCiL Operations Cessation Event and, if so, the Generator's good faith estimate of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings,

together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and

- (E) in respect of Conditions 27.8(D)(i), 27.8(D)(iii), 27.8(D)(v), include Supporting Information evidencing the impact of the Qualifying Change in Law on the Facility's:
 - (i) process heat and mass balance data;
 - (ii) cost base data and related process consumption parameters; and
 - (iii) load factor and short run marginal cost; and
- (F) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with Condition 47.3 (*Mitigation*) and the Reasonable and Prudent Standard,

(the information referred to or specified in paragraphs (A) to (F) above being "**QCiL Supporting Information**").

- 27.9 Any Generator QCiL Notice shall be accompanied by a Directors' Certificate in relation to the QCiL Supporting Information which states (without prejudice to the generality of the certification required pursuant to this Condition 27.9) whether, in the opinion of the Generator, having made all due and careful enquiries, the Notified Change in Law is or will be a Qualifying Change in Law.
- 27.10 If the Generator becomes aware before any QCiL Compensation is agreed or determined, or paid, commenced or effected, pursuant to this Part 8 (Changes in Law) that any of the QCiL Supporting Information is no longer true, complete and accurate in all material respects or is misleading (or was not true, complete and accurate in all material respects or was misleading as at the date of the Directors' Certificate referred to in Condition 27.9), the Generator shall as soon as reasonably practicable:
 - (A) notify the DPA Counterparty that this is the case; and
 - (B) provide the DPA Counterparty with the updated, corrected information (the "**Revised Generator QCiL Information**"), together with a Directors' Certificate in relation to the Revised Generator QCiL Response Information.
- 27.11 The DPA Counterparty may, by notice to the Generator no later than thirty (30) Business Days after receipt of a Generator QCiL Notice or any Revised Generator QCiL Information, require the Generator to provide such Supporting Information in relation to that Generator QCiL Notice or, as the case may be, the Revised Generator QCiL Information (a "**Generator QCiL Notice Information Request**") as the DPA Counterparty reasonably requests.
- 27.12 If the DPA Counterparty gives a Generator QCiL Notice Information Request to the Generator, the Generator shall, no later than thirty (30) Business Days, or such longer period as is specified by the DPA Counterparty, after receipt of the request, prepare and deliver such further Supporting Information to the DPA Counterparty.
- 27.13 The DPA Counterparty shall be under no obligation to consider or take any action in response to a Generator QCiL Notice unless and until the Generator shall have provided the DPA Counterparty with all of the QCiL Supporting Information, and the Directors' Certificate, in respect of such Generator QCiL Notice.

Agreement between the Parties in respect of a Qualifying Change in Law

27.14 As soon as reasonably practicable, and in any event no later than fifteen (15) Business Days, after either:

- (A) the DPA Counterparty receives from the Generator a Generator QCiL Notice and the associated Directors' Certificate (or, if the DPA Counterparty gives the Generator a Generator QCiL Notice Information Request, fifteen (15) Business Days after the DPA Counterparty has received the requested Supporting Information); or
- (B) the DPA Counterparty receives from the Generator a Generator QCiL Response Notice and the associated Directors' Certificate (or, if the DPA Counterparty gives the Generator a Generator QCiL Response Notice Information Request, fifteen (15) Business Days after the DPA Counterparty has received the requested Supporting Information),

the Parties shall meet to discuss and, in good faith, seek to agree:

- (i) whether the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law;
- (ii) in respect of a Qualifying Change in Law:
 - (a) the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate);
 - (b) whether the Notified Change in Law will, or is reasonably expected to, result in:
 - (aa) QCiL Net Operating Costs or QCiL Net Operating Savings;
 - (bb) QCiL Net Capital Costs or QCiL Net Capital Savings;
 - (cc) an Adjusted Revenues Period (and, if so, the impact, or the reasonably anticipated impact, of the Notified Change in Law on one (1) or more of the following: (i) the Net Dependable Capacity; (ii) the Availability of Generation; (iii) the Availability of Capture; and/or (iv) the Metered Day Electricity Output);
 - (dd) a QCiL Construction Event and if so, the Generator's good faith estimate of the QCiL Construction Event Costs and QCiL Construction Event Savings; and/or
 - (ee) a QCiL Operations Cessation Event and, if so, the Generator's good faith estimate of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings;
 - (c) the amounts, forecasts and estimates applicable to that Qualifying Change in Law referred to in Condition 27.2(C) or 27.8(D) (as appropriate);
 - (d) the steps or additional steps, as the case may be, which the Generator should take to comply with Condition 47.3 (*Mitigation*) and the Reasonable and Prudent Standard; and
 - (e) any other matters necessary to determine the quantum of the QCiL Compensation;

- (iii) the QCiL Compensation in respect of such Qualifying Change in Law; and
- (iv) the QCiL Compensation Date.

Disputes in respect of a Qualifying Change in Law

- 27.15 If the Parties are not able to agree any of the matters in Condition 27.14, either Party may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree in writing that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.
- 27.16 Until the Dispute has been resolved by agreement between the Parties or determination in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no QCiL Compensation payable.

28. QUALIFYING CHANGE IN LAW: COMPENSATION

Categories of Qualifying Change in Law compensation

- 28.1 Subject to Condition 28.3, compensation in respect of a Qualifying Change in Law shall be calculated:
- (A) if there are QCiL Operating Costs or QCiL Operating Savings, in accordance with Conditions 28.4 to 28.10 (inclusive) (a "**QCiL Opex Payment**");
 - (B) if there are QCiL Capital Costs or QCiL Capital Savings, in accordance with Conditions 28.11 to 28.19 (inclusive) (a "**QCiL Capex Payment**");
 - (C) if there is an Adjusted Revenues Period, in accordance with Conditions 28.20 to 28.25 (inclusive) (a "**QCiL Adjusted Revenues Payment**");
 - (D) if there is a QCiL Construction Event, in accordance with Conditions 28.26 to 28.29 (inclusive) (a "**QCiL Construction Event Payment**"); and/or
 - (E) if there is a QCiL Operations Cessation Event, in accordance with Conditions 28.30 to 28.32 (inclusive) (a "**QCiL Operations Cessation Event Payment**").
- 28.2 Any and all QCiL Compensation to be calculated in accordance with Condition 28.1 shall be payable in accordance with, and subject to, Conditions 28 (*Qualifying Change in Law: Effective date and payment*), 30 (*Qualifying Change in Law: True-up*) and 32 (*Changes in Law: General provisions*).
- 28.3 If a Qualifying Change in Law occurs which gives rise to or results in: (i) QCiL Operating Costs; (ii) QCiL Capital Costs; (iii) a QCiL Adjusted Revenues Payment; or (iv) any combination of the foregoing:
- (A) before the Start Date, and the amount of the QCiL Compensation that would otherwise be payable in respect of the estimated QCiL Operating Costs, QCiL Capital Costs and/or QCiL Adjusted Revenues Payment is greater than the amount of the QCiL Construction Event Payment that would have been payable under Conditions 28.26 to 28.29 if such Qualifying Change in Law were to have constituted a QCiL Construction Event; or
 - (B) on or after the Start Date, and the amount of the QCiL Compensation that would otherwise be payable in respect of the estimated QCiL Operating Costs, QCiL Capital Costs and/or QCiL Adjusted Revenues Payment is greater than the amount of the QCiL

Operations Cessation Event Payment that would have been payable under Conditions 28.30 to 28.32 if such Qualifying Change in Law were to have constituted a QCiL Operations Cessation Event,

then the amount of the QCiL Compensation payable by the DPA Counterparty to the Generator in respect of the Qualifying Change in Law shall be limited to:

- (i) if Condition 28.3(A) applies, the amount of the QCiL Construction Event Payment that would have been payable under Conditions 28.26 to 28.29; or
- (ii) if Condition 28.3(B) applies, the amount of the QCiL Operations Cessation Event Payment that would have been payable under Conditions 28.30 to 28.32.

QCIL Opex Payment

28.4 Any and all QCiL Opex Payments shall be effected, at the election of the DPA Counterparty (after consultation with the Generator), either as staged payments and/or as daily payments, either on an Ex-Ante and/or Ex-Post basis, which shall be payable:

- (A) by the DPA Counterparty to the Generator if there are QCiL Net Operating Costs; or
- (B) by the Generator to the DPA Counterparty if there are QCiL Net Operating Savings,

irrespective of whether or not the relevant Qualifying Change in Law occurs, is implemented or becomes effective before, on or after the Start Date.

28.5 For the purposes of Condition 28.4, each QCiL Opex Payment shall, subject to Condition 28.10, be an amount (*expressed in pounds (£)*) calculated in accordance with:

- (A) Condition 28.7 if the QCiL Opex Payment is to be paid by means of staged payments; or
- (B) Condition 28.8 if the QCiL Opex Payment is to be paid by means of daily payments.

28.6 In order to calculate the QCiL Opex Payment pursuant to Condition 28.7 and Condition 28.8, the QCiL Opex Payment shall first be calculated on a lump sum basis in accordance with one (1) of the following formulae:

- (A) if the QCiL Opex Payment is to be effected on an Ex-Ante basis:

$$QCIL\ Opex\ Payment = \sum_{j=1}^n \frac{C_{I,j} - C_{S,j}}{(1 + R_S)^{j-1}}$$

- (B) if the QCiL Opex Payment is to be effected on an Ex-Post basis:

$$QCIL\ Opex\ Payment = \sum_{j=1}^n [(C_{I,j} - C_{S,j}) \times (1 + R_S)^{n-j}]$$

28.7 If Condition 28.5(A) applies:

- (A) the QCiL Opex Payment shall be equivalent to the QCiL Opex Payment calculated as a lump sum payment in accordance with Condition 28.6; and
- (B) the DPA Counterparty may (after consultation with the Generator) determine the frequency of such payments provided that the final staged payment shall be made within forty (40) Business Days of the Specified Expiry Date.

- 28.8 If Condition 28.5(B) applies, the QCiL Opex Payment in respect of each Billing Period shall be calculated in accordance with the following formula:

$$QCiL\ Opex\ Payment\ (daily\ payments) = OP \times \frac{R_d}{1 - \left(1/(1 + R_d)^N\right)} \times \frac{CPI_t}{CPI_q}$$

- 28.9 For the purposes of the formulae in Conditions 28.6 to 28.8:

j	=	is a whole number integer from one (1) to n ; such integers referring to distinct time periods as follows: <ul style="list-style-type: none"> the first (1st) period ($j = 1$) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date; the second (2nd) to the $(n-1)$th period ($2 \leq j < n$) are consecutive periods of one (1) calendar year length each; the nth period ($j = n$) is the period starting on 01 January in the year in which the final QCiL Opex Payment is payable and ending on the date that such final QCiL Opex Payment is paid;
n	=	is a whole number integer which defines the number of calendar year periods (j) covered by the QCiL Opex Payment calculation, including the year in which the QCiL Compensation Date falls and the year in which the final QCiL Opex Payment is payable;
$C_{i,j}$	=	are, subject to Condition 28.10(B), the QCiL Operating Costs in period (j), expressed in pounds in real terms as at the QCiL Compensation Date;
$C_{s,j}$	=	are subject to Condition 28.10(B), the QCiL Operating Savings in period (j) expressed in pounds in real terms as at the QCiL Compensation Date;
OP	=	is the QCiL Opex Payment (lump sum), as calculated in accordance with Condition 28.6;
R_d		is the Daily Discount Rate;
R_s	=	is the Post-Tax Real Discount Rate;
N	=	is the duration, in days, of the period commencing on the QCiL Compensation Date and ending on the date on which the final QCiL Opex Payment is payable;
CPI_t	=	denotes the CPI applicable during Billing Period (t); and
CPI_q	=	denotes the CPI applicable at the QCiL Compensation Date.

- 28.10 If a Qualifying Change in Law gives rise to or results in both: (i) QCiL Operating Costs or QCiL Operating Savings; and (ii) an Adjusted Revenues Period, then:

- (A) subject to Condition 28.10(B), such QCiL Operating Costs or QCiL Operating Savings shall be used for the purposes of calculating the QCiL Opex Payment in accordance with Conditions 28.4 and 28.5; and
- (B) if and to the extent that any QCiL Operating Costs or QCiL Operating Savings are (or are reasonably likely to be) incurred, made or received solely in connection with, and during, the Adjusted Revenues Period, such QCiL Operating Costs or QCiL Operating Savings shall be excluded from the calculation of the QCiL Opex Payment in accordance with Conditions 28.4, 28.5 and 28.10(A) and shall instead be taken into account in the calculation of the QCiL Adjusted Revenues Payment in accordance with Conditions 28.20, 28.21, and Conditions 28.22, 28.23 or 28.25 (as applicable).

QCIL Capex Payment

28.11 Any and all QCiL Capex Payments shall be effected, at the election of the DPA Counterparty (after consultation with the Generator), as a lump sum payment, staged payments and/or daily payments which shall be payable:

- (A) by the DPA Counterparty to the Generator if there are QCiL Net Capital Costs; or
- (B) by the Generator to the DPA Counterparty where there are QCiL Net Capital Savings, irrespective of whether or not the relevant Qualifying Change in Law occurs, is implemented or becomes effective before, on or after the Start Date.

28.12 For the purposes of Condition 28.11, each QCiL Capex Payment shall, subject to Condition 27.18, be an amount (*expressed in pounds (£)*) calculated in accordance with:

- (A) Condition 28.13 or 28.14 (as applicable) if the QCiL Capex Payment is to be paid as a lump sum;
- (B) Condition 28.15 if the QCiL Capex Payment is to be paid by means of staged payments; or
- (C) Condition 28.16 or 28.17 (as applicable) if the QCiL Capex Payment is to be paid by means of daily payments.

28.13 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are first incurred, made or realised (or reasonably expected to be first incurred, made or realised) on or prior to the QCiL Capex Payment Adjustment Date; and (ii) Condition 28.12(A) applies, the QCiL Capex Payment shall be calculated in accordance with the following formula:

$$QCIL\ Capex\ Payment = \sum_{j=1}^n \frac{C_{L,j} - S_j}{(1 + R_s)^{j-1}}$$

28.14 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are first incurred, made or realised (or reasonably expected to be first incurred, made or realised) after the QCiL Capex Payment Adjustment Date; and (ii) Condition 28.12(A) applies, the QCiL Capex Payment shall be calculated in accordance with the following formula:

$$QCIL\ Capex\ Payment = \frac{L - X}{L - N} \sum_{j=1}^n \frac{C_j - S_j}{(1 + R_s)^{j-1}}$$

28.15 If Condition 28.12(B) applies:

- (A) the QCiL Capex Payment shall be effected on the basis that such QCiL Compensation shall be equivalent to the amount that the Generator would have received had the QCiL Capex Payment been effected as a lump sum payment in accordance with Condition 28.13 or 28.14 (as applicable) or as daily payments in accordance with Condition 28.16 or 28.17 (as applicable); and
- (B) the DPA Counterparty may (after consultation with the Generator) determine the frequency of such payments provided that the final staged payment shall be made by the earlier of: (i) the date that falls on the first date following the expiry of the period which is equal to the number of days in the Term divided by three (3) (*to the nearest integer*) following the QCiL Effective Date; and (ii) the Specified Expiry Date.

28.16 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are first incurred, made or realised (or reasonably expected to be first incurred, made or realised) on or prior to the QCiL Capex Payment Adjustment Date; and (ii) Condition 28.12(C) applies, the QCiL Capex Payment in respect of each Billing Period shall be calculated in accordance with the following formula:

$$QCiL \text{ Capex Payment} = \sum_{j=1}^n \frac{C_j - S_j}{(1 + R_s)^{j-1}} \times \frac{R_d}{1 - \left(1 / (1 + R_d)^{365(L-X)}\right)} \times \frac{CPI_t}{CPI_q}$$

28.17 If: (i) the QCiL Net Capital Costs or the QCiL Net Capital Savings are first incurred, made or realised (or reasonably expected to be first incurred, made or realised) after the QCiL Capex Payment Adjustment Date; and (ii) Condition 28.12(C) applies, the QCiL Capex Payment in respect of each Billing Period shall be calculated in accordance with the following formula:

$$QCiL \text{ Capex Payment} = \frac{L - X}{L - N} \times \sum_{j=1}^n \frac{C_j - S_j}{(1 + R_s)^{j-1}} \times \frac{R_d}{1 - \left(1 / (1 + R_d)^{365(L-X)}\right)} \times \frac{CPI_t}{CPI_q}$$

28.18 For the purposes of the formulae in Conditions 28.13, 28.14, 28.16 and 28.17:

- j = is a whole number integer from one (1) to n ; such integers referring to distinct time periods as follows:
- the first (1st) period ($j = 1$) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
 - the second (2nd) to the $(n-1)$ th periods ($2 \leq j < n$) are consecutive periods of one (1) calendar year length each; and
 - the n th period ($j = n$) is the period starting on 01 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date;
- C_j = are the QCiL Capital Costs in period (j), expressed in pounds in real terms as at the QCiL Compensation Date;
- S_j = are the QCiL Capital Savings in period (j) expressed in pounds in real terms as at the QCiL Compensation Date;

R_s	=	is the Post-Tax Real Discount Rate;
L	=	is the period between: (a) the Start Date; and (b) the Specified Expiry Date, in years, and expressed as an integer;
X	=	is the number of days that have passed or will have passed from and including the Start Date to the QCiL Compensation Date divided by 365 (or, if such number would be a negative number, 0);
N	=	is equal to L multiplied by 0.8, and expressed to the nearest integer;
R_d	=	is the Daily Discount Rate;
CPI_t	=	denotes the CPI applicable during Billing Period (t); and
CPI_q	=	denotes the CPI applicable at the QCiL Compensation Date.

28.19 If a Qualifying Change in Law gives rise to or results in both: (i) QCiL Capital Costs or QCiL Capital Savings; and (ii) an Adjusted Revenues Period, then:

- (A) subject to Condition 28.19(B), such QCiL Capital Costs or QCiL Capital Savings shall be used for the purposes of calculating the QCiL Capex Payment in accordance with Conditions 28.11, and 28.12 and Condition 28.13, 28.14, 28.15, 28.16 or 28.17 (as applicable); and
- (B) if and to the extent that any QCiL Capital Savings are (or are reasonably likely to be) made or received solely in connection with, and during, the Adjusted Revenues Period, then such QCiL Capital Savings shall be excluded from the calculation of the QCiL Capex Payment in accordance with Conditions 28.11, 28.12, and (A), and Condition 28.13, 28.14, 28.15, 28.16 or 28.17 (as applicable), and such QCiL Capital Savings shall instead be taken into account in the calculation of the QCiL Adjusted Revenues Payment in accordance with Conditions 28.20, 28.21 and Conditions 28.21 or 28.22 (as applicable).

QCiL Adjusted Revenues Payment

28.20 Any and all QCiL Adjusted Revenues Payments shall be effected, at the election of the DPA Counterparty (after consultation with the Generator), as a lump sum payment, staged payments, daily payments and/or an adjustment to the Net Dependable Capacity, the Availability of Capture and/or the Availability of Generation, either on an Ex-Ante and/or Ex-Post basis, which shall be payable:

- (A) by the DPA Counterparty to the Generator if the relevant Qualifying Change in Law results in a: (i) decrease or increase in the Generator's Revenue; (ii) a decrease or increase in the Availability Payments paid or payable to the Generator resulting from an increase or decrease in the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture; and/or (iii) a decrease or increase in Variable Payments paid or payable to the Generator, in each case as a direct result of the relevant Qualifying Change in Law and where the sum of (i), (ii) and (iii) is greater than zero (0); or

- (B) by the Generator to the DPA Counterparty if the relevant Qualifying Change in Law results in a: (i) decrease or increase in the Generator's Revenue; (ii) a decrease or increase in the Availability Payments paid or payable to the Generator resulting from an increase or decrease in the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture; and/or (iii) a decrease or increase in Variable Payments paid or payable to the Generator, in each case as a direct result of the relevant Qualifying Change in Law and where the sum of (i), (ii) and (iii) is less than zero (0),

irrespective of whether or not the relevant Qualifying Change in Law occurs, is implemented or becomes effective before, on or after the Start Date.

28.21 For the purposes of Condition 28.20, each QCiL Adjusted Revenues Payment shall be an amount (*expressed in pounds (£)*) calculated in accordance with:

- (A) Condition 28.22 if the QCiL Adjusted Revenues Payment is to be paid as a lump sum on an Ex-Post basis;
- (B) Condition 28.23 if the QCiL Adjusted Revenues Payment is to be paid by means of staged payments on an Ex-Post basis;
- (C) Condition 28.24 if the QCiL Adjusted Revenues Payment is to be paid by means of daily payments; or
- (D) Condition 28.25 if the QCiL Adjusted Revenues Payment is to be paid by means of an adjustment to the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture component(s) of the Availability Payment on Ex-Ante basis.

28.22 If Condition 28.21(A) applies, the QCiL Adjusted Revenues Payment shall be calculated in accordance with the following formula:

$$QCiL \text{ Adjusted Revenues Payment (lump sum)} = \sum_{j=1}^n [(\Delta AP_j + \Delta VP_j + \Delta Revenue_j) \times (1 + R_s)^{n-j}]$$

where:

j = is a whole number integer from one (1) to n ; such integers referring to distinct time periods as follows:

- the first (1st) period ($j = 1$) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
- the second (2nd) to the $(n-1)$ th periods ($2 \leq j < n$) are consecutive periods of one (1) calendar year length each; and
- the n th period ($j = n$) is the period starting on 01 January in the year in which the last day of the Adjusted Revenues Period falls and ending on the last day of the Adjusted Revenues Period.

ΔAP_j = is the Availability Payment QCiL Differential in period (j) (£) (as calculated in accordance with Condition 28.34);

ΔVP_j = is the Variable Payment QCiL Differential in period (j) (£) (as calculated in accordance with Condition 28.34);

$\Delta Revenue_j$ = is the Generator's Revenue Differential (Ex-Post Basis) in period (j) (£) (as calculated in accordance with Condition 28.34; and

R_s = is the Post-Tax Real Discount Rate.

28.23 If Condition 28.21(B) applies:

- (A) the QCiL Adjusted Revenues Payment shall be effected on the basis that such QCiL Compensation shall be equivalent to the amount that the Generator would have received had the QCiL Adjusted Revenues Payment been effected as a lump sum payment in accordance with Condition 28.22 or as daily payments in accordance with Condition 28.24; and
- (B) the DPA Counterparty may (after consultation with the Generator) determine the frequency of such payments provided that the final staged payment shall be made within forty (40) Business Days of the Specified Expiry Date.

28.24 If Condition 28.21(C) applies, the QCiL Adjusted Revenues Payment in respect of each Billing Period shall be calculated in accordance with the following formula:

$$QCiL \text{ Adjusted Revenues Payment (daily payments)} = ARP \times \frac{R_d}{1 - \left(1/(1 + R_d)^N\right)} \times \frac{CPI_t}{CPI_q}$$

where:

ARP = is the QCiL Adjusted Revenues Payment (lump sum), as calculated in accordance with Condition 28.22;

R_d = is the Daily Discount Rate;

N = is the duration, in days, of the Adjusted Revenues Period; and

CPI_t = denotes the CPI applicable during Billing Period (t); and

CPI_q = denotes the CPI applicable at the QCiL Compensation Date.

28.25 If Condition 28.21(D) applies and the QCiL Adjusted Revenues Payment is to be effected as an adjustment to the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture component(s) of the Availability Payment on an Ex-Ante basis, then such adjustment shall be calculated in accordance with the following formula:

- (A) where the QCiL Adjusted Revenues Payment is to be effected as an adjustment to the Net Dependable Capacity, the Net Dependable Capacity in each AP Settlement Unit (i) following the QCiL Compensation Date shall be deemed to be equal to:

$$NDC_i + (NDC_{i,NoQCIL} - NDC_{i,QCiL})$$

where:

NDC_i	=	is the Net Dependable Capacity applicable to each AP Settlement Unit (i) following the QCiL Compensation Date;
$NDC_{i,NoQCIL}$	=	is the Net Dependable Capacity for the AP Settlement Unit prior to the QCiL Effective Date (MW); and
$NDC_{i,QCiL}$	=	is the Net Dependable Capacity after the QCiL Effective Date as a result of the relevant Qualifying Change in Law (MW),

- (B) where the QCiL Adjusted Revenues Payment is to be effected as an adjustment to the Availability of Generation, the Availability of Generation in each AP Settlement Unit (i) following the QCiL Compensation Date shall be deemed to be equal to:

$$AG_i + (AG_{i,NoQCIL} - AG_{i,QCiL})$$

where:

AG_i	=	is the Availability of Generation applicable to each AP Settlement Unit (i) following the QCiL Compensation Date;
$AG_{i,NoQCIL}$	=	is the average Availability of Generation for: (i) the twelve (12) AP Billing Periods prior to the QCiL Effective Date; or (ii) where there have been less than twelve (12) AP Billing Periods prior to the QCiL Effective Date, all the AP Billing Periods (<i>expressed as a percentage (%)</i>); and
$AG_{i,QCiL}$	=	is the Availability of Generation after the QCiL Effective Date as a result of the relevant Qualifying Change in Law (<i>expressed as a percentage (%)</i>),

- (C) where the QCiL Adjusted Revenues Payment is to be effected as an adjustment to the Availability of Capture, the Availability of Capture in each AP Settlement Unit (i) following the QCiL Compensation Date shall be deemed to be equal to:

$$AC_i + (AC_{i,NoQCIL} - AC_{i,QCiL})$$

where:

AC_i	=	is the Availability of Capture applicable to each AP Settlement Unit (i) following the QCiL Compensation Date;
$AC_{i,NoQCIL}$	=	is the average Achieved CO ₂ Capture Rate for: (i) the twelve (12) AP Billing Periods prior to the QCiL Effective Date; or (ii) where there have been less than twelve (12) AP Billing Periods prior to the QCiL Effective Date, all the AP Billing Periods (<i>expressed as a percentage (%)</i>); and
$AC_{i,QCiL}$	=	is the Availability of Capture after the QCiL Effective Date as a result of the relevant Qualifying Change in Law (<i>expressed as a percentage (%)</i>),

except that where the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture in any AP Settlement Unit is equal to zero (0), then the Net Dependable

Capacity, the Availability of Generation and/or the Availability of Capture (as applicable) shall be deemed to be zero (0) and the adjustments in this Condition 28.25 shall not apply.

QCIL Construction Event Payment

28.26 Any QCIL Construction Event Payment shall be effected at the election of the DPA Counterparty (after consultation with the Generator) as a lump sum payment or staged payments and shall be payable to the Generator by the DPA Counterparty.

28.27 For the purposes of Condition 28.26, the QCIL Construction Event Payment shall be an amount (*expressed in pounds (£)*) calculated in accordance with:

- (A) Condition 28.28 if the QCIL Construction Event Payment is to be paid as a lump sum; or
- (B) Condition 28.29 if the QCIL Construction Event Payment is to be paid by means of staged payments.

28.28 If Condition 28.27(A) applies, the QCIL Construction Event Payment shall be calculated in accordance with the following formula:

$$QCIL\ Construction\ Event\ Payment = \sum_{j=1}^n \frac{C_j - S_j}{(1 + R_s)^{j-m}}$$

where:

- | | | |
|-------|---|---|
| j | = | <p>is a whole number integer from one (1) to n; such integers referring to distinct time periods as follows:</p> <ul style="list-style-type: none"> • the first (1st) period ($j = 1$) covers the period from the date the first QCIL Construction Event Cost was incurred to 31 December in that year; • the second (2nd) to the $(n-1)$th periods ($2 \leq j < n$) are consecutive periods of one (1) calendar year length each; and • the nth period ($j = n$) is the period starting on 01 January in the year in which the final QCIL Construction Event Cost was incurred and ending on the last date of that year; |
| C_j | = | are all QCIL Construction Event Costs in period (j), expressed in pounds in real terms as at the QCIL Compensation Date; |
| S_j | = | are all QCIL Construction Event Savings in period (j), expressed in pounds in real terms as at the QCIL Compensation Date; |
| R_s | = | is the Post-Tax Real Discount Rate; and |
| m | = | is a whole number integer that defines the calendar year period within which the QCIL Compensation Date falls, defined as the number of years since the date the first QCIL Construction Event Cost was incurred in relation to |

the QCiL Construction Event, rounded up to the nearest integer. For the avoidance of doubt, j and m shall be the same integer in the year of the QCiL Compensation Date.

28.29 If Condition 28.27(B) applies:

- (A) the QCiL Construction Event Payment shall be effected on the basis that such QCiL Compensation shall be equivalent to the amount that the Generator would have received had the QCiL Construction Event Payment been effected as a lump sum payment in accordance with Condition 28.28; and
- (B) the DPA Counterparty may (after consultation with the Generator) determine the frequency of such payments provided that the final staged payment shall be made by the earlier of: (i) the date that falls on the first day following the expiry of the period which is equal to the number of days in the Term divided by three (3) (*to the nearest integer*) following the QCiL Effective Date; and (ii) the Specified Expiry Date.

QCiL Operations Cessation Event Payment

28.30 Any QCiL Operations Cessation Event Payment shall be effected at the election of the DPA Counterparty (after consultation with the Generator) as a lump sum payment or staged payments and shall be payable to the Generator by the DPA Counterparty.

28.31 For the purposes of Condition 28.30, the QCiL Operations Cessation Event Payment shall be an amount (*expressed in pounds (£)*) calculated in accordance with:

- (A) Condition 28.32 if the QCiL Operations Cessation Event Payment is to be paid as a lump sum; or
- (B) Condition 28.33 if the QCiL Operations Cessation Event Payment is to be paid by means of staged payments.

28.32 If Condition 28.31(A) applies, the QCiL Operations Cessation Event Payment shall be calculated in accordance with the following formula:

$$QCIL\ Operation\ Cessation\ Event\ Payment\ (lump\ sum) = \sum_{j=1}^n \frac{(\Delta AP_j + \Delta VP_j + Revenue_j) + (C_j - S_j)}{(1 + R_s)^{j-1}}$$

where:

- ΔAP_j = is the Availability Payment QCiL Differential in period (j) (£) (as calculated in accordance with Condition 28.34);
- ΔVP_j = is the Variable Payment QCiL Differential in period (j) (£) (as calculated in accordance with Condition 28.34);
- $Revenue_j$ = is the Generator's Revenue (Ex-Ante Basis) in period (j) (£) (as calculated in accordance with Condition 28.34);
- C_j = are all QCiL Operations Cessation Event Costs in period (j), expressed in pounds in real terms as at the QCiL Compensation Date;

S_j = are all QCiL Operations Cessation Event Savings in period (j), expressed in pounds in real terms as at the QCiL Compensation Date;

j = is a whole number integer from one (1) to n; such integers referring to distinct time periods as follows:

- the first (1st) period ($j = 1$) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
- the second (2nd) to the (n-1)th periods ($2 \leq j < n$) are consecutive periods of one (1) calendar year length each; and
- the nth period ($j = n$) is the period starting on 01 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date; and

R_s = is the Post-Tax Real Discount Rate.

28.33 If Condition 28.31(B) applies:

- (A) the QCiL Operations Cessation Event Payment shall be effected on the basis that such QCiL Compensation shall be equivalent to the amount that the Generator would have received had the QCiL Operations Cessation Event Payment been effected as a lump sum payment in accordance with Condition 28.32; and
- (B) the DPA Counterparty may (after consultation with the Generator) determine the frequency of such payments provided that the final staged payment shall be made by the earlier of: (i) the date that falls on the first day following the expiry of the period which is equal to the number of days in the Term divided by three (3) (*to the nearest integer*) from the QCiL Effective Date; and (ii) the Specified Expiry Date.

28.34 For purposes of Conditions 28.22 and 28.32:

"Actual Load Factor" means (i) the Unadjusted Metered Electricity Output during the relevant period divided by (ii) the product of the Net Dependable Capacity Estimate (in MW) and the duration of the relevant period (in hours); and which shall not exceed one hundred per cent. (100%);

"Actual Net Efficiency" means the plant net efficiency of the Facility, equal to the PNE Metered Electricity Output divided by the PNE Facility Heat Input during the relevant period;

"Adjusted Revenues Sub-Period" means each component of an Adjusted Revenues Period in respect of which the Generator's Revenue Differential (Ex-Post Basis) is calculated and paid in accordance with Condition 28.24, with the duration of each such period and the frequency of the associated Generator's Revenue Differential (Ex-Post Basis) payments as determined by the DPA Counterparty (after consultation with the Generator);

"Assumed Abated CO₂ Capture Rate" means the Achieved CO₂ Capture Rate of the Facility operating at full load (abated) which would have been expected to have been achieved for the relevant period but for the occurrence of the Qualifying Change in Law;

"Assumed Abated Load Factor" means (i) the expected Unadjusted Metered Electricity Output during the relevant period divided by (ii) the maximum Unadjusted Metered Electricity Output for the same period which could be achieved with the Facility operating at full load (abated), as determined by an analysis of the Facility's relative competitive position in the GB electricity market as derived from a GB Power Market Model procured from an Energy Economist, taking into consideration the Assumed Abated Net Dependable Capacity, Assumed Abated Net Efficiency and Assumed Abated CO₂ Capture Rate for such period;

"Assumed Abated Net Dependable Capacity" means the net generating capacity of the Facility operating at full load (abated) which would have been expected to have been achieved for the relevant period but for the occurrence of the Qualifying Change in Law;

"Assumed Abated Net Efficiency" means the plant net efficiency of the Facility operating at full load (abated) which would have been expected to have been achieved for the relevant period but for the occurrence of the Qualifying Change in Law;

"Availability Payment QCiL Differential" means the difference in Availability Payments in period (j), calculated in accordance with the following formula:

$$\Delta AP_j = \sum_{j=1}^n [(AG_{j,NoQCIL} \times AC_{j,NoQCIL} \times NDC_{j,NoQCIL}) \times APR_j] - [(AG_{j,QCiL} \times AC_{j,QCiL} \times NDC_{j,QCiL}) \times APR_j]$$

where:

ΔAP_j	=	is the Availability Payment QCiL Differential in the relevant period (j) (£);
$AG_{j,NoQCIL}$	=	is the average Availability of Generation for: (i) the twelve (12) AP Billing Periods prior to the QCiL Effective Date; or (ii) where there have been less than twelve (12) AP Billing Periods prior to the QCiL Effective Date, all the AP Billing Periods (<i>expressed as a percentage (%)</i>);
$AC_{j,NoQCIL}$	=	is the average Achieved CO ₂ Capture Rate for: (i) the twelve (12) AP Billing Periods prior to the QCiL Effective Date; or (ii) where there have been less than twelve (12) AP Billing Periods prior to the QCiL Effective Date, all the AP Billing Periods (<i>expressed as a percentage (%)</i>);
$NDC_{j,NoQCIL}$	=	is the Net Dependable Capacity used for the AP Settlement Unit (i) prior to the QCiL Effective Date (MW);
APR_j	=	is the Availability Payment Rate in the relevant period (j) (£/MWh);
$AG_{j,QCiL}$	=	is the Availability of Generation in period (j) after the QCiL Effective Date as a result of the relevant Qualifying Change in Law (<i>expressed as a percentage (%)</i>);
$AC_{j,QCiL}$	=	is the Availability of Capture in period (j) after the QCiL Effective Date as a result of the relevant Qualifying Change in Law (<i>expressed as a percentage (%)</i>);

$NDC_{j, QCIL}$ = is the Net Dependable Capacity in period (j) after the QCiL Effective Date as a result of the relevant Qualifying Change in Law (MW); and

j = is a whole number integer from one (1) to n; such integers referring to distinct time periods as follows:

- the first (1st) period ($j = 1$) covers the period from the QCiL Compensation Date to 31 December in the year of the QCiL Compensation Date;
- the second (2nd) to the (n-1)th periods ($2 \leq j < n$) are consecutive periods of one (1) calendar year length each; and
- the nth period ($j = n$) is the period starting on 01 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date;

"Daily Discount Rate" means the rate calculated in accordance with the following formula:

$$\text{Daily Discount Rate} = (1 + R_s)^{\frac{1}{365}} - 1$$

where:

R_s = is the Post-Tax Real Discount Rate.

"Generator's Revenue Differential (Ex-Post Basis)" means the revenue that the Parties agree, or that is determined pursuant to the Dispute Resolution Procedure, the Generator (i) would have generated during each Adjusted Revenues Sub-Period (including wholesale electricity market revenue, balancing system services revenue and ancillary services revenue) in respect of electricity that the Facility would have generated during such period, in each case but for the occurrence of the Qualifying Change in Law, minus (ii) actually generated in such Adjusted Revenues Sub-Period (including wholesale electricity market revenue, balancing system services revenue and ancillary services revenue) in respect of the Loss Adjusted Metered Electricity Output in each such period, with such revenue difference:

- (A) calculated periodically and paid on an Ex-Post basis in respect of each Adjusted Revenues Sub-Period;
- (B) based on the Facility's Assumed Abated Net Dependable Capacity, Assumed Abated Net Efficiency and Assumed Abated CO₂ Capture Rate which would have been achieved but for the occurrence of the Qualifying Change in Law (with each such term reflecting forecast degradation factors and other appropriate factors), compared to the Facility's average Availability of Generation, Actual Net Efficiency and average Availability of Capture; and
- (C) based on the Facility's Assumed Abated Load Factor which, but for the occurrence of the Qualifying Change in Law, would have been achieved for the Facility's relative competitive position in the GB electricity market as derived from a GB Power Market Model produced by an Energy Economist, compared to the Facility's Actual Load Factor;

"Generator's Revenue (Ex-Ante Basis)" means the revenue that the Parties agree, or that is determined pursuant to the Dispute Resolution Procedure, the Generator would have generated (including wholesale electricity market revenue, balancing system services revenue and ancillary services revenue) from electricity that the Facility would have generated from the date of the QCiL Operations Cessation Event until the date on which the Term would have expired but for the occurrence of the QCiL Operations Cessation Event, with such revenue:

- (A) based on the Facility's Assumed Abated Net Dependable Capacity, Assumed Abated Load Factor and Assumed Abated Net Efficiency (with each term reflecting forecast degradation factors and other appropriate factors);
- (B) based on the Facility's Assumed Abated CO₂ Capture Rate which shall not exceed the CO₂ Capture Rate Estimate (with such term reflecting forecast degradation factors and other appropriate factors); and
- (C) based on the Facility's wholesale market revenues forecast for the day-ahead market, in accordance with an operating regime that stacks revenues across the different revenue streams and which balances the objectives of maximising revenue and minimising the volatility of earnings, derived from a GB Power Market Model produced by an Energy Economist; and

"Variable Payment QCiL Differential" means the difference in Variable Payments in period (j), calculated in accordance with the following formula:

$$\Delta VP_j = \sum_{i=1}^n \Delta VP_i$$

$$\Delta VP_i = \left[\frac{GP_i}{100_i} \times (GU_{CCUS, QCiL} - GU_{CCUS, NoQCiL}) + CP_i \times (CO_2E_{CCUS, QCiL} - CO_2E_{CCUS, NoQCiL}) + (OC_{i, QCiL} - OC_{i, NoQCiL}) \right] \times MWh_i$$

where:

ΔVP_j	=	is the Variable Payment QCiL Differential in year (j) (£);
ΔVP_i	=	is the Variable Payment QCiL Differential in VP Settlement Unit (i);
i	=	is a whole number integer from (1) to (n) with each such integer referring to distinct VP Settlement Units in the period (j);
n	=	is the number of VP Settlement units in the period (j);
CP_i	=	Carbon Price in VP Settlement Unit (i) (£/tCO ₂);
$GU_{i, CCUS, QCiL}$	=	is the Facility Gas Consumption in VP Settlement Unit (i) after the QCiL Effective Date (therms/MWh);
$GU_{i, CCUS, NoQCiL}$	=	is the Facility Gas Consumption used in the VP Settlement Unit (i) prior to the QCiL Effective Date (therms/MWh);
$CO_2E_{i, CCUS, QCiL}$	=	is the Facility CO ₂ Emissions in VP Settlement Unit (i) after the QCiL Effective Date (tCO ₂ /MWh);
$CO_2E_{i, CCUS, NoQCiL}$	=	is the Facility CO ₂ Emissions used in the VP Settlement Unit (i) prior to the QCiL Effective Date (tCO ₂ /MWh);

$OC_{i,QCiL}$	=	is the Other Extra Variable Costs in VP Settlement Unit (i) after the QCiL Effective Date (£/MWh);
$OC_{i,NoQCiL}$	=	is the Other Extra Variable Costs used in the VP Settlement Unit (i) prior to the QCiL Effective Date (£/MWh); and
MWh_i	=	is the Metered Day Electricity Output in VP Settlement Unit (i) (MWh).

29. QUALIFYING CHANGE IN LAW: EFFECTIVE DATE AND PAYMENT

29.1 Any and all QCiL Compensation in respect of a Notified Change in Law (or, in the case of paragraph (D) below, in respect of a Qualifying Shutdown Event) shall be calculated as at and be effective from:

- (A) (if the QCiL Compensation takes the form of a QCiL Opex Payment or a QCiL Capex Payment) the earlier of: (i) the QCiL Effective Date; and (ii) the date on which the Generator (acting in accordance with the Reasonable and Prudent Standard) first incurs QCiL Operating Costs or QCiL Capital Costs, or makes or realises QCiL Operating Savings or QCiL Capital Savings, in anticipation of such Notified Change in Law being implemented, occurring or becoming effective;
- (B) (if the QCiL Compensation takes the form of a QCiL Adjusted Revenues Payment) the first (1st) day of the relevant Adjusted Revenues Period;
- (C) (if the QCiL Compensation takes the form of a QCiL Construction Event Payment) the date of the QCiL Construction Event; or
- (D) (if the QCiL Compensation takes the form of a QCiL Operations Cessation Event Payment) the date of the QCiL Operations Cessation Event,

(the "**QCiL Compensation Date**").

29.2 Subject to Condition 29.3:

- (A) any and all QCiL Compensation effected as a lump sum payment shall be paid by the DPA Counterparty or the Generator (as applicable) no later than ten (10) Business Days after the later of:
 - (i) the QCiL Compensation Date; and
 - (ii) the date on which the amount of the QCiL Compensation is agreed or determined;
- (B) any and all QCiL Adjusted Revenues Payments effected as an adjustment to the Net Dependable Capacity, the Availability of Generation and/or the Availability of Capture shall be reflected in the calculation of the Availability Payment in the Billing Statements for each Billing Period on and with effect from the QCiL Compensation Date (or, if necessary, reflected as a Reconciliation Amount in respect of each relevant Billing Period); and
- (C) any and all QCiL Compensation effected as daily or staged payments shall commence no later than ten (10) Business Days after the later of:
 - (i) the QCiL Compensation Date; and

- (ii) the date on which the amount of the QCiL Compensation is agreed or determined,

and, in either case, the final payment shall be made by the earlier of: (i) the date that falls on the first day following the expiry of the period which is equal to the number of days in the Term divided by three (3) (to the nearest integer) following the QCiL Effective Date; and (ii) the Specified Expiry Date, in accordance with Condition 28.15(B), 28.23(B), 28.29(B) or 28.33(B) (as appropriate),

provided that, in each case, if the amount of any QCiL Compensation is agreed or determined after the QCiL Compensation Date, such QCiL Compensation shall be reflected as a Reconciliation Amount (pursuant to Condition 12.5(I)) in respect of the Billing Statements for each Billing Period on and with effect from the QCiL Compensation Date.

- 29.3 No QCiL Compensation shall be payable if and for so long as the DPA Counterparty withholds or suspends payment pursuant to Condition 7.2 (*Suspension of Payments (Annual NDC Test Obligation breach)*), Condition 7.13 (*Suspension of Payments (Annual NDC Test Access Right breach)*), Condition 20.2 (*Failure to comply with compliance of technology undertaking*), Condition 21.13 (*Failure to comply with Metering Schematic Obligation*), Condition 21.19 (*Failure to provide Metering Access Right*), Condition 21.24 (*Failure to comply with SCADA Systems Obligations*), Condition 22.9 (*Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension*), 23.10 (*Suspension of payments (Failure to provide CO₂ Metered Data)*), Condition 24.6 (*Suspension of Payments (Failure to provide Declaration Capacity Data)*), Condition 24.17 (*Failure to provide Declaration Access Right*), Condition 36.16 (*Failure to comply with T&S Prolonged Unavailability Procedure Obligation: Suspension*), or Condition 3.50 (*Failure to comply with T&S Connection Confirmation Requirement: Suspension*).
- 29.4 All QCiL Compensation shall be made by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the Generator pursuant to Condition 17(A) (*Payment Accounts*) or the DPA Counterparty pursuant to Condition 17(B) (*Payment Accounts*) (as relevant).

30. QUALIFYING CHANGE IN LAW: TRUE-UP

DPA Counterparty QCiL True-Up Notice

- 30.1 If any QCiL Compensation has been agreed or determined, or paid, commenced or effected, in respect of any Qualifying Change in Law or a Qualifying Shutdown Event, the DPA Counterparty may, subject to Condition 30.2, give the Generator a notice (a "**DPA Counterparty QCiL True-Up Notice**"), requiring the Generator to confirm:
 - (A) the impact of the relevant Qualifying Change in Law having occurred, having being implemented or having become effective or, as the case may be, the Qualifying Shutdown Event having occurred (including all out-of-pocket costs (including QCiL Tax Liabilities) which have been incurred in respect of the Project by the Generator, all savings (including avoided out-of-pocket costs, reliefs from or reductions in a QCiL Tax Liability, insurance proceeds and other compensation) which have been made or received in respect of the Project by the Generator, all revenue decreases or increases which were incurred, received or made by the Generator and which arose directly from the relevant Qualifying Change in Law being implemented, occurring or becoming effective or, as the case may be, the Qualifying Shutdown Event having occurred, and/or the duration and impact of any Adjusted Revenues Period affecting the Facility);
 - (B) that no amount has been recovered (or is entitled to be recovered) by the Generator pursuant to Conditions 47.5 (*No double recovery*) and 47.7 (*No double recovery*) or, if any amount has been so recovered, confirmation of such amount; and

- (C) such other matters which were pertinent to the calculation of the QCiL Compensation (including the steps that the Generator has taken to comply with Condition 47.3 (*Mitigation*) and the Reasonable and Prudent Standard), the information referred to or specified in paragraphs (A) to (C) above being **"QCiL True-Up Information"**.

30.2 No DPA Counterparty QCiL True-Up Notice shall be given in respect of a Qualifying Change in Law or a Qualifying Shutdown Event, as the case may be, within one (1) calendar year of the relevant QCiL Compensation Date.

Generator QCiL True-Up Response Notice

30.3 If the DPA Counterparty gives a DPA Counterparty QCiL True-Up Notice to the Generator, the Generator shall, as soon as reasonably practicable and in any event no later than forty (40) Business Days after receipt of such DPA Counterparty QCiL True-Up Notice, give a notice to the DPA Counterparty (a **"Generator QCiL True-Up Response Notice"**). A Generator QCiL True-Up Response Notice shall:

- (A) contain the QCiL True-Up Information; and
- (B) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the QCiL True-Up Information,

(the information referred to or specified in paragraphs (A) and (B) above being the **"QCiL True-Up Response Information"**).

30.4 A Generator QCiL True-Up Response Notice shall be accompanied by a Directors' Certificate in relation to the QCiL True-Up Response Information.

30.5 If the Generator becomes aware before QCiL True-Up Compensation is agreed or determined, or paid, effected or commenced, pursuant to this Condition 30 (*Qualifying Change in Law: True-up*) that the QCiL True-Up Response Information is no longer true, complete and accurate in all material respects or is misleading (or was not true, complete and accurate in all material respects or was misleading as at the date of the Directors' Certificate referred to in Condition 30.4), the Generator shall as soon as reasonably practicable:

- (A) notify the DPA Counterparty that this is the case; and
- (B) provide the DPA Counterparty with the updated, corrected information (the **"Revised Generator QCiL True-Up Response Information"**), together with a Directors' Certificate in relation to the Revised Generator QCiL True-Up Response Information.

30.6 The DPA Counterparty may, by notice to the Generator no later than twenty (20) Business Days after receipt of a Generator QCiL True-Up Response Notice or any Revised Generator QCiL True-Up Response Information, require the Generator to provide such Supporting Information in relation to that Generator QCiL True-Up Response Notice or, as the case may be, the Revised Generator QCiL True-Up Response Information (a **"Generator QCiL True-Up Response Notice Information Request"**) as the DPA Counterparty reasonably requests.

30.7 If the DPA Counterparty gives a Generator QCiL True-Up Response Notice Information Request to the Generator, the Generator shall, no later than twenty (20) Business Days, or such longer period as is specified by the DPA Counterparty, after receipt of the request, prepare and deliver such further Supporting Information to the DPA Counterparty.

Generator QCiL True-Up Notice

30.8 If any QCiL Compensation has been agreed or determined, or paid, commenced or effected, in respect of any Qualifying Change in Law, the Generator may, subject to Condition 30.13,

give the DPA Counterparty a notice (a **"Generator QCiL True-Up Notice"**). A Generator QCiL True-Up Notice shall:

- (A) contain the QCiL True-Up Information; and
- (B) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the QCiL True-Up Information,

(the information referred to or specified in paragraphs (A) and (B) above being **"QCiL True-Up Supporting Information"**).

- 30.9 A Generator QCiL True-Up Notice shall be accompanied by a Directors' Certificate in relation to the QCiL True-Up Supporting Information.
- 30.10 If the Generator becomes aware before QCiL True-Up Compensation is agreed or determined, or paid, effected or commenced, pursuant to this Condition 30 (*Qualifying Change in Law: True-up*), that the QCiL True-Up Supporting Information is no longer true, complete and accurate in all material respects or is misleading (or was not true, complete and accurate in all material respects or was misleading as at the date of the Directors' Certificate referred to in Condition 30.9), the Generator shall as soon as reasonably practicable:
- (A) notify the DPA Counterparty that this is the case; and
 - (B) provide the DPA Counterparty with the updated, corrected information (the **"Revised Generator QCiL True-Up Information"**), together with a Directors' Certificate in relation to the Revised Generator QCiL True-Up Information.
- 30.11 The DPA Counterparty may, by notice to the Generator no later than twenty (20) Business Days after receipt of a Generator QCiL True-Up Notice or any Revised Generator QCiL True-Up Information, require the Generator to provide such Supporting Information in relation to that Generator QCiL True-Up Notice or, as the case may be, the Revised Generator QCiL True-Up Information (a **"Generator QCiL True-Up Notice Information Request"**) as the DPA Counterparty reasonably requests.
- 30.12 If the DPA Counterparty gives a Generator QCiL True-Up Notice Information Request to the Generator, the Generator shall, no later than twenty (20) Business Days, or such longer period as is specified by the DPA Counterparty, after receipt of the request, prepare and deliver such further Supporting Information to the DPA Counterparty.
- 30.13 No Generator QCiL True-Up Notice shall be given in respect of a Qualifying Change in Law or a Qualifying Shutdown Event, as the case may be, within one (1) calendar year of the relevant QCiL Compensation Date.
- 30.14 The DPA Counterparty shall be under no obligation to consider or take any action in response to a Generator QCiL True-Up Notice unless and until the Generator shall have provided the DPA Counterparty with all the QCiL True-Up Information, and the Directors' Certificate in respect of such Generator QCiL True-Up Notice.

Agreement between the Parties in respect of a true-up

- 30.15 The Parties shall meet to discuss and, in good faith, seek to agree:
- (A) the QCiL True-Up Information;
 - (B) any such other matters which the Parties consider pertinent to the calculation of the QCiL True-Up Compensation (if any);

- (C) the QCiL True-Up Compensation (if any) that shall be payable by the DPA Counterparty or the Generator (as the case may be); and
- (D) the manner in which such QCiL True-Up Compensation (if any) shall be paid by the DPA Counterparty or the Generator (as the case may be), provided that:
 - (i) where the QCiL True-Up Compensation relates to a QCiL Adjusted Revenues Period Adjustment, the QCiL True-Up Compensation shall be effected by way of a QCiL True-Up Adjusted Revenues Period Adjustment; and
 - (ii) where the QCiL True-Up Compensation does not relate to a QCiL Adjusted Revenues Period Adjustment, the QCiL True-Up Compensation shall be paid in the same manner as the QCiL Compensation agreed in respect of that Qualifying Change in Law, unless the Parties expressly agree otherwise.

Such meeting shall be convened: (i) as soon as reasonably practicable, and in any event no later than twenty (20) Business Days, after the DPA Counterparty receives a Generator QCiL True-Up Response Notice and the associated Directors' Certificate (or, if the DPA Counterparty gives the Generator a Generator QCiL True-Up Response Notice Information Request, no later than twenty (20) Business Days after the DPA Counterparty receives the requested Supporting Information); or (ii) if the Generator gives the DPA Counterparty a Generator QCiL True-Up Notice and the associated Directors' Certificate, at such date as is determined by the DPA Counterparty in its sole and absolute discretion.

- 30.16 Any and all QCiL True-Up Compensation is to be calculated and paid in accordance with and subject to Conditions 28 (*Qualifying Change in Law: Compensation*), 29 (*Qualifying Change in Law: Effective date and payment*) and 32 (*Changes in Law: General provisions*) (in each case with the necessary modifications).

Disputes in respect of a true-up

- 30.17 If the Parties are not able to agree any of the matters in Condition 30.15, either Party may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree in writing that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.
- 30.18 Until the Dispute has been resolved by agreement between the Parties or determination in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no QCiL True-Up Compensation payable.

31. QUALIFYING SHUTDOWN EVENT: PROCEDURE

- 31.1 If a Qualifying Shutdown Event has occurred, the Generator may give notice to that effect to the DPA Counterparty (a "**QSE Notice**"). A QSE Notice shall:
- (A) include reasonable details of the Qualifying Shutdown Event;
 - (B) specify the date on which the Qualifying Shutdown Event occurred;
 - (C) specify the Generator's good faith estimate of the QCiL Operations Cessation Event Costs and the QCiL Operations Cessation Event Savings;
 - (D) include such Supporting Information, in reasonable detail, which the Generator considers to be relevant and supportive of the foregoing; and

- (E) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with Condition 47.3 (*Mitigation*) and the Reasonable and Prudent Standard.
- 31.2 Any QSE Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the QSE Notice.
- 31.3 A QSE Notice shall be deemed to constitute a Generator QCiL Notice and the provisions of Conditions 27 (*Qualifying Change in Law: Procedure*) to 30 (*Qualifying Change in Law: True-up*) (inclusive) shall apply (with the necessary modifications) for the purposes of:
 - (A) agreeing or determining whether a Qualifying Shutdown Event has occurred;
 - (B) (if a Qualifying Shutdown Event has occurred) agreeing or determining the amount of QCiL Compensation resulting from the occurrence of such Qualifying Shutdown Event (on the basis that a Qualifying Shutdown Event constitutes a QCiL Operations Cessation Event) and the terms and conditions upon which such QCiL Compensation will be paid or effected; and
 - (C) agreeing or determining any and all other related matters pertinent to the foregoing.

32. **CHANGES IN LAW: GENERAL PROVISIONS**

Indemnity

- 32.1 The Generator shall, promptly on demand from time to time, indemnify the DPA Counterparty, and keep the DPA Counterparty fully and effectively indemnified, against any and all out-of-pocket costs properly incurred by the DPA Counterparty and which would not have been incurred but for a Generator QCiL Notice (including any QSE Notice) having been given. This Condition 32.1 shall not apply in respect of any such costs resulting from the DPA Counterparty having disputed that a Qualifying Change in Law or Qualifying Shutdown Event has occurred if a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure.

Excluded Change in Law

- 32.2 There shall be no amendment to the DPA, adjustments to any components of the Availability Payment formula and/or other compensation in respect of or on account of any Excluded Change in Law other than pursuant to the Change Control Procedure.

33. **CHANGE IN APPLICABLE LAW: PROCEDURE**

Requirement to undertake a CiAL Review

- 33.1 The DPA Counterparty shall conduct a CiAL Review if:
 - (A) it determines that:
 - (i) any Change in Applicable Law: (i) has been implemented, has occurred or has become effective; or (ii) is expected to be implemented, to occur or to become effective; and
 - (ii) as a result of such Change in Applicable Law being implemented, occurring or becoming effective one (1) or more of the Required CiAL Amendment Objectives will cease to be met; or
 - (B) the CiAL Request Criterion is met,

(each, a **"CiAL Review Trigger"**).

33.2 If the Generator considers that:

- (A) any Change in Applicable Law: (i) has been implemented, has occurred or has become effective; or (ii) is expected to be implemented, to occur or to become effective; and
- (B) as a result of such Change in Applicable Law being implemented, occurring or becoming effective one (1) or more of the Required CiAL Amendment Objectives will cease to be met,

the Generator may give a notice to the DPA Counterparty requesting the DPA Counterparty to undertake a CiAL Review (a **"CiAL Request Notice"**). A CiAL Request Notice:

- (i) shall specify why, and the date on which, the Generator considers that a Change in Applicable Law: (a) has been implemented, has occurred or has become effective; or (b) is expected to be implemented, occur or become effective;
 - (ii) shall specify why the Generator considers that the Change in Applicable Law results or will result in one (1) or more of the Required CiAL Amendment Objectives ceasing to be met; and
 - (iii) may set out the Generator's opinion of the Required CiAL Amendment(s),
- together with such Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the foregoing.

33.3 For the purposes of Condition 33.1(B), the **"CiAL Request Criterion"** is that thirty per cent. (30%) or more of all DPA Generators as at the date of the CiAL Request Notice, by volume or number, have given the DPA Counterparty a CiAL Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the CiAL Request Criterion is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have given a CiAL Request Notice as a percentage of the total number of DPA Generators as at the date of the CiAL Request Notice; and
- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have given a CiAL Request Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, **"volume"** shall be calculated by the DPA Counterparty using the Net Dependable Capacity Estimate in each relevant CCUS Programme DPA).

Validity of CiAL Request Notices

33.4 The Generator acknowledges and agrees that all CiAL Request Notices shall be invalid and of no effect if the CiAL Request Criterion is not met.

33.5 The DPA Counterparty shall notify the Generator no later than ten (10) Business Days after the CiAL Request Criterion has been met (a **"CiAL Request Validity Notice"**).

Notification of CiAL Review

33.6 If the DPA Counterparty is required or elects to undertake a CiAL Review pursuant to Condition 33.1, the DPA Counterparty shall give a notice to the Generator (a **"CiAL Review Notice"**). A CiAL Review Notice shall specify:

- (A) the CiAL Review Trigger which has occurred; and
 - (B) a deadline by which the Generator must provide a CiAL Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the CiAL Review Notice is received by the Generator (the "**CiAL Review Response Deadline**").
- 33.7 The Generator shall, as soon as reasonably practicable and not later than the CiAL Review Response Deadline, give a notice to the DPA Counterparty (the "**CiAL Review Response Notice**"). A CiAL Review Response Notice:
- (A) shall include all of the Supporting Information which the Generator wishes the DPA Counterparty to take account of in undertaking the CiAL Review; and
 - (B) may set out the Generator's opinion of the Required CiAL Amendment(s).
- 33.8 The DPA Counterparty may disregard any CiAL Review Response Notice received after the CiAL Review Response Deadline.

Notification of outcome of CiAL Review

- 33.9 The DPA Counterparty shall give a notice to the Generator of the outcome of a CiAL Review (a "**CiAL Review Outcome Notice**") as soon as reasonably practicable following the conclusion of a CiAL Review. A CiAL Review Outcome Notice shall:
- (A) set out the outcome of the CiAL Review and, if applicable, the Required CiAL Amendments; and
 - (B) specify the date from which such Required CiAL Amendments are to take effect.

34. CHANGE IN APPLICABLE LAW: DISPUTE PROCESS

Procedure for raising a Dispute

- 34.1 The Generator may, no later than twenty (20) Business Days after receipt of a CiAL Review Outcome Notice, give a notice to the DPA Counterparty that it wishes to raise a Dispute in relation to the outcome of such CiAL Review (a "**CiAL Dispute**", such notice a "**CiAL Dispute Notice**" and any such Generator, a "**CiAL Dispute Generator**"). Each CiAL Dispute Notice shall comply with the requirements of a Dispute Notice as specified in Conditions 40.3(A) to 40.3(H) (*Outline of Dispute Resolution Procedure*) (inclusive).

Validity of CiAL Dispute Notices

- 34.2 The Generator acknowledges and agrees that all CiAL Dispute Notices shall be invalid and of no effect if the CiAL Dispute Threshold Criterion in respect of the relevant CiAL Dispute is not met.
- 34.3 The DPA Counterparty shall notify the Generator no later than ten (10) Business Days after the CiAL Dispute Threshold Criterion has been met (irrespective of whether or not the Generator is a CiAL Dispute Generator) (a "**CiAL Dispute Validity Notice**"). A CiAL Dispute Validity Notice shall:
- (A) include a proposal as to the identity, and terms of reference, of an Expert to determine the CiAL Dispute (the "**Proposed CiAL Expert**") and details of the relevant expertise that the DPA Counterparty considers qualifies the Proposed CiAL Expert to determine such CiAL Dispute (being a person fulfilling the requirements of Condition 42.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents the Proposed CiAL Expert from determining the CiAL Dispute);

- (B) comply with the requirements of an Expert Determination Notice as specified in Condition 42.1 (*Expert Determination Procedure*); and
- (C) comply with the requirements of a Consolidation Request as specified in Condition 44.2 (*Consolidation of Connected Disputes*).

Permitted bases of Dispute: CiAL Review

34.4 The Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any CiAL Review if there is a manifest error or fraud in any determination by the DPA Counterparty as to:

- (A) the outcome of the CiAL Review; or
- (B) the Required CiAL Amendments,

in each case contained within the CiAL Review Outcome Notice, and any CiAL Dispute Notice which is based upon grounds other than those specified in this Condition 34.4 shall be invalid and of no effect.

Resolution of valid CiAL Disputes

34.5 If:

- (A) the CiAL Dispute Threshold Criterion is met in respect of the relevant CiAL Dispute; and
- (B) the relevant CiAL Dispute complies with Condition 34.4,

then such CiAL Dispute shall be finally resolved in accordance with Condition 34.6.

34.6 If Condition 34.5 applies to any CiAL Dispute:

- (A) Condition 41 (*Resolution by Senior Representatives*) shall not apply to such CiAL Dispute;
- (B) no agreement between the Generator and the DPA Counterparty to settle the relevant CiAL Dispute shall be valid and binding unless such resolution is agreed with all DPA Generators;
- (C) the Arbitration Procedure shall not apply to such CiAL Dispute;
- (D) the Generator agrees not to raise any objection to the consolidation of such CiAL Dispute in accordance with Condition 44 (*Consolidation of Connected Disputes*);
- (E) the Expert Determination Procedure shall apply to such CiAL Dispute on the basis that:
 - (i) (if the Expert Appointment Threshold is met) the DPA Counterparty shall be deemed to have satisfied the requirements of, and to have given an Expert Determination Notice pursuant to, Condition 42.1 and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed CiAL Expert;
 - (ii) (if the Expert Appointment Threshold is not met) the DPA Counterparty may, within ten (10) Business Days, either:

- (a) make an alternative proposal as to the identity and the terms of reference of an Expert to determine the CiAL Dispute; or
- (b) (1) request the LCIA to nominate an Expert for the purposes of determining the CiAL Dispute in accordance with Condition 42.4; and (2) following such nomination by the LCIA, the DPA Counterparty shall make an alternative proposal as to the terms of reference of such Expert to determine the CiAL Dispute,

in each case, Conditions 34.3(A) and 34.6(E)(i), and this Condition 34.6(E)(ii), shall apply to such proposed Expert as if that Expert were a Proposed CiAL Expert. The identity and the terms of reference of the Proposed CiAL Expert shall be determined by the DPA Counterparty in its sole and absolute discretion (after having regard to any submissions presented by any DPA Generator) and any such determination shall be final and binding on the parties, provided that the terms of reference shall be sufficiently broad to enable the Expert to determine the CiAL Dispute;

- (iii) if the DPA Counterparty and the DPA Generators fail to agree on the terms of appointment of the Expert within ten (10) Business Days of the parties agreeing the identity and terms of reference of an Expert in accordance with Condition 34.6(E)(i) or 34.6(E)(ii), as applicable, such matter shall be determined by the DPA Counterparty in its sole and absolute discretion (after having regard to any submissions presented by any DPA Generator) and any such determination shall be final and binding on the parties, provided that the terms of appointment shall comply with the requirements of Condition 34.6(E)(iv);
- (iv) Condition 42.5 shall be deemed to have been modified such that the Parties shall use reasonable endeavours to procure that the terms of appointment of the Expert prohibit the Expert from disclosing any Supporting Information disclosed or delivered by:
 - (a) the Generator to the Expert in consequence of, or in respect of, their appointment as the Expert to any other DPA Generator; or
 - (b) the DPA Counterparty to the Expert in consequence of, or in respect of, their appointment as the Expert to any DPA Generator other than the Generator;
- (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the CiAL Dispute, to afford the Generator an opportunity to make submissions in respect of the CiAL Dispute irrespective of whether or not the Generator is a CiAL Dispute Generator;
- (vi) if the circumstances described in Condition 42.8 arise, Conditions 34.3(A), 34.6(E)(i) and 34.6(E)(ii) shall apply, with the necessary modifications, to the appointment of a replacement Expert;
- (vii) for the purposes of Condition 42.12, the Expert shall be: (a) required to include in their determination provision for the allocation of their fees and the costs and expenses of the DPA Counterparty among each of the CiAL Dispute Generators in such manner as the Expert, in their absolute discretion, determines is fair and equitable if the Expert makes a determination against the CiAL Dispute Generators; and (b) permitted to allocate their fees and the costs and expenses of the DPA Counterparty in such manner as the Expert determines is fair and

equitable if the Expert makes a determination in favour of the CiAL Dispute Generators; and

- (viii) the Expert shall, notwithstanding any other provision of the Expert Determination Procedure, be instructed to reach a determination which is to be applied to all CCUS Programme DPAs; and
- (F) the Generator acknowledges and agrees that the determination of the Expert in any CiAL Dispute shall be applied to all CCUS Programme DPAs, irrespective of whether the Generator was a party to the CiAL Dispute giving rise to that determination.

Expert Appointment Threshold

34.7 For the purposes of Conditions 34.6(E)(i) and 34.6(E)(ii), the "**Expert Appointment Threshold**" is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed CiAL Expert. For the purposes of determining whether the Expert Appointment Threshold is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have consented or have been deemed to have consented to the Proposed CiAL Expert as a percentage of the total number of DPA Generators; and
- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have consented or have been deemed to have consented to the Proposed CiAL Expert are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each CCUS Programme DPA).

Provisions applying pending resolution of a CiAL Dispute

34.8 If there is a valid CiAL Dispute requiring resolution in accordance with the provisions of Conditions 34.5 and 34.6 then, pending resolution of such CiAL Dispute, there shall be no amendments or supplements to the DPA as a result of the Change in Applicable Law.

CiAL Dispute Threshold Criterion

34.9 For the purposes of this Condition 34 (*Change in Applicable Law: Dispute process*), the "**CiAL Dispute Threshold Criterion**" is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have given the DPA Counterparty a CiAL Dispute Notice in respect of any given CiAL Dispute prior to the date specified in Condition 34.1. For the purposes of determining whether the CiAL Dispute Threshold Criterion is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have given a CiAL Dispute Notice as a percentage of the total number of DPA Generators; and
- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have given a CiAL Dispute Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each CCUS Programme DPA).

35. CHANGE IN APPLICABLE LAW: GENERAL PROVISIONS

35.1 The occurrence of a Change in Applicable Law that has the result of one (1) or more of the Required CiAL Amendment Objectives ceasing to be met shall not:

- (A) constitute Force Majeure or a Payment Disruption Event for the purposes of the DPA;
or
- (B) provide either Party the right to suspend or terminate its obligations under the DPA,

provided that paragraph (A) above shall not preclude a Change in Law from constituting Force Majeure.

- 35.2 Subject to the provisions of Conditions 33 (*Change in Applicable Law: Procedure*), 34 (*Change in Applicable Law: Dispute process*) and this Condition 35 (*Change in Applicable Law: General provisions*), the Parties shall be relieved from liability, and deemed not to be in breach of the DPA (or any other DPA Document) for any failure or delay in the performance under the DPA (or any other DPA Document) if and to the extent such failure or delay is directly attributable to the occurrence and continuation of a Change in Applicable Law, provided that nothing in Conditions 33 (*Change in Applicable Law: Procedure*), 34 (*Change in Applicable Law: Dispute process*) and this Condition 35 (*Change in Applicable Law: General provisions*), shall relieve either Party from any obligation to pay any sum due and payable to the other Party pursuant to the DPA (or any other DPA Document) (whether pursuant to an obligation to pay, an indemnity, a costs reimbursement provision or otherwise).
- 35.3 Any costs and expenses, or risks, arising from a Change in Applicable Law which are not of a type provided for in the DPA are not intended by the provisions of Conditions 33 (*Change in Applicable Law: Procedure*), 34 (*Change in Applicable Law: Dispute process*) and this Condition 35 (*Change in Applicable Law: General provisions*), to be allocated to one (1) Party; and any such costs and expenses, or risks, shall be borne by the affected Party.

Part 9
Termination

36. TERMINATION

Pre-Start Date termination

36.1 If:

- (A) (i) the Generator fails to deliver the Milestone Requirement Notice by the Milestone Delivery Date; or (ii) (subject to Condition 36.3) neither Milestone Requirement has been complied with and fulfilled by the Milestone Delivery Date;
- (B) at any time prior to the Start Date, any Directors' Certificate provided pursuant to Condition 4.2 (*Milestone Requirement Notice*) is not true, complete or accurate in any material respect or is misleading as at the date thereof;
- (C) at any time prior to the Start Date, a Termination Event occurs and is continuing;
- (D) any of the Initial Conditions Precedent are not fulfilled by the Generator or waived by the DPA Counterparty within twenty (20) Business Days of the Agreement Date; or
- (E) (subject to Condition 36.4) any of the Operational Conditions Precedent are not fulfilled by the Generator or waived by the DPA Counterparty by the Longstop Date,

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

- (i) the date (on or following the date of the Pre-Start Date Termination Notice) on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being the "**Pre-Start Date Termination Date**"); and
- (ii) in the case of termination pursuant to Condition 36.1(C), the Termination Event which has occurred.

36.2 If the DPA Counterparty gives a Pre-Start Date Termination Notice, the DPA shall terminate on the Pre-Start Date Termination Date even if (as the context requires):

- (A) a Milestone Requirement has been complied with and fulfilled prior to such date;
- (B) the Termination Event is no longer continuing as at such date; or
- (C) the Conditions Precedent remaining to be fulfilled when the Pre-Start Date Termination Notice was given have been fulfilled.

36.3 The DPA Counterparty shall not exercise its right to terminate the DPA pursuant to Condition 36.1(A) in circumstances in which the Generator has provided a Milestone Requirement Notice no later than the Milestone Delivery Date unless and until:

- (A) the DPA Counterparty has given the Generator a Milestone Assessment Response Notice specifying that it requires Requested Milestone Supporting Information to be provided to it by the Generator; and
- (B) either:

- (i) the Generator fails to provide to the DPA Counterparty the Requested Milestone Supporting Information within the period specified in Condition 4.4(C)(i) (*Milestone Requirement Notice*); or
 - (ii) (a) the Requested Milestone Supporting Information is provided to the DPA Counterparty within the period specified in Condition 4.4(C)(i) (*Milestone Requirement Notice*); and (b) the DPA Counterparty has given the Generator a Further Milestone Assessment Response Notice specifying that the DPA Counterparty does not consider a Milestone Requirement to have been complied with and fulfilled.
- 36.4 The DPA Counterparty shall not exercise its right to terminate the DPA pursuant to Condition 36.1(E) in circumstances in which the Generator has provided an OCP Notice no later than the Longstop Date unless and until:
- (A) the DPA Counterparty has given the Generator a OCP Response Notice specifying that it requires OCP Supporting Information to be provided to it by the Generator; and
 - (B) either:
 - (i) the Generator fails to provide to the DPA Counterparty the OCP Supporting Information within the period specified in Condition 3.10(C)(i) (*Operational Conditions Precedent: General Reporting Obligations*); or
 - (ii) (a) the requested OCP Supporting Information is provided to the DPA Counterparty within the period specified in Condition 3.10(C)(i) (*Operational Conditions Precedent: General Reporting Obligations*); and (b) the DPA Counterparty has given the Generator a Further OCP Response Notice specifying that the DPA Counterparty does not consider the Operational Condition Precedent to have been fulfilled.

Termination for Prolonged Force Majeure

- 36.5 If an event or circumstance of Force Majeure (excluding Force Majeure that occurs by reason of a Change in Law) that first occurs between the Agreement Date and the Milestone Satisfaction Date, prevents or delays the development, construction, completion, testing and/or commissioning of the Facility for a continuous period of at least twelve (12) Months as determined by the DPA Counterparty (a "**Prolonged FM Event**"), then the DPA Counterparty shall have the right, but not the obligation, to notify the Generator in writing (a "**Prolonged FM Event Notice**") that the DPA Counterparty may terminate the DPA following the expiry of a further six (6) Month period from the date of such Prolonged FM Event Notice (a "**Prolonged FM Trigger Date**") in accordance with Condition 36.6. A Prolonged FM Event Notice shall:
- (A) specify the Prolonged FM Trigger Date; and
 - (B) be accompanied by such Supporting Information as the DPA Counterparty considers necessary to evidence the relevant Prolonged FM Event.
- 36.6 If a Prolonged FM Event has not been remedied and is continuing at the Prolonged FM Trigger Date, the DPA Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating the DPA (a "**Prolonged FM Termination Notice**"). A Prolonged FM Termination Notice shall specify the date (on or following the date of the Prolonged FM Termination Notice) on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being the "**Prolonged FM Termination Date**").

36.7 If the DPA Counterparty issues a Prolonged FM Termination Notice in accordance with Condition 36.6, the DPA shall terminate on the Prolonged FM Termination Date even if (as the context requires):

- (A) a Milestone Requirement has been complied with and fulfilled (such that the Milestone Satisfaction Date has occurred) prior to such date; or
- (B) the Prolonged FM Event is no longer continuing as at such date.

Termination for T&S Prolonged Unavailability Event

36.8 If, at any time after the Agreement Date, the DPA Counterparty determines that a T&S Prolonged Unavailability Event has occurred, the DPA Counterparty:

- (A) subject to limb 36.8(B), shall have the right, but not the obligation, to; or
- (B) if three (3) months or more have elapsed since the T&S Prolonged Unavailability Event occurred and such event is continuing, shall on the first (1st) Business Day following the expiry of such three (3) month period,

give notice to the Generator of the occurrence of such T&S Prolonged Unavailability Event (a **"T&S Prolonged Unavailability Event Notice"**) and the Generator acknowledges and agrees that it may only refer a determination made by the DPA Counterparty pursuant to this Condition 36.8 to the Dispute Resolution Procedure on the basis of a manifest error or fraud. A T&S Prolonged Unavailability Event Notice shall:

- (i) specify the date:
 - (a) by which the Generator shall give a notice responding to the DPA Counterparty in accordance with Condition 36.9, being the date which falls six (6) Months after the date of the T&S Prolonged Unavailability Event Notice (the **"Generator T&S Prolonged Unavailability Response Deadline"**); and
 - (b) on and from which, without prejudice to the DPA Counterparty's rights under Condition 36.16, the DPA Counterparty may terminate the DPA being the date which falls thirty (30) Months after the date of the T&S Prolonged Unavailability Event Notice (the **"T&S Prolonged Unavailability Remediation Deadline"**); and
- (ii) be accompanied by such Supporting Information as the DPA Counterparty considers necessary to evidence the T&S Prolonged Unavailability Event.

36.9 No later than the Generator T&S Prolonged Unavailability Response Deadline, the Generator shall give a notice to the DPA Counterparty (a **"T&S Prolonged Unavailability Response Notice"**). A T&S Prolonged Unavailability Response Notice shall:

- (A) specify that:
 - (i) the T&S Prolonged Unavailability Event is no longer continuing as at the date of such T&S Prolonged Unavailability Response Notice, whereby such notice shall be accompanied by such Supporting Information as the Generator considers necessary to evidence the same;
 - (ii) the Generator considers that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline, whereby

such notice shall be accompanied by such Supporting Information as the Generator considers necessary to evidence the same;

- (iii) the Generator intends to provide the DPA Counterparty with and implement an Alternative T&S Network Solution Plan, following which Condition 36.13 shall apply; or
 - (iv) the Generator considers that the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to one (1) or more of the following reasons (each a **"No Alternative T&S Solution Reason"**):
 - (a) it is not technically feasible for the Generator, acting in accordance with the Reasonable and Prudent Standard, to connect the Facility to an alternative CO₂ Delivery Point and/or an alternative T&S Network, or an alternative permanent storage site;
 - (b) the implementation of an Alternative T&S Network Solution Plan would be illegal;
 - (c) it is not economically feasible for the Generator, acting in accordance with the Reasonable and Prudent Standard, to connect the Facility to an alternative CO₂ Delivery Point and/or an alternative T&S Network, or an alternative permanent storage site;
 - (d) there is no feasible alternative T&S Network which can permanently store the captured CO₂ from the Facility; and/or
 - (e) any other reason which will, or is reasonably likely to, justify the decision not to provide an Alternative T&S Network Solution Plan; and
 - (B) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with Condition 47.3 (*Mitigation*) and the Reasonable and Prudent Standard.
- 36.10 Each T&S Prolonged Unavailability Response Notice and (where Condition 36.12(B)(ii) applies) T&S Prolonged Unavailability Further Response Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the T&S Prolonged Unavailability Response Notice or T&S Prolonged Unavailability Further Response Notice (as applicable).
- 36.11 The DPA Counterparty shall, no later than thirty (30) Business Days after: (i) the date of a T&S Prolonged Unavailability Response Notice issued in accordance with Condition 36.9(A)(i), 36.9(A)(ii) or 36.9(A)(iv); (ii) receipt of Supporting Information provided in accordance with Condition 36.12(A)(iii), 36.12(B)(iii) or 36.12(C)(iii); or (iii) the date of a T&S Prolonged Unavailability Further Response Notice issued in accordance with Condition 36.12(B)(ii), give a notice to the Generator (a **"T&S Prolonged Unavailability Review Notice"**). A T&S Prolonged Unavailability Review Notice shall specify whether the DPA Counterparty considers that:
- (A) if the T&S Prolonged Unavailability Response Notice relates to Condition 36.9(A)(i) or the DPA Counterparty has received Supporting Information in accordance with Condition 36.12(A)(iii) or the DPA Counterparty has received the T&S Prolonged Unavailability Further Response Notice in accordance with Condition 36.12(B)(ii)(a)(aa):

- (i) the Generator has or has not delivered evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that the T&S Prolonged Unavailability Event was no longer continuing as at the date of the T&S Prolonged Unavailability Response Notice; or
 - (ii) it has not been provided with sufficient Supporting Information to determine (acting reasonably) whether the T&S Prolonged Unavailability Event was no longer continuing as at the date of the T&S Prolonged Unavailability Response Notice and, if so, such notice shall contain details of the additional Supporting Information which the DPA Counterparty requires to make such a determination;
- (B) if the T&S Prolonged Unavailability Response Notice relates to Condition 36.9(A)(ii), the DPA Counterparty has received Supporting Information in accordance with Condition 36.12(B)(iii) or the DPA Counterparty has received a T&S Prolonged Unavailability Further Response Notice in accordance with Condition 36.12(B)(ii)(a)(bb):
 - (i) the Generator has or has not delivered evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline; or
 - (ii) it has not been provided with sufficient Supporting Information to determine whether the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline and, if so, such notice shall contain details of the additional Supporting Information which the DPA Counterparty requires to make such a determination;
- (C) if the T&S Prolonged Unavailability Response Notice relates to Condition 36.9(A)(iv), the DPA Counterparty has received Supporting Information in accordance with Condition 36.12(C)(iii) or the DPA Counterparty has received a T&S Prolonged Unavailability Further Response Notice in accordance with Condition 36.12(B)(ii)(a)(dd):
 - (i) the Generator has or has not delivered evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to a No Alternative T&S Solution Reason; or
 - (ii) it has not been provided with sufficient Supporting Information to determine whether the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and/or the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to a No Alternative T&S Solution Reason and, if so, such notice shall contain details of the additional Supporting Information which the DPA Counterparty requires to make such a determination.

36.12 If the DPA Counterparty states in the T&S Prolonged Unavailability Review Notice that:

- (A) if the T&S Prolonged Unavailability Response Notice relates to Condition 36.9(A)(i):
 - (i) the Generator has delivered satisfactory evidence that the T&S Prolonged Unavailability Event was no longer continuing as at the date of the T&S Prolonged Unavailability Response Notice, then the T&S Prolonged Unavailability Event will be deemed to have been remedied for the purposes of the DPA;

- (ii) the Generator has not delivered satisfactory evidence that the T&S Prolonged Unavailability Event was no longer continuing as at the date of the T&S Prolonged Unavailability Response Notice, then the T&S Prolonged Unavailability Event will be deemed to have not been remedied for the purposes of the DPA; or
 - (iii) the Generator has not provided sufficient Supporting Information to enable the DPA Counterparty to determine whether the T&S Prolonged Unavailability Event is no longer continuing as at the date of such notice, then the Generator shall provide such Supporting Information to the DPA Counterparty within twenty (20) Business Days of the date of the T&S Prolonged Unavailability Review Notice and Condition 36.11 shall reapply;
- (B) if the T&S Prolonged Unavailability Response Notice relates to Condition 36.9(A)(ii):
 - (i) the Generator has delivered satisfactory evidence that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline, then the Generator shall notify the DPA Counterparty in writing no later than five (5) Business Days following the date on which the T&S Prolonged Unavailability Event has been remedied together with such Supporting Information, in form and content satisfactory to the DPA Counterparty (acting reasonably), to evidence that the T&S Prolonged Unavailability Event is no longer continuing;
 - (ii) the Generator has not delivered satisfactory evidence that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline then, as soon as reasonably practicable but no later than the Alternative T&S Network Solution Plan Deadline, the Generator shall give a further notice to the DPA Counterparty (a **"T&S Prolonged Unavailability Further Response Notice"**). A T&S Prolonged Unavailability Further Response Notice shall:
 - (a) specify that:
 - (aa) the T&S Prolonged Unavailability Event is no longer continuing as at the date of such notice, whereby such notice shall be accompanied by such Supporting Information as the Generator considers necessary to evidence the same, following which Condition 36.11 shall reapply;
 - (bb) the Generator considers that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline, whereby such notice shall be accompanied by such Supporting Information as the Generator considers necessary to evidence the same, following which Condition 36.11 shall reapply;
 - (cc) the Generator intends to implement an Alternative T&S Network Solution Plan, whereby such notice shall be accompanied by a draft Alternative T&S Network Solution Plan (with Supporting Information), following which Condition 36.13 shall apply; or
 - (dd) the Generator considers that the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to one (1) or

more of the No Alternative T&S Solution Reasons, whereby such notice shall be accompanied by such Supporting Information as the Generator considers necessary to evidence the same, following which Condition 36.11 shall reapply; and

- (b) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with Condition 47.3 (*Mitigation*) and the Reasonable and Prudent Standard; or
 - (iii) if the Generator has not provided sufficient Supporting Information to enable the DPA Counterparty to determine whether the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline, then the Generator shall provide such Supporting Information to the DPA Counterparty within twenty (20) Business Days of the date of the T&S Prolonged Unavailability Review Notice and Condition 36.11 shall reapply;
- (C) if the T&S Prolonged Unavailability Response Notice relates to Condition 36.9(A)(iv):
 - (i) the Generator has delivered satisfactory evidence that the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to a No Alternative T&S Solution Reason, then a T&S Prolonged Unavailability Termination Event pursuant to limb (B) of such definition shall be deemed to have occurred and Condition 36.22 shall apply;
 - (ii) the Generator has not delivered satisfactory evidence that the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to a No Alternative T&S Solution Reason, then the T&S Prolonged Unavailability Event will be deemed to have not been remedied for the purposes of the DPA; or
 - (iii) the Generator has not provided sufficient Supporting Information to enable the DPA Counterparty to determine whether the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and/or the Generator cannot provide a feasible Alternative T&S Network Solution Plan due to a No Alternative T&S Solution Reason, then the Generator shall provide such Supporting Information to the DPA Counterparty within twenty (20) Business Days of the date of the T&S Prolonged Unavailability Review Notice and Condition 36.11 shall reapply.

36.13 If this Condition 36.13 applies:

- (A) the Generator shall prepare and submit to the DPA Counterparty for the DPA Counterparty's approval a draft Alternative T&S Network Solution Plan (with Supporting Information) no later than the Alternative T&S Network Solution Plan Deadline;
- (B) without prejudice to Condition 36.13(C), as soon as reasonably practicable after receipt of the draft Alternative T&S Network Solution Plan (and Supporting Information) issued in accordance with Condition 36.13(A) or the relevant additional Supporting Information provided in accordance with 36.14(A)(i) or an amended draft Alternative T&S Network Solution Plan issued in accordance with Conditions 36.14(A)(ii) or 36.14(B), the Parties shall consult with each other in good faith to attempt to agree the relevant draft Alternative T&S Network Solution Plan and any consequential amendments that would be required to this DPA in order to (i) implement such draft Alternative T&S Network

Solution Plan and (ii) achieve (in so far as possible) the same overall balance of benefits, liabilities, risks and rewards between the Parties that existed at the Agreement Date; and

- (C) the DPA Counterparty shall, no later than six (6) Months after receipt of the draft Alternative T&S Network Solution Plan (and Supporting Information) issued in accordance with Condition 36.13(A) or the relevant additional Supporting Information provided in accordance with 36.14(A)(i) or an amended draft Alternative T&S Network Solution Plan issued in accordance with Conditions 36.14(A)(ii) or 36.14(B), give a notice to the Generator (an "**Alternative T&S Network Review Notice**") which shall specify whether the DPA Counterparty (in its sole and absolute discretion):
- (i) approves the draft Alternative T&S Network Solution Plan without amendment, following which the draft Alternative T&S Network Solution Plan shall become the "**Approved Alternative T&S Network Solution Plan**";
 - (ii) requires the Generator to provide additional Supporting Information in relation to the draft Alternative T&S Network Solution Plan, in order for the DPA Counterparty to assess whether or not to approve such draft Alternative T&S Network Solution Plan;
 - (iii) requires amendments to the draft Alternative T&S Network Solution Plan, in which case the Alternative T&S Network Review Notice shall provide the Generator with sufficient detail in relation to such required amendments; or
 - (iv) rejects the draft Alternative T&S Network Solution Plan, in which case the Alternative T&S Network Review Notice shall provide the Generator with such Supporting Information as the DPA Counterparty considers necessary to evidence the reasons for such rejection and the Generator acknowledges and agrees that it shall not be entitled to refer any decision made by the DPA Counterparty pursuant to this Condition 36.13(C)(iv) to the Dispute Resolution Procedure.

36.14 The Generator:

- (A) shall no later than twenty (20) Business Days after the date of an Alternative T&S Network Review Notice, submit to the DPA Counterparty:
 - (i) if Condition 36.13(C)(ii) applies, the relevant additional Supporting Information specified in the Alternative T&S Network Review Notice; or
 - (ii) if Condition 36.13(C)(iii) applies, an amended draft Alternative T&S Network Solution Plan which includes the amendments specified in the Alternative T&S Network Review Notice; or
- (B) may, if Condition 36.13(C)(iv) applies, submit an amended draft Alternative T&S Network Solution Plan to the DPA Counterparty no later than twenty (20) Business Days after the date of an Alternative T&S Network Review Notice,

and Condition 36.13(C) shall then reapply.

36.15 Nothing in Conditions 36.8 to 36.14 (*Termination for T&S Prolonged Unavailability Event*) shall require the DPA Counterparty to specify in:

- (A) any T&S Prolonged Unavailability Review Notice or any T&S Prolonged Unavailability Further Response Notice that a T&S Prolonged Unavailability Event is no longer continuing; and
- (B) any Alternative T&S Network Review Notice that a draft Alternative T&S Network Solution Plan is approved,

unless and until the DPA Counterparty is satisfied of the same.

Failure to comply with T&S Prolonged Unavailability Procedure Obligation: Suspension

36.16 If the Generator fails to give:

- (A) a T&S Prolonged Unavailability Response Notice to the DPA Counterparty by the T&S Prolonged Unavailability Response Deadline pursuant to Condition 36.9;
- (B) if applicable, a T&S Prolonged Unavailability Further Response Notice to the DPA Counterparty by the Alternative T&S Network Solution Plan Deadline pursuant to Condition 36.12(B)(ii);
- (C) if applicable, the relevant Supporting Information in accordance with Condition 36.12(A)(iii), Condition 36.12(B)(iii) or Condition 36.12(C)(iii) (as applicable) to enable the DPA Counterparty to assess the T&S Prolonged Unavailability Response Notice;
- (D) if applicable, a draft Alternative T&S Network Solution Plan to the DPA Counterparty by the Alternative T&S Network Solution Plan Deadline pursuant to Condition 36.13(A);
- (E) if applicable, the relevant additional Supporting Information specified in the Alternative T&S Network Review Notice pursuant to Condition 36.14(A)(i);
- (F) if applicable, an amended draft Alternative T&S Network Solution Plan which includes the amendments specified in the Alternative T&S Network Review Notice pursuant to Condition 36.14(A)(ii); and/or
- (G) if applicable, where the Generator elects to, an amended draft Alternative T&S Network Solution Plan pursuant to Condition 36.14(B),

(each a "**T&S Prolonged Unavailability Procedure Obligation**"), the DPA Counterparty may elect to suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator in any period during which the Generator is in breach of a T&S Prolonged Unavailability Procedure Obligation, provided that, prior to effecting any such suspension, the DPA Counterparty shall notify the Generator of: (i) its intention to suspend payment of any such amounts; and (ii) the date from which it proposes to effect such suspension.

36.17 If the Generator subsequently complies with the relevant T&S Prolonged Unavailability Procedure Obligation(s), then the DPA Counterparty shall pay any amounts to the Generator which would have been payable but for the operation of Condition 36.16. The DPA Counterparty may elect to make such payment on a lump sum, staged or daily basis. No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Condition 36.17.

36.18 If Condition 36.13(C)(i) applies:

- (A) as soon as reasonably practicable and in any event, no later than sixty (60) Business Days after the date of the Alternative T&S Network Review Notice, the Generator shall commence the implementation of the Approved Alternative T&S Network Solution Plan,

and the Generator shall continue to implement the Approved Alternative T&S Network Solution Plan in accordance with its terms in order to remedy the T&S Prolonged Unavailability Event; and

- (B) the Generator shall notify the DPA Counterparty in writing no later than five (5) Business Days following the date on which the Generator fully implements the Approved Alternative T&S Network Solution Plan such that the T&S Prolonged Unavailability Event has been remedied (a "**Generator T&S Prolonged Unavailability Remediation Notice**") together with such Supporting Information, in form and content satisfactory to the DPA Counterparty (acting reasonably), to evidence that the T&S Prolonged Unavailability Event has been remedied.
- 36.19 The Generator shall keep the DPA Counterparty reasonably informed as to the progress towards remediation of the T&S Prolonged Unavailability Event and, in particular, shall provide the DPA Counterparty with reports (in a form, content and frequency satisfactory to the DPA Counterparty) of the progress made in or towards the remediation of the T&S Prolonged Unavailability Event.
- 36.20 The Generator shall give the DPA Counterparty a notice promptly upon the Generator becoming aware of any fact, matter or circumstance which will or is reasonably likely to:
- (A) significantly affect the accuracy of any T&S Prolonged Unavailability Response Notice or T&S Prolonged Unavailability Further Response Notice, including any accompanying Supporting Information;
 - (B) where the Generator has notified the DPA Counterparty that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline, prevent (or delay) the remediation of the T&S Prolonged Unavailability Event by the T&S Prolonged Unavailability Remediation Deadline; or
 - (C) where Condition 36.13(C)(i) applies, prevent (or delay) the implementation of an Approved Alternative T&S Network Solution Plan in accordance with its terms in order to remedy the T&S Prolonged Unavailability Event.
- 36.21 The Generator shall ensure that:
- (A) all forecasts, forward-looking statements and data provided by or on behalf of the Generator pursuant to Conditions 36.9 to 36.20 are prepared in good faith, on a reasonable basis and with due care and attention; and
 - (B) all other Information provided by or on behalf of the Generator pursuant to Conditions 36.9 to 36.20 is true, complete and accurate in all material respects and is not misleading.

Termination for failing to remedy a T&S Prolonged Unavailability Event

- 36.22 If, at any time after the Agreement Date, the DPA Counterparty determines (or the Parties agree pursuant to Condition 36.32) that a T&S Prolonged Unavailability Termination Event has occurred:
- (A) subject to limb (B), the DPA Counterparty shall have the right to, but not the obligation; or
 - (B) on the first (1st) Business Day after the date which falls six (6) Months after the date of the T&S Prolonged Unavailability Termination Event (the "**Mandatory T&S Prolonged Unavailability Termination Notice Date**"), including in circumstances where notice

has previously been given under Condition 36.22(A) but revoked, the DPA Counterparty shall,

give notice to the Generator terminating the DPA (a **"T&S Prolonged Unavailability Termination Notice"**). A T&S Prolonged Unavailability Termination Notice shall specify the date (on or following the date of the T&S Prolonged Unavailability Termination Notice, but no later than the date which falls three (3) Months after the date of such notice) on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being the **"T&S Prolonged Unavailability Termination Date"**).

36.23 No later than ten (10) Business Days after receipt of a T&S Prolonged Unavailability Termination Notice, the Generator shall give notice to the DPA Counterparty (a **"Generator T&S Termination Response Notice"**). A Generator T&S Termination Response Notice shall:

- (A) specify the Generator's good faith estimate of:
 - (i) the T&S Termination Payment;
 - (ii) the T&S Termination Amount; and
 - (iii) if applicable, the T&S TP Floor and the T&S TP Equity Compensation Excess;
- (B) include such Supporting Information as the Generator considers necessary to enable the DPA Counterparty to calculate:
 - (i) the T&S Termination Amount, including the details required to apply the formula set out in Condition 37.4 (*Consequences of T&S Prolonged Unavailability Event termination*) in order to carry out such calculation; and
 - (ii) if applicable, the T&S TP Floor and the T&S TP Equity Compensation Excess, in order to determine such amounts; and
- (C) specify whether the Generator will use the proceeds of the T&S Termination Payment to pay the Senior Lenders for all amounts outstanding from the Generator to the Senior Lenders under the Senior Financing Agreements at the T&S Prolonged Unavailability Termination Date.

36.24 A Generator T&S Termination Response Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Generator T&S Termination Response Notice.

36.25 Following the delivery of a T&S Prolonged Unavailability Termination Notice, the DPA shall terminate on the T&S Prolonged Unavailability Termination Date even if the T&S Prolonged Unavailability Event is no longer continuing on the T&S Prolonged Unavailability Termination Date.

36.26 To the extent that the Generator is prevented from or delayed in implementing an Approved Alternative T&S Network Solution Plan in accordance with limb (D) of the definition of T&S Prolonged Unavailability Termination Event as a direct result of the occurrence and continuance of Force Majeure in respect of which the Generator is the FM Affected Party, then:

- (A) the Generator shall be relieved from liability and deemed not to be in breach of limb (D) of the definition of T&S Prolonged Unavailability Termination Event; and
- (B) any agreed milestones set out in the Approved Alternative T&S Network Solution Plan shall be extended day for day for each day of delay to the implementation of the Approved Alternative T&S Network Solution Plan,

but only to the extent that the Generator has satisfied the requirements and conditions of Condition 52 (*Force Majeure*).

- 36.27 If the Generator considers that a T&S Prolonged Unavailability Termination Event has occurred, it may give a notice to the DPA Counterparty (a "**Generator T&S Prolonged Unavailability Termination Event Notice**"). A Generator T&S Prolonged Unavailability Termination Event Notice shall:
- (A) include reasonable details of the relevant T&S Prolonged Unavailability Termination Event;
 - (B) specify the date on which the relevant T&S Prolonged Unavailability Termination Event has occurred; and
 - (C) specify why the Generator considers that the relevant event constitutes a T&S Prolonged Unavailability Termination Event including Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion,
- (the information referred to or specified in paragraphs (a) to (c) above being the "**T&S Prolonged Unavailability Termination Supporting Information**").
- 36.28 Any Generator T&S Prolonged Unavailability Termination Event Notice shall be accompanied by a Directors' Certificate which states that, in the opinion of the Generator, having made all due and careful enquiries, the relevant event is a T&S Prolonged Unavailability Termination Event.
- 36.29 The DPA Counterparty may, by notice to the Generator no later than thirty (30) Business Days after receipt of a Generator T&S Prolonged Unavailability Termination Event Notice, require the Generator to provide such Supporting Information in relation to such Generator T&S Prolonged Unavailability Termination Event Notice (a "**Generator T&S Prolonged Unavailability Termination Notice Information Request**") as the DPA Counterparty reasonably requests.
- 36.30 If the DPA Counterparty gives a Generator T&S Prolonged Unavailability Termination Notice Information Request to the Generator, the Generator shall, no later than thirty (30) Business Days, or such longer period as is specified by the DPA Counterparty, after receipt of the request, provide such further Supporting Information to the DPA Counterparty.
- 36.31 The DPA Counterparty shall be under no obligation to consider or take any action in response to a Generator T&S Prolonged Unavailability Termination Event Notice unless and until the Generator has provided the DPA Counterparty with all of the T&S Prolonged Unavailability Termination Supporting Information, and the Directors' Certificate, in respect of such Generator T&S Prolonged Unavailability Termination Event Notice.
- 36.32 As soon as reasonably practicable, and in any event no later than fifteen (15) Business Days following the date that the DPA Counterparty receives a Generator T&S Prolonged Unavailability Termination Event Notice and the associated Directors' Certificate from the Generator (or, if the DPA Counterparty gives the Generator a Generator T&S Prolonged Unavailability Termination Notice Information Request, fifteen (15) Business Days after the DPA Counterparty has received the requested Supporting Information), the Parties shall meet to discuss and, in good faith, seek to agree whether the relevant event constitutes a T&S Prolonged Unavailability Termination Event.

Default termination

36.33 If, at any time on or after the Start Date, a Termination Event has occurred and is continuing, the DPA Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating the DPA (a **"Default Termination Notice"**). A Default Termination Notice shall specify:

- (A) the date (on or following the date of the Default Termination Notice) on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being the **"Default Termination Date"**); and
- (B) the Termination Event which has occurred.

36.34 If the DPA Counterparty gives a Default Termination Notice to the Generator, the DPA shall terminate on the Default Termination Date even if the Termination Event is no longer continuing on the Default Termination Date.

Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements

36.35 If:

- (A) the Generator fails to satisfy the Minimum Longstop Date Commissioning Requirements at the Longstop Date Performance Tests; or
- (B) the Generator does not give a Longstop Date Capacity Notice on or prior to the date which is ten (10) Business Days after the later of:
 - (i) the Longstop Date; and
 - (ii) the date which is ten (10) Business Days after the DPA Counterparty has given notice to the Generator reminding the Generator of the requirement to give a Longstop Date Capacity Notice,

the DPA Counterparty shall have the right, but not the obligation, to terminate the DPA with immediate effect upon giving the Generator notice (a **"Minimum Longstop Date Termination Notice"**).

Termination for failing to satisfy the T&S Connection Confirmation Requirement

36.36 If the DPA Counterparty has waived the T&S Connection Confirmation CP pursuant to Condition 3.41 (*Waiver of T&S Connection Confirmation CP*), and the T&S Connection Confirmation Requirement is not fulfilled by the Generator on or before the T&S Connection Confirmation Deadline, the DPA Counterparty shall have the right, but not the obligation, to terminate the DPA with immediate effect upon giving the Generator notice (a **"TCDE Termination Notice"**).

Qualifying Change in Law termination

36.37 Subject to Condition 36.38, if a Qualifying Change in Law is implemented, occurs or becomes effective and gives rise to or results in a QCiL Construction Event or a QCiL Operations Cessation Event (including a Qualifying Shutdown Event), the DPA Counterparty shall give notice to the Generator terminating the DPA (a **"QCiL Termination Notice"**). A QCiL Termination Notice shall specify the date (on or following the date of the QCiL Termination Notice) on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being the **"QCiL Termination Date"**).

- 36.38 The DPA Counterparty shall not exercise its right to terminate the DPA pursuant to Condition 36.37 in circumstances in which the Generator has provided a Generator QCiL Notice or a Generator QCiL Response Notice unless and until the Parties have agreed that a QCiL Construction Event or QCiL Operations Cessation Event has occurred or a determination to that effect has been made pursuant to the Dispute Resolution Procedure.

QCIL Compensation termination

- 36.39 The DPA Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating the DPA if:

- (A) a Qualifying Change in Law occurs, is implemented or becomes effective; and
- (B) either:
 - (i) (a) such Qualifying Change in Law occurs, is implemented or becomes effective before the Start Date and does not constitute a QCiL Construction Event; and (b) Condition 28.3(A) applies; or
 - (ii) (a) such Qualifying Change in Law occurs, is implemented or becomes effective on or after the Start Date and does not constitute a QCiL Operations Cessation Event; and (b) Condition 28.3(B) applies,

(a "**QCIL Compensation Termination Notice**"). A QCiL Compensation Termination Notice shall specify the date (on or following the date of the QCiL Compensation Termination Notice) on which termination of the DPA is designated by the DPA Counterparty to take effect (the date so designated being a "**QCIL Compensation Termination Date**").

No other termination rights

- 36.40 The termination rights in this Condition 36 (*Termination*) are the only rights that either Party has to terminate the DPA.

Notice provisions

- 36.41 Any Pre-Start Date Termination Notice, Prolonged FM Termination Notice, Default Termination Notice, T&S Prolonged Unavailability Termination Notice (provided that a T&S Prolonged Unavailability Termination Notice may not be revoked on or after the Mandatory T&S Prolonged Unavailability Termination Notice Date) or QCiL Compensation Termination Notice issued by the DPA Counterparty pursuant to this Condition 36 (*Termination*) may be revoked by the DPA Counterparty giving written notice of the same to the Generator at any time prior to the Pre-Start Date Termination Date, Prolonged FM Termination Date, T&S Prolonged Unavailability Termination Date, Default Termination Date or QCiL Compensation Termination Date (as applicable) and, upon such revocation, the Pre-Start Date Termination Notice, Prolonged FM Termination Notice, Default Termination Notice, T&S Prolonged Unavailability Termination Notice or QCiL Compensation Termination Notice (as applicable) shall cease to have any effect.

37. CONSEQUENCES OF TERMINATION

Consequences of termination: General

- 37.1 Termination of the DPA pursuant to Condition 36.1 (*Pre-Start Date termination*), 36.6 (*Termination for Prolonged Force Majeure*), 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*), 36.33 (*Default termination*), 36.35 (*Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements*), Condition 36.36

(*Termination for failing to satisfy the T&S Connection Confirmation Requirement*) 36.37 (*Qualifying Change in Law Termination*) or 36.39 (*QCIL Compensation termination*):

- (A) shall not affect, and shall be without prejudice to, the accrued rights and liabilities of each Party and the rights and liabilities of each Party arising as a result of:
 - (i) any antecedent breach of any provision of the DPA; and
 - (ii) any breach of any provisions of the DPA which are expressed to survive expiry pursuant to Condition 39 (*Survival*); and
- (B) shall be subject to Condition 39 (*Survival*).

Consequences of Pre-Start Date termination; termination for Prolonged Force Majeure; termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements and termination for failing to satisfy the T&S Connection Confirmation Requirement

37.2 Subject to Condition 37.1, if the DPA Counterparty terminates the DPA pursuant to Condition 36.1 (*Pre-Start Date termination*), Condition 35.6 (*Termination for Prolonged Force Majeure*), Condition 36.35 (*Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements*) or Condition 36.36 (*Termination for failing to satisfy the T&S Connection Confirmation Requirement*):

- (A) no payment shall be payable by either Party to the other Party as a consequence of such termination;
- (B) all rights and obligations of the Parties under the DPA shall end; and
- (C) neither Party shall be entitled to make any claim against the other Party under or in respect of the DPA.

Consequences of T&S Prolonged Unavailability Event termination

37.3 If the DPA Counterparty terminates the DPA pursuant to Condition 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*), as soon as reasonably practicable after receipt of the T&S Termination Response Notice pursuant to Condition 36.23 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*), the DPA Counterparty shall:

- (A) calculate:
 - (i) the T&S Termination Payment;
 - (ii) the T&S Termination Amount; and
 - (iii) if applicable, the T&S TP Floor and the T&S TP Equity Compensation Excess;
- (B) give a notice to the Generator (a "**T&S Termination Payment Notice**"). A T&S Termination Payment Notice shall specify:
 - (i) the amount of the T&S Termination Payment;
 - (ii) the T&S Termination Amount;
 - (iii) if applicable, the T&S TP Floor and the T&S TP Equity Compensation Excess;
 - (iv) the principal inputs used by the DPA Counterparty to calculate:

- (a) the T&S Termination Payment; and
- (b) the T&S Termination Amount;
- (c) if applicable, the T&S TP Floor and the T&S TP Equity Compensation Excess;
- (v) whether the T&S Termination Payment shall be paid, if no T&S TP Equity Compensation Excess is applicable, after consultation with the Generator, as a lump sum payment or staged payments provided that if a T&S TP Equity Compensation Excess is applicable, the T&S Termination Payment shall only be paid as a lump sum.

37.4 If the T&S Termination Payment is to be paid as a lump sum, the **"T&S Termination Amount"** shall be calculated in accordance with the following formula:

$$T\&S\ Termination\ Amount = \sum_{j=1}^n \frac{C_j - S_j - RVA_j}{(1 + R_s)^{\max(j-m, 0)}}$$

where:

- | | | |
|---------|---|---|
| j | = | <p>is a whole number integer from one (1) to n; such integers referring to distinct time periods as follows:</p> <ul style="list-style-type: none"> • the first (1st) period ($j = 1$) covers the period from the date the first T&S Termination Cost was incurred to 31 December in that year; • the second (2nd) to the (n-1)th periods ($2 \leq j < n$) are consecutive periods of one (1) calendar year length each; and • the nth period ($i = j$) is the period starting on 01 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date; |
| RVA_j | = | is the Residual Value Adjustment relevant to period (j) (£) expressed in real terms as at the T&S Prolonged Unavailability Termination Date; |
| C_j | = | are all T&S Termination Costs in period (j) (£) expressed in real terms as at the T&S Prolonged Unavailability Termination Date, provided that the T&S Termination Costs falling within paragraphs (A) or (D) of the definition of the T&S Termination Costs shall be multiplied by DF; |
| S_j | = | are all T&S Termination Savings in period (j) (£) expressed in real terms as at the T&S Prolonged Unavailability Termination Date; |
| R_s | = | is the Post-Tax Real Discount Rate; |

DF = is the depreciation factor at the T&S Prolonged Unavailability Termination Date that shall be calculated in accordance with the following formulae:

$$\frac{(x - y)}{x}$$

Where:

x is equal to the number of days from the Start Date to the Specified Expiry Date;

y is equal to the number of days from the Start Date to the T&S Prolonged Unavailability Termination Date,

provided that, where the T&S Prolonged Unavailability Event occurs before the Start Date, DF should be equal to one (1); and

m = is the whole number integer that defines the calendar year period within which the T&S Prolonged Unavailability Termination Date falls, defined as the number of years since the date the first T&S Termination Cost was incurred, rounded up to the nearest integer. For the avoidance of doubt, j and m shall be the same integer in the year of the T&S Prolonged Unavailability Termination Date.

37.5 If the Generator has notified the DPA Counterparty in a T&S Termination Response Notice issued pursuant to Condition 36.23 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*) that a T&S TP Equity Compensation Excess amount is payable then, subject to the DPA Counterparty's right to refer such matter to an Expert in accordance with the Expert Determination Procedure:

- (A) the DPA Counterparty shall calculate the T&S TP Equity Compensation Excess in accordance with Condition 37.3(A);
- (B) the DPA Counterparty shall pay the T&S TP Equity Compensation Excess to the Generator provided that the Generator has satisfied the conditions set out in Condition 37.6; and
- (C) the Parties shall comply with all of their respective obligations under Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*) of the DPA.

37.6 If Condition 37.5 applies, the T&S Termination Payment shall only be payable by the DPA Counterparty where the Generator evidences to the satisfaction of the DPA Counterparty that the Generator:

- (A) if the T&S TP Collateral Amount is greater than zero (0), has transferred or delivered, or procured the transfer or delivery of, Acceptable Collateral to the DPA Counterparty in an amount equal to the T&S TP Collateral Amount in accordance with Paragraphs 3.1 and 3.2 of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*); and
- (B) shall use the proceeds of the T&S Termination Payment to pay the Senior Lenders for all amounts outstanding from the Generator to the Senior Lenders under the Senior

Financing Agreements at the T&S Prolonged Unavailability Termination Date. Such evidence shall include a letter from the Senior Lenders addressed to the DPA Counterparty confirming the bank account designated by the Generator and the Senior Lenders to receive the T&S Termination Payment.

- 37.7 If the T&S Termination Payment is to be paid by means of staged payments:
- (A) the T&S Termination Payment shall be effected on the basis that such compensation shall be equivalent to the amount that the Generator would have received had the T&S Termination Payment been effected as a lump sum payment in accordance with Condition 37.4; and
 - (B) the DPA Counterparty may (after consultation with the Generator) determine the frequency of such payments provided that:
 - (i) the first staged payment amount shall be equal to the T&S TP Floor; and
 - (ii) the final staged payment shall be made by the earlier of: (i) the date that is five (5) years from the date of the T&S Termination Payment Notice; and (ii) the Specified Expiry Date.
- 37.8 Subject to Condition 37.6:
- (A) if the T&S Termination Payment is to be effected as a lump sum payment, the DPA Counterparty shall no later than thirty (30) Business Days after the date of the T&S Termination Payment Notice, pay to the Generator (or such person as the Generator may direct) the T&S Termination Payment; or
 - (B) if the T&S Termination Payment is to be effected as staged payments, the DPA Counterparty shall commence payment no later than thirty (30) Business Days after the date of the T&S Termination Payment Notice and the final payment shall be made by the earlier of: (i) the date that is five (5) years from the date of the T&S Termination Payment Notice; and (ii) the Specified Expiry Date.
- 37.9 Subject to Conditions 37.1, and 37.3 to 37.8, if the DPA Counterparty terminates the DPA pursuant to Condition 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*):
- (A) no payment shall be payable by either Party to the other Party as a consequence of such termination;
 - (B) all rights and obligations of the Parties under the DPA shall end; and
 - (C) neither Party shall be entitled to make any claim against the other Party under or in respect of the DPA.

Consequences of default termination

- 37.10 If the DPA Counterparty terminates the DPA pursuant to Condition 36.33 (*Default termination*) on, or as soon as reasonably practicable after, the Default Termination Date the DPA Counterparty shall:
- (A) calculate the Default Termination Payment; and
 - (B) give a notice to the Generator (a "**Default Termination Payment Notice**"). A Default Termination Payment Notice shall specify the amount of the Default Termination

Payment along with the principal inputs used by the DPA Counterparty to calculate such Default Termination Payment.

- 37.11 The Generator shall no later than thirty (30) Business Days after notification of the amount of the Default Termination Payment, pay to the DPA Counterparty (or such person as the DPA Counterparty may direct) the Default Termination Payment, which amount shall bear interest in accordance with Condition 14 (*Default Interest*), and no dispute by the Generator as to the amount of the Default Termination Payment shall relieve it of its obligation pursuant to this Condition 37.11.
- 37.12 If the DPA Counterparty terminates the DPA pursuant to Condition 22.8 (*Failure to remedy Minimum CO₂ Capture Rate Obligation breach*), the Default Termination Payment shall be reduced by any payments which the DPA Counterparty has suspended in accordance with Condition 22.9 to 22.11 (*Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension*) and not subsequently paid to the Generator in accordance with Condition 22.9 (*Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension*).
- 37.13 If the DPA Counterparty terminates the DPA pursuant to Condition 38.1(A) (*Insolvency*), the DPA Counterparty shall be liable to pay the relevant T&S Operator any remaining T&S Charges that remain due and payable by the Generator under its T&S Connection Agreement in respect of the T&S Charging Year in which the Default Termination Date occurs. Following the end of such T&S Charging Year, the DPA Counterparty's liability to pay such charges shall come to an end.
- 37.14 Subject to Conditions 37.1, 37.10 and 37.11, if the DPA Counterparty terminates the DPA pursuant to Condition 36.33 (*Default termination*):
- (A) no payment shall be payable by either Party to the other Party as a consequence of such termination;
 - (B) all rights and obligations of the Parties under the DPA shall end; and
 - (C) neither Party shall be entitled to make any claim against the other Party under or in respect of the DPA.

Consequences of Qualifying Change in Law termination and QCiL Compensation termination

- 37.15 Subject to Condition 37.1, if the DPA Counterparty terminates the DPA pursuant to Condition 36.37 (*Qualifying Change in Law Termination*) or 36.39 (*QCiL Compensation termination*):
- (A) no payment shall be payable by either Party to the other Party as a consequence of such termination, except that such termination shall be without prejudice to each Party's obligation to pay any QCiL Compensation and QCiL True-Up Compensation;
 - (B) all rights and obligations of the Parties under the DPA shall end; and
 - (C) (subject to paragraph (A) above) neither Party shall be entitled to make any claim against the other Party pursuant to the DPA.

38. TERMINATION EVENTS

Termination Events

- 38.1 A "**Termination Event**" means the occurrence at any time with respect to the Generator of any of the following events.
- (A) *Insolvency*: the Generator:

- (i) is dissolved (other than pursuant to a solvent consolidation, amalgamation or merger) or becomes insolvent or unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (ii) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a solvent consolidation, amalgamation or merger); or
- (iii) is subject to any event with respect to it which, pursuant to the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in Conditions 38.1(A)(i) or 38.1(A)(ii),

except where any of the events set out in this Condition 38.1(A) is attributable to the DPA Counterparty not paying when due any amount which, but for the operation of Condition 54 (*Limited recourse arrangements, undertakings and acknowledgements*), would have been due pursuant to the DPA.

- (B) *Non-payment*: the Generator fails to pay any Generator Net Payable Amount on the due date pursuant to the DPA at the place at and in the currency in which it is expressed to be payable and that failure is not remedied on or before the twentieth (20th) Business Day after the DPA Counterparty gives the Generator notice of that failure (the "**NPA Payment Cure Period**") unless the failure is caused by a Payment Disruption Event in which case the NPA Payment Cure Period shall be extended day for day for each day on which the Payment Disruption Event continues.
- (C) *Breach of key obligations*:
 - (i) the Generator is in breach of any of Condition 20.1(E) (*Ownership*) or Condition 64.1 to 64.16 (*Transfers*); or
 - (ii) any director, officer or other senior manager of the Generator commits or procures fraud, or aids, abets or counsels fraud (and fraud is in fact committed) in relation to the DPA or any other DPA Document.
- (D) *Metering*: a Technical Compliance Termination Event or a Metering Access Termination Event occurs.
- (E) *Minimum CO₂ Capture Rate*: a Capture Rate Termination Event occurs.
- (F) *Declarations*: a Misleading Declaration Termination Event or a Declaration Access Termination Event occurs.
- (G) *CO₂ Metered Data*: a Misleading CO₂ Metered Data Termination Event occurs.
- (H) *Credit Support Default*:
 - (i) the Generator fails to transfer, deliver, extend, renew or replace (or procure the transfer, delivery, extension, renewal or replacement of) Acceptable Collateral in accordance with the Schedule (*Gain Share*);
 - (ii) any Acceptable Collateral provided pursuant to the Schedule (*Gain Share*) expires or terminates or fails or ceases to be in full force and effect in breach of, and is not extended, renewed or replaced in accordance with the Schedule (*Gain Share*); or
 - (iii) the Generator, or the issuer of any Acceptable Collateral, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of the Acceptable Collateral provided to the DPA Counterparty pursuant to the Schedule (*Gain*

Share) unless such disclaimer, repudiation, rejection or challenge is withdrawn or a substitute Acceptable Collateral is provided to the DPA Counterparty no later than five (5) Business Days after such disclaimer, repudiation, rejection or challenge.

- (I) *CCS Network Code cross-default*: the Generator ceases to be User (as defined in the CCS Network Code) of or in relation to the relevant T&S Network pursuant to the terms of the CCS Network Code due to User Default (as defined in the CCS Network Code).

39. **SURVIVAL**

39.1 Upon termination or expiry of the DPA, the Parties shall have no further obligations under the DPA but termination or expiry shall not affect:

- (A) (save to the extent taken into account in the calculation of the Default Termination Payment or the T&S Termination Payment (if any)), the provisions of the DPA as they relate to the payment of any sum due by one Party to the other pursuant to the DPA; and
- (B) the continued existence and validity of, and the rights and obligations of the Parties pursuant to Part 1 (*Introduction*), Conditions 3.55 and 3.56 (*Set-off of Previous Subsidy*), Part 6 (*Billing and payment*), this Part 9 (*Termination*), Part 10 (*Dispute Resolution*) to Part 13 (*Miscellaneous*) (inclusive), Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*) and the Schedule (*Gain Share*).

Part 10
Dispute Resolution

40. DISPUTE RESOLUTION PROCEDURE: GENERAL PROVISIONS

Objective for resolution of Disputes

- 40.1 If a Dispute arises, the objective of the Parties shall be to seek to ensure that the Dispute is resolved as quickly, as efficiently and as cost-effectively as possible. Each Party shall, at each stage of the Dispute Resolution Procedure, endeavour in good faith to resolve all Disputes through negotiation.

Compliance with obligations during a Dispute

- 40.2 The Generator and the DPA Counterparty shall continue to comply with all of their respective obligations under the DPA notwithstanding any Dispute which falls to be resolved in accordance with this Condition 40 (*Dispute Resolution Procedure: General provisions*).

Outline of Dispute Resolution Procedure

- 40.3 Except as otherwise expressly provided in these Conditions, if a Dispute arises either Party may give a notice to the other Party to initiate the Dispute Resolution Procedure (a "**Dispute Notice**"). A Dispute Notice:
- (A) shall include a description of the subject matter of the Dispute and the issues to be resolved;
 - (B) shall include a statement identifying the Condition to which the Dispute relates or pursuant to which the Dispute arises;
 - (C) shall include a description of the position the referring Party considers is correct and the referring Party's reasons for that position;
 - (D) (except for a Gas Supply Metering Dispute or a CO₂ Metering Dispute) shall include details of any other dispute or claim relating to or arising out of another CCUS Programme DPA which the referring Party considers should be consolidated with or joined to the Dispute;
 - (E) may, where the referring Party considers it appropriate, include copies of any Supporting Information on which the referring Party intends to rely;
 - (F) shall include a statement outlining the relief, determination, remedy or recourse which the referring Party seeks in relation to the Dispute;
 - (G) (except where the DPA expressly provides for the Dispute, including any Gas Supply Metering Dispute and any CO₂ Metering Dispute, to be subject to determination in accordance with the Expert Determination Procedure) shall include a statement as to whether the referring Party considers that the Dispute should (without a Senior Representatives Settlement being reached) be referred for determination in accordance with the Expert Determination Procedure or resolution in accordance with the Arbitration Procedure; and
 - (H) shall include the identity of the referring Party's Senior Representative.
- 40.4 Following the service by either Party of a Dispute Notice:

- (A) (subject to Condition 40.5) the Parties shall seek to resolve the Dispute by convening a meeting of the Senior Representatives of the Parties in accordance with Condition 41 (*Resolution by Senior Representatives*) but, if and to the extent that the Senior Representatives are unable to agree, settle, compromise or resolve the Dispute in accordance with Condition 41 (*Resolution by Senior Representatives*), Condition 40.4(B) shall apply;
 - (B) (subject to Condition 40.6) either Party may refer the Dispute (except for a Gas Supply Metering Dispute or a CO₂ Metering Dispute) for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree in writing within the Resolution Period (or such longer period as they may agree in writing) that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure; and
 - (C) (subject to Condition 40.6) either Party may refer a Gas Supply Metering Dispute or a CO₂ Metering Dispute for determination by an Expert in accordance with the Expert Determination Procedure.
- 40.5 Condition 40.4(A) shall not apply where the DPA expressly provides that Condition 41 (*Resolution by Senior Representatives*) shall not apply to the relevant Dispute.
- 40.6 If the DPA expressly provides for the relevant Dispute to be subject to determination in accordance with the Expert Determination Procedure:
- (A) Conditions 40.4(A) and 40.4(B) shall not apply to such Dispute; and
 - (B) following service of a Dispute Notice, such Dispute shall be referred by the referring Party to an Expert for determination in accordance with the Expert Determination Procedure (but subject to such amendments to the Expert Determination Procedure as are expressly provided for in the relevant provisions of the DPA).
- 40.7 Subject to Condition 40.8, all communications between the Parties with respect to a Dispute (including any statement, concession, waiver or agreement made by a Party during discussions and meetings pursuant to Condition 41 (*Resolution by Senior Representatives*)) (and any minutes or statements relating to such discussions or meetings) shall be "without prejudice" to the Dispute (or "without prejudice save as to costs" if expressly communicated or stated to be as such) (together, "**Dispute Information**"). Dispute Information shall be inadmissible in any Proceedings that may follow whether related to the Dispute or otherwise (including pursuant to the Expert Determination Procedure or the Arbitration Procedure), except that those expressly stated to be "without prejudice save as to costs" shall be admissible for the purposes of Conditions 42.12 and 43.2.
- 40.8 Condition 40.7 shall not apply to:
- (A) any Dispute Notice;
 - (B) any Senior Representatives Settlement;
 - (C) any communications between the Parties once an Expert Determination Procedure or an Arbitration Procedure has commenced, save for such communications expressly communicated or stated to be "without prejudice" or "without prejudice save as to costs"; or
 - (D) any communications between the Parties where the Parties agree in writing that Condition 40.7 shall not apply.

41. **RESOLUTION BY SENIOR REPRESENTATIVES**

41.1 The Parties shall procure that their respective Senior Representatives shall meet no later than ten (10) Business Days after the date of service of a Dispute Notice. If the Senior Representatives of the Parties:

- (A) are able to resolve the Dispute within thirty (30) Business Days of the date of service of the Dispute Notice (or within such longer period as the Senior Representatives of the Parties may agree in writing) (the "**Resolution Period**"), the terms of the agreement, settlement, compromise or resolution reached between the Senior Representatives in respect of the Dispute (a "**Senior Representatives Settlement**") shall be documented in writing and shall be signed by the Senior Representative of each Party;
- (B) are unable to resolve the Dispute (except for a Gas Supply Metering Dispute or a CO₂ Metering Dispute) within the Resolution Period, either Party may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree in writing within the Resolution Period (or such longer period as they may agree in writing) that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure; or
- (C) are unable to resolve a Gas Supply Metering Dispute and/or CO₂ Metering Dispute (as applicable) within the Resolution Period, either Party may refer such Gas Supply Metering Dispute and/or CO₂ Metering Dispute (as applicable) for determination by an Expert in accordance with the Expert Determination Procedure.

41.2 If, at any time during the Resolution Period, both Parties agree that the Senior Representatives of the Parties will not be able to agree, settle, compromise or resolve the Dispute, then:

- (A) either Party may refer the Dispute (except for a Gas Supply Metering Dispute or a CO₂ Metering Dispute) for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Parties agree that such Dispute is amenable to determination by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure;
- (B) either Party may refer a Gas Supply Metering Dispute and/or a CO₂ Metering Dispute (as applicable) for determination by an Expert in accordance with the Expert Determination Procedure; and
- (C) there shall be no requirement for the Parties to wait until the expiry of the Resolution Period before making any such reference.

41.3 Neither Party may commence the Expert Determination Procedure nor the Arbitration Procedure prior to the expiry of the Resolution Period except in the circumstances specified in Condition 41.2.

41.4 The rules, obligations and procedures set out in this Condition 41 (*Resolution by Senior Representatives*) shall apply to all Disputes unless expressly stated to the contrary in the DPA.

42. **EXPERT DETERMINATION PROCEDURE**

42.1 Either Party may, subject to Condition 41 (*Resolution by Senior Representatives*), refer a Dispute to be determined by an Expert if either: (i) the Parties have agreed in writing that a Dispute is amenable to determination by an Expert pursuant to Condition 41.1(B) or 41.2(A); or (ii) the DPA expressly provides for the relevant Dispute to be determined by an Expert. Such

referral shall be effected by either Party giving a notice (an **"Expert Determination Notice"**) to the other Party. An Expert Determination Notice shall:

- (A) include the information required to be included in a Dispute Notice pursuant to Conditions 40.3(A) to 40.3(F); and
- (B) include a proposal as to the identity, and terms of reference, of the Expert and the relevant expertise that the referring Party considers qualifies the proposed Expert to determine the relevant Expert Dispute.

42.2 Any Expert appointed to determine any Expert Dispute shall be required to have an appropriate level of experience in relation to matters of the same general description as the matter in Dispute.

42.3 The Party receiving the Expert Determination Notice (the **"Respondent"**) shall, no later than ten (10) Business Days after receipt of the Expert Determination Notice, give a notice (an **"Expert Determination Response Notice"**) to the other Party (the **"Claimant"**). An Expert Determination Response Notice shall specify whether or not the Respondent accepts:

- (A) the Expert proposed by the Claimant (and, if the Respondent does not accept the Expert proposed by the Claimant, it shall specify an alternative Expert for consideration by the Claimant); and
- (B) the terms of reference for the Expert proposed by the Claimant (and, if the Respondent does not accept the terms of reference for the Expert proposed by the Claimant, it shall propose alternative terms of reference for the Expert for consideration by the Claimant).

42.4 If the Parties fail to agree on the identity of the Expert within twenty (20) Business Days of the date of service of the Expert Determination Notice (or such other period as the Parties may agree in writing), either Party may request that the Expert be nominated by the LCIA, which shall be requested to choose a suitably qualified and experienced Expert for the Expert Dispute in question. The LCIA's nomination shall, subject to Condition 42.5(A)(i), be binding on the Parties.

42.5 The Parties shall:

- (A) use reasonable endeavours to procure that no later than ten (10) Business Days after the Parties have agreed the identity of the Expert to be appointed (or the LCIA having nominated an Expert in accordance with Condition 42.4):
 - (i) the Expert confirms in writing to the Parties that:
 - (a) the Expert is willing and available to act in relation to the Expert Dispute; and
 - (b) the Expert has no conflict of interest which prevents the Expert from determining the Expert Dispute; and
 - (ii) (subject to the confirmation referred to in Condition 42.5(A)(i) having been given) the terms of appointment and the terms of reference of the Expert are agreed between the Parties and the Expert (and an appointment letter entered into among them), such terms:
 - (a) to include an undertaking that the Expert shall not disclose to any person any Supporting Information disclosed or delivered by a Party to the Expert in consequence of, or in respect of, their appointment as the Expert; and

- (b) to exempt the Expert (and any employee, agent or adviser of or to the Expert) from liability for anything done or omitted in the discharge or purported discharge of the Expert's functions, unless such act or omission is fraudulent or in bad faith;
- (B) instruct the Expert:
 - (i) to act fairly and impartially;
 - (ii) to reach their decision in accordance with the applicable Laws in relation to the Dispute referred to the Expert;
 - (iii) to take the initiative in ascertaining the facts and the law, including by:
 - (a) considering any Supporting Information submitted to the Expert by the Parties;
 - (b) instructing an expert and/or taking counsel's opinion as to any matter raised in connection with the Dispute, provided that the Expert shall not be entitled to delegate any decision to such expert or counsel;
 - (c) requiring the Parties to produce any Supporting Information (excluding any of the foregoing which would be privileged from production in court proceedings); and
 - (d) opening up, reviewing and revising any opinion, assessment, certificate, instruction, determination or decision of whatsoever nature given or made pursuant to the DPA, provided that the Expert may not in so doing purport: (i) to open up, review or revise any matter determined pursuant to an earlier dispute under the Dispute Resolution Procedure or included with a negotiated settlement; or (ii) to decide any matter which falls outside the Expert's terms of reference in relation to the relevant Expert Dispute or is otherwise excluded from the Expert Determination Procedure; and
 - (iv) if requested by either Party in writing, to provide reasons for their decision, which shall be communicated to the Parties;
- (C) afford the Expert the discretion to establish the procedure (including the timetable) for the determination of the Expert Dispute, it being agreed by the Parties that:
 - (i) the Expert shall be requested to confirm to the Parties the proposed procedure for the relevant Expert Dispute as soon as reasonably practicable after the Expert Appointment Date and, in any event, no later than ten (10) Business Days after such date and the Parties agree that:
 - (a) the Expert shall be requested to afford (and shall so afford) the Parties the opportunity to address the Expert in a meeting at which both Parties shall have the right to be present, where either Party requests such a meeting in writing or the Expert otherwise considers it to be necessary or desirable to reach a determination in respect of the relevant Expert Dispute, with the format and procedure applicable to any such meeting being a matter for the Expert to decide in their sole and absolute discretion;

- (b) subject to (c) below, the Expert may modify the time periods provided for in Condition 42.6 and otherwise modify the procedure contemplated by such Condition; and
 - (c) any modification(s) to the time periods and/or procedure for the determination of an Expert Dispute shall not extend the overall timetable of the Expert Determination Procedure by more than sixty (60) calendar days without the agreement of both Parties;
- (ii) all submissions made by a Party to the Expert (including all Supporting Information provided to the Expert) shall be provided to the other Party contemporaneously with such submissions being made to the Expert; and
- (iii) the Parties shall (without prejudice to Condition 42.5(C)(i)) request the Expert to determine the Expert Dispute within the earlier of:
 - (a) thirty (30) Business Days following the date on which a Response Submission has been provided by the Respondent; and
 - (b) sixty (60) Business Days after the First Submission Deadline; and
- (D) afford the Expert all Supporting Information and assistance which the Expert requires to determine the Expert Dispute (and, if a Party fails to produce any such Supporting Information or assistance, the Expert may continue the determination process without that Supporting Information or assistance).

42.6 Subject to Condition 42.5(C):

- (A) the Claimant shall provide the Expert with a copy of the Expert Determination Notice no later than ten (10) Business Days after the Expert Appointment Date (the date on which the Expert receives the copy of the Expert Determination Notice being the **"Expert Referral Date"**);
- (B) the Claimant shall provide a written statement of its case, together with any Supporting Information, to the Expert (the **"First Submission"**) no later than twenty (20) Business Days after the Expert Referral Date (the **"First Submission Deadline"**) and, without limitation, the First Submission may cover any of the matters required to be contained in the relevant Dispute Notice pursuant to Conditions 40.3(A) to 40.3(F) (inclusive) and shall include copies of any Supporting Information which the Claimant considers to be important and relevant and a copy of such First Submission shall be provided to the Respondent at the same time as it is provided to the Expert; and
- (C) the Respondent may, but is not obliged to, submit a response to the Claimant's First Submission, together with any Supporting Information on which the Respondent intends to rely (a **"Response Submission"**) no later than thirty (30) Business Days after receipt of the First Submission.

42.7 The Arbitration Act 1996 and the law relating to arbitrators and arbitrations shall not apply to the Expert or their determination or the procedure by which the Expert reaches their determination.

42.8 If the Expert is at any time unable or unwilling to act or fails to come to a decision within the specified time allowed, either Party may proceed to seek the appointment of a replacement Expert as if the Expert Determination Notice had just been served. The provisions of the Expert Determination Procedure shall apply to any replacement Expert and the replacement Expert shall be authorised to determine any Expert Dispute which was submitted to their predecessor

but which their predecessor had not determined at the time when their predecessor became unable or unwilling to act.

- 42.9 The Expert's determination shall be final and binding upon the Parties, except in the event of fraud or manifest error.
- 42.10 No Expert determination shall have the effect of amending the DPA unless expressly permitted pursuant to the DPA.
- 42.11 If either Party does not comply with the decision of the Expert, the other Party may commence proceedings in the English Courts to secure enforcement of that decision.
- 42.12 The Expert may, in their determination, provide that one or other or both of the Parties pay the Expert's fees and expenses and each other's costs (including the fees and expenses of external advisers and consultants) in such proportions as the Expert may specify on the general principle that the allocation of costs should reflect the Parties' relative success and failure in the Expert Determination Procedure. In the absence of such a direction, each Party shall bear its own costs and the fees and expenses of the Expert shall be paid in equal shares by the Parties.

43. **ARBITRATION PROCEDURE**

- 43.1 Either Party may, subject to Condition 41 (*Resolution by Senior Representatives*), refer an Arbitration Dispute to arbitration. Any Arbitration Dispute so referred to arbitration shall be resolved in accordance with the LCIA Arbitration Rules, which rules are to be treated as incorporated by reference into this Condition 43.
- 43.2 The Arbitral Tribunal shall make its award in writing (the "**Arbitral Award**") and the Parties agree that all final Arbitral Awards shall be binding on the Parties.
- 43.3 No Arbitral Award shall have the effect of amending the DPA unless expressly permitted pursuant to the DPA.
- 43.4 The Arbitral Tribunal shall consist of three (3) Arbitrators except where the Parties have agreed in writing that the Arbitral Tribunal shall consist of one (1) Arbitrator (the "**Mutual Appointment Decision**").
- 43.5 If the Arbitral Tribunal is to consist of:
 - (A) three (3) Arbitrators, each Party shall nominate one (1) Arbitrator to be appointed by the LCIA as contemplated by the LCIA Arbitration Rules and the third Arbitrator shall be nominated by the Arbitrators nominated by the Parties and shall act as chair; or
 - (B) one (1) Arbitrator, the Parties shall use reasonable endeavours to agree on the identity of the Arbitrator no later than ten (10) Business Days after the Mutual Appointment Decision, failing which the Arbitrator shall be appointed by the LCIA as contemplated by the LCIA Arbitration Rules.
- 43.6 The seat, or legal place, of any arbitration shall be London.
- 43.7 The language to be used in any arbitral proceedings shall be English.
- 43.8 This Condition 43 shall not apply to any Gas Supply Metering Dispute or any CO₂ Metering Dispute.

44. CONSOLIDATION OF CONNECTED DISPUTES

44.1 If:

- (A) any Dispute raises issues which are substantially the same as, connected with or related to issues raised in any dispute or claim relating to or arising out of any other CCUS Programme DPA (each, a **"Connected Dispute"**);
- (B) the Dispute Resolution Procedure has been commenced in relation to the Dispute; and
- (C) a dispute resolution procedure under the other CCUS Programme DPA has been commenced in relation to the Connected Dispute under that contract,

then either Party may request consolidation of those Connected Disputes at any time so that the Connected Disputes shall be determined together and in respect of any Connected Dispute, the Parties consent, pursuant to Article 22.7 and/or Article 22.8 of the LCIA Arbitration Rules (or any equivalent provisions in any version of the LCIA Arbitration Rules that may come into force hereafter), to the consolidation of an arbitration commenced pursuant to the DPA with an arbitration commenced under the relevant other CCUS Programme DPA(s).

44.2 Where a Party wishes to consolidate Connected Disputes pursuant to Condition 44.1, that Party shall give notice in writing to all of the parties to the Connected Disputes (a **"Consolidation Request"**). A Consolidation Request shall be copied to the Expert or Arbitrator(s) (as relevant) of each Connected Dispute at the same time that it is given to the parties to each Connected Dispute, or, to the extent that the Expert or Arbitrator(s) have not been appointed at that date, forthwith upon appointment of the Expert or Arbitrator(s).

44.3 Following delivery of a Consolidation Request to every party who is to receive it under Condition 44.2, the Parties shall use reasonable endeavours (including cooperating with the parties to the other CCUS Programme DPA(s)) to procure that the Expert or Arbitrator(s) (as relevant) of each Connected Dispute shall, within five (5) Business Days after the delivery of the Consolidation Request, determine between them whether:

- (A) they are satisfied that the issues of both fact and/or law raised in each of the Connected Disputes are substantially the same as, or substantially connected or related to, each other; and
- (B) consolidation of the Connected Disputes will not materially affect the timetable for resolution of any Connected Disputes.

44.4 If:

- (A) the Expert(s) or Arbitrator(s) are so satisfied by majority and provide notice of that fact to the parties to all of the Connected Disputes; and
- (B) the parties to the other CCUS Programme DPA(s) consent to consolidation;

the Dispute may be consolidated with any relevant Connected Disputes (including, in the case of two or more arbitrations, pursuant to the relevant provisions of the LCIA Arbitration Rules).

44.5 If the Expert(s) or Arbitrator(s) are not so satisfied by majority or one (1) or more parties to another CCUS Programme DPA does not consent to the consolidation, the Dispute shall not be consolidated with the Connected Dispute under that contract.

44.6 If the Parties or either of them receive(s) one (1) or more notice(s) from a party or parties to one (1) or more other CCUS Programme DPA(s) seeking to consolidate a dispute under the other CCUS Programme DPA(s) with a Dispute under the DPA for reasons similar to those set

out in Condition 44.3 above, neither Party shall unreasonably withhold its consent to consolidation of the Dispute with the relevant dispute(s) under the other CCUS Programme DPA(s) and shall use reasonable endeavours to facilitate the consolidation of the disputes.

44.7 If there has been a request for consolidation, whether by way of Consolidation Request under the DPA or an equivalent notice under one (1) or more other CCUS Programme DPA(s) and it is determined that two or more disputes shall be consolidated,

(A) the Parties shall use reasonable endeavours to procure that the outcome described in Condition 44.8 below is achieved; and

(B) neither Party shall unreasonably withhold consent to any reasonable proposal by a party to another CCUS Programme DPA which has as its objective the procuring of an outcome equivalent to that described in Condition 44.8 below.

44.8 If different Experts or Arbitrators have been appointed in respect of Connected Disputes prior to their being consolidated in accordance with the Dispute Resolution Procedure and those Experts or Arbitrator(s) give a notice, in accordance with Condition 44.4, that the Connected Disputes shall be consolidated, the Parties shall use reasonable endeavours to agree in writing with each other and the parties to any relevant Connected Dispute, no later than five (5) Business Days after the giving of that notice, which of the Experts or Arbitrators shall be the Experts or Arbitrator(s) for the consolidated Connected Disputes. If no such agreement can be reached, the parties to the Dispute shall request that the president or vice-president of the LCIA court select, no later than five (5) Business Days after such request, which of those Experts or Arbitrator(s) shall be the Experts or Arbitrator(s) for the consolidated Connected Disputes, provided the parties to any relevant Connected Dispute(s) consent to this step.

44.9 If the Expert(s) or Arbitrator(s) of consolidated Connected Disputes is or are unable to give their award in respect of the consolidated Connected Disputes at the same time then the award in respect of the Dispute may be given in such order as the Expert(s) or Arbitrator(s) may determine.

44.10 This Condition 44 shall not apply to any Gas Supply Metering Dispute, any CO₂ Metering Dispute.

45. **NO OTHER PROCEEDINGS**

45.1 Subject to Conditions 45.2 and 46.1, any and all Disputes are to be finally resolved in accordance with the Dispute Resolution Procedure, and neither Party shall commence any Proceedings in respect of a Dispute other than in accordance with the Dispute Resolution Procedure. If either Party commences any Proceedings in breach of the Dispute Resolution Procedure, it shall not oppose an application for strike-out, termination, discontinuance or stay of such Proceedings.

45.2 Notwithstanding any other provision of the Dispute Resolution Procedure, either Party may at any time:

(A) commence, prosecute and/or defend Proceedings against the other Party in the courts of England and Wales for:

(i) an order to obtain urgent injunctive or other equitable relief, including specific performance;

(ii) judgment to enforce a Senior Representatives Settlement, the determination of an Expert, or an Arbitral Award; and/or

- (B) give a notice of arbitration to the other Party so as to prevent the expiry of any applicable period of limitation or prescription, or the application of the equitable doctrine of laches.

46. **METERING DISPUTES**

- 46.1 Electricity Metering Disputes shall be resolved solely as a Trading Dispute in accordance with the Balancing and Settlement Code pursuant to Conditions 13.6 to 13.8 (*Electricity Metering Dispute*) and the Dispute Resolution Procedure shall not apply to any such Electricity Metering Disputes.
- 46.2 Notwithstanding any Electricity Metering Dispute, the Parties shall continue to comply with all of their respective obligations under the DPA.
- 46.3 Gas Supply Metering Disputes and CO₂ Metering Disputes shall be resolved in accordance with the Dispute Resolution Procedure (except for those provisions of the Dispute Resolution Procedure which are expressly stated not to apply to Gas Supply Metering Disputes and CO₂ Metering Disputes).

Part 11
General provisions regarding liabilities, remedies and waivers

47. EXCLUDED LOSSES AND LIABILITIES

Interpretation

- 47.1 Any and all compensation in respect of any event to be calculated, agreed or determined, and paid, commenced or effected, pursuant to the DPA shall be calculated on the basis that the Generator:
- (A) has complied, and will comply, with the general mitigation obligation set out in Condition 47.3, irrespective of whether the Generator has in fact complied, or will comply, with such obligation; and
 - (B) has complied, and will comply, with the Reasonable and Prudent Standard, including with respect to the incurrence of costs in relation to the Project, irrespective of whether the Generator has in fact complied, or will comply, with such standard.
- 47.2 Any notification by the Generator to the DPA Counterparty of the mitigating steps that the Generator has taken, or proposes to take, in order to comply with the general mitigation obligation set out in Condition 47.3, or the Reasonable and Prudent Standard, shall be of indicative value only and, as such, shall not be determinative of whether it has complied, or will comply, with such general mitigation obligation or Reasonable and Prudent Standard.

Mitigation

- 47.3 The Generator shall promptly take all reasonable steps to mitigate any loss or, as the case may be, maximise any benefit, in respect of which a claim could be brought under the DPA or any other DPA Document (including by recommencing generation and/or CO₂ capture as soon as reasonably practicable), provided that this obligation to mitigate shall not be construed as relieving the Generator from complying in full with its obligations under the DPA or any other DPA Document.
- 47.4 The Generator shall give notice as soon as reasonably practicable to the DPA Counterparty of the mitigating steps that it has taken or procured, is taking or procuring or proposes to take or procure and shall as soon as reasonably practicable provide such Supporting Information regarding such mitigation as the DPA Counterparty may reasonably request.

No double recovery

- 47.5 The Generator may recover only once in respect of the same loss. The DPA Counterparty shall not be liable to pay any compensation under any term of the DPA to the extent that the subject of the claim has been compensated for, or the same loss has been recovered by the Generator under the DPA or any other DPA Document.
- 47.6 If the Generator is at any time entitled to recover from a third party any sum (whether under a power purchase agreement, an electricity sale contract, an insurance policy or otherwise) in respect of any matter or circumstance giving rise to a claim under the DPA or any other DPA Document, the Generator shall take all necessary steps to enforce such recovery.
- 47.7 If the Generator (or its nominee) recovers any amount from: (i) the DPA Counterparty as a consequence of any claim under the DPA or any other CCUS Programme DPA to which it is a party; or (ii) such other person as is referred to in Condition 47.6:
- (A) such amount shall be taken into account in the calculation of any compensation payable pursuant to the DPA or any other DPA Document;

- (B) no claim shall be made by the Generator pursuant to the DPA or any other DPA Document in respect of the amounts so recovered; and
- (C) if the Generator has previously received compensation in relation to the same claim, they or it shall pay promptly to the DPA Counterparty an amount equal to the lesser of:
 - (i) the amount so recovered; and (ii) the amount so previously received.

General limitation of liability

47.8 Subject to Condition 47.9, neither Party shall be liable to the other Party under or pursuant to the DPA or any other DPA Document, in tort (including negligence and/or breach of statutory duty) or otherwise at law for:

- (A) any loss, damage, cost or other expense to the extent that the same does not arise naturally from the breach and cannot reasonably be supposed to have been in the contemplation of the Parties at the Agreement Date as the probable result of such breach; or
- (B) any special, indirect or consequential loss including any such loss which constitutes loss of use, loss of goodwill, loss of profit or loss of revenue,

in each case incurred by the other Party in respect of any breach of the terms of the DPA or any other DPA Document.

47.9 Condition 47.8 shall not operate so as to prejudice or override:

- (A) the express terms of any obligation to pay, indemnity or costs reimbursement provision contained within the DPA or any other DPA Document;
- (B) the express terms relating to the calculation of any QCiL Compensation or QCiL True-Up Compensation, or the obligation of either Party to pay any QCiL Compensation or QCiL True-Up Compensation to the other Party (or to commence or effect such compensation), in each case in accordance with Part 8 (*Changes in Law*);
- (C) the express terms relating to the calculation of the Default Termination Payment or the obligation of the Generator to pay the Default Termination Payment to the DPA Counterparty, in accordance with Condition 37.11, it being agreed that the DPA Counterparty has a legitimate interest to which the Default Termination Payment is proportionate in light of factors including but not limited to the anticipated harm that the DPA Counterparty would suffer and the difficulty of estimation or calculation of actual damages upon early termination of the DPA; or
- (D) the express terms relating to the calculation of the T&S Termination Payment, or the obligation of the DPA Counterparty to pay the T&S Termination Payment to the Generator, in each case in accordance with Conditions 37.4 to 37.9.

T&S Operator actions

47.10 Except where expressly stated to the contrary, any payments to the Generator in respect of or pursuant to instructions issued by any T&S Operator shall not be calculated or made pursuant to the terms of the DPA, and the DPA Counterparty shall have no liability pursuant to the DPA to pay or compensate the Generator in respect of any resulting losses.

Electricity Transmission System Operator, Electricity Transmission Licensee or Electricity Licensed Distributor actions

47.11 Any payments to the Generator in respect of or pursuant to:

- (A) instructions issued by any Electricity Transmission System Operator, Electricity Transmission Licensee or an Electricity Licensed Distributor, as the case may be; or
- (B) directions given or actions taken pursuant to the Fuel Security Code (as such term is defined in the Electricity Transmission Licence),

shall not be calculated or made pursuant to the terms of the DPA, and the DPA Counterparty shall have no liability pursuant to the DPA to pay or compensate the Generator in respect of any resulting losses.

Gas Licensed Transporter or Gas Licensed Shipper actions

- 47.12 Any payments to the Generator in respect of or pursuant to instructions issued by any Gas Licensed Transporter or Gas Licensed Shipper, as the case may be, shall not be calculated or made pursuant to the terms of the DPA, and the DPA Counterparty shall have no liability pursuant to the DPA to pay or compensate the Generator in respect of any resulting lost supply.

48. NO WAIVER

- 48.1 No waiver by either Party of any breach by the other Party of the DPA or any other DPA Document shall operate unless expressly made in writing, and no such waiver shall be construed as a waiver of any other breach.

- 48.2 No delay or omission by either Party in exercising any right, power or remedy provided by law or pursuant to the DPA or any other DPA Document shall:

- (A) affect that right, power or remedy; or
- (B) operate as a waiver of it.

- 48.3 The single or partial exercise by either Party of any right, power or remedy provided by law or pursuant to the DPA or any other DPA Document shall not, unless otherwise expressly stated, preclude any other or further exercise of it or the exercise of any other right, power or remedy.

- 48.4 Any legal privilege attaching to information or documents that are:

- (A) made available by the Generator or its Representatives to the DPA Counterparty or its Representatives remains for the benefit of the Generator; or
- (B) made available by the DPA Counterparty or its Representatives to the Generator or its Representatives remains for the benefit of the DPA Counterparty,

and, in each case, disclosure is not intended to amount to a waiver of legal privilege.

49. CONSENTS

- 49.1 Any consents, confirmations, approvals, waivers or agreements to be given by the DPA Counterparty pursuant to the DPA or any other DPA Document:

- (A) shall be effective only if given in writing; and
- (B) except as otherwise expressly provided in the DPA, may be given or withheld by the DPA Counterparty in its sole and absolute discretion and, if given, may be given on and subject to such terms and/or conditions as the DPA Counterparty may in its sole and absolute discretion determine.

- 49.2 The exercise of discretion by the DPA Counterparty (including in respect of the grant or withholding of any consent, confirmation, approval, waiver or agreement) shall in no way limit the manner in or extent to which that discretion may be exercised in future or give rise to any amendment or modification to the DPA or any other DPA Document.

50. ENTIRE AGREEMENT

- 50.1 The DPA, together with the other DPA Documents and other Gain Share Transaction Documents, constitutes the entire agreement, understanding and representations of the Parties in respect of its subject matter and supersedes and extinguishes any agreements, understandings and/or representations previously given or made in respect thereof other than those included in the DPA, the other DPA Documents or the other Gain Share Transaction Documents.

- 50.2 Each Party acknowledges that in entering into the DPA it has not relied on, and shall have no right or remedy in respect of, any draft, agreement, undertaking, representation, warranty, promise, assurance, arrangement or public statement of any nature whatsoever, whether or not in writing, relating to the subject matter of the DPA, any other DPA Document or any other Gain Share Transaction Document made or given by or on behalf of either Party or the Secretary of State at any time prior to the Agreement Date or Accession Date (as applicable) (whether made negligently or innocently) other than as expressly set out in the DPA, any other DPA Document or any other Gain Share Transaction Document.

- 50.3 Nothing in this Condition 50 (*Entire agreement*) shall limit or exclude liability for fraud.

51. PAYMENT DISRUPTION EVENT

Relief due to Payment Disruption Event

- 51.1 Subject to Condition 51.2, a Party affected by a Payment Disruption Event (a "**PDE Affected Party**") shall be relieved from liability, and deemed not to be in breach of the DPA (or any other DPA Document), for:

- (A) any failure to pay (or delay in paying) to the other Party any sum due and payable pursuant to the DPA (or any other DPA Document) (whether pursuant to an obligation to pay, an indemnity, a costs reimbursement provision or otherwise); and
- (B) (in the case of the Generator) any failure to transfer, deliver, extend, renew or replace (or procure the transfer, delivery, extension, renewal or replacement of) Acceptable Collateral in accordance with the Schedule (*Gain Share*), or any delay in doing so,

(such obligations "**PDE Obligations**") in each case if and to the extent that such failure or delay is directly attributable to the occurrence and continuance of such Payment Disruption Event.

Conditions to Payment Disruption Event relief

- 51.2 The PDE Affected Party's relief from liability pursuant to Condition 51.1 is subject to and conditional upon:

- (A) the PDE Affected Party giving notice as soon as reasonably practicable to the other Party of the nature and extent of the Payment Disruption Event causing its failure or delay in performance; and
- (B) the PDE Affected Party using reasonable endeavours:
 - (i) to mitigate the effects of the Payment Disruption Event;

- (ii) to carry out and perform its obligations under the DPA (and each other DPA Document) in any way that is reasonably practicable; and
- (iii) to pay the sum due and payable or transfer, deliver, extend, renew or replace Acceptable Collateral in accordance with the Schedule (*Gain Share*) (as relevant) immediately upon cessation of the Payment Disruption Event.

52. FORCE MAJEURE

Relief due to Force Majeure

- 52.1 Subject to the provisions of this Condition 52 (*Force Majeure*), a Party affected by Force Majeure (an "FM Affected Party") shall:
- (A) be relieved from liability, and deemed not to be in breach of the DPA (or any other DPA Document), for any failure or delay in the performance of any of its obligations under the DPA (or any other DPA Document) if and to the extent such failure or delay is directly attributable to the occurrence and continuance of such Force Majeure; and
 - (B) be entitled to an extension of one (1) or more of the Longstop Date, the Milestone Delivery Date and/or the Target Commissioning Window, for any delay to the Project if and to the extent such delay is directly attributable to the occurrence and continuance of such Force Majeure, subject to the requirements of the definition of that term.
- 52.2 Nothing in this Condition 52 (*Force Majeure*) shall relieve either Party from its obligations to perform or comply with any PDE Obligations.
- 52.3 Nothing in this Condition 52 (*Force Majeure*) shall affect the DPA Counterparty's right to terminate the DPA pursuant to Conditions 36.5 to 36.7 (*Termination for Prolonged Force Majeure*) and, subject to Condition 36.26, Conditions 36.8 to 36.26 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*).

Conditions to Force Majeure relief

- 52.4 The FM Affected Party's relief from liability and/or entitlement to an extension of any of the Longstop Date, the Milestone Delivery Date and/or the Target Commissioning Window pursuant to Condition 52.1 is subject to and conditional upon (and in the case of 52.1(B) shall only be available to the extent that the failure or delay in performance and/or delay to the Project could not have been avoided by):
- (A) the FM Affected Party giving notice as soon as reasonably practicable to the other Party (the "**Non-affected Party**") in writing of the nature and extent of: (i) any Force Majeure of which it is aware which it considers will or is likely to cause its failure or delay in performance and/or delay to the Project; and (ii) any Force Majeure that has caused or is causing failure or delay in performance and/or delay to the Project; and
 - (B) the FM Affected Party using reasonable endeavours:
 - (i) to mitigate the effects of the Force Majeure (including delay to the Project);
 - (ii) to carry out its obligations under the DPA and each other DPA Document in any way that is reasonably practicable; and
 - (iii) to resume the performance of its obligations under the DPA and each other DPA Document as soon as reasonably practicable.

Provision of Force Majeure information

52.5 In addition to its notification obligation pursuant to Condition 52.4, the FM Affected Party shall give notice as soon as reasonably practicable to the Non-affected Party in writing (to the extent that such Information is available to the FM Affected Party) of:

- (A) the steps being taken by the FM Affected Party to remove or mitigate the effect of the Force Majeure (including delay to the Project) and to carry out its obligations under the DPA (or the relevant DPA Document);
- (B) the anticipated date of resumption of performance of its obligations under the DPA (or the relevant DPA Document); and
- (C) such other details relating to the Force Majeure and its effects (including delay to the Project) as may be reasonably requested by the Non-affected Party,

and, to the extent that such Information is not available at the time a notice is given, the FM Affected Party shall provide such Information to the Non-affected Party as soon as it becomes available to it.

52.6 The FM Affected Party shall give notice to the Non-affected Party every twenty (20) Business Days:

- (A) of any update to the Information provided pursuant to Condition 52.5 and shall give notice as soon as reasonably practicable to the Non-affected Party upon it becoming aware of any material developments or additional material Information relating to the Force Majeure and its effects; and
- (B) where the Force Majeure is a continuing one, that it is continuing, accompanied by an explanation and Information to show that the events or circumstances concerned continue to meet all of the requirements of the definition of Force Majeure.

53. **SEVERABILITY**

If any provision or part of a provision of the DPA or any other DPA Document is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that shall not affect or impair:

- (A) the legality, validity or enforceability in that jurisdiction of any other provision of the DPA or of any other DPA Document; or
- (B) the legality, validity or enforceability in other jurisdictions of that or any other provision of the DPA or of any other DPA Document.

54. **LIMITED RECOURSE ARRANGEMENTS, UNDERTAKINGS AND ACKNOWLEDGEMENTS**

DPA Counterparty payment undertakings

54.1 For the purpose of Conditions 54.2 to 54.8, references in Conditions 54.2 to 54.5 to "liabilities" shall be construed as if the limited recourse provisions set out in Condition 54.7 do not apply.

54.2 The DPA Counterparty shall make appropriate requests to Electricity Suppliers on the basis provided for by the Supplier Obligation Regulations for the purpose of ensuring that it is in sufficient funds to meet its liabilities in full pursuant to the DPA.

54.3 The DPA Counterparty shall, to the extent consistent with the DPA Counterparty's proper exercise of its functions and duties pursuant to the EA 2013 or any other statutory function or duty, as soon as reasonably practicable:

- (A) take such steps as are necessary to recover from an Electricity Supplier any sum which the Electricity Supplier is required by virtue of the Supplier Obligation Regulations to pay to the DPA Counterparty and which has not been paid by the date on which it is required by virtue of the Supplier Obligation Regulations to be paid and which is necessary to ensure the DPA Counterparty can meet its liabilities in full pursuant to the DPA;
- (B) at the times and otherwise in the manner prescribed by the Supplier Obligation Regulations, issue and enforce notices to Electricity Suppliers requiring the provision and/or payment of financial collateral to ensure the DPA Counterparty can meet its liabilities in full pursuant to the DPA;
- (C) take such action (including the taking and prosecution of legal proceedings) against Electricity Suppliers as is necessary to ensure that the DPA Counterparty can meet its liabilities in full pursuant to the DPA;
- (D) pursue any Electricity Supplier which has defaulted in making payment pursuant to the Supplier Obligation Regulations as a civil debtor unless (acting reasonably) the DPA Counterparty considers that there are more appropriate means of pursuing the defaulting Electricity Supplier or securing payment due to the Generator;
- (E) take such action (including the taking and prosecution of legal proceedings) to recover and receive from other sources of funds (if any) available to the DPA Counterparty, including:
 - (i) moneys standing to the credit of any designated risk, reserve or shortfall fund; and/or
 - (ii) moneys available by reason of any 'make whole', loss mutualisation or similar arrangements among Electricity Suppliers or others in respect of any shortfall in amounts due and owing but not paid by Electricity Suppliers to the DPA Counterparty for the purposes of enabling the DPA Counterparty to make payments pursuant to CCUS Programme DPAs,

as is necessary for the purpose of meeting its liabilities in full pursuant to the DPA; and
- (F) notify the Secretary of State if the DPA Counterparty has reason to believe that it will have insufficient funds available to make when due the totality of the payments to generators that are required pursuant to CCUS Programme DPAs.

54.4 The DPA Counterparty shall notify the Generator if it is of the opinion that it will have insufficient funds to meet its liabilities in full pursuant to the DPA.

54.5 The DPA Counterparty agrees that in circumstances where the DPA Counterparty has failed to pay an amount on the due date thereof pursuant to the DPA:

- (A) damages alone would not be an adequate remedy for any breach by it of its obligations set out in paragraphs (A) to (E) (inclusive) of Condition 54.3;
- (B) accordingly, the Generator will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach by the DPA Counterparty of its obligations set out in paragraphs (A) to (E) (inclusive) of Condition 54.3; and
- (C) it will not raise any objection to an application by the Generator for any such remedies.

- 54.6 Without prejudice to Condition 54.7, the maximum liability of the DPA Counterparty in respect of breach by it of Condition 54.2, 54.3 or 54.4 shall be limited to an amount equivalent to the Default Interest on the amount which has not been paid by the DPA Counterparty to the Generator pursuant to the DPA by reason of the relevant breach for the period from what would have been the date of payment but for such breach to the date of actual payment, provided that the limit of liability in this Condition 54.6 shall not apply where the breach is caused by the gross negligence or wilful misconduct of the DPA Counterparty.

Limited recourse

- 54.7 Notwithstanding any other provision of the DPA:

- (A) the liability of the DPA Counterparty pursuant to the DPA shall not exceed the aggregate of:
 - (i) the amounts from time to time received and held by the DPA Counterparty, and allocated to the DPA, pursuant to the Supplier Obligation Regulations; and
 - (ii) any other funds of the type referred to in Condition 54.3(E) from time to time received and held by the DPA Counterparty, and allocated to the DPA, whether pursuant to the Supplier Obligation Regulations or otherwise; and
- (B) the DPA Counterparty shall not be in default pursuant to the DPA in not making any payment that is due and owing if and to the extent that it shall not have received the amounts and other funds referred to in Condition 54.7(A) which are necessary to make such payment, but if and to the extent that such payment is not made, the DPA Counterparty shall continue to owe an amount equal to the amount of the payment due and owing but not paid and shall make such payment promptly (and in any event within two (2) Business Days) after and to the extent of its receipt of such corresponding and allocated amounts and other funds.

Damages for breach

- 54.8 The Parties acknowledge and agree that:

- (A) the DPA Counterparty shall have full right and liberty to recover from the Generator any loss, damage, cost or expense suffered or incurred by the DPA Counterparty as a result of a breach by the Generator of the DPA or any other DPA Document and for this purpose no regard shall be had to the right or ability (if any) of the DPA Counterparty to recover such loss, damage, cost or expense from all or any Electricity Suppliers or any other person pursuant to any regulations made pursuant to the EA 2013 (including the Supplier Obligation Regulations); and
- (B) to the extent that any such loss, damage, cost or expense is recovered by the DPA Counterparty from the Generator, it is the intent that the DPA Counterparty will not keep those amounts but will, pursuant to the regulations made pursuant to the EA 2013 (including the Supplier Obligation Regulations):
 - (i) use such amounts to make good any loss, damage, cost or expense suffered or incurred by the DPA Counterparty;
 - (ii) pass or return those amounts to the Electricity Supplier(s) or other persons entitled thereto pursuant to such regulations; and/or
 - (iii) use such amounts for the benefit of such Electricity Supplier(s) or other person(s).

Part 12
Confidentiality, announcements and freedom of information

55. CONFIDENTIALITY

Confidentiality restrictions: application to the terms of the DPA

- 55.1 Subject to Condition 56 (*Announcements*), the Parties agree that the provisions of the DPA shall not be treated as Confidential Information (save for the Information to be redacted pursuant to Annex 8 (*Redactions*) of the Agreement, if applicable, and Annex 8 (*Redactions*) of the Agreement which will be redacted in full, both of which shall be treated as Confidential Information) and may be disclosed without restriction.

Contracts for Difference Regulations

- 55.2 The Parties acknowledge and agree that the DPA Counterparty must publish the DPA in accordance with regulation 60 of the Contracts for Difference (Allocation) Regulations 2014.
- 55.3 For the purposes of regulation 60 of the Contracts for Difference (Allocation) Regulations 2014, the information set out in Annex 8 (*Redacted Terms*) of the Agreement is information to which paragraph 4 of regulation 60 of the Contracts for Difference (Allocation) Regulations 2014 applies.
- 55.4 For the avoidance of doubt, the publication of the DPA in accordance with regulation 60 of the Contracts for Difference (Allocation) Regulations 2014 and the provisions of Conditions 55.2 to 55.4 shall not be subject to or constrained or restricted by Condition 55.1 (*Confidentiality restrictions: application to the terms of the DPA*) or the following provisions of this Condition 55 or Condition 56 (*Announcements*).

Generator Confidential Information

- 55.5 The DPA Counterparty shall keep all Generator Confidential Information confidential and shall not disclose Generator Confidential Information without the prior written consent of the Generator, other than as permitted by Condition 55.6 or to fulfil the DPA Counterparty Permitted Purposes.
- 55.6 Condition 55.5 shall not prevent the disclosure of Generator Confidential Information by the DPA Counterparty:
- (A) on a confidential basis:
- (i) to its Representatives to enable or assist the DPA Counterparty to fulfil the DPA Counterparty Permitted Purposes;
 - (ii) to any Transferee to fulfil the DPA Counterparty Permitted Purposes;
 - (iii) to any person engaged in providing services to the DPA Counterparty to enable or assist the DPA Counterparty to fulfil the DPA Counterparty Permitted Purposes;
 - (iv) to any Government Entity (or to its Representatives or to any person engaged in providing services to such Government Entity) where the DPA Counterparty considers such disclosure is required to enable or assist:
 - (a) the DPA Counterparty to fulfil the DPA Counterparty Permitted Purposes;

- (b) such person to: (i) fulfil any of its functions arising out of or in connection with the DPA or for the purposes of any other CCUS Programme DPA or any other DPA Document; or (ii) perform any function ancillary or related to its functions arising out of or for the purposes of the DPA or any other CCUS Programme DPA or any other DPA Document or the CCUS Programme; or (iii) fulfil any functions, duties or obligations arising by virtue of or pursuant to the EA 2013; or
- (c) any transfer under a Transfer Scheme; or
- (v) to any Electricity Transmission System Operator, Electricity Transmission Licensee or any Electricity Licensed Distributor, the Gas Licensed Transporter, a T&S Operator, the Economic Regulator, the DPA Settlement Services Provider, any BSC Company or any BSC Agent, the Secretary of State (or to their respective Representatives) to the extent that the DPA Counterparty considers such disclosure is necessary to enable or assist: (a) the DPA Counterparty to fulfil the DPA Counterparty Permitted Purposes; or (b) such person to fulfil or perform any of its functions, duties or obligations arising out of or in connection with the DPA or for the purposes of any other CCUS Programme DPA or DPA Document or to fulfil or perform any ancillary or related function, duty or obligation (including any such functions, duties or obligations arising by virtue of or pursuant to the EA 2013),

provided that: (i) the DPA Counterparty shall use reasonable endeavours to inform the recipient of the Generator Confidential Information of the DPA Counterparty's obligations pursuant to Condition 55.5; and (ii) in the case of disclosure of Generator Confidential Information pursuant to Condition 55.6(A)(i), 55.6(A)(ii) or 55.6(A)(iii), the DPA Counterparty shall ensure that the recipient of the Generator Confidential Information shall be subject to substantially the same obligation of confidentiality as contained in Condition 55.5;

- (B) to enable a Dispute to be instigated, progressed, consolidated with other disputes, settled or determined pursuant to and in accordance with the Dispute Resolution Procedure (except where the relevant Generator Confidential Information has been provided on a "without prejudice" or "without prejudice save as to costs" basis);
- (C) to enable an Electricity Metering Dispute to be instigated, progressed, settled or determined in accordance with the provisions of the BSC;
- (D) (subject to Condition 55.7) to Parliament or to any Parliamentary committee, but only if and to the extent that the DPA Counterparty considers such disclosure is required to enable or assist it to fulfil any DPA Counterparty Permitted Purpose;
- (E) (subject to Condition 55.7) to any Secretary of State to enable or assist the Secretary of State to make a disclosure to Parliament or to any Parliamentary committee, but only if and to the extent that the Secretary of State has notified the DPA Counterparty that such disclosure is required to enable or assist the Secretary of State to fulfil its functions;
- (F) (subject to Condition 55.7) to any Secretary of State to enable or assist the Secretary of State to make a disclosure to a Subsidy Control Competent Authority or other Competent Authority or otherwise to comply with the Subsidy Control Rules, but only if and to the extent that the DPA Counterparty considers (or the Secretary of State has notified the DPA Counterparty that) such disclosure is required in connection with the application of the Subsidy Control Rules or in connection with any decision by a Subsidy Control Competent Authority relating to those rules;

- (G) (subject to Condition 55.7) to a Subsidy Control Competent Authority or other Competent Authority or an interested party under the Subsidy Control Rules, but only if and to the extent that the DPA Counterparty considers such disclosure is necessary in connection with the application of the Subsidy Control Rules or in connection with any decision by a Subsidy Control Competent Authority relating to those rules;
- (H) (subject to Condition 55.7) which is required to comply with any Law or Directive having the force of law or, if not having the force of law, compliance with which is in accordance with accepted general practice;
- (I) (subject to Condition 57 (*Freedom of information*)) which is required:
 - (i) by the FoIA; or
 - (ii) by the EIR;
- (J) to the National Audit Office for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the DPA Counterparty has used its resources;
- (K) that is otherwise expressly permitted pursuant to the terms, or required for the operation or fulfilment, of the DPA or any other DPA Document; or
- (L) to any Secretary of State or Government Entity to enable or assist the Secretary of State or Government Entity to: (i) make a disclosure to the European Commission or other Competent Authority in order to fulfil a legal obligation and/or (ii) facilitate transparent public reporting by the Secretary of State or Government Entity, and the Generator acknowledges and agrees that such Information may be published by the Secretary of State, Government Entity, European Commission and/or any other Competent Authority.

55.7 Prior to any disclosure of Generator Confidential Information by the DPA Counterparty pursuant to any of Conditions 55.6(D), 55.6(E), 55.6(F), 55.6(G) and 55.6(H), the DPA Counterparty shall use reasonable endeavours to give notice to the Generator of the Generator Confidential Information to be disclosed, provided that:

- (A) it is lawful and reasonably practicable in the circumstances to do so; and
- (B) in the case of any disclosure pursuant to Condition 55.6(D) or 55.6(E), it is not inconsistent with Parliamentary convention.

DPA Counterparty: insider dealing and market abuse

55.8 The Generator shall consult with the DPA Counterparty in good faith, from time to time upon request by the DPA Counterparty, in relation to whether Generator Confidential Information held by the DPA Counterparty (or its Representatives) constitutes at that time Inside Information. Nothing in this Condition 55.8 is intended to or shall result in the Generator or any of its Representatives: (i) incurring any liability whatsoever under or in respect of the DPA Counterparty's (or any of its Representatives') obligations and responsibilities pursuant to the FSMA or the CJA, or (ii) being obliged to consult with the DPA Counterparty on Generator Confidential Information to be provided to the DPA Counterparty which constitutes (or may constitute) "inside information" (within the meaning of section 118C of the FSMA or section 56 of the CJA) in respect of any person other than the Generator or any members of its Group.

DPA Counterparty: liability for Representatives and service providers

55.9 The DPA Counterparty shall be responsible for:

- (A) any failure by its current or former Representatives or any person to whom Generator Confidential Information is disclosed pursuant to Condition 55.6(A)(ii) or 55.6(A)(iii) to comply with Condition 55.5 as if they were subject to it; and
- (B) any use by its current or former Representatives or any person to whom Generator Confidential Information is disclosed pursuant to Condition 55.6(A)(ii) or 55.6(A)(iii), of any Generator Confidential Information in breach of Condition 55.5 as if they were subject to it.

DPA Counterparty Confidential Information:

55.10 The Generator shall keep all DPA Counterparty Confidential Information confidential and shall not disclose DPA Counterparty Confidential Information without the prior written consent of the DPA Counterparty other than as permitted by Condition 55.11 or to fulfil the Generator Permitted Purposes.

55.11 Condition 55.10 shall not prevent the disclosure of DPA Counterparty Confidential Information by the Generator:

- (A) on a confidential basis:
 - (i) to its Representatives to enable or assist the Generator to fulfil the Generator Permitted Purposes;
 - (ii) to members of its Group (and their respective Representatives) to enable or assist the Generator to fulfil the Generator Permitted Purposes;
 - (iii) to any Transferee to fulfil the Generator Permitted Purposes;
 - (iv) to providers or prospective providers to the Generator of debt financing, refinancing or credit support and their professional advisers, provided that such disclosure is restricted to Information necessary for the purposes of assessing the provision or potential provision of such financing, refinancing or credit support;
 - (v) to *bona fide* prospective purchasers of the Facility or, where the Facility is a Dual Scheme Facility, the Generating Station, provided that such disclosure is restricted to Information necessary for the purpose of assessing such potential purchase;
 - (vi) to any Electricity Transmission System Operator, Electricity Transmission Licensee or any Electricity Licensed Distributor, the Gas Licensed Transporter, any T&S Operator, the Economic Regulator, the DPA Settlement Services Provider, any BSC Company or any BSC Agent (or to their respective Representatives) to the extent that the Generator considers such disclosure is required to enable or assist: (a) the Generator to fulfil the Generator Permitted Purposes; or (b) such person to fulfil or perform any of its functions, duties or obligations arising out of or in connection with the DPA or any other CCUS Programme DPA or to fulfil or perform any ancillary or related function, duty or obligation (including any such functions, duties or obligations arising by virtue of or pursuant to the EA 2013);
 - (vii) for the purposes of:
 - (a) the examination and certification by its auditors of the Generator's accounts; or

- (b) complying with a proper request from the Generator's insurance adviser or insurer on placing or renewing any insurance policies,

provided that: (i) the Generator shall use reasonable endeavours to inform the recipient of the DPA Counterparty Confidential Information of the Generator's obligations pursuant to Condition 55.10; and (ii) in the case of disclosure of DPA Counterparty Confidential Information pursuant to Condition 55.11(A)(i), 55.11(A)(ii), 55.11(A)(iii), 55.11(A)(iv) or 55.11(A)(v), the Generator shall ensure that the recipient of the DPA Counterparty Confidential Information shall be subject to substantially the same obligation of confidentiality as contained in Condition 55.10;

- (B) to enable a Dispute to be instigated, progressed, consolidated with other disputes, settled or determined pursuant to and in accordance with the Dispute Resolution Procedure (except where the relevant DPA Counterparty Confidential Information has been provided on a "without prejudice" or "without prejudice save as to costs" basis);
- (C) to enable an Electricity Metering Dispute to be instigated, progressed, settled or determined in accordance with the provisions of the BSC;
- (D) (subject to Condition 55.12) which is required to comply with any Law or Directive (including the rules of any securities exchange, clearing system or regulatory body) having the force of law or, if not having the force of law, compliance with which is in accordance with the general practice of the Generator; or
- (E) that is otherwise expressly permitted pursuant to the terms, or required for the operation or fulfilment, of the DPA or any other DPA Document.

55.12 Prior to any disclosure of DPA Counterparty Confidential Information by the Generator pursuant to Condition 55.11(D), the Generator shall use reasonable endeavours to give notice to the DPA Counterparty of the DPA Counterparty Confidential Information to be disclosed, provided that it is lawful and reasonably practicable in the circumstances to do so.

Generator: liability for Representatives and service providers

55.13 The Generator shall be responsible for:

- (A) any failure by its current or former Representatives or any person to whom DPA Counterparty Confidential Information is disclosed pursuant to Condition 55.11(A)(ii), 55.11(A)(iii), 55.11(A)(iv) or 55.11(A)(v) to comply with Condition 55.10 as if they were subject to it;
- (B) any use by its current or former Representatives or any person to whom DPA Counterparty Confidential Information is disclosed pursuant to Condition 55.11(A)(ii) or 55.11(A)(iii), of any DPA Counterparty Confidential Information in breach of Condition 55.10 as if they were subject to it; and
- (C) any failure by any person to whom DPA Counterparty Confidential Information is disclosed pursuant to Condition 55.11(A)(iv) or 55.11(A)(v) to comply with the restrictions on usage of DPA Counterparty Confidential Information provided for in such Conditions.

No licence

55.14 No right or licence is granted to any person in relation to any Confidential Information save as explicitly set out in this Condition 55 (*Confidentiality*).

56. ANNOUNCEMENTS

No announcements

56.1 The Generator:

- (A) shall not, and shall ensure that its directors, officers and employees do not; and
- (B) shall use reasonable endeavours to ensure that each of its other current or former Representatives and each member of its Group (and their respective Representatives) do not,

make, publish, issue or release any announcement or public statement in relation to, or which refers to, the DPA or any other DPA Document or any related or ancillary matter, without the express prior consent of the DPA Counterparty (such consent not to be unreasonably withheld or delayed).

Generator permitted announcements

56.2 Notwithstanding Condition 56.1 (*No announcements*):

- (A) the Generator (and its directors, officers and employees) may make, publish, issue or release any announcement or public statement in relation to, or which refers to, the DPA or any other DPA Document or any related or ancillary matter if and to the extent required by any Law or Directive (including the rules of any securities exchange, clearing system or regulatory body) having the force of law or, if not having the force of law, compliance with which is in accordance with the general practice of the Generator, provided that:
 - (i) the Generator shall use (and shall procure that its directors, officers and employees shall use) reasonable endeavours to agree the contents of such announcement or public statement with the DPA Counterparty before it is made, published, issued or released (such consent not to be unreasonably withheld or delayed); or
 - (ii) if the contents of such announcement or public statement are not able to be agreed before the making, publishing, issuing or releasing of such announcement or public statement, notify the DPA Counterparty of such announcement or public statement immediately following its being made, published, issued or released; and
- (B) neither the Generator (nor any of its directors, officers or employees) shall be precluded from making, publishing, issuing or releasing any announcement or publication in relation to, or which refers to, the DPA or any other DPA Document or any related or ancillary matter if such announcement or publication:
 - (i) does not contain any DPA Counterparty Confidential Information;
 - (ii) will not hinder, preclude, prejudice or otherwise adversely affect or impact upon the DPA Counterparty Permitted Purposes or the DPA Counterparty's ability to fulfil the DPA Counterparty Permitted Purposes (whether in relation to the DPA or any other CCUS Programme DPA);
 - (iii) does not relate or refer to any fact, matter or circumstance in respect of a Dispute or an Electricity Metering Dispute or which will, or is reasonably likely to, give rise to a Dispute or an Electricity Metering Dispute (whether in relation to the DPA or any other CCUS Programme DPA); and

- (iv) will not hinder, preclude, prejudice or otherwise adversely affect or impact upon:
 - (a) the allocation by the Secretary of State or the DPA Counterparty of CCUS Programme DPAs or Other CCUS Programme Contracts, including any auction process in relation thereto;
 - (b) any application by any person for a CCUS Programme DPA or Other CCUS Programme Contract,

provided that the Generator shall notify the DPA Counterparty of such announcement or public statement immediately following its being made, published, issued or released.

- 56.3 Condition 56.2 shall apply (with the necessary modifications) to any announcement or public statement made, published, issued or released (or proposed to be so made, published, issued or released) by any of the persons referenced in Condition 56.1(B).

DPA Counterparty permitted announcements

- 56.4 The DPA Counterparty may make, publish, issue or release any announcement or public statement in relation to, or which refers to, the DPA or any other DPA Document or any related or ancillary matter that it considers to be necessary, desirable or appropriate (acting reasonably), provided that, if and to the extent that such announcement or statement contains any Generator Confidential Information, the making, publication, issue or release of such announcement or public statement does not breach Condition 55 (*Confidentiality*).

Publication of DPA Register Information

- 56.5 Nothing in Condition 55 (*Confidentiality*) shall restrict or prevent the publication by the DPA Counterparty of any DPA Register Information or any other information which in its opinion would facilitate the administration of the DPA.
- 56.6 The Generator may make representations in respect of any information that the Generator considers (acting reasonably) should be excluded from publication on the basis that such information is commercially sensitive, and the DPA Counterparty may (but shall not be obliged to) take into consideration any such representations prior to publishing the relevant information.

57. FREEDOM OF INFORMATION

Generator acknowledgements and undertakings

- 57.1 The Generator acknowledges and agrees that the DPA Counterparty:
- (A) is subject to the requirements of the FoIA and the EIR;
 - (B) may be obliged under the FoIA or the EIR to disclose Generator Confidential Information:
 - (i) in certain circumstances without consulting or obtaining consent from the Generator; or
 - (ii) following consultation with the Generator and having taken their views into account,

provided always that where (i) above applies the DPA Counterparty shall draw this to the attention of the Generator prior to any disclosure; and

(C) shall be responsible for determining in its absolute discretion (subject to any decision of the Information Commissioner following an application under section 50 of the FoIA and the outcome of any subsequent appeal to the Tribunal if applicable), whether the FoIA Information it holds (or that is held on its behalf) that is the subject of a Request for Information:

- (i) is exempt or excepted from disclosure pursuant to the FoIA or the EIR, as appropriate; or
- (ii) is to be disclosed in response to a Request for Information,

and, for the purposes of this Condition 57.1(C), any notification to the DPA Counterparty which identifies FoIA Information as being Generator Confidential Information is of indicative value only and the DPA Counterparty may nevertheless be obliged to disclose such FoIA Information in accordance with the requirements of the FoIA and the EIR.

57.2 The Generator:

- (A) shall not, and shall ensure that its directors, officers and employees do not; and
- (B) shall use reasonable endeavours to ensure that each of its other current or former Representatives and each member of its Group (and their respective Representatives) do not,

respond directly to a Request for Information unless expressly authorised to do so in writing by the DPA Counterparty.

57.3 The Generator undertakes to assist and co-operate with the DPA Counterparty, at the Generator's cost, to enable the DPA Counterparty to comply with its obligations pursuant to the FoIA and the EIR.

Requests for Information: procedure

57.4 If the DPA Counterparty receives a Request for Information in relation to FoIA Information that the Generator is holding on behalf of the DPA Counterparty and which the DPA Counterparty does not hold itself, the DPA Counterparty shall notify the Generator as to the FoIA Information to which the Request for Information relates and the Generator shall:

- (A) as soon as reasonably practicable (and in any event within five (5) Business Days, or such longer period as is specified by the DPA Counterparty, after the DPA Counterparty's request) provide the DPA Counterparty with a copy of all such FoIA Information in the form that the DPA Counterparty requests; and
- (B) provide all assistance reasonably requested by the DPA Counterparty in respect of any such FoIA Information to enable the DPA Counterparty to respond to a Request for Information within the time for compliance set out in section 10 of the FoIA or regulation 5 of the EIR.

57.5 Following notification under Condition 57.4 and until the Generator has provided the DPA Counterparty with all the FoIA Information specified in Condition 57.4(A), the Generator may make representations to the DPA Counterparty whether or on what basis the FoIA Information requested should be disclosed, and whether further Information should reasonably be provided to identify and locate the FoIA Information requested.

- 57.6 The Generator shall ensure that all FoIA Information held on behalf of the DPA Counterparty is retained for disclosure and shall permit the DPA Counterparty to inspect such FoIA Information as requested from time to time.
- 57.7 If the Generator receives a Request for Information in relation to the DPA Counterparty or in connection with the DPA, the Generator shall as soon as reasonably practicable and in any event within two (2) Business Days after receipt forward such Request for Information to the DPA Counterparty, and this Condition 57 (*Freedom of information*) shall apply as if the Request for Information had been received by the DPA Counterparty.

Publication schemes

- 57.8 Nothing in this Condition 57 (*Freedom of information*) shall restrict or prevent the publication by the DPA Counterparty of any FoIA Information in accordance with:
- (A) any publication scheme (as defined in the FoIA) adopted and maintained by the DPA Counterparty in accordance with the FoIA;
 - (B) any model publication scheme applicable to the DPA Counterparty as may be approved by the Information Commissioner; or
 - (C) the obligation to proactively release information under Regulation 4(1)(a) of the EIR,
- provided that, in deciding whether to publish Generator Confidential Information in accordance with any such publication scheme or model publication scheme, the DPA Counterparty shall take account of whether such Generator Confidential Information would be exempt from disclosure pursuant to the FoIA or the EIR.

Part 13
Miscellaneous

58. INTELLECTUAL PROPERTY RIGHTS

Retention of Intellectual Property Rights

- 58.1 Nothing in the DPA shall transfer any ownership of any Intellectual Property Rights acquired or developed by or on behalf of any Party, whether pursuant to or independently from (and whether before or during the term of) the DPA, any other DPA Document or (in the case of the DPA Counterparty) any other CCUS Programme DPA.

Licence of Intellectual Property Rights

- 58.2 Each Party hereby grants to the other Party with effect from the Agreement Date and subject to Condition 58.3(B) for the duration of the Term, a licence of any Intellectual Property Rights that are created by it, or on its behalf, pursuant to the terms of the DPA, any other DPA Document or (in the case of the DPA Counterparty) any other CCUS Programme DPA that:

- (A) it owns; or
- (B) is licensed to it (but only to the extent that it has the right to sub-license such Intellectual Property Rights),

on a non-exclusive, royalty-free, non-transferable basis and (subject to Condition 58.3) solely for the DPA Counterparty Restricted Purposes (in the case of the DPA Counterparty as licensee) or the Generator Permitted Purpose (in the case of the Generator as licensee).

- 58.3 The licence granted pursuant to Condition 58.2 shall:

- (A) permit each Party to sub-license to the extent required for the DPA Counterparty Restricted Purposes (in the case of the DPA Counterparty as licensee) or the Generator Permitted Purpose (in the case of the Generator as licensee); and
- (B) permit each Party to use and sub-license the Intellectual Property Rights after expiry or termination of the DPA, but only for the DPA Counterparty Restricted Purposes (in the case of the DPA Counterparty) or the Generator Permitted Purpose (in the case of the Generator).

Indemnity for infringement of Intellectual Property Rights

- 58.4 The Generator shall promptly on demand from time to time indemnify the DPA Counterparty, and keep the DPA Counterparty fully and effectively indemnified, against all liabilities, costs, expenses, damages and losses (including legal costs) incurred in respect of any actual infringement of third party Intellectual Property Rights arising from the use by the DPA Counterparty (or any entity that is sub-licensed in accordance with Condition 58.3) of Intellectual Property Rights licensed to the DPA Counterparty by the Generator pursuant to Condition 58.2, provided that such infringement has arisen from the use of such Intellectual Property Rights in accordance with the DPA Counterparty Restricted Purposes.

- 58.5 The DPA Counterparty shall promptly on demand from time to time indemnify the Generator, and keep the Generator fully and effectively indemnified, against all liabilities, costs, expenses, damages and losses (including legal costs) incurred in respect of any actual infringement of third party Intellectual Property Rights arising from the use by the Generator (or any entity that is sub-licensed in accordance with Condition 58.3(A)) of Intellectual Property Rights licensed to the Generator by the DPA Counterparty pursuant to Condition 58.2, provided that such

infringement has arisen from the use of such Intellectual Property Rights in accordance with the Generator Permitted Purpose.

59. **CYBER SECURITY**

59.1 The Generator shall, at all times during the Term:

- (A) comply with the Information Security Laws;
- (B) implement and maintain appropriate and industry standard physical and data security measures to manage the risks posed to the security of networks and data including the Information Systems, the SCADA System and DPA Counterparty Data (the "**Security Measures**");
- (C) limit access to the Information Systems and the SCADA System to such of its authorised personnel that requires access to such systems;
- (D) ensure that all Representatives of the Generator or other personnel authorised by the Generator with access to DPA Counterparty Data, the Information Systems and the SCADA System are subject to a contractual duty of confidence and are aware of, understand and comply with the Generator's obligations pursuant to this Condition 59 (*Cyber Security*);
- (E) comply with the Cyber Security Standards (or an equivalent standard or accreditation agreed by the Parties, acting reasonably) and provide the DPA Counterparty with a copy of any certificate of compliance with such standards, as required by the DPA Counterparty from time to time; and
- (F) ensure that it is, and remains during the Term, compliant with ISO 27035.

59.2 The Generator shall test the Security Measures regularly to assess the effectiveness of the requirements in ensuring the security, confidentiality, integrity, availability and resilience of the Information Systems, the SCADA System and the DPA Counterparty Data.

59.3 The Generator shall maintain written records of all security testing carried out in accordance with Condition 59.2 above and shall make such records available to the DPA Counterparty on request.

59.4 Notwithstanding any other provisions of this DPA, each Party shall use all reasonable endeavours to ensure that no Virus is introduced into any of the other Party's Information Systems, or into any systems used and/or owned by the other Party, as a result of:

- (A) the SCADA System; and/or
- (B) any acts or omissions of that Party (and/or any of its Representatives).

59.5 If a Virus is found to have been coded or otherwise introduced because of the action or inaction of a Party (and/or any of its respective Representatives), that Party shall immediately and at its own cost:

- (A) take all necessary remedial action to (i) identify, contain the spread of and minimise the impact of the Virus, and (ii) where possible, eliminate the Virus; and
- (B) if the Virus causes a loss of operational efficiency and/or any loss of DPA Counterparty Data or Generator Data (as applicable), take all steps necessary and provide all assistance required by the other Party to mitigate the loss of or damage to such DPA

Counterparty Data or Generator Data and to restore the efficacy of such DPA Counterparty Data or Generator Data.

60. MAINTENANCE AND RETENTION OF RECORDS

- 60.1 The Generator shall maintain or procure that detailed records relating to the Facility's electricity usage and generation, fuel consumption and CO₂ emissions (including any CO₂ Rich Stream exported to a T&S Network or an alternative non-pipeline transport arrangement) are maintained in accordance with the Reasonable and Prudent Standard and any applicable Law.
- 60.2 The records referred to in this Condition 60 (*Maintenance and retention of records*) shall be retained by the Generator for the Term of the DPA and for at least ten (10) years following the expiry or termination of the DPA.

61. GENERATOR CO-OPERATION: SUBSIDY CONTROL RULES

- 61.1 If the DPA Counterparty is notified or becomes aware that a Subsidy Control Competent Authority or other Competent Authority has decided that the DPA Counterparty or other public body must recover any subsidy granted or paid in relation to the DPA and that decision has not been annulled, the DPA Counterparty shall, if it is the party to which such order is addressed or if otherwise required by the Secretary of State, give notice as soon as reasonably practicable to the Generator of the sums to be repaid and any other actions necessary to ensure compliance with a Subsidy Control Competent Authority or other Competent Authority's decision and the Generator shall repay or procure the repayment of the relevant sums so notified to the DPA Counterparty or as the DPA Counterparty directs and take any other necessary actions so notified without delay.
- 61.2 The Generator shall, on reasonable notice and at its own cost:
- (A) do or procure the doing of all acts and execute or procure the execution of all documents; and
 - (B) provide the DPA Counterparty with the Information and assurances,
- reasonably necessary for the DPA Counterparty or other public body to comply with the terms of any decision of a Subsidy Control Competent Authority or other Competent Authority pursuant to the Subsidy Control Rules in relation to the DPA and any other CCUS Programme DPA(s).

62. GENERATOR ACKNOWLEDGEMENTS: GENERAL

Generator responsibility for advice and appraisal

- 62.1 The Generator acknowledges and agrees that none of the DPA Counterparty, the DPA Settlement Services Provider or the Secretary of State (nor any of their respective Representatives):
- (A) is:
 - (i) acting as a fiduciary of the Generator; or
 - (ii) advising the Generator (including as to any financial, legal, tax, investment, accounting or regulatory matters in any jurisdiction); or
 - (B) shall have any liability, duty, responsibility or obligation to the Generator with respect thereto.

DPA Counterparty contracting as principal

62.2 The Generator acknowledges and irrevocably and unconditionally agrees that:

- (A) the DPA Counterparty is contracting as principal and not on behalf of or as an agent for the Secretary of State;
- (B) it shall not have or bring any claim or action against the Secretary of State (or their respective Representatives), or the Representatives of the DPA Counterparty, in respect of the DPA or any other DPA Document;
- (C) nothing in the DPA or any other DPA Document shall impute or impose any liability, duty, responsibility or obligation upon the DPA Counterparty (other than pursuant to and in accordance with the express terms of the DPA or any other DPA Document); and
- (D) it shall not hold itself out as having any authority to act for or represent the DPA Counterparty in any way, nor act in any way which confers on the Generator any express, implied or apparent authority to incur any obligation or liability on behalf of the DPA Counterparty.

Generator's relationship with the DPA Settlement Services Provider

62.3 The Generator acknowledges and agrees that it shall not have or bring any claim or action against the DPA Settlement Services Provider in respect of any breach of the DPA (or any other DPA Document) or any loss, damage, cost or expense suffered or incurred thereunder and that its sole recourse for any breach of the DPA (or any other DPA Document) or any loss, damage, cost or expense suffered or incurred thereunder shall be against the DPA Counterparty.

63. NO PARTNERSHIP

Nothing in the DPA or any other DPA Document and no action taken by the Parties pursuant to the DPA or any other DPA Document shall constitute a partnership, joint venture or agency relationship between the Parties.

64. TRANSFERS***Restriction on Transfers***

64.1 Save as expressly permitted by this Condition 64 (*Transfers*), neither Party may:

- (A) assign to any person all or any of its rights or benefits under the DPA or any other DPA Document;
- (B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any person all or any of its rights or benefits under the DPA or any other DPA Document; or
- (C) transfer (whether by way of novation, sub-contract, delegation or otherwise) to any person, or enter into an arrangement whereby any person is to perform, any or all of its obligations under the DPA or any other DPA Document,

(each, a "**Transfer**", and "**Transferee**", which expression shall (where the context so requires) be deemed to include any transferee under a Transfer Scheme, shall be construed accordingly), without the prior written consent of the other Party.

Permitted Transfers by the DPA Counterparty

- 64.2 Notwithstanding Condition 64.1 (*Restriction on Transfers*), a Transfer of the DPA Counterparty's rights or obligations may be effected, without the consent of the Generator, to any person by or by virtue of a Transfer Scheme.

Other permitted assignments by the DPA Counterparty

- 64.3 Notwithstanding Condition 64.1 (*Restriction on Transfers*), the DPA Counterparty shall be entitled, without the consent of the Generator, to assign to any person all or any of its rights or benefits under the DPA and any other DPA Document on such terms as the DPA Counterparty considers appropriate.

Permitted delegation by the DPA Counterparty

- 64.4 Notwithstanding Condition 64.1 (*Restriction on Transfers*), the DPA Counterparty shall be entitled, without the consent of the Generator, to sub-contract or delegate to any person, or enter into an arrangement whereby any person is to perform, any or all of its obligations under the DPA and any other DPA Document on such terms as the DPA Counterparty considers appropriate, provided that the DPA Counterparty shall not be relieved of any of its obligations under the DPA and any other DPA Document and shall be liable for the acts and omissions of any person to whom it sub contracts or delegates or with whom it enters into an arrangement to perform any or all of its obligations under the DPA and any other DPA Document.

General provisions relating to permitted transfers

64.5

- (A) If the DPA Counterparty effects or proposes to effect a Transfer referred to in Conditions 64.2, 64.3 or 64.4, the Generator shall enter into such further agreements and do all such other things as are necessary to substitute the relevant Transferee for the DPA Counterparty in respect of the rights, benefits, obligations or liabilities that are, or are to be, the subject of the Transfer (the **"Transferring Rights and Obligations"**) and to give effect to any consequential amendments to the DPA (or other relevant DPA Document) that are necessary to give effect to such transfer.
- (B) To the extent practicable, the DPA Counterparty shall give the Generator not less than ten (10) Business Days' prior written notice specifying the identity of the Transferee and the Transferring Rights and Obligations, provided that no such prior written notice shall be required in respect of any Transfer: (i) by or by virtue of a Transfer Scheme; or (ii) pursuant to Condition 64.4 (*Permitted delegation by the DPA Counterparty*).

Permitted assignment by the Generator

- 64.6 Notwithstanding Condition 64.1 (*Restriction on Transfers*), the Generator shall be entitled, without the consent of the DPA Counterparty, to assign all (but not part only) of its rights and benefits under the DPA and any other DPA Document by way of security to or in favour of:
- (A) a Lender;
 - (B) any Affected Person;
 - (C) any parent undertaking of the Generator which provides funding in relation to the Facility; or
 - (D) any agent or security trustee on behalf of any Lender or Affected Person or any parent undertaking of the Generator referred to in (C) above.

The Generator shall give the DPA Counterparty not less than ten (10) Business Days' written notice prior to effecting an assignment pursuant to this Condition 64.6 and shall specify in such notice the identity of the assignee and provide such details in relation to such assignee as the DPA Counterparty may reasonably request having received such notification.

Direct Agreement

64.7 The DPA Counterparty shall enter into a Direct Agreement with, and at the request of, any person (or with any agent or security trustee on the relevant person's behalf):

(A)

(i) who is a Lender with the benefit of first ranking security over all or substantially all of the assets of the Generator (including its rights in respect of the Facility and under the DPA); or

(ii) who is an Affected Person (or an agent or security trustee on an Affected Person's behalf) with the benefit of first ranking security over all or substantially all of the assets of the Generator (including its rights in respect of the Facility and under the DPA); and

(B) in whose favour the Generator assigns its rights under the DPA and any other DPA Document in accordance with Condition 64.6.

Other Transfers by the Generator; Stapling obligation

64.8 If the consent of the DPA Counterparty to the transfer by the Generator of all or substantially all of the Generator's rights, benefits and obligations under the DPA and any other DPA Document to a Transferee is required and is given, the Generator shall transfer ownership of the Facility to the same Transferee contemporaneously with the Transfer. Any Transfer effected, or purported to be effected, in breach of this Condition 64.8 shall be ineffective and void.

Costs

64.9 The DPA Counterparty shall, promptly on demand from time to time, indemnify the Generator, and keep the Generator fully and effectively indemnified, against any and all out-of-pocket costs properly incurred by the Generator and which would not have been incurred but for a Transfer of the rights and obligations of the DPA Counterparty being effected by or by virtue of a Transfer Scheme.

Change of Material Investor

64.10 No Change of Material Investor may occur during the Lock-in Period unless it is approved by the DPA Counterparty pursuant to Conditions 64.12 to 64.15.

64.11 No Restricted Share Transfer may occur without the prior written approval of the DPA Counterparty.

64.12 Subject to Condition 64.16, the Generator shall notify the DPA Counterparty of any proposed Change of Material Investor as soon as reasonably practicable prior to its occurrence ("**Change of Material Investor Notice**"). A Change of Material Investor Notice shall include:

(A) details of the new ownership structure (legal and beneficial) that would apply following such Change of Material Investor; and

(B) where such Change of Material Investor is proposed to occur during the Lock-in Period, such Supporting Information as the Generator considers to be relevant to evidence:

- (i) that the Investor Group Requirements would be fulfilled following the proposed Change of Material Investor; and
- (ii) whether or not the proposed Change of Material Investor is a Restricted Share Transfer.

64.13 Each Change of Material Investor Notice shall be accompanied by a Director's Certificate in relation to the information contained in, and enclosed with, the Change of Material Investor Notice.

64.14 Where such Change of Material Investor is proposed to occur during the Lock-in Period, the DPA Counterparty shall, no later than twenty (20) Business Days after receipt of a Change of Material Investor Notice, give a notice to the Generator (a "**Change of Material Investor Response Notice**"). A Change of Material Investor Response Notice shall specify whether the DPA Counterparty considers that:

- (A) the Investor Group Requirements would or would not be fulfilled following the proposed Change of Material Investor; and
- (B) the Generator has or has not evidenced that the proposed Change of Material Investor is a Restricted Share Transfer; or
- (C) it has not been provided with sufficient Supporting Information to determine:
 - (i) whether or not the Investor Group Requirements would be fulfilled following the proposed Change of Material Investor; and/or
 - (ii) whether or not the proposed Change of Material Investor is a Restricted Share Transfer,

and, if so, details of the additional Supporting Information which the DPA Counterparty requires to determine such matters (the "**Change of Material Investor Supporting Information**").

64.15 If the DPA Counterparty states in the Change of Material Investor Response Notice that:

- (A) the Generator has evidenced that:
 - (i) the Investor Group Requirements would be fulfilled following the proposed Change of Material Investor; and
 - (ii) the proposed Change of Material Investor is not a Restricted Share Transfer,

then the Change of Material Investor will be deemed to have been approved by the DPA Counterparty for the purposes of the DPA;
- (B) the Generator has not evidenced that:
 - (i) the Investor Group Requirements would be fulfilled following the proposed Change of Material Investor; and/or
 - (ii) the proposed Change of Material Investor is not a Restricted Share Transfer,

then the Change of Material Investor will be deemed not to have been approved by the DPA Counterparty for the purposes of the DPA unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or

- (C) the Generator has not provided the DPA Counterparty with sufficient Supporting Information to determine whether or not: (i) the Investor Group Requirements would be fulfilled following the proposed Change of Material Investor; and/or (ii) whether or not the proposed Change of Material Investor is a Restricted Share Transfer:
 - (i) the Generator shall provide the Change of Material Investor Supporting Information as soon as reasonably practicable, and in any event no later than ten (10) Business Days after receipt of the Change of Material Investor Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the Change of Material Investor Supporting Information, the DPA Counterparty shall as soon as reasonably practicable, and in any event no later than twenty (20) Business Days after receipt of such Change of Material Investor Supporting Information, give a further Change of Material Investor Response Notice to the Generator which shall contain the information set out in paragraphs (A) or (B) above, or this paragraph (C) if the DPA Counterparty has still not been provided with sufficient Supporting Information.

64.16 The prior written approval of the DPA Counterparty shall not be required in respect of any Change of Material Investor which occurs after the Lock-in Period unless it is a Restricted Share Transfer in which case the Generator shall obtain the prior written approval of the DPA Counterparty prior to such Change of Material Investor taking place pursuant to Condition 64.11.

KYC Notification

64.17 The Generator shall notify the DPA Counterparty as soon as reasonably practicable of any proposed or actual:

- (A) change of the Generator's legal name;
- (B) Change of Ownership;
- (C) change of Ultimate Investor;
- (D) appointment of a director of the Generator; and/or
- (E) change of the Generator's legal jurisdiction,

each a ("**KYC Notice**").

64.18 A KYC Notice shall include, where relevant:

- (A) details of the Generator's new legal name;
- (B) details of the new ownership structure (legal and beneficial) that would apply following such Change of Ownership;
- (C) details of any incoming or outgoing Ultimate Investor;
- (D) details of any incoming director of the Generator; and/or

(E) details of the Generator's new legal jurisdiction.

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

65. NOTICES

Form of notices

65.1 Any notice to be given pursuant to or in connection with the DPA, or any other DPA Document, shall be effective only if it is in writing and is in English. Faxes are not permitted and, unless otherwise expressly stated, website publication is not permitted, but email and submission to the DPA Counterparty's electronic portal are permitted.

Pro forma notices

65.2 Where these Conditions permit, or require, either Party to give a notice to the other Party such notice shall be in substantially the form set out in Annex 12 (*Pro forma notices*) (each such notice, a "Pro Forma"). The foregoing: (i) shall be without prejudice to the requirement for the relevant notice to include such content as may be prescribed by the relevant Condition; and (ii) shall apply only if a Pro Forma in respect of the relevant Condition is contained in Annex 12 (*Pro forma notices*).

Notice details

65.3 The notice details of the Parties as at the Agreement Date are set out in the Agreement.

Changes to notice details

65.4 A Party may change its notice details on giving notice to the other Party in accordance with this Condition 65 (*Notices*). Such notice shall be effective only from:

- (A) the date specified in such notice (being not less than three (3) Business Days after the date of delivery or deemed delivery of such notice); or
- (B) (if no date is specified in such notice or the date specified is fewer than three (3) Business Days after the date of delivery or deemed delivery of such notice) the date falling three (3) Business Days after the notification has been received.

Deemed delivery

65.5 Any notice given pursuant to or in connection with the DPA or any other DPA Document shall, in the absence of evidence of earlier receipt, be deemed to have been received:

- (A) if delivered by hand, on the Business Day of delivery or, if delivered on a day other than a Business Day, on the next Business Day after the date of delivery;
- (B) if sent by first class post within the United Kingdom, on the third (3rd) Business Day after the day of posting;
- (C) if sent from one country to another, on the fifth (5th) Business Day after the day of posting;
- (D) if sent by email, when sent except that an email shall be deemed not to have been sent if the sender receives a delivery failure notification; or

- (E) if submitted to the DPA Counterparty's electronic portal, when submitted except that an electronic portal submission shall be deemed not to have been submitted if the Party submitting the electronic portal submission receives an upload failure notification,

provided that any notice given outside Working Hours in the place to which it is addressed (or, in the case of a notice sent by email, the location of the person to whom it is addressed) shall be deemed not to have been given until the start of the next period of Working Hours in such place.

Notice requirements

- 65.6 Except where expressly stated to the contrary, each notice given by the DPA Counterparty to the Generator, or by the Generator to the DPA Counterparty, pursuant to the DPA or any other DPA Document must be duly signed (including, in the case of notice by way of email, by Electronic Signature (and "**Electronic Signature**" shall have the meaning given to that term in the Electronic Communications Act 2000)):

- (A) in the manner, and by the person, specified in the relevant provision of the DPA or DPA Document; or
- (B) (where no such requirement is specified) by an authorised signatory of the relevant Party.

Disapplication of notice provisions

- 65.7 This Condition 65 (*Notices*) shall not apply in relation to any document relating to service of process (including in respect of the service of Service Documents).

66. COSTS

- 66.1 Subject to Condition 66.2, each Party shall bear all costs and expenses incurred by it in connection with the entry into the DPA and each other DPA Document, including all costs and expenses incurred in connection with the negotiation, preparation, execution, performance and carrying into effect of, and compliance with, the DPA and each other DPA Document.

- 66.2 Condition 66.1 is subject to any provision of the DPA or any other DPA Document which expressly provides for the Generator to bear the costs and expenses of the DPA Counterparty (or to pay or reimburse or indemnify the DPA Counterparty in respect of such costs and expenses) in respect of which such costs and expenses shall comprise all out-of-pocket costs and expenses (including all legal and other advisory and consultants' fees) properly incurred by the DPA Counterparty in relation to the relevant matter. Where such costs and expenses are required to be apportioned between the Generator and one (1) or more other DPA Generators, the DPA Counterparty shall apportion such costs between the Generator and such other DPA Generators (for this purpose ignoring the proviso in the definition of DPA Generators in Condition 1.1) in such proportion as the DPA Counterparty (acting reasonably) deems fair and equitable.

67. FURTHER ASSURANCE

Each Party shall at its own cost do or procure the doing of all things and execute or procure the execution of all further documents necessary to give full force and effect to and securing to the other Party the full benefit of the rights, powers and benefits conferred upon it under or pursuant to the DPA and all other DPA Documents save that the DPA Counterparty shall not be required pursuant to this Condition 67 (*Further assurance*) to exercise or perform any statutory power or duty.

68. **THIRD PARTY RIGHTS**

- 68.1 Conditions 62.1, 62.2 and 62.3 confer benefits on the DPA Settlement Services Provider, the Secretary of State, and their respective Representatives and, if Condition 37.13 applies, the relevant T&S Operator (each, a **"Third Party"**) (such Conditions being **"Third Party Provisions"**).
- 68.2 Subject to the remaining provisions of this Condition 68 (*Third party rights*), the Third Party Provisions are intended to be enforceable by the Third Parties by virtue of the C(RTP) Act.
- 68.3 The Parties do not intend that any term of the DPA, other than the Third Party Provisions, should be enforceable, by virtue of the C(RTP) Act, by any person who is not a Party.
- 68.4 Notwithstanding this Condition 68 (*Third party rights*), the DPA may be varied in any way and at any time by the Parties without the consent of any Third Party.

69. **NO VARIATION**

- 69.1 Subject to Condition 69.2, no variation to the provisions of the DPA shall be valid unless it is in writing and signed by each Party.
- 69.2 Condition 69.1 is subject to the operation of:
- (A) Condition 33 (*Change in Applicable Law: Procedure*);
 - (B) Annex 6 (*Change Control Procedure*);
 - (C) Annex 8 (*Gas Reference Price Review*);
 - (D) Annex 9 (*Carbon Market Reference Price Review*); and
 - (E) Annex 10 (*Reference Plant Review*).

70. **COUNTERPARTS**

The DPA may be executed in any number of counterparts and by the Parties to it on separate counterparts, but shall not be effective until each Party has executed at least one (1) counterpart. Each counterpart shall constitute an original but all of the counterparts together shall constitute one and the same instrument.

71. **GOVERNING LAW AND JURISDICTION**

- 71.1 The DPA, the other DPA Documents and any matter, claim or dispute arising out of or in connection with any of them (including any Dispute) shall be governed by and construed in accordance with English law.
- 71.2 Any Dispute shall be finally determined or resolved in accordance with the Dispute Resolution Procedure.
- 71.3 Any Electricity Metering Dispute shall be finally determined or resolved in accordance with Condition 46.1 (*Metering Disputes*).

72. AGENT FOR SERVICE OF PROCESS

Application

- 72.1 This Condition 72 (*Agent for service of process*) shall apply to the DPA only if it is expressed to apply to the DPA in the Agreement.

Service Agent

- 72.2 The Generator irrevocably appoints the Service Agent to be its agent for the receipt of Service Documents and claim forms, application notices, orders, judgments and any other documents relating to any Dispute or Electricity Metering Dispute. It agrees that any Service Document and any claim form, application notice, order, judgment or other document relating to any Dispute or Electricity Metering Dispute may be effectively served on it in England and Wales by service on its Service Agent effected in any manner permitted by the Civil Procedure Rules.

Replacement

- 72.3 If the Service Agent at any time ceases for any reason to act as such, the Generator shall appoint a replacement agent for the receipt of Service Documents and claim forms, application notices, orders, judgments and any other documents relating to any Dispute or Electricity Metering Dispute having an address for service in England or Wales and shall notify the DPA Counterparty of the name and address of the replacement agent. Failing such appointment and notification, the DPA Counterparty shall be entitled by notice to the Generator to appoint a replacement agent to act on behalf of the Generator for the receipt of Service Documents and claim forms, application notices, orders, judgments and any other documents relating to any Dispute or Electricity Metering Dispute. The provisions of this Condition 72 (*Agent for service of process*) applying to service on a Service Agent apply equally to service on a replacement agent.

Service of process

- 72.4 A copy of any Service Document or any claim form, application notice, order, judgment or other document relating to any Dispute or Electricity Metering Dispute served on an agent shall be sent by post to the Generator. Failure or delay in so doing shall not prejudice the effectiveness of service of the relevant document.

73. LANGUAGE

English language

- 73.1 All Information provided by the Generator to the DPA Counterparty pursuant to or in connection with the DPA or any other DPA Document shall be in English unless otherwise agreed in writing by the DPA Counterparty.

Translations

- 73.2 In the case of any Information which is translated into English, prior to its being delivered to the DPA Counterparty pursuant to the DPA or any other DPA Document, the Generator shall ensure that any such translation is carried out (at the Generator's cost) by a recognised and appropriately qualified and skilled translation agent.
- 73.3 The DPA Counterparty shall be entitled to assume the accuracy of and rely upon the English translation of any Information provided pursuant to Condition 73.2 and the English translation shall prevail.

Annex 1
Conditions Precedent

Part A
Initial Conditions Precedent

1. LEGAL OPINION

Delivery to the DPA Counterparty of a legal opinion addressed to the DPA Counterparty, in form and content satisfactory to the DPA Counterparty (acting reasonably), from the legal advisers to the Generator confirming that the Generator:

- (A) is duly formed and validly existing under the laws of the jurisdiction of formation; and
- (B) has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, the DPA and the other DPA Documents.

2. KYC DOCUMENTATION

Delivery to the DPA Counterparty of evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), of compliance by the Generator with "know your customer" or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by the DPA and the other DPA Documents.

3. THE FACILITY

Delivery to the DPA Counterparty of the following:

- (A) a description of the Generation Assets, in form and content satisfactory to the DPA Counterparty (acting reasonably), including:
 - (i) details of the assets comprising the Generation Assets;
 - (ii) an aerial view of the unique geographical location of the Generation Assets, whether an extract from the Ordnance Survey map or equivalent, showing the existing or proposed locations of: (a) the Generation Assets; (b) the Electricity Metering Equipment; (c) the Gas Supply Metering Equipment; (d) the Electricity Delivery Point(s); and (e) the Gas Supply Point(s); and
 - (iii) a process flow diagram of the Generation Assets; and
- (B) a description of the Capture Assets, in form and content satisfactory to the DPA Counterparty (acting reasonably), including:
 - (i) details of the assets comprising the Capture Assets;
 - (ii) an aerial view of the unique geographical location of the Capture Assets, whether an extract from the Ordnance Survey map or equivalent, showing the proposed locations of: (a) the Capture Assets; (b) the CO₂ Metering Equipment; (c) the CO₂ Delivery Point(s); (d) CO₂ Outlet T&S Network Analysis Point(s); (e) CO₂ Outlet T&S Network Metering Point(s); and, if applicable, (f) CO₂ Re-use Point(s) and (g) CO₂ Re-use Metering Point(s); and
 - (iii) a process flow diagram of the Capture Assets, demonstrating that the Capture Assets will comply with the CO₂ Metering Specification.

4. **KEY PROJECT DOCUMENTS**

Delivery to the DPA Counterparty of evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that the following documents have been entered into or obtained by the Generator:

- (A) a grid connection offer signed by the Generator and the Electricity Transmission System Operator;
- (B) a gas connection offer signed by the Generator and the Gas Licensed Transporter;
- (C) a T&S Connection Agreement signed by the Generator and the relevant T&S Operator;
- (D) a T&S Construction Agreement signed by the Generator and the relevant T&S Operator;
- (E) a Code Agreement or a Code Accession Agreement (as applicable) signed by the Generator, all T&S Operators and all other Users (as defined in the CCS Network Code); and
- (F) Applicable Planning Consents for the Facility and associated infrastructure, with the challenge period having expired with no challenge being brought (or any challenge having been unsuccessful with no further rights of appeal).

5. **OTHER**

Delivery to the DPA Counterparty of evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), of the following:

- (A) the Generator's:
 - (i) certificate of incorporation (if applicable);
 - (ii) most recent annual return (where available); and
 - (iii) VAT certificate of registration;
- (B) a copy of the resolution of the Generator's board of directors approving the terms of and the transactions contemplated by the DPA and resolving that it executes, delivers and performs the DPA; and
- (C) a declaration by the authorised person(s) of the Generator that it is:
 - (i) not in receipt of any other scheme of funding by a Government Entity; or
 - (ii) in receipt of another scheme of funding by a Government Entity and/or any other Approved Scheme of Funding, together with Supporting Information in relation to such scheme of funding.

Part B
Operational Conditions Precedent

1. DPA SETTLEMENT SERVICES PROVIDER

Delivery to the DPA Counterparty of written confirmation from the DPA Settlement Services Provider that:

- (A) it has received the DPA Settlement Required Information which is required from the Generator prior to the Start Date; and
- (B) the Generator has in place the systems and processes which are necessary for the continued provision of the DPA Settlement Required Information.

2. KYC DOCUMENTATION

Delivery to the DPA Counterparty of evidence, in form and content satisfactory to the DPA Counterparty, acting reasonably, of compliance by the Generator with "know your customer" or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by the DPA and the other DPA Documents.

3. ELECTRICITY GENERATION

Delivery to the DPA Counterparty of the following:

- (A) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that a Net Dependable Capacity of not less than eighty five per cent. (85%) of the Net Dependable Capacity Estimate has been Commissioned;
- (B) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that the Generator is complying in full with the Electricity Metering Obligations at Condition 21.1 (*Undertakings: Electricity Metering Obligation*);
- (C) a date and time stamped copy of the electrical schematic diagram, certified as being correct and up to date by a director or company secretary of the Generator and showing the locations of the Electricity Metering Equipment associated with all assets comprised within the Facility (including details of the type of BSC approved metering and all Communications Equipment installed in compliance with the Electricity Metering Obligations);
- (D) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that all Communications Equipment relating to the Electricity Metering Equipment is fully compliant with the BSC;
- (E) the expected generation output data, in form and content satisfactory to the DPA Counterparty (acting reasonably), not to be delivered before delivery of the evidence referred to in paragraph 3(A) of this Part B of Annex 1 (*Conditions Precedent*); and
- (F) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that Start Up Times of not more than the Required Start Up Times have been Commissioned.

4. CO₂ CAPTURE

Delivery to the DPA Counterparty of the following:

- (A) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that the Generator is complying in full with the CO₂ Metering Obligations at Condition 21.2 (*Undertakings: CO₂ Metering Obligation*);
- (B) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), of the Test Achieved CO₂ Capture Rate to demonstrate that the OCP Required CO₂ Capture Rate has been Commissioned;
- (C) a date and time stamped copy of the schematic diagram, certified as being correct and up to date by a director or company secretary of the Generator and showing the locations of the CO₂ Metering Equipment (including CO₂ Delivery Point(s), CO₂ T&S Network Analysis Point(s); CO₂ Outlet T&S Network Metering Point(s); and, if applicable, CO₂ Re-use Point(s) and CO₂ Re-Use Metering Point(s)) associated with all assets comprised within the Facility (including details of the type of metering and CO₂ Metering Equipment installed in compliance with the CO₂ Metering Obligation); and
- (D) evidence, in form and content satisfactory to the DPA Counterparty, that the Facility has connected to the relevant T&S Network in accordance with the relevant T&S Operator's Entry Provisions (as defined in the CCS Network Code) ("**T&S Connection Confirmation CP**").

5. **GAS SUPPLY AND PLANT EFFICIENCY**

Delivery to the DPA Counterparty of the following:

- (A) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that the Generator is complying in full with the Gas Supply Metering Obligations at Condition 21.3 (*Undertakings: Gas Supply Metering Obligation*);
- (B) a date and time stamped copy of the schematic diagram, certified as being correct and up to date by a director or company secretary of the Generator and showing the locations of the Gas Supply Metering Equipment (including Gas Supply Point(s)) associated with all assets comprised within the Facility (including details of the type of metering and Gas Supply Metering Equipment installed in compliance with the Gas Supply Metering Obligation); and
- (C) evidence, in form and content satisfactory to the DPA Counterparty (acting reasonably), that a Plant Net Efficiency of not less than ninety per cent. (90%) of the Plant Net Efficiency Estimate has been Commissioned.

6. **SUBSIDY CONTROL DECLARATION OPERATIONAL CP**

Delivery to the DPA Counterparty of a written confirmation from the Generator, in form and content satisfactory to the DPA Counterparty (acting reasonably), that either:

- (A) no Subsidy, State aid, Union Funding and/or International Funding has been received by the Generator or by any other person in relation to the costs of the Project (excluding the subsidy arising under the DPA and/or any other Approved Scheme of Funding); or
- (B) Subsidy, State aid, Union Funding and/or International Funding has been received by the Generator or by any other person in relation to the costs of the Project (excluding the subsidy arising under the DPA and/or any other Approved Scheme of Funding), and that such Subsidy, State aid, Union Funding and/or International Funding (as applicable) (adjusted for interest in accordance with Condition 25.13 (*Subsidy Interest*)) has been repaid to the grantor of the subsidy, aid or funding in full.

7. INTERIM OPERATIONAL NOTIFICATION

Delivery to the DPA Counterparty of either:

- (A) if the Facility is connected directly to the Electricity Transmission System, a certified copy of the Interim Operational Notification issued by the Electricity Transmission System Operator under the Grid Code; or
- (B) if the Facility is not connected directly to the Electricity Transmission System:
 - (i) written confirmation from the relevant Electricity Licensed Distributor or, if no such confirmation is applicable, evidence (in form and content reasonably satisfactory to the DPA Counterparty) that the Electricity Distribution Code compliance process for connection to and export to the Electricity Distribution System has been satisfied; and
 - (ii) if applicable, the Interim Operational Notification issued by the Electricity Transmission System Operator under the Grid Code.

Annex 2 Testing Requirements

1. DEFINITIONS

1.1 In this Annex 2 (*Testing Requirements*):

"Additional OCP Performance Test Date" has the meaning given to that term in paragraph 2.9 (*Failing to satisfy the Minimum OCP Commissioning Requirements*) of Part A (*Testing Requirements*);

"Additional OCP Performance Test Date Notice" has the meaning given to that term in paragraph 2.9 (*Failing to satisfy the Minimum OCP Commissioning Requirements*) of Part A (*Testing Requirements*);

"Approved Test Procedure" has the meaning given to that term in paragraph 1.2(A) (*Test Procedure*) of Part A (*Testing Requirements*);

"CO₂ Capture Rate Test Report" means a report to be supplied to the DPA Counterparty in accordance with paragraph 6.6 (*CO₂ Capture Rate Test Report*) of Part A (*Testing Requirements*);

"Cold Start" has the meaning given to that term in paragraph 4.3 (*General*) of Part A (*Testing Requirements*);

"Correction Curves" means the Generator's Required Correction Curves from time to time, being the Initial Correction Curves as may be adjusted pursuant to paragraphs 1.1 to 1.5 (*Test Procedure*) of Part A (*Testing Requirements*);

"Facility Heat and Material Balance Diagram" means the Generator's Heat and Balance Diagram from time to time, being the Initial Heat and Material Balance Diagram as may be adjusted pursuant to:

- (A) Conditions 5.1, 5.5, and 5.6 (*Adjustment to Net Dependable Capacity Estimate: Permitted Reduction*); and/or
- (B) paragraphs 1.1 to 1.5 (*Test Procedure*) of Part A (*Testing Requirements*);

"Facility Shutdown" has the meaning given to that term in paragraph 4.3 (*General*) of Part A (*Testing Requirements*);

"Full Load Operation" has the meaning given to that term in paragraph 4.3 (*General*) of Part A (*Testing Requirements*);

"Full Load Test" the performance test procedure detailed paragraph 3 (*Full Load Test*) of Part A (*Testing Requirements*);

"Full Load Test Performance Outputs" has the meaning given to that term in paragraph 3.1 (*General*) of Part A (*Testing Requirements*);

"Heat and Material Balance Diagram" means a diagram detailing the energy and material output from a system that is equal to the energy input to such system at Reference Site Conditions, with such diagram to include a process flow diagram, operating conditions (including mass flow, enthalpy, pressure, temperature, composition and steam quality), compositions and key physical properties of each major process line and equipment of the Facility;

"Hot Start" has the meaning given to that term in paragraph 4.3 (*General*) of Part A (*Testing Requirements*);

"Initial Correction Curves" has the meaning given to that term in the Agreement;

"Initial Notified Performance Test Date" has the meaning given to that term in paragraph 2.2 (*Notification of Performance Test Date*) of Part A (*Testing Requirements*);

"Longstop Performance Test Notice" has the meaning given to that term in paragraph 1.10 (*Test Procedure*) of Part A (*Testing Requirements*);

"Longstop Proposed Test Date" has the meaning given to that term in paragraph 1.10 (*Test Procedure*) of Part A (*Testing Requirements*);

"Notified Performance Test Date" means:

- (A) the relevant Initial Notified Performance Test Date;
- (B) if paragraph 2.3(A) applies, the relevant Revised Notified Performance Test Date; or
- (C) if paragraph 2.8 applies, the relevant Additional Performance Test Date;

"Performance Test" means the OCP Performance Test and/or the Longstop Date Performance Test (as applicable);

"Performance Test Access Notice" has the meaning given to that term in paragraph 2.6 (*Performance Test Access Right*) of Part A (*Testing Requirements*);

"Performance Test Access Right" has the meaning given to that term in paragraph 2.5 (*Performance Test Access Right*) of Part A (*Testing Requirements*);

"Performance Test Date Notice" has the meaning given to that term in paragraph 2.2 (*Notification of Performance Test Date*) of Part A (*Testing Requirements*);

"Performance Test Report" means a report to be supplied to the DPA Counterparty in accordance with paragraph 2.7 (*Performance Test Report*) of Part A (*Testing Requirements*);

"Pre-Start Up (Shutdown) Test Conditions" has the meaning given to that term in paragraph 4.3 (*General*) of Part A (*Testing Requirements*);

"Proposed Correction Curves" has the meaning given to that term in paragraph 1.1(C) (*Performance Test Procedure*) of Part A (*Testing Requirements*);

"Proposed Test Date Window" means the OCP Proposed Test Date Window and/or the Longstop Proposed Test Date Window;

"PTP Response Notice" has the meaning given to that term in paragraph 1.2 (*Test Procedure*) of Part A (*Testing Requirements*);

"Required Correction Curves" means the correction curves listed in paragraph 1 (*Required Correction Curves*) of Part C, in a form and content satisfactory to the DPA Counterparty;

"Revised Notified Performance Test Date" has the meaning given to that term in paragraph 2.3(A) (*Notification of Performance Test Date*) of Part A (*Testing Requirements*);

"Scheduled Performance Test Date Window" has the meaning given to that term in paragraph 2.1 (*Notification of Performance Test Date*);

"Scheduled Performance Test Date Window Notice" has the meaning given to that term in paragraph 2.1 (*Notification of Performance Test Date*);

"Start Up (Shutdown) Test" means the test procedure set out in paragraph 4 (*Start Up (Shutdown) Test*);

"Start Up (Shutdown) Test Commencement" has the meaning given to that term in paragraph 4.3 (*General*) of Part A (*Testing Requirements*);

"Test" means the OCP Performance Test, the Longstop Date Performance Test, the Annual NDC Test or the CO₂ Capture Rate Test (as applicable);

"Test Performance Standards" the industry guidelines, practices and standards which:

- (A) are relevant or apply to the completion, testing and commissioning of generating and carbon capture facilities which are the same as, or of a similar type to, the Facility (including those which are relevant to the Facility Generation Technology and the Facility Capture Technology);
- (B) are required to be complied with, followed or passed (as appropriate): (i) in order for a generating facility to generate and export electricity; or (ii) to demonstrate that a generating facility is fit for commercial operation;
- (C) are required to be complied with, followed or passed (as appropriate): (i) in order for a capturing facility to capture and export CO₂ emissions; or (ii) to demonstrate that a capturing facility is fit for commercial operation; and
- (D) if applicable, include the following ASME standards:
 - (i) ASME PTC 46 "Overall Plant Performance";
 - (ii) ASME PTC-48, or ISO 27919; and
 - (iii) ASME PTC-4.4;

"Test Procedure" means the performance test procedure for the Full Load Tests, Start Up (Shutdown) Tests and CO₂ Capture Rate Tests to be carried out by the Generator, in accordance with the Test Performance Standards, to be prepared by the Generator and approved by the DPA Counterparty pursuant to paragraphs 1.1 to 1.9;

"Test Procedure Notice" has the meaning given to that term in paragraph 1.1 (*Test Procedure*) of Part A (*Testing Requirements*);

"Test Report" means a Performance Test Report or a CO₂ Capture Rate Test Report (as applicable);

"Test Report Minimum Technical Requirements" means the minimum required technical content of each Test Report as required by the relevant Test Performance Standards and as required to comply with the Reasonable and Prudent Standard which shall include, but shall not be limited to, the following:

- (A) procedure for testing and calculation;
- (B) details of relevant calculations with definitions of terminology, including showing actual manipulation of test data such as averaging and determination and application of correction factors;

- (C) details of relevant results (corrected to Reference Site Conditions and uncorrected at test conditions);
- (D) Correction Curves;
- (E) copies of log sheets and raw data in electronic format;
- (F) field data sheets;
- (G) exported CO₂ analyses;
- (H) fuel analyses;
- (I) post-test uncertainty analyses; and
- (J) details of calibrations of all relevant instruments and copies of associated calibration certificates;

"Test Run Period" means the applicable period(s) of time during which each Test is required to be conducted which, in respect of:

- (A) a Full Load Test shall be the time periods set out in paragraph 3.2(B) (*Full Load Test Run Periods*);
- (B) a Start Up (Shutdown Test) shall be the time periods set out in paragraph 4.4 (*Start Up (Shutdown) Test Run Periods*); or
- (C) a CO₂ Capture Rate Test shall be the time periods set out in paragraph 6.3 (*CO₂ Capture Rate Test Run Period*); and

"Warm Start" has the meaning given to that term in paragraph 4.3 (*General*) of Part A (*Testing Requirements*).

Part A
Testing Requirements

1. TEST PROCEDURE

Test Procedure

- 1.1 The Generator shall, at least six (6) Months prior to the date on which it proposes to conduct the first Performance Test, give a notice to the DPA Counterparty (a **"Test Procedure Notice"**) with such notice to:
- (A) include the draft Test Procedure it proposes to be adopted for the purposes of each Performance Test, Annual NDC Test, and CO₂ Capture Rate Test;
 - (B) include the Facility's pre-test uncertainty calculations for the instrumentation to be used for the performance test measurements (as set out in ASME PTC 19.1) in each Test;
 - (C) specify the proposed Correction Curves which should apply for the purposes of each Test and, if applicable, include such Supporting Information as the Generator considers to be relevant to evidence any changes to the Initial Correction Curves (**"Proposed Correction Curves"**);
 - (D) specify the proposed Heat and Material Balance Diagram which should apply for the purposes of each Test and, if applicable, include such Supporting Information as the Generator considers to be relevant to evidence any changes to the Initial Heat and Material Balance Diagram (or if applicable, the NDCE Adjusted Heat and Material Balance Diagram) (**"Proposed Heat and Material Balance Diagram"**); and
 - (E) specify an estimated window of twenty (20) Business Days within which it proposes to commence the OCP Performance Test(s) (the **"OCP Proposed Test Date Window"**), as may be amended and notified by the Generator to the DPA Counterparty from time to time, together with Supporting Information in respect of the reasons for such amendment.
- 1.2 The DPA Counterparty shall, no later than thirty (30) Business Days after receipt of: (i) a Test Procedure Notice; (ii) additional Supporting Information pursuant to paragraph 1.2(B); or (iii) an amended draft Test Procedure pursuant to paragraph 1.2(C) (as applicable), give a notice to the Generator (a **"PTP Response Notice"**). A PTP Response Notice shall specify whether the DPA Counterparty:
- (A) approves the draft Test Procedure without amendment, following which the draft Test Procedure shall become the **"Approved Test Procedure"**;
 - (B) requires the Generator to provide additional Supporting Information in relation to the draft Test Procedure, in order for the DPA Counterparty to assess whether or not to approve such procedure; or
 - (C) requires amendments to the draft Test Procedure, in which case the PTP Response Notice shall provide the Generator with sufficient detail in relation to such required amendments.
- 1.3 The Generator shall, no later than twenty (20) Business Days after receipt of a PTP Response Notice, submit to the DPA Counterparty:
- (A) if the PTP Response Notice relates to paragraph 1.2(B), the relevant additional Supporting Information specified in the PTP Response Notice; or

- (B) if the PTP Response Notice relates to paragraph 1.2(C), an amended draft Test Procedure which includes the amendments specified in the PTP Response Notice, and in either case, paragraph 1.2 shall then reapply.
- 1.4 The Generator shall conduct each Test in accordance with the Approved Test Procedure.
- 1.5 With the effect from the date of the PTP Response Notice which approved the Test Procedure:
- (A) the Proposed Correction Curves included in the Approved Test Procedure shall constitute the Correction Curves for the purposes of the DPA; and
 - (B) the Proposed Heat and Material Balance Diagram included in the Approved Test Procedure shall constitute the Heat and Material Balance Diagram for the purposes of the DPA.
- 1.6 The Generator shall give the DPA Counterparty a notice promptly upon the Generator becoming aware of any fact, matter or circumstance which will or is reasonably likely to significantly affect the accuracy of the Approved Test Procedure.
- 1.7 Nothing in paragraphs 1.1 to 1.3 shall require the DPA Counterparty to specify in any PTP Response Notice that the DPA Counterparty accepts any draft Test Procedure unless and until the DPA Counterparty is satisfied of the same.
- 1.8 Any Test Procedure Notice shall be irrevocable.
- 1.9 The Generator may give a Test Procedure Notice pursuant to paragraph 1.1 on only one (1) occasion.
- 1.10 If the Generator intends to conduct the Longstop Date Performance Test (except where conducted simultaneously with the OCP Performance Test), the Generator shall, at least three (3) Months prior to the date on which it proposes to conduct such test, give a notice to the DPA Counterparty (a **"Longstop Performance Test Notice"**) with such notice to:
- (A) include the Approved Test Procedure; and
 - (B) specify an estimated window of twenty (20) Business Days within which it proposes to commence the Longstop Performance Test (the **"Longstop Proposed Test Date Window"**), as such window may be amended and notified by the Generator to the DPA Counterparty from time to time, together with Supporting Information in respect of the reasons for such amendment.

2. PERFORMANCE TESTS: GENERAL

Notification of Performance Test Date

- 2.1 The Generator shall, no later than two (2) Months prior to the start of the relevant Proposed Test Date Window, give a notice (the **"Scheduled Performance Test Date Window Notice"**) to the DPA Counterparty confirming the window of ten (10) Business Days within which it proposes to conduct the relevant Performance Test (the **"Scheduled Performance Test Date Window"**).
- 2.2 The Generator shall, no later than one (1) Month prior to the start of the relevant Scheduled Performance Test Date Window, give a notice (the **"Performance Test Date Notice"**) to the DPA Counterparty confirming the anticipated date of the relevant Performance Test which must be within the Scheduled Performance Test Date Window (an **"Initial Notified Performance Test Date"**).

- 2.3 If the Generator proposes to change the date that it anticipates it will conduct the relevant Performance Test from the Initial Notified Performance Test Date, the Generator shall give a notice to the DPA Counterparty (a **"Performance Test Date Adjustment Notice"**). The Generator shall give such Performance Test Date Adjustment Notice to the DPA Counterparty at least three (3) Business Days prior to the proposed date of the relevant Performance Test and the Performance Test Date Adjustment Notice shall:
- (A) specify the new date within the Scheduled Performance Test Date Window on which the Generator proposes to conduct the relevant Performance Test (the **"Revised Notified Performance Test Date"**); and
 - (B) include Supporting Information evidencing the reasons for the change from the Initial Notified Performance Test Date to the Revised Notified Performance Test Date.
- 2.4 The Generator shall conduct the relevant Performance Test on the Notified Performance Test Date.

Performance Test Access Right

- 2.5 With effect from the Agreement Date, the Generator shall grant the DPA Counterparty (and any and all persons nominated by the DPA Counterparty and considered by the DPA Counterparty to be suitably qualified) access to the Facility if the DPA Counterparty intends to witness a Performance Test (the **"Performance Test Access Right"**).
- 2.6 If the DPA Counterparty intends to exercise the Performance Test Access Right it shall give a notice to the Generator (a **"Performance Test Access Notice"**). A Performance Test Access Notice shall specify that the DPA Counterparty (and any and all persons nominated by the DPA Counterparty and considered by the DPA Counterparty to be suitably qualified) intends to exercise the Performance Test Access Right and the date(s) on which it intends to exercise such right.
- 2.7 On receipt of a Performance Test Access Notice, the Generator shall permit the DPA Counterparty to exercise the Performance Test Access Right provided that the date requested by the DPA Counterparty to exercise the Performance Test Access Right is no earlier than one (1) Business Day after receipt of the Performance Test Access Notice.

Performance Test Report

- 2.8 The Generator shall, as soon as reasonably practicable after the completion of a Performance Test, submit a test report of such Performance Test to the DPA Counterparty (a **"Performance Test Report"**). A Performance Test Report shall include, but shall not be limited to, the following:
- (A) a description of the Facility;
 - (B) the Test Report Minimum Technical Requirements; and
 - (C) evidence (including any test review reports) from the Generator's engineer and (if applicable) the Lender's engineer:
 - (i) of the results of the Performance Test;
 - (ii) that the Performance Test Report complies with the Test Report Minimum Technical Requirements; and
 - (iii) that the Generator has conducted the relevant Performance Test in accordance with the Approved Test Procedure.

Failing to satisfy the Minimum OCP Commissioning Requirements

- 2.9 If:
- (A) the Generator fails to carry out an OCP Performance Test in accordance with paragraph 2.4; or
 - (B) following an OCP Performance Test, the Generator fails to evidence that the Facility meets the Minimum OCP Commissioning Requirements,

the Generator may give a notice to the DPA Counterparty in relation to an additional OCP Performance Test (an **"Additional OCP Performance Test Date Notice"**). The Generator shall give such Additional Performance Test Date Notice to the DPA Counterparty promptly and in any event at least three (3) Business Days prior to the date on which the Generator will conduct the additional OCP Performance Test (the **"Additional OCP Performance Test Date"**), and the Additional OCP Performance Test Date Notice shall specify the Additional OCP Performance Test Date. Part A of this Annex, except paragraphs 2.1 and 2.2, shall reapply to an additional OCP Performance Test.

- 2.10 The Generator shall reimburse the DPA Counterparty for all out-of-pocket costs, expenses and fees incurred by the DPA Counterparty and/or its appointed representative arising out of or in connection with the Generator carrying out an additional OCP Performance Test, and if applicable, exercising its Performance Test Access Right pursuant to paragraph 2.5 (*Performance Test Access Right*).

3. FULL LOAD TEST

General

- 3.1 The purpose of each Full Load Test shall be for the Generator to determine (simultaneously) the Facility's:
- (A) Net Dependable Capacity;
 - (B) Plant Net Efficiency; and
 - (C) Test Achieved CO₂ Capture Rate,
- (the **"Full Load Test Performance Outputs"**).

Full Load Test Run Periods

- 3.2 Each Full Load Test shall:
- (A) include three (3) Test Run Periods; and
 - (B) for the purposes of a Full Load Test, each Test Run Period shall be a minimum of one (1) hour duration, or such longer duration as required by the Test Performance Standards.
- 3.3 The Generator shall ensure that each Full Load Test is carried out in accordance with the Test Performance Standards.

Facility Mode of Operation

- 3.4 Each Full Load Test shall not commence until the Facility:

- (A) has satisfied the required stabilisation criteria for steady state operation in accordance with the Test Performance Standards; and
- (B) is in the same operational state, configuration and condition that were assumed by the Generator when determining the Net Dependable Capacity Estimate, the Plant Net Efficiency Estimate and the CO₂ Capture Rate Estimate and preparing the Facility Heat and Material Balance Diagram.

3.5 The Generator shall use reasonable endeavours to conduct each Full Load Test at the Reference Site Conditions, and as a minimum shall ensure that:

- (A) the Facility is operated at full load which can be maintained on a continual basis with normal scheduled plant maintenance intervals (excluding any peak firing operation);
- (B) any power augmentation which cannot be maintained in operation on a continuous basis, or which has a detrimental impact on plant net efficiency and normal economic operation, is switched off (including GT inlet cooling, and supplementary firing);
- (C) all standby auxiliaries are operational, but in standby position;
- (D) variations exceeding steady state conditions invalidate the applicable Test Run Period which shall then be repeated;
- (E) cycle blowdown isolated and make-up water (as applicable) are not isolated during the Test Run Period;
- (F) emissions to atmosphere are maintained within the environmental permit limits, as measured by the calibrated Continuous Emissions Monitoring System (CEMS) equipment during the Test Run Period;
- (G) there is no import of electricity from the grid during the Test Run Period;
- (H) the Facility is operated in a normal mode which is representative of long term operating configuration with all equipment operating as designed and within specification and alarm limits consistent with the Reasonable and Prudent Standard;
- (I) no normally operating systems are taken out of service including suppressed alarms unless specifically allowed in the Performance Test Procedure;
- (J) the auxiliary power consumers in operation during each Full Load Test include all electrical consumers normally used to operate the equipment;
- (K) in respect of the Generation Assets:
 - (i) the gas turbine inlet airflow and exhaust temperature setpoints shall be at normal levels with no short-term adjustments to control settings; and
 - (ii) in respect of the Generation Assets, the steam cycle temperature and pressure setpoints shall be at normal levels with no short-term increases in steam or water temperatures; and
- (L) no other performance enhancing measure which can only be utilised for a short period of time shall be used.

Adjustment: Reference Site Conditions and Correction Curves

- 3.6 The Full Load Test Performance Outputs for each Full Load Test shall be adjusted to the Reference Site Conditions based upon the Correction Curves.
- 3.7 The Full Load Test Performance Outputs shall not be adjusted for:
- (A) degradation; or
 - (B) tolerance to account for instrument uncertainty.

4. START UP (SHUTDOWN) TEST

General

- 4.1 The purpose of each Start Up (Shutdown) Test shall be for the Generator to determine the Facility's Start Up Times during a:
- (A) Cold Start;
 - (B) Warm Start; and
 - (C) Hot Start,

and to determine the Test Achieved CO₂ Capture Rate for each Start Up (Shutdown) Test Run Period.

- 4.2 The Generator shall ensure that each Start Up (Shutdown) Test is carried out in accordance with the Test Performance Standards.
- 4.3 For the purposes of this paragraph 4 (*Start Up (Shutdown) Test*):

"Cold Start" means where the preceding Facility Shutdown has taken place more than sixty four (64) hours prior to a Start Up (Shutdown) Test Commencement;

"Facility Shutdown" means the completion of a controlled shutdown of the Facility to the point in time where the Metered Electricity Output from the Facility is equal to or less than zero (0);

"Full Load Operation" means where the Facility's gas turbine is operating at full load on temperature control with the inlet guide vane position established at the scheduled full load position and the Facility's steam turbine is in operation with the high pressure and hot reheat steam bypass valves fully closed pursuant to a Start Up (Shutdown) Test;

"Hot Start" means where the preceding Facility Shutdown has taken place more than eight (8) hours prior but less than twelve (12) hours prior to a Start Up (Shutdown) Test Commencement;

"Pre-Start Up (Shutdown) Test Conditions" means, prior to a Start Up (Shutdown) Test:

- (A) the preceding Facility Shutdown has been conducted as a normal shutdown procedure as set out in the operation and maintenance manuals; and
- (B) during the preceding Facility Shutdown:
 - (i) the Facility has been maintained as set out in the operation and maintenance manuals; and

- (ii) if applicable, the Facility's gas turbine and flue gas paths have been purged and secured in order to avoid any purge sequence during the restart of the Facility.

"Start Up (Shutdown) Test Commencement" means when the Facility's gas turbine rolls off the turning gear pursuant to a Start Up (Shutdown) Test; and

"Warm Start" means where the Facility Shutdown has taken place more than twelve (12) hours but less than sixty four (64) hours prior to a Start Up (Shutdown) Test Commencement.

Start Up (Shutdown) Test Run Periods

4.4 The applicable Test Run Period for a Start Up (Shutdown) Test shall be:

- (A) for a Cold Start:
 - (i) the period between Start Up (Shutdown) Test Commencement to Full Load Operation; plus
 - (ii) twelve (12) hours at Full Load Operation; plus
 - (iii) the period between Full Load Operation and Facility Shutdown;
- (B) for a Warm Start:
 - (i) the period between Start Up (Shutdown) Test Commencement to Full Load Operation;
 - (ii) twelve (12) hours at Full Load Operation; plus
 - (iii) the period between Full Load Operation and Facility Shutdown;
- (C) for a Hot Start:
 - (i) the period between Start Up (Shutdown) Test Commencement to Full Load Operation;
 - (ii) two (2) hours at Full Load Operation;
 - (iii) the period between Full Load Operation and Facility Shutdown;
 - (iv) the period of two (2) hours off load prior to the Start Up (Shutdown) Test Commencement specified in limb (v);
 - (v) the period between Start Up (Shutdown) Test Commencement to Full Load Operation;
 - (vi) two (2) hours at Full Load Operation; plus
 - (vii) the period between Full Load Operation and Facility Shutdown.

4.5 For the purposes of paragraph 4, a Start Up Time shall be the period of time in the Test Run Period, which for:

- (A) a Cold Start shall be the period of time referred to in paragraph 4.4(A)(i);
- (B) a Warm Start shall be the period of time referred to in paragraph 4.4(B)(i); or

- (C) a Hot Start shall be the sum of the periods referred to in paragraphs 4.4(C)(i) and 4.4(C)(v).

4.6 The Generator shall ensure during each Start Up (Shutdown) Test that:

- (A) the Pre-Start Up (Shutdown) Test Conditions have been fulfilled;
- (B) all plant and/or equipment which is required to be in a ready-to-start condition for turbine start up shall be in a no-fault condition, operational and/or in automatic mode;
- (C) working fluid levels and pressures in drums, hotwells and other vessels are within the limits specified in the operation and maintenance manuals and/or not in an alarmed condition; and
- (D) the turbine sealing working fluid (as applicable) is on and condenser vacuum (as applicable) is within the range required for turbine start-up as specified in the operation and maintenance manuals.

5. **ANNUAL NDC TEST**

Each Annual NDC Test shall be conducted as a Full Load Test in accordance with paragraph 3 (*Full Load Test*) of this Annex 2 (*Testing Requirements*) except the Facility's Plant Net Efficiency shall not be determined.

6. **CO₂ CAPTURE RATE TEST**

- 6.1 The purpose of each CO₂ Capture Rate Test shall be for the Generator to determine the Facility's Test Achieved CO₂ Capture Rate.
- 6.2 The Generator shall ensure that each CO₂ Capture Rate Test is carried out in accordance with the Test Performance Standards.

CO₂ Capture Rate Test Run Period

- 6.3 Each CO₂ Capture Rate Test shall consist of one (1) Test Run Period consisting of an eight (8) hour continuous period (or an alternative shorter continuous period as may reasonably be requested by the Generator and approved by the DPA Counterparty (acting reasonably)).

Facility Mode of Operation

- 6.4 Each CO₂ Capture Rate Test shall not commence until the Facility:
 - (A) has satisfied the required stabilisation criteria for steady state operation in accordance with the Test Performance Standards; and
 - (B) is in the same operational state, configuration and condition that were assumed by the Generator when determining the Net Dependable Capacity Estimate, the Plant Net Efficiency Estimate and the CO₂ Capture Rate Estimate and preparing the Facility Heat and Material Balance Diagram.
- 6.5 The Generator shall use reasonable endeavours to conduct each CO₂ Capture Rate Test at the Reference Site Conditions, and as a minimum shall ensure that:
 - (A) the Facility is operated at full load which can be maintained on a continual basis with normal scheduled plant maintenance intervals (excluding any peak firing operation);

- (B) any power augmentation which cannot be maintained in operation on a continuous basis, or which has a detrimental impact on plant net efficiency and normal economic operation, is switched off (including GT inlet cooling, and supplementary firing);
- (C) the Facility is operated in a normal mode which is representative of long term operating configuration with all equipment operating as designed and within specification and alarm limits consistent with good power generation industry practice;
- (D) no normally operating systems are taken out of service including jumpered or suppressed alarms unless specifically allowed in the Performance Test Procedure; and
- (E) the auxiliary power consumers in operation during each Full Load Test include all electrical consumers normally used to operate the equipment.

CO₂ Capture Rate Test Report

6.6 The Generator shall, as soon as reasonably practicable after the completion of a CO₂ Capture Rate Test, submit a test report of such CO₂ Capture Rate Test to the DPA Counterparty (a "**CO₂ Capture Rate Test Report**"). A CO₂ Capture Rate Test Report shall include, but shall not be limited to, the following:

- (A) a description of the Facility;
- (B) the Test Report Minimum Technical Requirements; and
- (C) evidence (including any test review reports) from the Generator's engineer and (if applicable) the Lender's engineer:
 - (i) of the results of the CO₂ Capture Rate Test;
 - (ii) that the CO₂ Capture Rate Test Report complies with the Test Report Minimum Technical Requirements; and
 - (iii) that the Generator has conducted the relevant Test in accordance with the Approved Test Procedure.

7. T&S COMMISSIONING DELAY EVENT OR T&S OUTAGE EVENT

7.1 If, at any time during a Test Run Period:

- (A) a T&S Commissioning Delay Event; or
- (B) a T&S Outage Event,

is occurring, the Generator shall ensure that any captured CO₂ complies with the Captured CO₂ Quality Standards at the point in the process where the stream would normally route to the T&S Network during the applicable Test Run Period.

Part B
Reference Site Conditions

1. **Reference Site Conditions**

The following are the "**Reference Site Conditions**" for the purposes of the DPA which apply to each Test:

Ambient conditions:

- dry bulb temperature 9°C
- relative humidity 80%
- ambient pressure 1.013 bara
- wind speed 1m above cooling tower / ACC structure 7 m/s
- direct cooling water temperature (if applicable) 11°C

Fuel composition:

- nitrogen (N₂) 2.6 mol%
- carbon dioxide (CO₂) 1.4 mol%
- methane (CH₄) 88.7 mol%
- ethane (C₂H₆) 5.2 mol%
- propane (C₃H₈) 1.493 mol%
- iso-butane (iC₄H₁₀) 0.18 mol%
- n-butane (nC₄H₁₀) 0.26 mol%
- neo-pentane 0.007 mol%
- iso-pentane (iC₅H₁₂) 0.06 mol%
- n-pentane (nC₅H₁₂) 0.05 mol%
- n-hexane (C₆H₁₄) 0.05 mol%
- heptane (C₇H₁₆) 0 mol%
- octane and above (C₈H₁₈, C₉H₂₀, etc.) 0 mol%
- hydrogen sulfide (H₂S) 0 mol%
- total 100 mol%
- net calorific value (as per ISO-6976:2016 @ 15°C combustion temp and 15°C meter temp) 45.887 MJ/kg
- gross calorific value (as per ISO-6976:2016 @ 15°C combustion temp and 15°C meter temp) 50.830 MJ/kg

- Grid frequency: 50 Hz
- Power factor at generator terminals, lagging: 0.85
- Natural gas supply temperature at site boundary: 5°C
- Natural gas supply pressure at site boundary: TBC for site location
- GT inlet air cooling (Evap Cooling / Fogging / High Fogging) OFF
- Supplementary firing OFF

Part C
Required Correction Curves

1. **Required Correction Curves**

The following are the "**Required Correction Curves**" for the purposes of the DPA:

Net dependable capacity

- (A) net dependable capacity vs ambient temperature;
- (B) net dependable capacity vs ambient pressure;
- (C) net dependable capacity vs relative humidity;
- (D) net dependable capacity vs direct cooling water temperature (if applicable);
- (E) net dependable capacity vs wind speed (if applicable);
- (F) net dependable capacity vs generator frequency;
- (G) net dependable capacity vs generator power factor (as applicable, or alternatively to be corrected by calculation method);
- (H) net dependable capacity vs net calorific value / fuel composition (C/H ratio);
- (I) net dependable capacity vs fuel supply temperature;
- (J) net dependable capacity vs fuel supply pressure;
- (K) net dependable capacity vs CO₂ capture rate;

Plant net efficiency

- (L) plant net efficiency vs ambient temperature;
- (M) plant net efficiency vs ambient pressure;
- (N) plant net efficiency vs relative humidity;
- (O) plant net efficiency vs direct cooling water temperature (if applicable);
- (P) plant net efficiency vs wind speed (if applicable);
- (Q) plant net efficiency vs generator frequency;
- (R) plant net efficiency vs generator power factor (as applicable, or alternatively to be corrected by calculation method);
- (S) plant net efficiency vs net calorific value / fuel composition (C/H ratio);
- (T) plant net efficiency vs fuel supply temperature;
- (U) plant net efficiency vs fuel supply pressure; and
- (V) plant net efficiency vs CO₂ capture rate.

Annex 3

T&S Meter Operational Framework and Technical Specification

1. INTRODUCTION

- 1.1 This Annex 3 (*T&S Meter Operational Framework and Technical Specification*) sets out requirements for the installation, operation and maintenance of each T&S Meter Measurement System.

2. DEFINITIONS: ANNEX 3

- 2.1 In this Annex 3 (*T&S Meter Operational Framework and Technical Specification*):

"Applicable Standards" means:

- (A) the relevant standards set out in paragraph 4 of Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*); or
- (B) where such relevant standards are not available, the relevant ISO standards; or
- (C) where such ISO standards are not available, suitable British Standards; or
- (D) where such British Standards are not available, suitable draft standards;
- (E) where such suitable draft standards are not available, industry best practice guidelines;
- (F) where such industry best practice guidelines are not available, manufacturers' recommendations; or
- (G) where such manufacturers' recommendations are not available, other scientifically proven methodologies;

"Assumed CO₂ Input Concentration" means 96.76 wt% (or a different percentage approved by the DPA Counterparty), being the assumed CO₂ concentration by mass fraction of the Metered CO₂ Rich Stream Input Flow Rate;

"CO₂ Measurement Uncertainty Requirement" has the meaning given to that term in paragraph 3.5 of Part D (*Outlet T&S Meter Measurement System - Technical Specification*);

"CO₂ Metered Data" means Outlet CO₂ Metered Data and/or, in the case of a CO₂ Re-use Service Facility, the CO₂ Re-use Metered Data (as applicable);

"CO₂ Outlet T&S Network Analysis Point(s)" means the point(s) at which the CO₂ concentration in the stream routed from the Facility to the T&S Network is measured by the T&S Composition Analysis Equipment;

"CO₂ Outlet T&S Network Metering Point(s)" means the point(s) at which the flow rate of CO₂ entering the relevant T&S Network from the Facility is measured by the T&S Flow Meter(s);

"CO₂ Re-use Flow Meter(s)" means one (1) or more flow meter(s) (including ancillary instrumentation) for measuring Metered CO₂ Input and Metered CO₂ Rich Stream Input located at the CO₂ Re-use Metering Point(s);

"CO₂ Re-use Meter Measurement System" means all of the relevant CO₂ Re-use Metering Equipment including the relevant commissioned CO₂ Re-use Flow Meter(s), a DAHS, other

associated equipment, and any standby meter(s) for the purposes of measuring CO₂ and CO₂ Rich Stream at the CO₂ Re-use Metering Point(s);

"CO₂ Re-use Meter Measurement System Material Change" means a change to any component of the CO₂ Re-use Meter Measurement System which has, or may have, an impact on CO₂ Re-use Metered Data;

"CO₂ Re-use Meter Measurement System Technical Specification" means the technical specification relating to the CO₂ Re-use Meter Measurement System as set out in Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*);

"CO₂ Re-use Meter Measurement Uncertainty Assessment" has the meaning given to that term in paragraph 3.7 of Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*);

"CO₂ Re-use Meter Primary Flow and Time Data" has the meaning given to that term in paragraph 3.1 of Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*);

"CO₂ Re-use Metered Data" means the CO₂ Re-use Secondary Data, the CO₂ Re-use Tertiary Data and the CO₂ Re-use Meter Primary Flow and Time Data;

"CO₂ Re-use Metering Point(s)" means the point(s) at which the flow rate of CO₂ routed to Facility from the T&S Networks is measured by the CO₂ Re-use Flow Meter(s);

"CO₂ Re-use Rich Stream Measurement Uncertainty Requirement" has the meaning given to that term in paragraph 3.5 of Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*);

"CO₂ Re-use Secondary Data" has the meaning given to that term in paragraph 3.2 of Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*);

"CO₂ Re-use Tertiary Data" has the meaning given to that term in paragraph 3.4 of Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*);

"CO₂ Rich Stream Measurement Uncertainty Requirement" has the meaning given to that term in paragraph 3.6 of Part D (*Outlet T&S Meter Measurement System - Technical Specification*);

"DAHS" means a Data Acquisition and Handling System;

"Further T&S Meter Proving Test Response Notice" has the meaning given to that term in paragraph 4.12(C)(ii) of Part C (*T&S Meter Measurement System - Operations*);

"Inaccurate CO₂ Re-use Metered Data" means any CO₂ Re-use Metered Data which is generated in circumstances where:

- (A) the CO₂ Re-use Metering Equipment recording such CO₂ Re-use Metered Data does not meet the CO₂ Re-use Rich Stream Measurement Uncertainty Requirement;
- (B) the CO₂ Re-use Metering Equipment recording such CO₂ Re-use Metered Data drifts beyond the permitted specification as determined by the relevant technology deployed by such CO₂ Re-use Metering Equipment;
- (C) there is an error in a correction factor or scaling factor within the DAHS;
- (D) there is an error in the transcription from the DAHS to the DPA Counterparty; and/or

(E) the CO₂ Re-use Metering Equipment is otherwise incorrectly recording data;

"Inaccurate Outlet CO₂ Metered Data" means any Outlet CO₂ Metered Data which is generated in circumstances where:

- (A) the CO₂ Outlet Metering Equipment recording such Outlet CO₂ Metered Data does not meet the CO₂ Measurement Uncertainty Requirement;
- (B) the CO₂ Outlet Metering Equipment recording such Outlet CO₂ Metered Data does not meet the CO₂ Rich Stream Measurement Uncertainty Requirement;
- (C) the CO₂ Outlet Metering Equipment recording such Outlet CO₂ Metered Data drifts beyond the permitted specification as determined by the relevant technology deployed by such CO₂ Outlet Metering Equipment;
- (D) there is an error in a correction factor or scaling factor within the DAHS;
- (E) there is an error in the transcription from the DAHS to the DPA Counterparty; and/or
- (F) the CO₂ Outlet Metering Equipment is otherwise incorrectly recording data;

"Maximum CO₂ Rich Stream Input Flow Rate Estimate" means the total instantaneous mass flow rate of CO₂ Rich Stream that the Generator estimates will be imported to the Facility from the T&S Network at the CO₂ Re-use Point(s) (*expressed in tonnes per hour (tph)*);

"Measurement Uncertainty Assessment" has the meaning given to that term in paragraph 3.9(A) of Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

"Metered CO₂ Input Flow Rate" means the flow rate of CO₂ (*expressed in tCO₂/h*) routed to Facility from the T&S Network during the relevant Settlement Unit, measured by the CO₂ Re-Use Flow Meter(s) at the CO₂ Re-use Metering Point(s);

"Metered CO₂ Output Flow Rate" means the flow rate of CO₂ (*expressed in tCO₂/h*) entering the relevant T&S Network from the Facility during the relevant Settlement Unit, measured by the Outlet T&S Flow Meter(s) at the CO₂ Outlet T&S Network Metering Point(s);

"Metered CO₂ Rich Stream Input Flow Rate" means the flow rate of CO₂ Rich Stream (*expressed in tCO_{2RS}/h*) routed to Facility from the T&S Network during the relevant Settlement Unit, measured by the CO₂ Re-use Flow Meter(s) at the CO₂ Re-use Metering Point(s);

"Metered CO₂ Rich Stream Output Flow Rate" means the flow rate of CO₂ Rich Stream (*expressed in tCO_{2RS}/h*) entering the relevant T&S Network from the Facility during the relevant Settlement Unit, measured by the Outlet T&S Flow Meter(s) at the CO₂ Outlet T&S Network Metering Point(s);

"Minimum CO₂ Purity Requirement" means the minimum CO₂ purity requirement contained in the "Carbon Dioxide Specification" applicable to the T&S Network under the CCS Network Code;

"Non-Routine T&S Meter DPA Technical Audit" has the meaning given to that term in limb (B) of the definition of T&S Meter DPA Technical Audit;

"Outlet CO₂ Metered Data" means the Outlet CO₂ Tertiary Data, the Outlet CO₂ Secondary Data and the Outlet CO₂ Primary Flow and Time Data;

"Outlet CO₂ Primary Composition Data" has the meaning given to that term in paragraph 3.1(B) of Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

"Outlet CO₂ Primary Data" has the meaning given to that term in paragraph 3.1 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

"Outlet CO₂ Primary Flow and Time Data" has the meaning given to that term in paragraph 3.1 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

"Outlet CO₂ Secondary Data" has the meaning given to that term in paragraph 3.2 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

"Outlet CO₂ Tertiary Data" has the meaning given to that term in paragraph 3.4 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

"Outlet T&S Flow Meter(s)" means one (1) or more flow meter(s) (including ancillary instrumentation) for measuring the Metered CO₂ Output and the Metered CO₂ Rich Stream Output located at the CO₂ Outlet T&S Network Metering Point(s);

"Outlet T&S Meter Measurement System" means all of the relevant CO₂ Outlet Metering Equipment including the relevant commissioned Outlet T&S Flow Meter(s) and T&S Composition Analysis Equipment, a DAHS, other associated equipment, and any standby meter(s) for the purposes of measuring the CO₂ and the CO₂ Rich Stream at the CO₂ Outlet T&S Network Metering Point(s) and the CO₂ Outlet T&S Network Analysis Point(s);

"Outlet T&S Meter Measurement System Material Change" means a change to any component of the Outlet T&S Meter Measurement System which has, or may have, an impact on the Outlet CO₂ Metered Data;

"Outlet T&S Meter Measurement System Technical Specification" means the technical specification relating to the Outlet T&S Meter Measurement System as set out in Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

"Routine T&S Meter DPA Technical Audit" has the meaning given to that term in limb (A) of the definition of T&S Meter DPA Technical Audit;

"T&S Bypass Stack(s)" means one (1) or more emission point(s) to atmosphere from a vent located upstream of the T&S Flow Meter(s) that is capable of diverting to atmosphere one (1) or more stream(s) of CO₂ Rich Stream that would ordinarily be routed to the T&S Network from the Facility;

"T&S Composition Analysis Equipment" means one (1) or more device(s) (including ancillary instrumentation, sampling equipment and, if necessary, conditioning equipment) for measuring the CO₂ concentration and for determining the CO₂ mass fraction in the stream routed from the Facility to the T&S Network for the purposes of determining the Metered CO₂ Output and the Metered CO₂ Rich Stream Output and located at the CO₂ Outlet T&S Network Analysis Point(s);

"T&S Composition Analysis Measurement Period" has the meaning given to that term in paragraph 2.9 of Part D (*Outlet T&S Meter Measurement System - Technical Specification*);

"T&S Flow Meter(s)" means the Outlet T&S Flow Meter(s) and/or the CO₂ Re-use Flow Meter(s) (as applicable);

"T&S Meter DPA Technical Audit" means an audit, check, examination or inspection conducted by the DPA Counterparty and/or its appointed representative in accordance with Part B (*T&S Meter Measurement System - Technical Assurance*), Part D (*Outlet T&S Meter Measurement System - Technical Specification*), and/or Part E (*CO₂ Re-use Meter*

Measurement System - Technical Specification) (as applicable) of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*):

- (A) once every three (3) years in accordance with the timings set out in paragraph 4.3 of Part B (*T&S Meter Measurement System - Technical Assurance*) (a **"Routine T&S Meter DPA Technical Audit"**); or
- (B) with such frequency as is considered necessary by the DPA Counterparty in accordance with paragraph 4.1 of Part B (*T&S Meter Measurement System - Technical Assurance*), acting reasonably (a **"Non-Routine T&S Meter DPA Technical Audit"**);

"T&S Meter Invitee" means each of:

- (A) the DPA Counterparty acting through any reasonably nominated employee, agent or contractor; and
- (B) the T&S Meter Technical Assurance Agent, acting through any reasonably nominated employee, agent or contractor;

"T&S Meter Measurement System" means the Outlet T&S Meter Measurement System and/or the CO₂ Re-use Meter Measurement System (as applicable);

"T&S Meter Measurement System Material Change" means a change to any component of a T&S Meter Measurement System which has, or may have, an impact on the CO₂ Metered Data;

"T&S Meter Measurement System Technical Details" means all of the technical details relating to a T&S Meter Measurement System that are required to enable metered data to be collected and correctly interpreted from that T&S Meter Measurement System as referred to in this Annex 3 (*T&S Meter Operational Framework and Technical Specification*);

"T&S Meter Measurement System Technical Specification" means the Outlet T&S Meter Measurement System Technical Specification and/or the CO₂ Re-use Meter Measurement System Technical Specification (as applicable);

"T&S Meter Technical Assurance" means compliance by the Generator with the requirements of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) in relation to each T&S Meter Measurement System;

"T&S Meter Technical Assurance Agent" means a third party agent or representative appointed by the DPA Counterparty to be responsible for monitoring T&S Meter Technical Assurance;

"T&S Meter Proving Test" means the test described in paragraph 4.8 of Part C (*T&S Meter Measurement System - Operations*) or as otherwise agreed in accordance with paragraph 4.11 of Part C (*T&S Meter Measurement System - Operations*);

"T&S Meter Proving Test Notice" has the meaning given to that term in paragraph 4.9 of Part C (*T&S Meter Measurement System - Operations*);

"T&S Meter Proving Test Response Notice" has the meaning given to that term in paragraph 4.11 of Part C (*T&S Meter Measurement System - Operations*); and

"T&S Meter Proving Test Supporting Information" has the meaning given to that term in paragraph 4.11(C) of Part C (*T&S Meter Measurement System - Operations*).

Part A
T&S Meter Measurement System – General

1. INTRODUCTION

1.1 This Part sets out:

- (A) the general requirements for the installation, commissioning, operation and maintenance of each T&S Meter Measurement System;
- (B) the Generator's responsibilities, the ownership and use of data and the access to each T&S Meter Measurement System; and
- (C) the functions of any agents or representatives appointed by the DPA Counterparty in connection with each T&S Meter Measurement System.

1.2 For the purposes of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*), the relevant quantities of CO₂ and CO₂ Rich Stream shall be measured and recorded through each T&S Meter Measurement System installed, commissioned, operated and maintained and otherwise provided for as set out in this Part A (*T&S Meter Measurement System – General*).

1.3 In this Part A (*T&S Meter Measurement System – General*):

- (A) in relation to each T&S Meter Measurement System, references to requirements under the T&S Meter Measurement System Technical Specification shall be construed as requirements in relation to all of the T&S Flow Meters, T&S Composition Analysis Equipment and associated equipment comprised or required to be comprised in that T&S Meter Measurement System;
- (B) references to a T&S Meter Measurement System includes a T&S Meter Measurement System comprising one (1) or more T&S Flow Meter(s) or T&S Composition Analysis Equipment which a third party is or will be required to install;
- (C) references to a T&S Meter Measurement System shall be construed as references to all of the T&S Flow Meters, T&S Composition Analysis Equipment and associated equipment which are or will be comprised in such T&S Meter Measurement System; and
- (D) **"commission"** means to commission for the purposes of the DPA Settlement Activities in accordance with this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) and **"commissioned"** and other derivative terms shall be construed accordingly.

2. GENERATOR RESPONSIBILITY FOR T&S METER MEASUREMENT EQUIPMENT

2.1 The principal functions and responsibilities of the Generator (or any agent or representative appointed on its behalf) shall be to install, commission, operate, test, maintain, rectify faults and provide a sealing service in respect of each T&S Meter Measurement System in accordance with Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable).

2.2 The Generator shall comply with or (as appropriate) procure that any appointed agent or representative complies with the requirements of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).

3. T&S METER MEASUREMENT SYSTEM – BASIC REQUIREMENTS

Generator Responsibilities

3.1 The Generator shall ensure that each T&S Meter Measurement System is:

- (A) calibrated, tested, installed and commissioned; and
- (B) operated and maintained,

for the purposes described in paragraph 1.2 in accordance with and subject to the provisions of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).

T&S Meter Measurement System Technical Details

3.2 The Generator shall, in accordance with this Annex 3 (*T&S Meter Operational Framework and Technical Specification*):

- (A) establish and maintain T&S Meter Measurement System Technical Details in respect of each T&S Meter Measurement System; and
- (B) ensure that such T&S Meter Measurement System Technical Details are true, complete and accurate.

Information and records

3.3 The Generator shall:

- (A) comply with the requirements of the DPA when providing the DPA Counterparty with information relating to each T&S Meter Measurement System, including the T&S Meter Measurement System Technical Details;
- (B) provide such T&S Meter Measurement System Technical Details to the DPA Counterparty; and
- (C) provide the DPA Counterparty with all such information regarding each T&S Meter Measurement System as the DPA Counterparty reasonably requires for the purposes of carrying out a T&S Meter DPA Technical Audit.

3.4 The information to be provided under paragraphs 3.3(A), 3.3(B) and 3.3(C) includes information regarding the dates and time periods for the installation of new T&S Flow Meters and T&S Composition Analysis Equipment and the dates and time periods when such T&S Flow Meters and T&S Composition Analysis Equipment are out of service.

3.5 The Generator shall:

- (A) prepare and maintain, complete and accurate records in relation to each T&S Meter Measurement System; and
- (B) provide a copy of such records to the DPA Counterparty promptly upon request.

Compliance with the T&S Meter Measurement System Technical Specification

3.6 All components of each T&S Meter Measurement System shall comply with or exceed the requirements referred to or set out in Part D (*Outlet T&S Meter Measurement System -*

Technical Specification) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable).

- 3.7 The Generator shall provide such evidence as the DPA Counterparty may require to confirm that, following its commissioning, each T&S Meter Measurement System meets the requirements of Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable). This evidence shall be traceable and dated.
- 3.8 Subject to paragraphs 3.9 and 3.10, each component of each T&S Meter Measurement System shall be required to comply with the Applicable Standards specified in the T&S Meter Measurement System Technical Specification which are current at the Agreement Date.
- 3.9 If, following the Agreement Date, any component of the relevant T&S Meter Measurement System is calibrated, tested, installed or commissioned, the calibration, testing, installation or commissioning of such component shall be required to be carried out in accordance with and comply with the latest version of the Applicable Standards specified in the T&S Meter Measurement System Technical Specification prevailing at the time of such calibration, testing, installation or commissioning.

T&S Meter Measurement System Material Change

- 3.10 Notwithstanding paragraphs 3.6 to 3.9, where any T&S Meter Measurement System Material Change occurs:
- (A) the Generator shall promptly and in any event no later than two (2) Business Days following such T&S Meter Measurement System Material Change notify the DPA Counterparty; and
 - (B) the latest version of the Applicable Standards specified in the T&S Meter Measurement System Technical Specification shall apply to the components which are the subject of such T&S Meter Measurement System Material Change.

Calibration of each T&S Meter Measurement System

- 3.11 The Generator shall ensure that each T&S Meter Measurement System is calibrated (including during installation, testing commissioning, maintenance and operation) in accordance with Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable).

Commissioning and maintenance of each T&S Meter Measurement System

- 3.12 The Generator shall, at its own cost and expense, ensure that each T&S Meter Measurement System is kept in good working order, repair and condition in accordance with Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable) to the extent necessary to allow the correct registration, recording and transmission of the CO₂ Metered Data by the relevant component of such T&S Meter Measurement System.
- 3.13 If any component of a T&S Meter Measurement System is removed, replaced or otherwise changed, then the commissioning and maintenance record in relation to such removed, replaced or changed component (including any replacement) shall be retained by the Generator in accordance with Condition 60 (*Maintenance and retention of records*) of the DPA and shall be provided to the DPA Counterparty upon request.

Testing and inspection

- 3.14 The Generator shall ensure that routine audits, tests and checks, including but not limited to any audits, tests and checks required pursuant to Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable), are carried out to confirm the measurement uncertainty of each T&S Meter Measurement System, in addition to the T&S Meter DPA Technical Audits carried out by the DPA Counterparty (or its appointed representative).
- 3.15 The Generator shall ensure that a test of the measurement uncertainty of any component of the relevant T&S Meter Measurement System which replaces a defective or inaccurate component is carried out where any defective or inaccurate component of such T&S Meter Measurement System is replaced as soon as reasonably practicable after the installation of such component.
- 3.16 The Generator shall give the DPA Counterparty reasonable prior notice of the date, time, place and nature of every audit test and/or check carried out pursuant to paragraph 3.14 and the DPA Counterparty shall have the right to attend such audit test(s) and/or check(s).
- 3.17 If the Generator (or any agent or representative appointed on its behalf) has reason to believe that a T&S Meter Measurement System does not comply with the requirements set out in Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable), or otherwise for any reason is recording Inaccurate Outlet CO₂ Metered Data and/or Inaccurate CO₂ Re-use Metered Data, the Generator or such other third party (as procured by the Generator) shall so notify:
- (A) the DPA Counterparty; and
 - (B) the Generator (if relevant),
- as soon as reasonably practicable and in any event, within forty-eight (48) hours of the date on which the Generator or such other third party becomes aware of the same.
- 3.18 The DPA Counterparty may appoint a T&S Meter Technical Assurance Agent to conduct an inspection of a T&S Meter Measurement System as part of the Routine T&S Meter DPA Technical Audit once every three (3) years as set out in paragraph 4.3 of Part B (*T&S Meter Measurement System - Technical Assurance*) of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*). The timing and frequency of such an inspection shall be independent of any inspection carried out or otherwise attended by the DPA Counterparty under paragraphs 3.16 or 3.20. The DPA Counterparty shall give the Generator notice of its intention to carry out such an inspection, setting out the date on which it proposes to do so, which shall generally be no sooner than ten (10) Business Days after the date of the notice.
- 3.19 All reasonable costs incurred in undertaking a Routine T&S Meter DPA Technical Audit, including the reasonable costs incurred by the DPA Counterparty and/or its appointed representative in attending the Facility and the reasonable costs of any tests which form part of such Routine T&S Meter DPA Technical Audit, shall be payable by the Generator and included in the next Availability Payment Billing Statement (but without prejudice to the Generator's right to charge any other person for such service pursuant to another agreement or arrangement).
- 3.20 If the DPA Counterparty is notified (under paragraph 3.17(A)) or otherwise has reason to believe that any component of a T&S Meter Measurement System does not comply with the requirements set out in Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical*

Specification) (as applicable) or a T&S Meter Measurement System is otherwise for any reason recording Inaccurate Outlet CO₂ Metered Data and/or Inaccurate CO₂ Re-use Metered Data:

- (A) the DPA Counterparty may require the Generator to inspect and then test such T&S Meter Measurement System as soon as reasonably practicable, and in any event no later than ten (10) Business Days after the DPA Counterparty gives notice of such requirement pursuant to this paragraph 3.20(A), whereupon the Generator shall carry out such test in the presence of a representative of the DPA Counterparty; or
 - (B) the DPA Counterparty may, as part of a Non-Routine T&S Meter DPA Technical Audit and without giving notice to the Generator, arrange for the inspection of a T&S Meter Measurement System by a T&S Meter Technical Assurance Agent, and for such agent to carry out such tests as such agent shall deem necessary to determine the measurement uncertainty of such T&S Meter Measurement System, and the Generator shall co-operate with such agent in carrying out such tests. A T&S Meter Technical Assurance Agent shall be entitled to assume that all required consents have been obtained for the relevant inspection until such time as it is notified to the contrary.
- 3.21 Subject to paragraph 3.22, all reasonable costs incurred in undertaking a Non-Routine T&S Meter DPA Technical Audit, including the reasonable costs incurred by the DPA Counterparty and/or its appointed representative in attending the Facility and the reasonable costs of any tests which form part of that Non-Routine T&S Meter DPA Technical Audit, shall be payable by the Generator and included in the next Availability Payment Billing Statement (but without prejudice to the Generator's right to charge any other person for such service pursuant to another agreement or arrangement).
- 3.22 Where pursuant to a Non-Routine T&S Meter DPA Technical Audit, the Generator is found not to be in material breach of any requirement of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*), any reasonable costs reasonably incurred by the Generator in carrying out any inspections and tests required by the DPA Counterparty as part of a Non-Routine T&S Meter DPA Technical Audit (but excluding any costs associated with the attendance by the Generator and/or its appointed representative(s) at such inspections and tests), shall be payable by the DPA Counterparty and included in the next Availability Payment Billing Statement, unless such Non-Routine T&S Meter DPA Technical Audit has been requested by the Generator in accordance with paragraph 4.1(E) (*Reasons for requesting a Non-Routine T&S Meter DPA Technical Audit*) of Part B (*T&S Meter Measurement System - Technical Assurance*) in which case the reasonable costs incurred by the DPA Counterparty shall be payable by the Generator and included in the next Availability Payment Billing Statement. For the purposes of this paragraph, "**material breach**" shall mean a breach that has a material impact on the CO₂ Metered Data provided for the purposes of the DPA Settlement Activities.
- 3.23 Any test carried out pursuant to paragraphs 3.14 to 3.22 shall comply with Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable).

Sealing and security

- 3.24 The Generator shall:
- (A) procure that each T&S Meter Measurement System is sealed in accordance with Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable);
 - (B) procure that each T&S Meter Measurement System is as secure as possible in all circumstances; and

- (C) notify the DPA Counterparty as soon as reasonably practicable and in any event no later than two (2) Business Days after becoming aware that any of a T&S Meter Measurement System's seals are broken or damaged.

4. DATA

Ownership of data

- 4.1 Subject to paragraph 4.2, the Generator shall own the CO₂ Metered Data and may provide any person with access to and use of such CO₂ Metered Data.
- 4.2 The Generator shall not exercise any rights in relation to, or provide any person with any use of or access to, CO₂ Metered Data in a manner which would interfere with the DPA Settlement Activities or which otherwise would be inconsistent with giving effect to the DPA or this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) (including the exercise of the DPA Counterparty's rights hereunder).

Access to and use of data

- 4.3 The Generator shall provide access to, and hereby authorises the use of, CO₂ Metered Data, to and by the DPA Counterparty (for the purposes of this paragraph 4.3, the "**data recipient**", which term shall include any officer, official, director, employee, agent, representative, consultant or adviser of the same), without charge, for all purposes for which each such data recipient requires such access and use pursuant to or in order to give effect to this Annex 3 (*T&S Meter Operational Framework and Technical Specification*), but not for any other purpose.
- 4.4 The Generator shall provide the CO₂ Metered Data promptly to:
- (A) each Third Party; and
 - (B) any other person,

who (in either case) is entitled to receive such CO₂ Metered Data in accordance with the DPA or this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).

Frequency of submission of Metered CO₂ Output and Metered CO₂ Rich Stream Output, Metered CO₂ Input and/or the Metered CO₂ Rich Stream Input

- 4.5 Should the DPA Counterparty approve a request by the Generator to change the frequency with which it provides details of the Metered CO₂ Output, the Metered CO₂ Rich Stream Output, Metered CO₂ Input and/or the Metered CO₂ Rich Stream Input to the DPA Settlement Services Provider pursuant to the DPA, the DPA Counterparty may charge an administrative fee to cover its reasonable costs in relation to such change.

Missing and Inaccurate Outlet CO₂ Metered Data

- 4.6 In respect of the Outlet T&S Meter Measurement System, if for any reason:
- (A) any Outlet CO₂ Primary Flow and Time Data is not available; or
 - (B) any Outlet CO₂ Primary Flow and Time Data is Inaccurate Outlet CO₂ Primary Flow and Time Data which cannot be corrected pursuant to paragraph 4.8(B),

such Outlet CO₂ Primary Flow and Time Data shall not be included in the calculation of the Achieved CO₂ Capture Rate, Metered CO₂ Output and Metered CO₂ Rich Stream Output for the purposes of the DPA.

4.7 In respect of the Outlet T&S Meter Measurement System, if the relevant Outlet CO₂ Primary Composition Data is not excluded pursuant to paragraph 4.6 and for any reason:

- (A) any Outlet CO₂ Primary Composition Data is not available; or
- (B) any Outlet CO₂ Primary Composition Data is Inaccurate Outlet CO₂ Metered Data which cannot be corrected pursuant to paragraph 4.8(A),

but the relevant T&S Operator accepts the CO₂ Rich Stream captured by the Facility and directed to the relevant T&S Network, such Outlet CO₂ Primary Composition Data shall not be used as the CO₂ concentration (mol %), and instead the Minimum CO₂ Purity Requirement shall be used as the CO₂ concentration (mol %) for the purposes of determining the Outlet CO₂ Secondary Data for each relevant T&S Composition Analysis Measurement Period pursuant to paragraph 3.2 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*).

4.8 If the Generator becomes aware at any time that any Outlet CO₂ Metered Data measured by the Outlet T&S Meter Measurement System is Inaccurate Outlet CO₂ Metered Data:

- (A) if it is technically feasible to correct such Inaccurate Outlet CO₂ Metered Data such that it is not Inaccurate Outlet CO₂ Metered Data:
 - (i) the Generator shall:
 - (a) correct such Outlet CO₂ Metered Data to the satisfaction of the DPA Counterparty as soon as possible and in any event by the start of the next Billing Period;
 - (b) notify the DPA Counterparty of such corrected Outlet CO₂ Metered Data within two (2) Business Days of such Outlet CO₂ Metered Data being corrected; and
 - (ii) following such correction and notification, the Inaccurate Outlet CO₂ Metered Data shall be replaced with such corrected Outlet CO₂ Metered Data for the purposes of the DPA; or
- (B) if it is not technically feasible to correct such Inaccurate Outlet CO₂ Metered Data such that it is not Inaccurate Outlet CO₂ Metered Data, paragraphs 4.6 and/or 4.7 (as applicable) will apply.

Missing and Inaccurate CO₂ Re-use Metered Data

4.9 In respect of the CO₂ Re-use Meter Measurement System, if for any reason:

- (A) any CO₂ Re-Use Meter Primary Flow and Time Data is not available in respect of such CO₂ Re-use Meter Measurement System; or
- (B) any CO₂ Re-Use Meter Primary Flow and Time Data is Inaccurate CO₂ Re-use Metered Data which cannot be corrected pursuant to paragraph 4.10(A),

and the CO₂ Re-use Point(s) are not closed, the Metered CO₂ Rich Stream Input Flow Rate shall be deemed to be the Maximum CO₂ Rich Stream Input Flow Rate Estimate during such period for the purposes of determining the CO₂ Re-use Secondary Data pursuant to paragraph 3.2 of Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*)).

- 4.10 If the Generator becomes aware at any time that any CO₂ Re-use Metered Data measured by the CO₂ Re-use Meter Measurement System is Inaccurate CO₂ Re-use Metered Data:
- (A) if it is technically feasible to correct such Inaccurate CO₂ Re-use Metered Data such that it is not Inaccurate CO₂ Re-use Metered Data:
 - (i) the Generator shall:
 - (a) correct such CO₂ Re-use Metered Data to the satisfaction of the DPA Counterparty as soon as possible and in any event by the start of the next Billing Period;
 - (b) notify the DPA Counterparty of such corrected CO₂ Re-use Metered Data within two (2) Business Days of such CO₂ Re-use Metered Data being corrected; and
 - (ii) following such correction and notification, the Inaccurate CO₂ Re-use Metered Data shall be replaced with such corrected CO₂ Re-use Metered Data for the purposes of the DPA; or
 - (B) if it is not technically feasible to correct such Inaccurate CO₂ Re-use Metered Data such that it is not Inaccurate CO₂ Re-use Metered Data, paragraph 4.9 will apply.

5. ACCESS TO PROPERTY

Grant and procurement of rights

- 5.1 The Generator shall permit the DPA Counterparty and any T&S Meter Invitee to access any part of the relevant property in accordance with this paragraph 5.
- 5.2 In this paragraph 5.2, the "**relevant property**" is:
- (A) any and all components of each T&S Meter Measurement System; and
 - (B) the property of any third party, the exercise of whose rights could prevent the Generator, the DPA Counterparty or any T&S Meter Invitee from performing their obligations and/or exercising their rights under this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).
- 5.3 The Generator shall give the DPA Counterparty and any T&S Meter Invitee full rights to carry out such tasks and do all such acts as are necessary for the purpose of performing audits, tests, reviews and checks, including full rights to carry out such tests on any component of a T&S Meter Measurement System, provided that the person or persons responsible for carrying out such tests is or are competent in the operation of such component.
- 5.4 The rights and permissions referred to in paragraphs 5.1 and 5.3 are:
- (A) for any T&S Meter Invitee, full rights to enter upon and through and remain upon the relevant property or do any other act contemplated by this Part A (*T&S Meter Measurement System – General*);
 - (B) for the DPA Counterparty and/or its appointed representative (including any agent, employee or contractor), full rights to carry out such tasks and do all such acts as are necessary for the purpose of performing audits, tests, reviews and checks for the purposes of a T&S Meter DPA Technical Audit, including full rights to carry out such tests on a T&S Meter Measurement System, provided that the person or persons

responsible for carrying out such tests is or are competent in the operation of such T&S Meter Measurement System; and

- (C) for a T&S Meter Technical Assurance Agent, full rights to undertake on-site tests and checks and to report on each T&S Meter Measurement System in relation to its compliance with Part D (*Outlet T&S Meter Measurement System – Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable and this Part A (*T&S Meter Measurement System – General*),

but in each case only to the extent such rights are necessary for the purposes of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) and subject to the other provisions of this paragraph 5.

Safe access

- 5.5 Subject to the rights of the DPA Counterparty to require inspection without notice pursuant to paragraph 3.20(B), the Generator shall use all reasonable endeavours to procure that all reasonable arrangements and provisions are made, and revised from time to time, as and when necessary or desirable to facilitate the safe exercise by any T&S Meter Invitee of any right of access granted pursuant to paragraphs 5.1 to 5.4 with the minimum of disruption, disturbance and inconvenience to such T&S Meter Invitee.
- 5.6 The arrangements and provisions referred to in paragraph 5.5 may, to the extent that the same are reasonable, limit or restrict the exercise of such right of access granted pursuant to paragraphs 5.1 to 5.4 and/or provide for the Generator to make directions or regulations from time to time in relation to a specified matter.
- 5.7 Matters to be covered by the arrangements and/or provisions referred to in paragraph 5.5 include:
 - (A) provision of a site safety induction;
 - (B) supply of all necessary personal protective equipment;
 - (C) a method of identifying any relevant component of a T&S Meter Measurement System;
 - (D) the particular access routes applicable to the relevant property having particular regard to the weight and size limits on those routes;
 - (E) any limitations on times of exercise of the right of access;
 - (F) any requirements as to prior notification and as to authorisation or security clearance of individuals exercising the right of access and procedures for obtaining the same;
 - (G) the means of communication by the Generator (to all individuals exercising the right of access) of any relevant directions or regulations made by the Generator;
 - (H) the availability of all site personnel that the individuals exercising the right of access may wish to liaise with during the exercise of the right of access granted pursuant to paragraphs 5.1 to 5.4;
 - (I) the identification of and arrangements applicable to the individuals exercising the right of access granted pursuant to paragraphs 5.1 to 5.4;
 - (J) where relevant, the obligation to comply with the procedural requirements set out in Part D (*Outlet T&S Meter Measurement System – Technical Specification*) and/or

Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable) on procedures; and

(K) disclosure of any known hazards on the site.

- 5.8 The DPA Counterparty shall take all reasonable steps to procure that any T&S Meter Invitee observes and performs any such arrangements and provisions (or directions or regulations issued pursuant thereto), failing which in any particular case the Generator may take reasonable steps to ensure that, as a condition of exercising any right of access pursuant to paragraphs 5.1 to 5.4, each T&S Meter Invitee shall agree to observe and perform the same.

Damage

- 5.9 Subject to Condition 47.8 (*General limitation of liability*), the DPA Counterparty shall take all reasonable steps to procure that each T&S Meter Invitee takes all reasonable steps in the exercise of any right of access pursuant to paragraphs 5.1 to 5.4, in order to:

- (A) avoid or minimise damage in relation to any relevant property; and
- (B) cause as little disturbance and inconvenience as possible to any Third Party, third party or other occupier of any relevant property,

and that each T&S Meter Invitee makes good any damage caused to such property in the course of the exercise of such rights as soon as practicable.

- 5.10 Subject to paragraph 5.9, all such rights of access shall be exercisable by each T&S Meter Invitee free of any charge or payment of any kind.

Denial of access

- 5.11 The DPA Counterparty shall be deemed not to be in breach of any duty or obligation under this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) if and to the extent that its inability to perform such duty or obligation is directly attributable to the DPA Counterparty or any other T&S Meter Invitee being denied necessary access to the relevant T&S Meter Measurement System.

Part B
T&S Meter Measurement System - Technical Assurance

1. INTRODUCTION

1.1 This Part sets out:

- (A) the requirements in relation to the appointment of a T&S Meter Technical Assurance Agent;
- (B) the responsibilities of the T&S Meter Technical Assurance Agent; and
- (C) the tests and checks forming part of a T&S Meter DPA Technical Audit, the timing of Routine T&S Meter DPA Technical Audits and the grounds to request a Non-Routine T&S Meter DPA Technical Audit.

2. TECHNICAL ASSURANCE

2.1 The DPA Counterparty shall appoint a T&S Meter Technical Assurance Agent to carry out inspections and/or audits of each T&S Meter Measurement System as it sees fit. For the avoidance of doubt, for the purposes of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) and as the context requires, the T&S Meter Technical Assurance Agent shall be an agent of the DPA Counterparty.

2.2 The T&S Meter Technical Assurance Agent shall monitor T&S Meter Technical Assurance and identify cases where there is any T&S Meter Technical Assurance failure ("**non-compliance**").

2.3 The T&S Meter Technical Assurance Agent shall meet all of the following criteria:

- (A) be a competent auditor; and
- (B) possess an appropriate level of knowledge of metering and technical systems of the same type as each T&S Meter Measurement System.

3. NON-COMPLIANCE

3.1 The T&S Meter Technical Assurance Agent shall determine:

- (A) in respect of those matters (including those associated with or connected to a T&S Meter Measurement System) which it has been requested to inspect and/or audit, that such matter is non-compliant if the requirements of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) are not being adhered to and/or if configurable meter parameters are not consistent with the T&S Meter Measurement System Technical Details provided by the Generator; and
- (B) in respect of any non-compliance determined in accordance with paragraph (A), whether it considers such non-compliance to be material.

3.2 Where any non-compliance has been determined in accordance with paragraph 3.1, the Generator shall ensure that the non-compliance is rectified as soon as reasonably practicable.

3.3 Following the rectification of any material non-compliance (as determined by the T&S Meter Technical Assurance Agent in accordance with paragraph 3.1), the DPA Counterparty shall, where in its discretion it considers it appropriate to do so having regard to the nature of such rectification, require the Generator to carry out a T&S Meter Proving Test, and the DPA Counterparty and/or the T&S Meter Technical Assurance Agent may attend and/or request details if any such T&S Meter Proving Test is carried out.

4. AUDIT

Reasons for requesting a Non-Routine T&S Meter DPA Technical Audit

- 4.1 The DPA Counterparty and/or its appointed representative (including the T&S Meter Technical Assurance Agent) may conduct a Non-Routine T&S Meter DPA Technical Audit for the following reasons:
- (A) the DPA Counterparty has reason to suspect:
 - (i) invalid T&S Meter Measurement System Technical Details have been provided by the Generator; and/or
 - (ii) that any CO₂ Metered Data recorded by the T&S Meter Measurement System is Inaccurate Outlet CO₂ Metered Data;
 - (B) CO₂ Metered Data recorded by a T&S Meter Measurement System has failed validation;
 - (C) the DPA Counterparty has not been provided with or is unable to access the CO₂ Metered Data from a T&S Meter Measurement System;
 - (D) CO₂ Metered Data required for a T&S Meter Proving Test cannot be obtained; and/or
 - (E) the Generator requires such a Non-Routine T&S Meter DPA Technical Audit.

Description of tests and checks forming part of a T&S Meter DPA Technical Audit

- 4.2 The DPA Counterparty and/or its appointed representative (including the T&S Meter Technical Assurance Agent) may carry out tests and checks as part of any T&S Meter DPA Technical Audit including, but not limited to, the following:
- (A) T&S Meter Measurement System Technical Details

The T&S Meter Measurement System Technical Details may be checked to ensure that they conform with those recorded in DPA Settlement Activities systems using information provided by the Generator, including any commissioning details.
 - (B) Measurement uncertainty

The measurement uncertainty of each T&S Meter Measurement System may be checked by the DPA Counterparty, the T&S Meter Technical Assurance Agent or any other appointed agent in accordance with the applicable requirements set out in Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable).
 - (C) Compliance with T&S Meter Measurement System Technical Specification

Checks may be carried out to ensure that each T&S Meter Measurement System meets the standards required by Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable).
 - (D) Quality of Installation

All points may be checked in accordance with Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable) including, but not limited, to the:

- (i) labelling of equipment;
- (ii) general standard of installation, being the good working practice standard; and
- (iii) compliance of installation with any relevant manufacturers' requirements and/or guidelines.

(E) Queries and appeals

If the Generator wishes to query or appeal any determination made pursuant to the T&S Meter DPA Technical Audit process, the Parties shall endeavour in good faith to resolve any such query or appeal through negotiation and if the Parties are unable to resolve such query or dispute through negotiation, the Generator may refer such query or appeal to an expert for determination in accordance with the Expert Determination Procedure.

Timing of Routine T&S Meter DPA Technical Audit

4.3 If required by the DPA Counterparty, a Routine T&S Meter DPA Technical Audit shall be conducted in the first quarter of each of the following years during the term of the DPA (and each date shall be calculated by reference to the Start Date):

- (A) year one (1) (being the year which commences twelve (12) Months after the Start Date);
- (B) year four (4);
- (C) year seven (7);
- (D) year ten (10) (if applicable); and
- (E) year thirteen (13) (if applicable).

Part C
T&S Meter Measurement System – Operations

1. INTRODUCTION

Purpose and scope

1.1 This Part C (*T&S Meter Measurement System – Operations*) sets out:

- (A) the processes that the Generator shall develop and implement to operate each T&S Meter Measurement System;
- (B) the processes for the identification and reporting of faults; and
- (C) the processes for installing, calibrating and commissioning each T&S Meter Measurement System.

2. METER OPERATION OBLIGATIONS

General Obligations: Systems and Processes

- 2.1 The Generator shall develop and implement systems and processes in accordance with Part D (*Outlet T&S Meter Measurement System – Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable) for the operation of each T&S Meter Measurement System.
- 2.2 Subject to paragraph 2.2 of Part A (*T&S Meter Measurement System – General*), the Generator may appoint a competent third party, agent or representative to operate one (1) or more of its T&S Meter Measurement System(s). If the Generator does appoint such a third party, it shall notify the DPA Counterparty as soon as reasonably practicable of the identity of that third party, the scope of its appointment and of any change to the identity of such person including any cessation of such appointment.
- 2.3 Where the Generator has appointed a third party to operate a T&S Meter Measurement System in accordance with paragraph 2.2 of Part A (*T&S Metering Meter Measurement System – General*) and that third party ceases to do so at any time and for any reason, the Generator shall resume the responsibility for operating such T&S Meter Measurement System until such a time as a replacement third party is appointed.
- 2.4 Notwithstanding paragraphs 2.2 and 2.3 above, the Generator shall remain responsible for any failure by any third party, agent or representative appointed on behalf of the Generator to comply with the requirements of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).

Identification and Reporting of Faults

- 2.5 Without prejudice to the DPA Counterparty's other rights under this Annex 3 (*T&S Meter Operational Framework and Technical Specification*):
 - (A) if at any time any component of a T&S Meter Measurement System is destroyed, damaged, faulty or otherwise ceases to function, or is found to be determining the Metered CO₂ Output and/or the Metered CO₂ Rich Stream Output from the Outlet CO₂ Metered Data recorded by the relevant T&S Meter Measurement System outside the CO₂ Measurement Uncertainty Requirement and/or the CO₂ Rich Stream Measurement Uncertainty Requirement (as applicable) as set out in Part D (*Outlet T&S Meter Measurement System – Technical Specification*), the Generator shall notify the DPA Counterparty of the nature of such fault within one (1) Business Day of becoming aware

of the same. The Generator shall separately identify in such notice any faults affecting the CO₂ Metered Data and those not affecting the CO₂ Metered Data;

- (B) the Generator shall investigate such fault within two (2) Business Days of becoming aware of the fault. If the Generator employs a third party agent or representative to operate the relevant component of the relevant T&S Meter Measurement System, the Generator shall investigate the fault within five (5) Business Days of being notified by such third party of such fault or otherwise becoming aware of the same;
- (C) the Generator shall use all reasonable endeavours to rectify the fault, including by repairing or replacing any defective component so as to ensure that such component is back in service and is operating in accordance with Part D (*Outlet T&S Meter Measurement System – Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable) as soon as reasonably practicable, and in any event within ten (10) Business Days of the date on which the fault is discovered by or notified to the Generator;
- (D) if the fault has not been rectified within such ten (10) Business Day period, the Generator shall notify the DPA Counterparty on the Business Day immediately following such ten (10) Business Day period with a proposal setting out how and the time period within which it intends to rectify the fault;
- (E) the Generator shall notify the DPA Counterparty within two (2) Business Days of rectifying the relevant fault. For these purposes, a fault affecting any CO₂ Metered Data shall be treated as rectified when the relevant T&S Meter Measurement System recommences recording and supplying CO₂ Metered Data to the DPA Counterparty and DPA Settlement Services Provider, in compliance with Part D (*Outlet T&S Meter Measurement System Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable); and
- (F) the DPA Counterparty shall be entitled to attend any investigation of the relevant T&S Meter Measurement System fault and the reasonable costs of such attendance shall be borne by the Generator.

3. INTERFACE AND TIMETABLE INFORMATION

New component

3.1 In the event that the Generator installs any new component of a T&S Meter Measurement System, it shall:

- (A) ensure that it does so in compliance with this Part C (*T&S Meter Measurement System – Operations*) and Part D (*Outlet T&S Meter Measurement System – Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable); and
- (B) provide an updated version of the relevant schematic diagram referred to in paragraph 4(C) of Part B of Annex 1 (*Conditions Precedent*) to the DPA Counterparty in accordance with Condition 21.11 (*Undertakings: Metering Schematics*) of the DPA.

Replacement of any component of a T&S Meter Measurement System

3.2 If any component of a T&S Meter Measurement System needs to be replaced for any reason, the Generator shall install and commission the relevant replacement component and within two (2) Business Days of completion of the commissioning of the relevant replacement

component, the Generator shall notify the DPA Counterparty, including any relevant Supporting Information, confirming:

- (A) that it has successfully installed and commissioned the relevant component; and
 - (B) whether the replacement of the relevant component constitutes a T&S Meter Measurement System Material Change.
- 3.3 Any notice issued by the Generator pursuant to paragraph 3.2 shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, such notice.
- 3.4 If the replacement of a component pursuant to paragraphs 3.2 and 3.3 constitutes a T&S Meter Measurement System Material Change, the Generator shall:
- (A) provide an updated version of the relevant schematic diagram referred to in paragraph 3(C)4(C) of Part B of Annex 1 (*Conditions Precedent*) to the DPA Counterparty in accordance with Condition 21.11 (*Undertakings: Metering Schematics*) of the DPA; and
 - (B) undertake a T&S Meter Proving Test of the relevant T&S Meter Measurement System within twenty (20) Business Days of completion of the commissioning of such component.

4. **INSTALLATION, CALIBRATION, COMMISSIONING AND PROVING TESTS**

Initial Installation

- 4.1 The Generator shall install and commission the initial component(s) of each T&S Meter Measurement System in accordance with this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) prior to the commencement of Payments in accordance with the terms of the DPA.

Calibration of each T&S Meter Measurement System

- 4.2 Prior to commissioning, all relevant components of each T&S Meter Measurement System shall be calibrated in compliance with the requirements specified in Part D (*Outlet T&S Meter Measurement System - Technical Specification*) and/or Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) (as applicable). Such calibration shall demonstrate conformity with relevant product standards applicable to the class index of each component of such T&S Meter Measurement System. The Generator shall procure the calibration certificates which include the actual errors of each component of such T&S Meter Measurement System across its operating range. Such certificates shall be retained by the Generator in accordance with Condition 60 (*Maintenance and retention of records*) of the DPA and shall be made available, on request, to the DPA Counterparty.

Commissioning of each T&S Meter Measurement System

- 4.3 The purpose of commissioning is to ensure that:
- (A) the CO₂ and CO₂ Rich Stream flowing across the CO₂ Outlet T&S Network Metering Point(s) and the CO₂ Outlet T&S Network Analysis Point(s) is recorded by the associated T&S Meter Measurement System in accordance with the requirements specified in Part D (*Outlet T&S Meter Measurement System – Technical Specification*); and
 - (B) the CO₂ and CO₂ Rich Stream flowing across the CO₂ Re-use Metering Point(s) is recorded by the associated T&S Meter Measurement System in accordance with the

requirements specified in Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*).

- 4.4 The Generator shall commission each T&S Meter Measurement System on site to confirm and record, so far as appropriate, that:
- (A) each T&S Meter Measurement System has been installed to the Reasonable and Prudent Standard and in accordance with Applicable Standards;
 - (B) the components of each T&S Meter Measurement System, including but not limited to the T&S Flow Meter, are certified in accordance with The Measuring Instrument Regulations 2016 (to the extent applicable); and
 - (C) each T&S Meter Measurement System is commissioned in accordance with Applicable Standards.

Proving of each T&S Meter Measurement System

- 4.5 The Generator shall be required to perform a T&S Meter Proving Test:
- (A) on each T&S Meter Measurement System prior to the Commissioning Tests and prior to the commencement of the provision of the Metered CO₂ Output, the Metered CO₂ Rich Stream Output, Metered CO₂ Input and the Metered CO₂ Rich Stream Input pursuant to the DPA;
 - (B) following a T&S Meter Measurement System Material Change; and
 - (C) if required by any policy, Law or Industry Document.
- 4.6 The Generator shall give the DPA Counterparty a minimum of twenty (20) Business Days' notice before performing a T&S Meter Proving Test.
- 4.7 The DPA Counterparty may request that a T&S Meter Technical Assurance Agent attends any T&S Meter Proving Test and the Generator shall permit the same.
- 4.8 Each T&S Meter Proving Test shall be carried out in accordance with Applicable Standards by an independent competent organisation. Each T&S Meter Proving Test shall include, but shall not be limited to:
- (A) confirmation that the relevant T&S Meter Measurement System is calibrated in accordance with Applicable Standards;
 - (B) a functional test that includes linearity, response time and zero/span checks, where applicable, and an audit of the relevant T&S Meter Measurement System; and
 - (C) confirmation that the DAHS is operating in accordance with the manufacturer's specification.
- 4.9 The Generator shall give a notice to the DPA Counterparty of the results of each T&S Meter Proving Test within five (5) Business Days of the date such T&S Meter Proving Test is carried out (a "**T&S Meter Proving Test Notice**"). Each T&S Meter Proving Test Notice shall:
- (A) specify whether the relevant T&S Meter Measurement System has or has not passed the T&S Meter Proving Test; and
 - (B) include such Supporting Information as the Generator considers to be relevant to and supportive of the foregoing.

- 4.10 Each T&S Meter Proving Test Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the T&S Meter Proving Test Notice.
- 4.11 The DPA Counterparty shall, no later than ten (10) Business Days after receipt of a T&S Meter Proving Test Notice, give a notice to the Generator (a **"T&S Meter Proving Test Response Notice"**). A T&S Meter Proving Test Response Notice shall specify whether the DPA Counterparty:
- (A) considers that the T&S Meter Proving Test has or has not been carried out in accordance with paragraph 4.8; and
 - (B) agrees or does not agree that the relevant T&S Meter Measurement System has or has not passed the T&S Meter Proving Test; or
 - (C) considers that it has not been provided with sufficient Supporting Information to determine whether the T&S Meter Proving Test has been carried out in accordance with paragraph 4.8 and/or whether the relevant T&S Meter Measurement System has or has not passed the T&S Meter Proving Test to which the T&S Meter Proving Test Notice relates and, if so, details of the additional Supporting Information which the DPA Counterparty requires to determine whether the T&S Meter Proving Test has been carried out in accordance with paragraph 4.8 and whether the relevant T&S Meter Measurement System has or has not passed the T&S Meter Proving Test (the **"T&S Meter Proving Test Supporting Information"**).
- 4.12 If the DPA Counterparty states in a T&S Meter Proving Test Response Notice that:
- (A) the T&S Meter Proving Test has been carried out in accordance with paragraph 4.8 and the relevant T&S Meter Measurement System has passed the T&S Meter Proving Test, such T&S Meter Measurement System will be deemed to have passed the T&S Meter Proving Test for the purposes of the DPA;
 - (B) the T&S Meter Proving Test:
 - (i) has been carried out in accordance with paragraph 4.8 but the relevant T&S Meter Measurement System has not passed the T&S Meter Proving Test; or
 - (ii) has not been carried out in accordance with paragraph 4.8,
 such T&S Meter Measurement System will be deemed not to have passed the T&S Meter Proving Test for the purposes of the DPA and the Generator will be required to carry out a further T&S Meter Proving Test within two (2) Business Days of receipt of the T&S Meter Proving Test Response Notice; or
 - (C) the Generator has not provided the DPA Counterparty with sufficient Supporting Information to determine whether the T&S Meter Proving Test has been carried out in accordance with paragraph 4.8 and/or whether the relevant T&S Meter Measurement System has or has not passed the T&S Meter Proving Test to which the T&S Meter Proving Test Notice relates:
 - (i) the Generator shall provide the T&S Meter Proving Test Supporting Information as soon as practicable, and in any event no later than ten (10) Business Days after receipt of the T&S Meter Proving Test Response Notice, or such longer period as is specified by the DPA Counterparty; and
 - (ii) upon receipt of the T&S Meter Proving Test Supporting Information, the DPA Counterparty shall as soon as reasonably practicable, and in any event no later

than ten (10) Business Days after receipt of such T&S Meter Proving Test Supporting Information, give a further T&S Meter Proving Test Response Notice to the Generator (a **"Further T&S Meter Proving Test Response Notice"**). A Further T&S Meter Proving Test Response Notice shall specify whether the DPA Counterparty considers that the T&S Meter Proving Test has or has not been carried out in accordance with paragraph 4.8 and whether the relevant T&S Meter Measurement System has or has not passed the T&S Meter Proving Test.

- 4.13 Nothing in this paragraph 4 (*Installation, Calibration and Commissioning*) shall require the DPA Counterparty to specify in any T&S Meter Proving Test Response Notice or Further T&S Meter Proving Test Response Notice that the DPA Counterparty accepts that the relevant T&S Meter Measurement System has passed the T&S Meter Proving Test, unless and until the DPA Counterparty is satisfied of the same.
- 4.14 The Generator may use an alternative method of proving to that set out in paragraph 4.8, subject to obtaining the prior written consent of the DPA Counterparty (such consent not to be unreasonably withheld).

Part D
Outlet T&S Meter Measurement System – Technical Specification

1. METERING AND ANALYSIS POINTS

1.1 The Generator shall ensure that:

(A) each Outlet T&S Flow Meter:

(i) shall be installed on:

- (a) the stream of CO₂ Rich Stream that is routed from the Facility to the T&S Network; or
- (b) if the CO₂ Rich Stream that is routed from the Facility to the T&S Network consists of multiple sub-streams, the stream or a sub-stream of the CO₂ Rich Stream provided that each sub-stream is metered with an Outlet T&S Flow Meter;

(ii) shall have:

- (a) suitable double-block-and-bleed isolation valves installed both upstream and downstream of the Outlet T&S Flow Meter such that the Outlet T&S Flow Meter can be safely isolated and removed if required; and
- (b) either:
 - (aa) appropriate straight pipe lengths upstream and downstream to minimise the impact of the Facility on the performance of the Outlet T&S Flow Meter; or
 - (bb) a flow conditioner installed upstream the T&S Flow Meter,
 in each case in compliance with Applicable Standards;

(iii) shall be installed to the Reasonable and Prudent Standard and in accordance with Applicable Standards;

(iv) shall be located:

- (a) at a CO₂ Outlet T&S Network Metering Point; and
- (b) downstream of the T&S Composition Analysis Equipment, all composition analysis equipment used for pipeline integrity purposes and all T&S Bypass Stacks; and

(v) if such Outlet T&S Flow Meter is a flow meter other than a mass flow meter, then a densitometer or other instrumentation agreed with the DPA Counterparty pursuant to paragraph 2.3 (as applicable) shall be installed:

- (a) at a point or points in the Outlet T&S Meter Measurement System such that the measurement is representative of the stream(s) flowing through the relevant Outlet T&S Flow Meter(s); and
- (b) to the Reasonable and Prudent Standard and in accordance with Applicable Standards;

- (B) each item of T&S Composition Analysis Equipment:
 - (i) shall be installed on:
 - (a) the stream of CO₂ Rich Stream that is routed from the Facility to the T&S Network; or
 - (b) if the CO₂ Rich Stream that is routed from the Facility to the T&S Network consists of multiple sub-streams, the stream or a sub-stream of the CO₂ Rich Stream provided that each sub-stream is measured with T&S Composition Analysis Equipment;
 - (ii) shall be located:
 - (a) at a CO₂ Outlet T&S Network Analysis Point; and
 - (b) upstream of any T&S Bypass Stack(s) and any Outlet T&S Flow Meter(s);
 - (iii) shall be installed to the Reasonable and Prudent Standard and in accordance with Applicable Standards; and
 - (iv) shall include an online sampling system to allow for the collection of fluid samples for online analysis; and
- (C) the installation of the Outlet T&S Meter Measurement System shall be confirmed by a competent third party organisation by reference to Applicable Standards.

2. OUTLET T&S METER MEASUREMENT SYSTEM EQUIPMENT

General equipment

- 2.1 Each Outlet T&S Meter Measurement System shall include the following equipment:
 - (A) Outlet T&S Flow Meter(s) for the measurement of the Metered CO₂ Rich Stream Output Flow Rate;
 - (B) T&S Composition Analysis Equipment for the measurement of CO₂ concentration and for determining the CO₂ mass fraction in the CO₂ Rich Stream;
 - (C) any other measurement device(s) that is necessary to enable the calculation of the Metered CO₂ Output and the Metered CO₂ Rich Stream Output including fluid stream temperature and pressure devices; and
 - (D) a DAHS.

Outlet T&S Flow Meter(s)

- 2.2 The Outlet T&S Flow Meter(s) shall be installed and operated according to Applicable Standards.
- 2.3 If the Outlet T&S Flow Meter is a flow meter other than a mass flow meter, then:
 - (A) a densitometer shall also be installed; or
 - (B) other instrumentation and methodologies reasonably acceptable to the DPA Counterparty shall be agreed,

to determine the fluid density and allow determination of mass quantity.

- 2.4 If the Outlet T&S Flow Meter is an orifice meter:
- (A) such Outlet T&S Flow Meter shall be compliant with ISO 5167 Part 1 and Part 2 and either:
 - (i) be flow calibrated prior to initial installation at a test laboratory; or
 - (ii) checked and certified prior to initial installation; and
 - (B) the orifice plate shall be removed and inspected at least once every twelve (12) Months to confirm whether it is compliant with ISO 5167.
- 2.5 If the Outlet T&S Flow Meter is not an orifice meter, such Outlet T&S Flow Meter shall be calibrated:
- (A) prior to initial installation at a test laboratory; and
 - (B) at least once every twelve (12) Months thereafter (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the Outlet T&S Flow Meter as demonstrated by subsequent calibrations and/or advanced diagnostic methods):
 - (i) at a test laboratory, or
 - (ii) in-situ against a master meter or a prover.
- 2.6 If the Outlet T&S Flow Meter is removed from the line and sent to a test laboratory for calibration in accordance with paragraph 2.5(B)(i), such Outlet T&S Flow Meter shall be replaced for the duration of the calibration by a standby Outlet T&S Flow Meter which complies with Part D (*Outlet T&S Meter Measurement System – Technical Specification*) of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).
- 2.7 If the Outlet T&S Flow Meter is calibrated in-situ against a master meter or a prover in accordance with paragraph 2.5(B)(ii):
- (A) the master meter or prover shall be installed and operated in accordance with Applicable Standards;
 - (B) the master meter or prover shall be calibrated at regular intervals and at least once every six (6) Months (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the master meter or prover as demonstrated by subsequent calibrations and/or advanced diagnostic methods);
 - (C) the master meter or prover calibration shall be traceable to laboratories accredited in accordance with paragraph 7.3 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*); and
 - (D) any master meter shall comply with the relevant provisions of Part D (*Outlet T&S Meter Measurement System – Technical Specification*) of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).
- 2.8 Any secondary instrumentation associated with the Outlet T&S Flow Meter, including densitometer(s) and temperature and pressure devices, shall be calibrated:
- (A) prior to initial installation, at a test laboratory; and

- (B) at least once every three (3) Months thereafter (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the secondary instrumentation as demonstrated by subsequent calibrations and/or advanced diagnostic methods),

either at a test laboratory or in-situ. If such secondary instrumentation is calibrated in-situ in accordance with paragraph 2.8(B), any reference test equipment shall be dedicated to the Outlet T&S Flow Meter, shall be traceable to a laboratory accredited in accordance with paragraph 7.3 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*) and shall be calibrated at least once every twelve (12) Months (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the secondary instrumentation as demonstrated by subsequent calibrations and/or advanced diagnostic methods).

T&S Composition Analysis Equipment

- 2.9 The CO₂ concentration in the CO₂ Rich Stream shall be measured by the T&S Composition Analysis Equipment at least every ten (10) minutes (such measurement period chosen being the "**T&S Composition Analysis Measurement Period**") by direct measurement of the CO₂ concentration.
- 2.10 The T&S Composition Analysis Equipment shall be:
 - (A) an online gas chromatograph optimised for high-purity CO₂ complying with Applicable Standards; or
 - (B) a suitable alternative method which meets the requirements of Part D (*Outlet T&S Meter Measurement System – Technical Specification*) of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*), as agreed between the Generator and the DPA Counterparty and complying with Applicable Standards.
- 2.11 The T&S Composition Analysis Equipment shall:
 - (A) be tested by a competent and independent third party laboratory accredited in accordance with paragraph 7.3 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*) for the relevant activities and be demonstrated to be fully operational and to operate within the manufacturer's specifications prior to installation according to Applicable Standards;
 - (B) be inspected and calibrated in-situ at commissioning according to Applicable Standards;
 - (C) be calibrated in-situ at least every six (6) Months (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the T&S Composition Analysis Equipment as demonstrated by subsequent calibrations and/or advanced diagnostic methods) after commissioning according to Applicable Standards;
 - (D) be inspected by a competent technician every Month in order to confirm whether it operates within the manufacturer's specifications; and
 - (E) where possible, perform an auto-validation against validation gases daily.
- 2.12 The Generator shall ensure that:
 - (A) the T&S Composition Analysis Equipment is used at all times within its calibrated measurement range;

- (B) where calibration mixture bottles are used, the composition of such bottles shall be within their shelf life and certified by a traceable laboratory accredited in accordance with paragraph 7.3 of Part D (*Outlet T&S Meter Measurement System – Technical Specification*);

2.13 The Generator shall ensure that for the online sampling system employed:

- (A) representative samples are taken and there is no change in concentration between the sampling point and the analyser(s);
- (B) in respect of gaseous sampling system(s), there shall be no condensation in the sampling system(s) and the sample shall reach the analyser(s) in gaseous conditions; and
- (C) if a liquid sample is taken at line conditions and its pressure is reduced upstream of the analyser(s) to close to atmospheric pressure, there shall be complete sample vaporisation. The sample system(s) shall be appropriately designed to take into account Joule-Thomson effect, condensation effects and temperature stability.

Redundancy

2.14 The Generator shall ensure that in respect of the Outlet T&S Meter Measurement System:

- (A) at least one (1) standby Outlet T&S Flow Meter shall be installed at all times;
- (B) if the Outlet T&S Flow Meter is a flow meter other than a mass flow meter:
 - (i) where the Generator has installed a densitometer, at least one (1) standby densitometer shall be installed at all times; or
 - (ii) where the Generator has installed alternative instrumentation reasonably acceptable to the DPA Counterparty, at least one (1) standby set of instruments shall be installed at all times;
- (C) at least one (1) standby CO₂ concentration analyser shall be installed at all times; and
- (D) the DAHS features sufficient inherent redundancy such that the failure of any one unit does not compromise the operability of the Outlet T&S Meter Measurement System.

Diagnostic capabilities

2.15 The Generator shall ensure that, where available, diagnostic capabilities are implemented, and diagnostic data is recorded and retained.

3. OUTLET CO₂ METERED DATA

Reporting, determining and recording Outlet CO₂ Metered Data

3.1 The Generator shall ensure that:

- (A) the following measurements are recorded for each second by the Outlet T&S Meter Measurement System:
 - (i) the Metered CO₂ Rich Stream Output Flow Rate (*expressed in tCO_{2RS}*) (provided that if the Outlet T&S Flow Meter is a flow meter other than a mass flow meter, the Metered CO₂ Rich Stream Output Flow Rate (*expressed in tCO_{2RS}*) shall be

obtained by combining the flow rate measurement from the Outlet T&S Flow Meter with the density measurement of the CO₂ Rich Stream for each second);

- (ii) the absolute pipeline pressure (*expressed in bara*);
- (iii) the pipeline stream temperature (*expressed in °C*); and

if the Outlet T&S Flow Meter is a flow meter other than a mass flow meter, the density of the CO₂ Rich Stream (*expressed in kg/m³*);

- (B) the CO₂ concentration (*expressed in % mol*) shall be recorded for each T&S Composition Analysis Measurement Period by the Outlet T&S Meter Measurement System (the **"Outlet CO₂ Primary Composition Data"**); and
- (C) the following values are recorded by or in respect of the Outlet T&S Meter Measurement System:
 - (i) the number of seconds of operation of the Outlet T&S Meter Measurement System in each Settlement Unit;
 - (ii) the date (*expressed in day/month/year*); and
 - (iii) the time (*expressed in a 24 hour clock*);

((A) and (C) are together, the **"Outlet CO₂ Primary Flow and Time Data"**); and

((A), (B) and (C) are together, the **"Outlet CO₂ Primary Data"**).

3.2 The Generator shall in respect of the Outlet T&S Meter Measurement System:

- (A) determine the CO₂ concentration by mass fraction in each T&S Composition Analysis Measurement Period by:

$$Conc_{CO_2,wt} = \frac{Conc_{CO_2} \times M_{CO_2}}{Conc_{CO_2} \times M_{CO_2} + \sum_{i=1}^n Conc_i \times M_i} \times 100$$

$Conc_{CO_2,wt}$ = the CO₂ concentration by mass fraction (wt %) in each T&S Composition Analysis Measurement Period;

$Conc_{CO_2}$ = the CO₂ concentration (mol %) in each T&S Composition Analysis Measurement Period;

$Conc_i$ = the concentration of impurity i (mol %) in each T&S Composition Analysis Measurement Period;

n = the number of impurities;

M_{CO_2} = the standard molar mass of CO₂ (i.e. 44.01 kg / kmol); and

M_i = the standard molar mass of impurity i (kg/kmol); and

- (B) determine the Metered CO₂ Output Flow Rate for each second by:

$$m_j = m_{j,rich} \times Conc_{CO_2,wt}$$

- m_j = the Metered CO₂ Output Flow Rate (*expressed in tCO₂/h*) in each second (j);
- $m_{j,rich}$ = the Metered CO₂ Rich Stream Output Flow Rate (*expressed in tCO_{2RS}/h*) in each second (j); and
- $Conc_{CO_2,wt}$ = the CO₂ concentration by mass fraction (wt %) in the relevant T&S Composition Analysis Measurement Period,

((A) and (B) are together, the "**Outlet CO₂ Secondary Data**").

3.3 The Generator shall determine:

- (A) the Metered CO₂ Output in respect of each Settlement Unit by:

$$Em_i = \sum_{j=1}^{Seconds_i} \frac{m_j}{3600}$$

- Em_i = Metered CO₂ Output (tCO₂) for the relevant Settlement Unit (i);
- m_j = the Metered CO₂ Output Flow Rate (*expressed in tCO₂/h*) for each second (j); and
- $Seconds_i$ = the number of seconds (j) in the relevant Settlement Unit (i);

- (B) the Metered CO₂ Rich Stream Output in respect of each Settlement Unit by:

$$Em_{i,rich} = \sum_{j=1}^{Seconds_i} \frac{m_{j,rich}}{3600}$$

- $Em_{i,rich}$ = the Metered CO₂ Rich Stream Output for the relevant Settlement Unit (*expressed in tCO_{2RS}*);
- $m_{j,rich}$ = the Metered CO₂ Rich Stream Output Flow Rate (*expressed in tCO_{2RS}/h*) for each second (j); and
- $Seconds_i$ = the number of seconds (j) in the relevant Settlement Unit (i).

3.4 The Generator shall report the following data to the DPA Counterparty:

- (A) Metered CO₂ Output; and
- (B) Metered CO₂ Rich Stream Output;
- together, the "**Outlet CO₂ Tertiary Data**".

Measurement uncertainty requirements

3.5 The overall measurement uncertainty of the Metered CO₂ Output shall:

- (A) where the Metered CO₂ Rich Stream Output Flow Rate is equal to or greater than 10% of the Maximum CO₂ Rich Stream Flow Rate, be equal to or less than +/-1.5% of the measured value at 95% confidence interval; and

- (B) where the Metered CO₂ Rich Stream Output Flow Rate is less than 10% of the Maximum CO₂ Rich Stream Flow Rate, be equal to or less than +/-3% of the measured value at 95% confidence interval,

(the **"CO₂ Measurement Uncertainty Requirement"**).

3.6 The overall measurement uncertainty of the Metered CO₂ Rich Stream Output shall:

- (A) where the Metered CO₂ Rich Stream Output Flow Rate is equal to or greater than 10% of the Maximum CO₂ Rich Stream Flow Rate, be equal to or less than +/-1% of the measured value at 95% confidence interval; and
- (B) where the Metered CO₂ Rich Stream Output Flow Rate is less than 10% of the Maximum CO₂ Rich Stream Flow Rate, be equal to or less than +/-2% of the measured value at 95% confidence interval; and

(the **"CO₂ Rich Stream Measurement Uncertainty Requirement"**).

3.7 The CO₂ Measurement Uncertainty Requirement shall be:

- (A) obtained by combining the measurement uncertainty of all the quantities necessary to enable the calculation of the Metered CO₂ Output in a measurement uncertainty budget; and
- (B) ascertained in accordance with internationally recognised and accepted standards, including, but not limited to the guide to the expression of uncertainty in measurement ISO/IEC Guide 98 all parts.

3.8 The CO₂ Rich Stream Measurement Uncertainty Requirement shall be:

- (A) obtained by combining the measurement uncertainty of all the quantities necessary to enable the calculation of the Metered CO₂ Rich Stream Output in a measurement uncertainty budget; and
- (B) ascertained in accordance with internationally recognised and accepted standards, including, but not limited to the guide to the expression of uncertainty in measurement ISO/IEC Guide 98 all parts.

3.9 The Generator shall, as a minimum, in order to determine the overall measurement uncertainty of the Metered CO₂ Output and the Metered CO₂ Rich Stream Output:

- (A) carry out a measurement uncertainty assessment (a **"Measurement Uncertainty Assessment"**) when the CO₂ Outlet Metering Equipment is commissioned;
- (B) review the Measurement Uncertainty Assessment at least once every year of the Term; and
- (C) review the Measurement Uncertainty Assessment following an Outlet T&S Meter Measurement System Material Change,

to ensure that the overall measurement uncertainty of the Metered CO₂ Output is complying with the CO₂ Measurement Uncertainty Requirement and the overall measurement uncertainty of the Metered CO₂ Rich Stream Output is complying with the CO₂ Rich Stream Measurement Uncertainty Requirement.

3.10 The Generator shall ensure that:

- (A) if the Outlet T&S Flow Meter(s) are calibrated with a different fluid to the operational fluid, the transferability of the calibration shall be assessed for the employed metering technology and the additional measurement uncertainty from the calibration with an alternative fluid shall be accounted for in the Measurement Uncertainty Assessment;
 - (B) if the Outlet T&S Flow Meter(s) are calibrated at different line pressure and temperatures to the operational line pressure and temperatures, the impact of such difference on the performance of the Outlet T&S Flow Meter shall be assessed for the employed metering technology and, if feasible, corrected for. Any additional measurement uncertainty from the calibration of the Outlet T&S Flow Meter at line pressure and temperatures different from the operational line pressure and temperatures shall be accounted for in the Measurement Uncertainty Assessment; and
 - (C) the measurement uncertainty of the reference standard used for the calibration of the T&S Composition Analysis Equipment shall be accounted for in the Measurement Uncertainty Assessment.
- 3.11 The Generator shall retain the results of each Measurement Uncertainty Assessment and any review of such Measurement Uncertainty Assessment and shall provide a copy of such results, on request, to the DPA Counterparty within five (5) Business Days of receipt of the request.
- 3.12 As part of each Measurement Uncertainty Assessment, the Generator shall include a list of all relevant components that form part of each Outlet T&S Meter Measurement System.

4. **OUTLET T&S METER MEASUREMENT SYSTEM CRITERIA**

Outlet T&S Meter Measurement System Standards

- 4.1 The applicable components of the Outlet T&S Meter Measurement System shall be certified in accordance with The Measuring Instrument Regulations 2016.
- 4.2 The Outlet T&S Meter Measurement System shall, as a minimum, comply with the latest version of the following standards:
- (A) JCGM 100 (Evaluation of measurement data - Guide to the expression of uncertainty in measurement);
 - (B) ISO 5168 (Measurement of fluid flow. Evaluation of uncertainties); and
 - (C) ISO 10012 (Measurement management systems. Requirements for measurement processes and measuring equipment).
- 4.3 The Outlet T&S Flow Meter(s) shall comply with the latest version of the following standards, as applicable:
- (A) if the Outlet T&S Flow Meter is a Coriolis meter, ISO 10790 (Measurement of fluid flow in closed conduits — Guidance to the selection, installation and use of Coriolis flowmeters (mass flow, density and volume flow measurements));
 - (B) if the Outlet T&S Flow Meter is an orifice meter:
 - (i) ISO 5167-1 (Measurement of fluid flow by means of pressure differential devices inserted in circular cross-section conduits running full — Part 1: General principles and requirements); and
 - (ii) ISO 5167-2 (Measurement of fluid flow by means of pressure differential devices inserted in circular cross-section conduits running full — Part 2: Orifice plates);

- (C) if the Outlet T&S Flow Meter is an ultrasonic flow meter:
 - (i) ISO 12242 (Measurement of fluid flow in closed conduits — Ultrasonic transit-time meters for liquid);
 - (ii) ISO 17089 (Measurement of fluid flow in closed conduits — Ultrasonic meters for gas — Part 1: Meters for custody transfer and allocation measurement); and
 - (iii) ISO 17089 (Measurement of fluid flow in closed conduits — Ultrasonic meters for gas — Part 2: Meters for industrial applications); and
- (D) if the Outlet T&S Flow Meter is a turbine flow meter:
 - (i) ISO 2715 (Liquid hydrocarbons — Volumetric measurement by turbine flowmeter);
 - (ii) ISO 9951 (Measurement of gas flow in closed conduits — Turbine meters); and
 - (iii) BS EN 12261 (Gas meters – Turbine gas meters).

4.4 If the T&S Composition Analysis Equipment is an online gas chromatograph, the T&S Composition Analysis Equipment shall comply with the relevant sections of the latest version of the following standards, as applicable:

- (A) ISO 6141 (Gas analysis — Contents of certificates for calibration gas mixtures);
- (B) ISO 6142 (Gas analysis — Preparation of calibration gas mixtures — Gravimetric method);
- (C) ISO 6143 (Gas analysis – Comparison methods for determining and checking the composition of calibration gas mixtures);
- (D) ISO 6974-1 (Natural gas — Determination of composition and associated uncertainty by gas chromatography — Part 1: General guidelines and calculation of composition);
- (E) ISO 6974-2 (Natural gas — Determination of composition and associated uncertainty by gas chromatography — Part 2: Uncertainty calculations);
- (F) ISO 6974-3 (Natural gas — Determination of composition and associated uncertainty by gas chromatography — Part 3: Precision and bias);
- (G) ISO 6974-4 (Natural gas — Determination of composition with defined uncertainty by gas chromatography — Part 4: Determination of nitrogen, carbon dioxide and C1 to C5 and C6+ hydrocarbons for a laboratory and on-line measuring system using two columns);
- (H) ISO 6974-5 (Natural gas — Determination of composition and associated uncertainty by gas chromatography — Part 5: Isothermal method for nitrogen, carbon dioxide, C1 to C5 hydrocarbons and C6+ hydrocarbons);
- (I) ISO 6974-6 (Natural gas — Determination of composition with defined uncertainty by gas chromatography — Part 6: Determination of hydrogen, helium, oxygen, nitrogen, carbon dioxide and C1 to C8 hydrocarbons using three capillary columns);
- (J) ISO 10723 (Natural gas — Performance evaluation for analytical systems);
- (K) ISO/TR 10715 (Natural gas — Gas sampling);

- (L) ISO/TR 24094 (Analysis of natural gas — Validation methods for gaseous reference materials)
- (M) ISO/TR 14749 (Natural gas — Online gas chromatograph for upstream area); and
- (N) ISO 8943 (Refrigerated light hydrocarbon fluids — Sampling of liquefied natural gas — Continuous and intermittent methods).

4.5 The Parties acknowledge and agree that although in many cases the above-mentioned standards refer to natural gas as comparable standards are not yet available specifically for CO₂, such standards will nevertheless be applied in relation to CO₂ due to a lack of specific CO₂ related standards until and to the extent a CO₂ specific standard becomes applicable.

Data Flow and Storage

- 4.6 The Generator shall establish, document, implement and maintain written procedures for data flow activities relating to the Outlet T&S Meter Measurement System.
- 4.7 Such written procedures shall include the following as a minimum:
- (A) a diagram providing an overview of the sequence of data collection and processing steps;
 - (B) identification of the source of the Outlet CO₂ Primary Flow and Time Data;
 - (C) a summary of each step from the Outlet CO₂ Primary Flow and Time Data to the Outlet CO₂ Tertiary Data, including any formulas and coefficients used in the calculations;
 - (D) a summary of any relevant electronic data processing and storage systems used and the interaction between such systems and other inputs, including manual inputs; and
 - (E) the method in which the measured quantities of data are recorded and stored.
- 4.8 The Generator shall put in place appropriate control measures for mitigating the risk of omission, misrepresentation or error in such data flows.
- 4.9 All data shall be identifiable to its respective date and time.

Monitoring facilities

- 4.10 The Generator shall provide monitoring facilities in respect of the Outlet CO₂ Primary Data, with associated alarm conditions when an error in the functionality of the Outlet T&S Meter Measurement System is detected.
- 4.11 The Generator shall ensure that any error(s) in the functionality of the Outlet T&S Meter Measurement System are recorded as an event alarm which includes the date and time of such error(s).

Communications

- 4.12 The Generator shall provide both:
- (A) local interrogation facilities; and
 - (B) remote interrogation facilities,
- in respect of the Outlet T&S Meter Measurement System.

- 4.13 The Generator shall ensure that no unauthorised access is granted to the Outlet T&S Meter Measurement System.
- 4.14 All Outlet CO₂ Metered Data shall be recorded and/or reported in a format agreed with the DPA Counterparty.

Appropriate seals

- 4.15 The Generator shall ensure that each component of the Outlet T&S Meter Measurement System is appropriately sealed so as to provide assurance that the following parameters are met:
 - (A) the Reasonable and Prudent Standard of anti-tamper protection;
 - (B) compliance with ISO 10012 (Measurement management systems. Requirements for measurement processes and measuring equipment); and
 - (C) where applicable, compliance with The Measuring Instrument Regulations 2016.

5. ASSOCIATED FEATURES

- 5.1 The Generator may install additional features within or associated with the Outlet T&S Meter Measurement System provided such additional features do not interfere with the operation of the Outlet T&S Meter Measurement System (including, but not limited to, the operation of data flow and storage in respect of the Outlet T&S Meter Measurement System).

6. ACCESS TO DATA

- 6.1 The Generator shall provide access to, and hereby authorises the use of, Outlet CO₂ Metered Data, to and by the DPA Counterparty in accordance with the terms of the DPA.

7. QUALITY ASSURANCE

- 7.1 The Generator shall ensure that regular functional and quality assurance checks of all of the components of the Outlet T&S Meter Measurement System are performed in compliance with Applicable Standards.
- 7.2 The Generator shall ensure that any third party audit reports related to the operation of the Outlet T&S Meter Measurement System are addressed and provided to the DPA Counterparty on an annual basis.
- 7.3 The Generator shall ensure that:
 - (A) any test laboratories; and
 - (B) any personnel,

carrying out measurements, calibrations and related assessments on or in relation to the Outlet T&S Meter Measurement System are accredited in accordance with EN ISO/IEC 17025 for the relevant calibration and assessment activities.

8. RECORDS

- 8.1 Records required to be kept by the Generator and provided to the DPA Counterparty under this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) shall include, as a minimum and where applicable, the following information:

- (A) Generator name;
- (B) Facility name;
- (C) Facility address;
- (D) instrument manufacturer;
- (E) instrument model;
- (F) instrument serial number;
- (G) instrument operating principle;
- (H) instrument operating range;
- (I) instrument compliance (calibration certificate(s) number);
- (J) name and accreditation number of instrument calibration laboratory;
- (K) all reports related to demonstrating compliance with Applicable Standards; and
- (L) all reports related to the commissioning of the Outlet T&S Meter Measurement System.

Part E
CO₂ Re-use Meter Measurement System – Technical Specification

1. METERING AND ANALYSIS POINTS

1.1 The Generator shall ensure that:

(A) each CO₂ Re-use Flow Meter:

(i) shall be installed on:

- (a) the stream of CO₂ Rich Stream that is routed from the T&S Network to the Facility; or
- (b) if the CO₂ Rich Stream that is routed from the T&S Network to the Facility consists of multiple sub-streams, the stream or a sub-stream of the CO₂ Rich Stream provided that each sub-stream is metered with a CO₂ Re-use Flow Meter;

(ii) shall have:

- (a) suitable double-block-and-bleed isolation valves installed both upstream and downstream of the CO₂ Re-use Flow Meter such that the CO₂ Re-use Flow Meter can be safely isolated and removed if required; and
- (b) either:
 - (aa) appropriate straight pipe lengths upstream and downstream to minimise the impact of the Facility on the performance of the CO₂ Re-use Flow Meter; or
 - (bb) a flow conditioner installed upstream of the CO₂ Re-use Flow Meter,

in each case in compliance with Applicable Standards;

(iii) shall be installed to the Reasonable and Prudent Standard and in accordance with Applicable Standards;

(iv) shall be located at a CO₂ Re-use Metering Point; and

(v) if such CO₂ Re-use Flow Meter is a flow meter other than a mass flow meter, then a densitometer or other instrumentation agreed with the DPA Counterparty pursuant to paragraph 2.3 (as applicable) shall be installed:

- (a) at a point or points in the CO₂ Re-use Meter Measurement System such that the measurement is representative of the stream(s) flowing through the relevant CO₂ Re-use Flow Meter(s); and
- (b) to the Reasonable and Prudent Standard and in accordance with Applicable Standards; and

(B) the installation of the CO₂ Re-use Meter Measurement System shall be confirmed by a competent third party organisation by reference to Applicable Standards.

2. CO₂ RE-USE METER MEASUREMENT SYSTEM EQUIPMENT

General equipment

2.1 Each CO₂ Re-use Meter Measurement System shall include the following equipment:

- (A) CO₂ Re-use Flow Meter(s) for the measurement of the Metered CO₂ Input and the Metered CO₂ Rich Stream Input; and
- (B) a DAHS.

CO₂ Re-use Flow Meter(s)

2.2 The CO₂ Re-use Flow Meter(s) shall be installed and operated according to Applicable Standards.

2.3 If the CO₂ Re-use Flow Meter is a flow meter other than a mass flow meter, then:

- (A) a densitometer shall also be installed; or
- (B) other instrumentation and methodologies reasonably acceptable to the DPA Counterparty shall be agreed,

to determine the fluid density and allow determination of mass quantity.

2.4 If the CO₂ Re-use Flow Meter is an orifice meter:

- (A) such CO₂ Re-use Flow Meter shall be compliant with ISO 5167 Part 1 and Part 2 and either:
 - (i) be flow calibrated prior to initial installation at a test laboratory; or
 - (ii) checked and certified prior to initial installation; and
- (B) the orifice plate shall be removed and inspected at least once every twelve (12) Months to confirm whether it is compliant with ISO 5167.

2.5 If the CO₂ Re-use Flow Meter is not an orifice meter, such CO₂ Re-use Flow Meter shall be calibrated:

- (A) prior to initial installation at a test laboratory; and
- (B) at least once every twelve (12) Months thereafter (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the CO₂ Re-use Flow Meter as demonstrated by subsequent calibrations and/or advanced diagnostic methods):
 - (i) at a test laboratory, or
 - (ii) in-situ against a master meter or a prover.

2.6 If the CO₂ Re-use Flow Meter is removed from the line and sent to a test laboratory for calibration in accordance with paragraph 2.5(B)(i), such CO₂ Re-Use Flow Meter shall be replaced for the duration of the calibration by a standby CO₂ Re-Use Flow Meter which complies with this Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*) of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).

- 2.7 If the CO₂ Re-use Flow Meter is calibrated in-situ against a master meter or a prover in accordance with paragraph 2.5(B)(ii):
- (A) the master meter or prover shall be installed and operated in accordance with Applicable Standards;
 - (B) the master meter or prover shall be calibrated at regular intervals and at least once every six (6) Months (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the master meter or prover as demonstrated by subsequent calibrations and/or advanced diagnostic methods);
 - (C) the master meter or prover calibration shall be traceable to laboratories accredited in accordance with paragraph 7.3 of this Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*); and
 - (D) any master meter shall comply with the relevant provisions of Part E (*CO₂ Re-use Meter Measurement System – Technical Specification*) of this Annex 3 (*T&S Meter Operational Framework and Technical Specification*).
- 2.8 Any secondary instrumentation associated with the CO₂ Re-use Flow Meter, including densitometer(s) and temperature and pressure devices, shall be calibrated:
- (A) prior to initial installation, at a test laboratory; and
 - (B) at least once every three (3) Months thereafter (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the secondary instrumentation as demonstrated by subsequent calibrations and/or advanced diagnostic methods), either at a test laboratory or in-situ.

If such secondary instrumentation is calibrated in-situ in accordance with paragraph 2.8, any reference test equipment shall be dedicated to the CO₂ Re-use Flow Meter, shall be traceable to a laboratory accredited in accordance with paragraph 7.3 of this Part E (*CO₂ Re-use Meter Measurement System - Technical Specification*) and shall be calibrated at least once every twelve (12) Months (unless otherwise agreed by the DPA Counterparty having regard to the stability of the performance of the secondary instrumentation as demonstrated by subsequent calibrations and/or advanced diagnostic methods).

Redundancy

- 2.9 The Generator shall ensure that in respect of the CO₂ Re-use Meter Measurement System the DAHS features sufficient inherent redundancy such that the failure of any one unit does not compromise the operability of the CO₂ Re-use Meter Measurement System.

Diagnostic capabilities

- 2.10 The Generator shall ensure that, where available, diagnostic capabilities are implemented, and diagnostic data is recorded and retained.

3. CO₂ RE-USE METERED DATA

Reporting, determining and recording CO₂ Re-use Metered Data

- 3.1 The Generator shall ensure that:
- (A) the following measurements are recorded for each second by the CO₂ Re-use Meter Measurement System:

- (i) the Metered CO₂ Rich Stream Input Flow Rate (*expressed in tCO_{2RS}*) (provided that if the CO₂ Re-use Flow Meter is a flow meter other than a mass flow meter, the Metered CO₂ Rich Stream Input Flow Rate (*expressed in tCO_{2RS}*) shall be obtained by combining the flow rate measurement from the CO₂ Re-use Flow Meter with the density measurement of the CO₂ Rich Stream for each second);
 - (ii) the absolute pipeline pressure (expressed in bara);
 - (iii) the pipeline stream temperature (expressed in °C); and
 - (iv) if the CO₂ Re-use Flow Meter is a flow meter other than a mass flow meter, the density of the CO₂ Rich Stream (expressed in kg/m³); and
- (B) the following values are recorded by or in respect of the CO₂ Re-use Meter Measurement System:
- (i) the number of seconds of operation of the CO₂ Re-Use Meter Measurement System in each Settlement Unit;
 - (ii) the date (expressed in day/month/year); and
 - (iii) the time (expressed in a 24 hour clock),
- ((A) and (B) are together, the **"CO₂ Re-use Meter Primary Flow and Time Data"**).

3.2 The Generator shall, in respect of the CO₂ Re-use Meter Measurement System, determine the Metered CO₂ Input Flow Rate for each second by:

$$CRUm_j = CRUm_{j,rich} \times ACRUConc_{CO_2,wt}$$

$CRUm_j$ = the Metered CO₂ Input Flow Rate (*expressed in tCO₂/h*) in each second (j);

$CRUm_{j,rich}$ = the Metered CO₂ Rich Stream Input Flow Rate (*expressed in tCO_{2RS}/h*) in each second (j); and

$AConc_{CO_2,wt}$ = the Assumed CO₂ Input Concentration (wt %) in the relevant second,

(the **"CO₂ Re-use Secondary Data"**).

3.3 The Generator shall determine:

- (A) the Metered CO₂ Input in respect of each Settlement Unit by:

$$CRUEm_i = \sum_{j=1}^{Seconds_i} \frac{CRUm_j}{3600}$$

$CRUEm_i$ = Metered CO₂ Input (tCO₂) for the relevant Settlement Unit (i);

$CRUm_j$ = the Metered CO₂ Input Flow Rate (*expressed in tCO₂/h*) for each second (j); and

$Seconds_i$ = the number of seconds (j) in the relevant Settlement Unit (i);

- (B) the Metered CO₂ Rich Stream Input in respect of each Settlement Unit by:

$$CRUEm_{i,rich} = \sum_{j=1}^{Seconds_i} \frac{CRUm_{j,rich}}{3600}$$

- $CRUEm_{i,rich}$ = the Metered CO₂ Rich Stream Input for the relevant Settlement Unit (*expressed in tCO_{2RS}*);
- $CRUm_{j,rich}$ = the Metered CO₂ Rich Stream Input Flow Rate (*expressed in tCO_{2RS}/h*) for each second (*j*); and
- $Seconds_i$ = the number of seconds (*j*) in the relevant Settlement Unit (*i*).

3.4 The Generator shall report the following data to the DPA Counterparty:

- (A) Metered CO₂ Input; and
 - (B) Metered CO₂ Rich Stream Input;
- together, the **"CO₂ Re-use Tertiary Data"**.

Measurement uncertainty requirements

3.5 The overall measurement uncertainty of the Metered CO₂ Rich Stream Input shall:

- (A) where the Metered CO₂ Rich Stream Input Flow Rate is equal to or greater than 10% of the Maximum CO₂ Rich Stream Input Flow Rate Estimate, be equal to or less than +/-1% of the measured value at 95% confidence interval; and
- (B) where the Metered CO₂ Rich Stream Input Flow Rate is less than 10% of the Maximum CO₂ Rich Stream Input Flow Rate Estimate, be equal to or less than +/-2% of the measured value at 95% confidence interval,

(the **"CO₂ Re-use Rich Stream Measurement Uncertainty Requirement"**).

3.6 The CO₂ Re-use Rich Stream Measurement Uncertainty Requirement shall be:

- (A) obtained by combining the measurement uncertainty of all the quantities necessary to enable the calculation of the Metered CO₂ Rich Stream Input in a measurement uncertainty budget; and
- (B) ascertained in accordance with internationally recognised and accepted standards, including, but not limited to the guide to the expression of uncertainty in measurement ISO/IEC Guide 98 all parts.

3.7 The Generator shall, as a minimum, in order to determine the overall measurement uncertainty of the Metered CO₂ Rich Stream Input:

- (A) carry out a measurement uncertainty assessment (a **"CO₂ Re-use Meter Measurement Uncertainty Assessment"**) when the CO₂ Re-use Meter Measurement System is commissioned;
- (B) review the CO₂ Re-use Meter Measurement Uncertainty Assessment at least once every year of the Term; and
- (C) review the CO₂ Re-use Meter Measurement Uncertainty Assessment following a CO₂ Re-use Meter Measurement System Material Change,

to ensure that the overall measurement uncertainty of the Metered CO₂ Rich Stream Input is complying with the CO₂ Re-use Measurement Uncertainty Requirement.

3.8 The Generator shall ensure that:

- (A) if the CO₂ Re-use Flow Meter(s) are calibrated with a different fluid to the operational fluid, the transferability of the calibration shall be assessed for the employed metering technology and the additional measurement uncertainty from the calibration with an alternative fluid shall be accounted for in the CO₂ Re-use Meter Measurement Uncertainty Assessment; and
- (B) if the CO₂ Re-use Flow Meter(s) are calibrated at different line pressure and temperatures to the operational line pressure and temperatures, the impact of such difference on the performance of the CO₂ Re-use Flow Meter shall be assessed for the employed metering technology and, if feasible, corrected for. Any additional measurement uncertainty from the calibration of the CO₂ Re-use Flow Meter at line pressure and temperatures different from the operational line pressure and temperatures shall be accounted for in the CO₂ Re-use Meter Measurement Uncertainty Assessment.

3.9 The Generator shall retain the results of each CO₂ Re-use Meter Measurement Uncertainty Assessment and any review of such CO₂ Re-use Meter Measurement Uncertainty Assessment and shall provide a copy of such results, on request, to the DPA Counterparty within five (5) Business Days of receipt of the request.

3.10 As part of each CO₂ Re-use Meter Measurement Uncertainty Assessment, the Generator shall include a list of all relevant components that form part of each CO₂ Re-use Meter Measurement System.

4. **CO₂ RE-USE T&S METER MEASUREMENT SYSTEM CRITERIA**

CO₂ Re-use Meter Measurement System Standards

4.1 The applicable components of the CO₂ Re-use Meter Measurement System shall be certified in accordance with The Measuring Instrument Regulations 2016.

4.2 The CO₂ Re-use Meter Measurement System shall, as a minimum, comply with the latest version of the following standards:

- (A) JCGM 100 (Evaluation of measurement data - Guide to the expression of uncertainty in measurement);
- (B) ISO 5168 (Measurement of fluid flow. Evaluation of uncertainties); and
- (C) ISO 10012 (Measurement management systems. Requirements for measurement processes and measuring equipment).

4.3 The CO₂ Re-use Flow Meter(s) shall comply with the latest version of the following standards, as applicable:

- (A) if the CO₂ Re-use Flow Meter is a Coriolis meter, ISO 10790 (Measurement of fluid flow in closed conduits — Guidance to the selection, installation and use of Coriolis flowmeters (mass flow, density and volume flow measurements));
- (B) if the CO₂ Re-use Flow Meter is an orifice meter:

- (i) ISO 5167-1 (Measurement of fluid flow by means of pressure differential devices inserted in circular cross-section conduits running full — Part 1: General principles and requirements); and
 - (ii) ISO 5167-2 (Measurement of fluid flow by means of pressure differential devices inserted in circular cross-section conduits running full — Part 2: Orifice plates);
 - (C) if the CO₂ Re-use Flow Meter is an ultrasonic flow meter:
 - (i) ISO 12242 (Measurement of fluid flow in closed conduits — Ultrasonic transit-time meters for liquid);
 - (ii) ISO 17089 (Measurement of fluid flow in closed conduits — Ultrasonic meters for gas — Part 1: Meters for custody transfer and allocation measurement); and
 - (iii) ISO 17089 (Measurement of fluid flow in closed conduits — Ultrasonic meters for gas — Part 2: Meters for industrial applications); and
 - (D) if the CO₂ Re-use Flow Meter is a turbine flow meter:
 - (i) ISO 2715 (Liquid hydrocarbons — Volumetric measurement by turbine flowmeter);
 - (ii) ISO 9951 (Measurement of gas flow in closed conduits — Turbine meters); and
 - (iii) BS EN 12261 (Gas meters – Turbine gas meters).
- 4.4 The Parties acknowledge and agree that although in many cases the above-mentioned standards refer to natural gas as comparable standards are not yet available specifically for CO₂, such standards will nevertheless be applied in relation to CO₂ due to a lack of specific CO₂ related standards until and to the extent a CO₂ specific standard becomes applicable.

Data Flow and Storage

- 4.5 The Generator shall establish, document, implement and maintain written procedures for data flow activities relating to the CO₂ Re-use Meter Measurement System.
- 4.6 Such written procedures shall include the following as a minimum:
- (A) a diagram providing an overview of the sequence of data collection and processing steps;
 - (B) identification of the source of the CO₂ Re-use CO₂ Primary Flow and Time Data;
 - (C) a summary of each step from the CO₂ Re-use CO₂ Primary Flow and Time Data to the CO₂ Re-use Tertiary Data, including any formulas and coefficients used in the calculations;
 - (D) a summary of any relevant electronic data processing and storage systems used and the interaction between such systems and other inputs, including manual inputs; and
 - (E) the method in which the measured quantities of data are recorded and stored.
- 4.7 The Generator shall put in place appropriate control measures for mitigating the risk of omission, misrepresentation or error in such data flows.
- 4.8 All data shall be identifiable to its respective date and time.

Monitoring facilities

- 4.9 The Generator shall provide monitoring facilities in respect of the CO₂ Re-use Primary Data, with associated alarm conditions when an error in the functionality of the CO₂ Re-use T&S Meter Measurement System is detected.
- 4.10 The Generator shall ensure that any error(s) in the functionality of the CO₂ Re-use T&S Meter Measurement System are recorded as an event alarm which includes the date and time of such error(s).

Communications

- 4.11 The Generator shall provide both:
- (A) local interrogation facilities; and
 - (B) remote interrogation facilities,
- in respect of the CO₂ Re-use T&S Meter Measurement System.
- 4.12 The Generator shall ensure that no unauthorised access is granted to the CO₂ Re-use T&S Meter Measurement System.
- 4.13 All CO₂ Re-use Metered Data shall be recorded and/or reported in a format agreed with the DPA Counterparty.

Appropriate seals

- 4.14 The Generator shall ensure that each component of the CO₂ Re-use Meter Measurement System is appropriately sealed so as to provide assurance that the following parameters are met:
- (A) the Reasonable and Prudent Standard of anti-tamper protection;
 - (B) compliance with ISO 10012 (Measurement management systems. Requirements for measurement processes and measuring equipment); and
 - (C) where applicable, compliance with The Measuring Instrument Regulations 2016.

5. ASSOCIATED FEATURES

- 5.1 The Generator may install additional features within or associated with the CO₂ Re-use Meter Measurement System provided such additional features do not interfere with the operation of the CO₂ Re-use Meter Measurement System (including, but not limited to, the operation of data flow and storage in respect of the CO₂ Re-use Meter Measurement System).

6. ACCESS TO DATA

- 6.1 The Generator shall provide access to, and hereby authorises the use of, CO₂ Re-use Metered Data, to and by the DPA Counterparty in accordance with the terms of the DPA.

7. QUALITY ASSURANCE

- 7.1 The Generator shall ensure that regular functional and quality assurance checks of all of the components of the CO₂ Re-use Meter Measurement System are performed in compliance with Applicable Standards.

7.2 The Generator shall ensure that any third party audit reports related to the operation of the CO₂ Re-use Meter Measurement System are addressed and provided to the DPA Counterparty on an annual basis.

7.3 The Generator shall ensure that:

(A) any test laboratories; and

(B) any personnel,

carrying out measurements, calibrations and related assessments on or in relation to the CO₂ Re-use Meter Measurement System are accredited in accordance with EN ISO/IEC 17025 for the relevant calibration and assessment activities.

8. **RECORDS**

8.1 Records required to be kept by the Generator and provided to the DPA Counterparty under this Annex 3 (*T&S Meter Operational Framework and Technical Specification*) shall include, as a minimum and where applicable, the following information:

(A) Generator name;

(B) Facility name;

(C) Facility address;

(D) instrument manufacturer;

(E) instrument model;

(F) instrument serial number;

(G) instrument operating principle;

(H) instrument operating range;

(I) instrument compliance (calibration certificate(s) number);

(J) name and accreditation number of instrument calibration laboratory;

(K) all reports related to demonstrating compliance with Applicable Standards; and

(L) all reports related to the commissioning of the CO₂ Re-use Meter Measurement System.

Annex 4
Calculation of Default Termination Payment

1. DEFAULT TERMINATION PAYMENT

1.1 In the event that the DPA Counterparty exercises its right to terminate the DPA under Condition 36.33 (*Default termination*), the "**Default Termination Payment**" shall be:

- (A) subject to any adjustment that is required pursuant to Condition 37.12 (*Consequences of default termination*); and
- (B) calculated in accordance with the following formula:

$$\text{Default Termination Payment} = NDCE \times TFR$$

where:

NDCE = Net Dependable Capacity Estimate (*MW*)

TFR = Termination Fee Rate equal to £35,000 (£/*MW*)

1.2 For the avoidance of doubt, where the DPA Counterparty exercises its right to terminate the DPA under Condition 36.33 (*Default termination*) on the basis that more than one (1) ground for termination has arisen, the Generator shall not be liable to pay more than one Default Termination Payment to the DPA Counterparty.

Annex 5
Post T&S Prolonged Unavailability Event Termination Procedure

1. DEFINITIONS

1.1 In this Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*):

"Abusive" has the meaning given to that term in Paragraph 2.15(C) of this Annex 5;

"Affiliate Tax Arrangement(s)" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Cash Sweep Amount" means the amount calculated in accordance with Paragraph 2.8 of this Annex 5;

"Cash Sweep Amount Due Date" means, in respect of any Cash Sweep Calculation Date:

(A) unless Paragraph (B) of this definition applies, the date falling ten (10) Business Days after the date of agreement or determination of the Cash Sweep Report for the relevant Cash Sweep Calculation Date; or

(B) such other date as the DPA Counterparty and the Generator may agree in writing;

"Cash Sweep Avoidance Event" means, subject to paragraph (B) below, any contract, arrangement, scheme, transaction or series of transactions which (when taken together) and whether real, virtual, hybrid or synthetic, entered into or facilitated or participated in, directly or indirectly, by the Generator, or any organising, structuring or restructuring by the Generator of its capital or debt or business or affairs (or the conducting of the same) or the undertaking by the Generator of any act or the making by the Generator of any omission, in any such case which is designed to or a main purpose of which is to:

(A) (i) evade, avoid, circumvent, frustrate or reduce in whole or in part the payment to or receipt by the DPA Counterparty of amounts which might otherwise be payable to the DPA Counterparty under Paragraph 2 of Annex 5; or

(ii) remove, extract or leak value from the Generator so as to reduce in whole or in part the payment to or receipt by the DPA Counterparty of amounts which might otherwise be payable to the DPA Counterparty under Paragraph 2 of Annex 5;

(B) provided that they satisfy the criteria set out in paragraph (A) above, Cash Sweep Avoidance Events may be or involve (without limitation):

(i) any securitisation of cash or cash flows or moneys standing to the credit of any bank account, in any such case of, from or relating to the Project;

(ii) any borrowing using as collateral cash or moneys standing to the credit of any bank account of, from or relating to the Project; or

(iii) the entry into any Affiliate Tax Arrangement(s), to the extent that such arrangement(s) involve the provision (or the absence of any provision) of consideration in an amount that is less favourable to the Generator than the consideration that would have been paid or given between third parties dealing at arm's length (including circumstances where no consideration is provided) (assuming for these purposes that the Affiliate Tax Arrangements in question are arrangements to which third parties were capable of being party),

provided that the entry into a CS Related Party Transaction for goods or services which complies with the CS Agreed Principles under and as defined in the CS Contracting Policy shall not constitute a Cash Sweep Avoidance Event;

"Cash Sweep Calculation Date" means:

- (A) 31 March and 30 September each year after the T&S Termination Payment Date; and/or
- (B) such other date or dates in those years as the DPA Counterparty may (acting reasonably) agree in writing with the Generator;

"Cash Sweep Calculation Period" means, in respect of any Cash Sweep Calculation Date, each period from:

- (A) in relation to the Cash Sweep Preliminary Period, the T&S Termination Payment Date to the first Cash Sweep Calculation Date; and
- (B) in relation to the Cash Sweep Secondary Period, the immediately preceding Cash Sweep Calculation Date to the relevant Cash Sweep Calculation Date;

"Cash Sweep Discharge Date" means the date on which the T&S TP Equity Compensation Excess has been irrevocably paid and discharged in full, provided that, if the DPA Counterparty considers (acting reasonably) that an amount paid to it pursuant to this Annex 5 is capable of being avoided or otherwise set aside on the liquidation or administration of the Generator or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Agreement;

"Cash Sweep Obligation" means a Generator obligation set out in Paragraph 2 of this Annex 5;

"Cash Sweep Preliminary Period" means the period from (and including) the T&S Termination Payment Date to (and including) the first Cash Sweep Calculation Date;

"Cash Sweep Report" has the meaning given to such term in Paragraph 2.7 of this Annex 5;

"Cash Sweep Rules" means the provisions set out in Appendix 1 (*Cash Sweep Rules*) of this Annex 5;

"Cash Sweep Secondary Period" means the period from (but excluding) the last day of the Cash Sweep Preliminary Period to (and including) the Cash Sweep Discharge Date;

"CS Agreed Principles" has the meaning given to that term in Appendix 2 (*CS Contracting Policy*) of this Annex 5;

"CS Acquirer" means, in relation to a CS Relevant Sale, the person(s) that acquire(s) the Economic Interests which are the subject of the CS Relevant Sale;

"CS Contracting Policy" means the contracting policy set out at Appendix 2 (*CS Contracting Policy*) of this Annex 5, as the same may be amended as agreed in writing between the DPA Counterparty and the Generator;

"CS Cost" has the meaning given to that term in Appendix 2 (*CS Contracting Policy*) of this Annex 5;

"CS Discount Amount" has the meaning given to that term in Appendix 2 (*CS Contracting Policy*) of this Annex 5;

"CS Divestment Proceeds" means, in relation to any CS Relevant Sale:

- (A) all consideration (whether cash or non-cash) paid or payable by or on behalf of the CS Acquirer to the seller under and in respect of such CS Relevant Sale or, if greater, the amount which would have been paid or payable but for a failure by the Generator to perform or comply with one (1) or more of the Cash Sweep Rules or the CS Contracting Policy, in each case as applicable to it (where such failure has been agreed between the DPA Counterparty and the Generator or determined by an Expert in accordance with the Expert Determination Procedure),

less

- (B) any reasonable third party professional services fees reasonably and necessarily incurred by the seller exclusively for the purposes of such CS Relevant Sale,

and calculated and expressed in Nominal Terms by reference to the date of completion of such CS Relevant Sale;

"CS Related Party Discount Amount" means, in respect of a CS Related Party Transaction, the sum (*expressed in pounds (£)*) of any CS Discount Amount (as determined by an Auditor in accordance with the CS Contracting Policy);

"CS Related Party Transaction" has the meaning given to that term in Appendix 2 (CS Contracting Policy) of this Annex 5;

"CS Relevant Sale" means, unless otherwise agreed in writing by the DPA Counterparty:

- (A) a sale, assignment, novation, transfer or other disposal of;
- (B) the enforcement of any pledge, charge, mortgage, lien or other security interest or encumbrance on or over;
- (C) creating any trust or conferring any interest in, over or in respect of;
- (D) any agreement, arrangement or understanding in respect of votes or the right to receive dividends in respect of;
- (E) the renunciation or assignment of any right to subscribe or receive share(s) or any legal or beneficial interest in share(s) in respect of;
- (F) any agreement or arrangement to do, or having substantially the same effect as, any of the above in respect of; or
- (G) transmission by operation of law of,

any Qualifying Direct Economic Interest which occurs within the CS Sale Period;

"CS Sale Due Date" means, in respect of any CS Relevant Sale:

- (A) unless Paragraph (B) of this definition applies, the date falling twenty (20) Business Days after the relevant CS Relevant Sale; or
- (B) such other date as the DPA Counterparty and the Generator may agree in writing;

"CS Sale Period" means a period commencing on the T&S Termination Payment Date and the Cash Sweep Discharge Date;

"CS Third Party Transaction" has the meaning given to that term in Appendix 2 (CS Contracting Policy) of this Annex 5;

"CS Transaction" has the meaning given to that term in Appendix 2 (CS Contracting Policy) of this Annex 5;

"Deemed Relevant Cash Amount" means, in respect of the relevant Cash Sweep Calculation Date, a sum equal to the Relevant Cash Amount agreed between the DPA Counterparty and the Generator or, failing agreement, determined by an Expert in accordance with the Expert Determination Procedure as the additional amount that would have arisen but for a failure by the Generator to perform or comply with one (1) or more of the Cash Sweep Rules and/or the CS Contracting Policy, in each case as applicable to it, where such failure has been agreed between the DPA Counterparty and the Generator or determined by an Expert in accordance with the Expert Determination Procedure;

"Deficient T&S TP Collateral Amount" has the meaning given to such term in Paragraph 3.2 of this Annex 5;

"Distributions" has the meaning given to such term in Paragraph 2.1 (Definitions) of Part A (Introduction) of the Schedule (Gain Share);

"DPA Counterparty Designated Account" means the bank account designated by the DPA Counterparty to receive payments under and in accordance with this Annex 5;

"Economic Interest" means, in relation to any person:

- (A) shares or other securities, direct or indirect interests in shares or other securities, (including, in each case, convertible securities and warrants and options in respect of shares or securities) of the relevant person or other equity, partnership or other ownership interests, direct or indirect, in the relevant person;
- (B) loans, loan capital or other debt interests (whether or not subordinated) made, directly or indirectly, to, or held in, such person by a direct or indirect shareholder in, or a direct or indirect member of, such person (each, a **"Shareholder Interest"**) or any loans, loan capital or other debt interests (whether or not subordinated) made to, or held in, such person which were originally Shareholder Interests; and/or
- (C) any other economic interest, direct or indirect, in such person the purpose of which is to distribute or return, or which has the effect of distributing or returning, value from such person to a direct or indirect shareholder in, or a direct or indirect member of, such person (each, an **"Other Economic Interest"**) or any other economic interest, direct or indirect, in such person which was originally an Other Economic Interest, excluding any such interest which arises solely by reason of being a counterparty under:
 - (i) an agreement for the provision of goods or services to such person or the Generator entered into by such person in compliance with the CS Contracting Policy for the purposes of the Project;
 - (ii) any guarantee, indemnity, performance bond, letter of credit or letter of support in respect of the obligations of the Generator entered into by such person in compliance with the CS Contracting Policy for the purposes of the Project;
 - (iii) any hedging arrangement in respect of interest rates, foreign exchange or power sales entered into by such person in compliance with the CS Contracting Policy for the purposes of the Project; or

- (iv) any financing or refinancing arrangements (other than any hedging arrangements) entered into by such person,

in each case which does not fall within paragraph (A) or (B) above;

"Financial Indebtedness" has the meaning given to such term in Paragraph 2.1 (Definitions) of Part A (Introduction) of the Schedule (Gain Share);

"Letter of Credit Events" has the meaning given to such term in Paragraph 3.5 of this Annex 5;

"Nominal Terms" has the meaning given to such term in Paragraph 2.1 (Definitions) of Part A (Introduction) of the Schedule (Gain Share);

"Preliminary Cash Sweep Report" has the meaning given to such term in Paragraph 2.1 of this Annex 5;

"Posted T&S Equity Excess Collateral" means the aggregate amount of all Acceptable Collateral transferred or delivered by or on behalf of the Generator to the DPA Counterparty in accordance with this Annex 5 from time to time to the extent that the same has not been: (i) returned to the Generator by or on behalf of the DPA Counterparty pursuant to the provisions of Paragraph 3.7 of this Annex 5; or (ii) subject to a Posted T&S Equity Excess Collateral Demand;

"Posted T&S Equity Excess Collateral Demand" has the meaning given to such term in Paragraph 3.6 of this Annex 5;

"Qualifying Direct Economic Interest" means an Economic Interest in one (1) or more persons which directly have an Economic Interest or Economic Interests in the Generator, and without prejudice to the generality of the foregoing, any directly held Economic Interest in the Generator shall be a Qualifying Direct Economic Interest, and provided always that Economic Interests in a publicly listed person which have been offered to the market and which are publicly traded on a recognised UK securities exchange shall not constitute Qualifying Direct Economic Interests;

"Relevant Cash Amount" means, as of a Cash Sweep Calculation Date, the Total Cash Amount minus any Capital Costs and/or Operating Costs due but unpaid;

"Shareholder Group" has the meaning given to that term in Appendix 2 (*CS Contracting Policy*) of this Annex 5;

"Series of Payments" has the meaning given to such term in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of the Schedule (*Gain Share*);

"Subsequent CSA Correction" means the Cash Sweep Amount corrected for subsequent Cash Sweep Calculation Dates to the date falling five (5) Business Days after the date that such Cash Sweep Report is agreed or determined;

"T&S Equity Excess Guarantee Events" has the meaning given to such term in Paragraph 3.5 of this Annex 5;

"T&S Termination Payment Date" means the date of payment of the T&S Termination Payment; and

"Total Cash Amount" means, as of a Cash Sweep Calculation Date, all cash of the Generator (including (x) cash in hand, at bank or on deposit or which is cash pooled or similar, and (y) all

cash equivalents including any financial instruments or money market instruments not part of the ordinary course of trade of the Generator) on the relevant Cash Sweep Calculation Date.

2. CASH SWEEP

Preliminary Cash Sweep Report

- 2.1 No later than twenty (20) Business Days after each Cash Sweep Calculation Date, the Generator shall provide the DPA Counterparty with a written report in respect of the Cash Sweep Calculation Period ending immediately prior to the relevant Cash Sweep Calculation Date (a "**Preliminary Cash Sweep Report**"). Each Preliminary Cash Sweep Report shall:
- (A) be prepared at the cost and expense of the Generator;
 - (B) be prepared using the most up-to-date data available to the Generator at the time of its preparation;
 - (C) be substantially in the form and with the content set out at Appendix 5 (*Form of Preliminary Cash Sweep Report*) of this Annex 5 and be accompanied by the Information referred to in limb (J);
 - (D) set out in reasonable detail:
 - (i) the Total Cash Amount at the Cash Sweep Calculation Date;
 - (ii) the Capital Costs due but unpaid at the Cash Sweep Calculation Date; and
 - (iii) the Operating Costs due but unpaid at Cash Sweep Calculation Date;
 - (E) contain full details of the payments the Generator has made since the immediately preceding Cash Sweep Calculation Date and of the payments that it forecasts it will make;
 - (F) give reasons for the Capital Costs and Operating Costs due but unpaid at the Cash Sweep Calculation Date, together with reasonable details of the amounts;
 - (G) confirm that there has been no failure to perform or comply with one (1) or more of the Cash Sweep Rules or, if such a failure has occurred, full details of the failure and the consequences thereof, including the amount and calculation of any resultant Deemed Relevant Cash Amount;
 - (H) confirm that there has been no failure to perform or comply with the CS Contracting Policy or, if such an event has occurred, full details of such failure and the consequences thereof, including the amount and calculation of any resultant CS Related Party Discount Amount;
 - (I) contain full details of the administrative costs and expenses that the Generator has incurred since the immediately preceding Cash Sweep Calculation Date and of the administrative costs and expenses that it forecasts it will incur, in each case in respect of this Annex 5;
 - (J) contain full details of any Distribution the Generator has made to HoldCo since the immediately preceding Cash Sweep Calculation Date, and any proposed Distribution which is to be made by the Generator to HoldCo; and
 - (K) be accompanied by:

- (i) a Directors' Certificate from the directors of the Generator in relation to the Information contained in, or enclosed with, the Preliminary Cash Sweep Report;
 - (ii) copies of:
 - (a) the then latest management accounts of the Generator covering the relevant Cash Sweep Calculation Period;
 - (b) a reconciliation statement against each of the latest audited accounts and the latest management accounts of the Generator; and
 - (c) any other Supporting Information, in reasonable detail, which the Generator considers to be relevant to the matters which are the subject of the Preliminary Cash Sweep Report, for the relevant Cash Sweep Calculation Date;
 - (iii) a certificate from the Auditors addressed to the DPA Counterparty confirming the statements made in the Preliminary Cash Sweep Report, certifying the management accounts provided pursuant to Paragraph 2.1(K)(ii)(a) above, and certifying the Relevant Cash Amount and Deemed Relevant Cash Amount in respect of such Cash Sweep Calculation Date together with computations in reasonable detail in support; and
 - (iv) an update of the Cash Sweep Reports(s) for earlier Cash Sweep Calculation Date(s) correcting the Cash Sweep Amount calculation thereunder solely for the dates in accordance with the Subsequent CSA Correction.
- 2.2 The DPA Counterparty may, by notice to the Generator during the thirty (30) Business Day period after receipt of the Cash Sweep Report, request the Generator to provide to the DPA Counterparty such Supporting Information in relation to the Cash Sweep Report (a **"Further Cash Sweep Information Request"**) as the DPA Counterparty reasonably requires.
- 2.3 If the DPA Counterparty gives a Further Cash Sweep Information Request to the Generator, the Generator shall within twenty (20) Business Days of such request, or such longer period, if any, as is agreed between the DPA Counterparty and the Generator (each acting reasonably), prepare and deliver such further Supporting Information to the DPA Counterparty, together with a Directors' Certificate and a certificate from the Auditors in relation to the Supporting Information provided in response to such Further Cash Sweep Information Request.
- 2.4 The DPA Counterparty shall, within thirty (30) Business Days after receipt of the Cash Sweep Report or, if it has given a Further Cash Sweep Information Request to the Generator, within thirty (30) Business Days after receipt of the further Supporting Information requested in the relevant Further Cash Sweep Information Request, notify the Generator whether or not it approves the matters which are the subject of the Preliminary Cash Sweep Report and, where the DPA Counterparty does not approve the matters which are the subject of the Preliminary Cash Sweep Report, it shall give the Generator reasons in support.
- 2.5 If the DPA Counterparty does not notify the Generator whether or not it approves the matters which are the subject of a Preliminary Cash Sweep Report within the thirty (30) Business Day period referred to in Paragraph 2.4 of this Annex 5, that Preliminary Cash Sweep Report shall be deemed not to be agreed.

Disputes in relation to a Preliminary Cash Sweep Report

- 2.6 (A) If the Generator and the DPA Counterparty are not able to agree, or are deemed not to have agreed, the matters which are the subject of a Preliminary Cash Sweep Report or

related matters (including Supporting Information), either the Generator or the DPA Counterparty may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure.

- (B) Until the Generator and the DPA Counterparty agree the matters which are the subject of a Preliminary Cash Sweep Report or a Dispute in respect of it has been determined by an Expert in accordance with the Expert Determination Procedure, there shall be no Cash Sweep Report in respect of the relevant Cash Sweep Calculation Date.

Cash Sweep Report

2.7 Upon:

- (A) the DPA Counterparty notifying the Generator that it approves the matters which are the subject of a Preliminary Cash Sweep Report;
- (B) the DPA Counterparty and the Generator agreeing the matters which are the subject of a Preliminary Cash Sweep Report (and any amendments to that Preliminary Cash Sweep Report being made in accordance with that agreement); or
- (C) any Dispute (other than merely as to whether the Generator has submitted all the information required for a Preliminary Cash Sweep Report) with respect to the matters which are the subject of a Preliminary Cash Sweep Report being resolved or determined as provided in Paragraph 2.6 of this Annex 5 (*Disputes in relation to a Preliminary Cash Sweep Report*) (and any amendments to the Preliminary Cash Sweep Report being made in accordance with that resolution or determination),

the Preliminary Cash Sweep Report (once delivered and as amended, if applicable) shall become the **"Cash Sweep Report"** in respect of the relevant Cash Sweep Calculation Date. Without prejudice to the foregoing, each of the Generator and the DPA Counterparty acknowledges and agrees that it is its intention, and (subject and without prejudice to the Expert Determination Procedure) each such person shall use its reasonable endeavours to ensure, that there shall be a Cash Sweep Report in respect of a Cash Sweep Calculation Period before the date which is one (1) month after the relevant Cash Sweep Calculation Date.

Cash Sweep Amount

2.8 The **"Cash Sweep Amount"** in respect of each Cash Sweep Calculation Date shall be calculated in accordance with the formula:

$$\text{Cash Sweep Amount} = (TCA - (CC + OC)) \times CSS$$

where:

<i>TCA</i>	=	Total Cash Amount at the Cash Sweep Calculation Date (£)
<i>CC</i>	=	Capital Costs due but unpaid at the Cash Sweep Calculation Date and/or due within the next thirty (30) Business Days (£)
<i>OC</i>	=	Operating Costs due but unpaid at the Cash Sweep Calculation Date and/or due within the next thirty (30) Business Days (£)
<i>CSS</i>	=	Cash Sweep Share equal to eighty per cent. (80%)

- 2.9 If, in respect of a Cash Sweep Calculation Date, the Cash Sweep Amount:
- (A) is greater than zero (0), the Generator shall pay the DPA Counterparty such Cash Sweep Amount for the relevant Cash Sweep Calculation Date by the Cash Sweep Amount Due Date; and
 - (B) is less than or equal to zero (0), no Cash Sweep Amount shall be due by either Party for the relevant Cash Sweep Calculation Period.
- 2.10 Where Paragraph 2.9(A) of this Annex 5 applies, the DPA Counterparty shall elect by notice to, and after consultation with the Generator:
- (A) to receive any Cash Sweep Amount referred to in Paragraph 2.9(A) of this Annex 5, by way a single lump sum payment made to the credit of the DPA Counterparty Designated Account; and
 - (B) the relevant Cash Sweep Amount Due Date(s) by which the Generator shall make such payment(s).

Remedies in respect of failure to comply with Cash Sweep Rules

- 2.11 The DPA Counterparty's rights and remedies in respect of a failure by the Generator to comply with the Cash Sweep Rules shall include:
- (A) such failure being taken into consideration for the purposes of the definitions in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of "Deemed Relevant Cash Amount" and "CS Divestment Proceeds", as appropriate, and the rights and remedies which arise in connection therewith as set out in Paragraphs 2 (*Cash Sweep*) and 3 (*Security*) of this Annex 5; and
 - (B) equitable rights and remedies (including specific performance and injunctive relief).

Remedies in respect of failure to comply with the Cash Sweep provisions

- 2.12 The DPA Counterparty's rights and remedies in respect of a failure by the Generator to make a payment due to the DPA Counterparty pursuant to Paragraph 2 of this Annex 5 by the Cash Sweep Amount Due Date shall include the rights and remedies set out in Paragraphs 3.7 (*Making a Posted T&S Equity Excess Collateral Demand*) and 3.8 (*Enforcement Mechanism for Cash Sweep Provisions*) of this Annex 5, together with equitable rights and remedies (including specific performance and injunctive relief).
- 2.13 The DPA Counterparty's rights and remedies pursuant to this Paragraph 2 are cumulative and are not exclusive of any rights or remedies provided by law.

Remedies in respect of failure to comply with the Contracting Policy

- 2.14 The DPA Counterparty's rights and remedies in respect of a failure by the Generator and/or the HoldCo Group to comply with the CS Contracting Policy (which shall include a failure of the Generator and/or the HoldCo Group to comply with Appendix 2 (*CS Contracting Policy*)) shall be limited to:
- (A) the agreement or determination of any CS Related Party Discount Amount and/or CS Discount Amount for the purposes of the agreement or determination of any Cash Sweep Amount;

- (B) the express rights and remedies of the DPA Counterparty set out in this Annex 5 arising out of the agreement or determination of any CS Related Party Discount Amounts and/or CS Discount Amounts, as referred to in paragraph (A) above; and
- (C) equitable rights and remedies (including specific performance and injunctive relief).

Generator Undertakings

- 2.15 With effect from the T&S Termination Payment Date, the Generator undertakes to the DPA Counterparty:

Third Party Payments

- (A) The Generator shall not make any payments to any person or entity whether on a Cash Sweep Calculation Date or in any Cash Sweep Calculation Period, until the Generator has met its obligations in accordance with Paragraph 2.9 of this Annex 5 (except for the relevant Operating Costs and Capital Costs detailed in the relevant Cash Sweep Report).

Cash Sweep Avoidance Events

- (B) Without prejudice to any claim of the DPA Counterparty to a Cash Sweep Amount or additional Cash Sweep Amount attributable to any Cash Sweep Avoidance Event or its consequences, the Generator shall not enter into or facilitate or participate, whether directly or indirectly, in any Cash Sweep Avoidance Event and, promptly on becoming aware of any Cash Sweep Avoidance Event, it shall inform the DPA Counterparty and provide it with full details thereof in writing.

Abusive arrangements

- (C) Without prejudice to any claim of the DPA Counterparty to a Cash Sweep Amount or additional Cash Sweep Amount attributable to any Abusive arrangement or its consequences, the Generator shall not enter into or facilitate or participate, whether directly or indirectly, in any Abusive arrangements and, promptly on becoming aware of any Abusive arrangements, it shall inform the DPA Counterparty and provide it with full details thereof in writing. An arrangement is "**Abusive**" if it is an arrangement the entering into or carrying out of which cannot reasonably be regarded as a reasonable course of action in relation to the cash sweep provisions set out in this Annex 5 (including the determination of the Cash Sweep Amounts due to the DPA Counterparty) having regard to all the circumstances including:
 - (i) whether the substantive results of the arrangements are consistent with any principles on which those cash sweep provisions are based (whether express or implied);
 - (ii) whether the means of achieving those results involves one or more contrived or abnormal steps; and
 - (iii) whether the arrangements are intended to exploit any shortcomings in those provisions.

CS Contracting Policy

- (D) The Generator shall comply, and shall procure compliance by each member of the HoldCo Group, with the Contracting Policy.

3. SECURITY

Provision of Collateral

- 3.1 All transfers or deliveries of any Acceptable Collateral pursuant to Condition 37.6 shall be made by or on behalf of the Generator and shall be given:
- (A) in the case of cash, by transfer in accordance with the instructions made by or on behalf of the DPA Counterparty, to the credit of the Reserve Account;
 - (B) in the case of a Letter of Credit, by a Qualifying Issuer issuing a Letter of Credit to the DPA Counterparty or its designee. Such transfer shall be deemed effective upon receipt by the DPA Counterparty or its designee from the Qualifying Issuer of the duly executed and issued Letter of Credit;
 - (C) in the case of a T&S Equity Excess PCG, by the T&S Equity Excess Guarantor duly executing a T&S Equity Excess PCG in favour of the DPA Counterparty or its designee. Such transfer shall be deemed effective upon receipt by the DPA Counterparty or its designee from the T&S Equity Excess Guarantor of the duly executed and delivered T&S Equity Excess PCG; and
 - (D) in the case of a T&S Equity Excess Bond, by a Qualifying Bond Provider issuing a T&S Equity Excess Bond to the DPA Counterparty or its designee. Such transfer shall be deemed effective upon receipt by the DPA Counterparty or its designee from the Qualifying Bond Provider of the duly executed and issued T&S Equity Excess Bond.

Transfers and custody of collateral

- 3.2 The Generator shall procure that any Acceptable Collateral (or any renewal or replacement thereof) provided pursuant to Condition 37.6 of the DPA:
- (A) shall be valid until at least:
 - (i) in the case of a Letter of Credit and/or a T&S Equity Excess Bond, twelve (12) months after its issue date and shall be replaced until the Cash Sweep Discharge Date in accordance with paragraphs 3.5(A) and (C) (as applicable); and
 - (ii) in the case of a T&S Equity Excess PCG, the Cash Sweep Discharge Date; and
 - (B) shall be accompanied by a Letter of Credit Details Notice, Parent Company Guarantee Details Notice and a Performance Bond Details Notice, as applicable. A Letter of Credit Details Notice, Parent Company Guarantee Details Notice and Performance Bond Details Notice shall specify:
 - (i) the identity and credit rating of the Qualifying Issuer, T&S Equity Excess Guarantor or the Qualifying Bond Provider issuing the Letter of Credit, T&S Equity Excess PCG or the T&S Equity Excess Bond, as applicable;
 - (ii) the contact details for the Qualifying Issuer, T&S Equity Excess Guarantor or the Qualifying Bond Provider (or their respective representatives or relationship managers); and
 - (iii) without prejudice to Condition 37.6 and 3.2(A) of this Annex 5, the period of time during which the Letter of Credit, T&S Equity Excess PCG or T&S Equity Excess Bond will remain in effect and (in respect of a Letter of Credit or T&S Equity

Excess Bond) the amount of credit to be provided which shall be no less than the T&S TP Collateral Amount.

- 3.3 At least ten (10) Business Days prior to the date of expiry or cancellation of a Letter of Credit, T&S Equity Excess PCG or T&S Equity Excess Bond, as the case may be, the Generator shall renew or procure the renewal of such Letter of Credit, T&S Equity Excess PCG or T&S Equity Excess Bond by transferring or delivering, or by procuring the transfer or delivery of, Acceptable Collateral in the amount and in substitution of and to be effective no later than the date of expiry or cancellation of the current Letter of Credit, T&S Equity Excess PCG or T&S Equity Excess Bond provided that Acceptable Collateral is still required, pursuant to the provisions of Condition 37.6, and Paragraphs 3.1, 3.2 and this Paragraph 3.3 of this Annex 5, after the date of expiry or cancellation of the current Letter of Credit, T&S Equity Excess PCG or T&S Equity Excess Bond.

Altering collateral

- 3.4 (A) If, at any time, the Posted T&S Equity Excess Collateral is not or ceases to be Acceptable Collateral and/or the Posted T&S Equity Excess Collateral is less than the T&S TP Collateral Amount, the DPA Counterparty may give a notice to the Generator (a **"T&S TP Collateral Correction Notice"**). A T&S TP Collateral Correction Notice shall specify:
- (i) the Posted T&S Equity Excess Collateral which is not or has ceased to be Acceptable Collateral and the reason that prevents such collateral from constituting Acceptable Collateral; and/or
 - (ii) the amount by which the Posted Collateral is less than the T&S TP Collateral Amount (a **"Deficient T&S TP Collateral Amount"**).
- (B) No later than five (5) Business Days after receipt of a T&S TP Collateral Correction Notice, the Generator shall transfer or deliver, or procure the transfer or delivery of, Acceptable Collateral in an amount more than or equal to the T&S TP Deficient Collateral Amount.
- (C) The Generator may, from time to time, and by giving the DPA Counterparty not less than ten (10) Business Days' notice, substitute any of the Posted T&S Equity Excess Collateral with other Acceptable Collateral which shall not in any event be less than the T&S TP Collateral Amount in aggregate.

Letter of Credit Events, Bond Events and Guarantee Events

- 3.5 (A) If, at any time:
- (i) an Insolvency Event occurs in relation to a Qualifying Issuer;
 - (ii) a Letter of Credit ceases to be in full force and effect or a Qualifying Issuer's obligations under a Letter of Credit are or become wholly or partly invalid or unenforceable or a Qualifying Issuer fails to comply promptly with any of its obligations pursuant to a Letter of Credit;
 - (iii) a Letter of Credit will expire; or
 - (iv) a Qualifying Issuer of a Letter of Credit ceases to be a Qualifying Issuer,
- (together, **"Letter of Credit Events"**), the Generator shall:

- (a) where a Letter of Credit Event set out in Paragraph 3.5(A)(i), (ii) or (iv) of this Annex 5 occurs, give notice to the DPA Counterparty and procure the replacement of such Letter of Credit with Acceptable Collateral no later than ten (10) Business Days after the date on which the relevant Letter of Credit Event occurs; or
- (b) where a Letter of Credit will expire, extend the term of the then current Letter of Credit (or replace it with another Letter of Credit) in each case with a validity period of not less than twelve (12) months, no later than ten (10) Business Days prior to the expiry of the then current Letter of Credit.

(B) If, at any time:

- (i) an Insolvency Event occurs in relation to the T&S Equity Excess Guarantor;
- (ii) the T&S Equity Excess PCG ceases to be in full force and effect or the T&S Equity Excess Guarantor's obligations under the T&S Equity Excess PCG are or become wholly or partly invalid or unenforceable or the T&S Equity Excess Guarantor fails to comply promptly with any of its obligations pursuant to the T&S Equity Excess PCG; or
- (iii) the T&S Equity Excess Guarantor ceases to be a Qualifying Guarantor,

(together, "**T&S Equity Excess Guarantee Events**"), the Generator shall give notice to the DPA Counterparty and procure the replacement of such T&S Equity Excess PCG with Acceptable Collateral no later than ten (10) Business Days after the date on which the relevant T&S Equity Excess Guarantee Event occurs.

(C) If, at any time:

- (i) an Insolvency Event occurs in relation to a Qualifying Bond Provider;
- (ii) a Bond ceases to be in full force and effect or the Qualifying Bond Provider's obligations under the T&S Equity Excess Bond are or become wholly or partly invalid or unenforceable or the Qualifying Bond Provider fails to comply promptly with any of its obligations pursuant to the T&S Equity Excess Bond;
- (iii) a T&S Equity Excess Bond will expire; or
- (iv) a Qualifying Bond Provider ceases to be a Qualifying Bond Provider,

(together, "**T&S Equity Excess Bond Events**"), the Generator shall:

- (a) where a T&S Equity Excess Bond Event set out in Paragraph 3.5(C)(i), (ii) or (iv) of this Annex 5 occurs, give notice to the DPA Counterparty and procure the replacement of such T&S Equity Excess Bond with Acceptable Collateral no later than ten (10) Business Days after the date on which the relevant T&S Equity Excess Bond Event occurs; or
- (b) where a T&S Equity Excess Bond will expire, extend the term of the then current T&S Equity Excess Bond (or replace it with another T&S Equity Excess Bond) in each case with a validity period of not less than twelve (12) months, no later than ten (10) Business Days prior to the expiry of the then current T&S Equity Excess Bond.

- (D) If the Generator fails to procure replacement Acceptable Collateral in accordance with Paragraph 3.5(A), 3.5(B) or 3.5(C) of this Annex 5, the DPA Counterparty may demand payment pursuant to the Letter of Credit, T&S Equity Excess PCG and/or T&S Equity Excess Bond respectively and shall hold any cash paid pursuant to the Letter of Credit, T&S Equity Excess PCG and/or T&S Equity Excess Bond in a Reserve Account until such time as the Posted T&S Equity Excess Collateral is substituted in accordance with this Paragraph 3.5.

Making a Posted T&S Equity Excess Collateral Demand

- 3.6 (A) The DPA Counterparty may make a demand under a Letter of Credit, T&S Equity Excess PCG and/or T&S Equity Excess Bond procured by the Generator, or draw down on any cash amount in a Reserve Account (a **"Posted T&S Equity Excess Collateral Demand"**) in the following circumstances:
- (i) the Generator is in breach of a Cash Sweep Obligation; or
 - (ii) the Generator fails to renew or extend, or procure the renewal or extension of, a Letter of Credit, a T&S Equity Excess PCG or a T&S Equity Excess Bond in accordance with Paragraph 3.5 of this Annex 5 by the transfer or delivery of substitute Acceptable Collateral.
- (B) If a Posted T&S Equity Excess Collateral Demand has been made, the Generator shall transfer or deliver, or procure the transfer or delivery of, further Acceptable Collateral in an amount no less than the Collateral Amount no later than ten (10) Business Days after such demand.

Return of collateral

- 3.7 (A) If the Generator has transferred or delivered, or procured the transfer or delivery of, Acceptable Collateral to the DPA Counterparty pursuant to the foregoing provisions in this Paragraph 3 of this Annex 5, and the T&S TP Collateral Amount has been fully replaced or substituted with other Acceptable Collateral in accordance with this Paragraph 3 then, subject to Paragraph 3.6 of this Annex 5, the DPA Counterparty shall transfer the Posted T&S Equity Excess Collateral back to the Generator no later than five (5) Business Days after the date on which the Generator replaces Acceptable Collateral in accordance with this Paragraph 3.
- (B) The DPA Counterparty shall transfer back the Posted T&S Equity Excess Collateral:
- (i) in the case of cash (together with any interest which has accrued on such cash held in a Reserve Account), by transfer in accordance with the instructions made by or on behalf of the Generator, to the credit of one (1) or more bank accounts in the United Kingdom specified by the Generator; and
 - (ii) in the case of a Letter of Credit, T&S Equity Excess PCG or T&S Equity Excess Bond, as the case may be, by surrendering, or procuring the surrender of, the relevant Letter of Credit, T&S Equity Excess PCG or T&S Equity Excess Bond.
- (C) Without prejudice to Paragraph 3.6 above, the DPA Counterparty shall return any Posted T&S Equity Excess Collateral transferred or delivered by or on behalf of the Generator no later than five (5) Business Days after the date on which the Parties agree, or it is determined pursuant to the Expert Determination Procedure under this Annex 5, that all payment obligations under this Annex 5 have been fully discharged.

Enforcement Mechanism for Cash Sweep Provisions

3.8 Where the DPA Counterparty and the Generator agree or it is determined that a payment due to the DPA Counterparty pursuant to Paragraph 2 has not been made by the Cash Sweep Amount Due Date:

- (A) the Generator shall ensure that no Distributions are thereafter made by the Generator, for so long as such payment is outstanding; and/or
- (B) at the DPA Counterparty's election, the DPA Counterparty shall be entitled to draw on all of the Acceptable Collateral given by the Generator to recover the relevant Cash Sweep Amount pursuant to Paragraph 3.6 of this Annex 5.

4. **SALE**

4.1 No later than twenty (20) Business Days after completion of a CS Relevant Sale, the Generator shall calculate the CS Divestment Proceeds, and provide the DPA Counterparty with a written report setting out:

- (A) reasonable details of the CS Relevant Sale, including details of the seller, the CS Acquirer, the date of the CS Relevant Sale agreement, the date of completion of the CS Relevant Sale and the consideration received or receivable or potentially receivable; and
- (B) the CS Divestment Proceeds and reasonable details of the calculation thereof.

4.2 The Generator shall pay any outstanding amounts of the T&S TP Equity Compensation Excess to the DPA Counterparty from the CS Divestment Proceeds by the CS Sale Due Date.

Appendix 1

Cash Sweep Rules

The following constitute the Cash Sweep Rules:

1. **CASH SWEEP AVOIDANCE EVENT**

The Generator shall not undertake a Cash Sweep Avoidance Event or enter into any Abusive arrangements.

2. **SINGLE PURPOSE**

The Generator shall be a Single Purpose Company.

3. **STATUS**

The Generator shall maintain its respective status as a private limited liability company incorporated under the laws of England.

4. **CENTRE OF MAIN INTERESTS**

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) as it has effect in the law of the United Kingdom (the "**UK Insolvency Regulation**") the Generator shall ensure that its respective centre of main interests (as that term is used in Article 3(1) of the UK Insolvency Regulation) is situated in England and it has no "**establishment**" (as that term is used in Article 2(10) of the UK Insolvency Regulation) in any other jurisdiction.

5. **TAX RESIDENCY**

The Generator shall not cease to be resident for tax purposes in England or establish or maintain any place of business or permanent establishment outside England.

Appendix 2 CS Contracting Policy

The provisions of this CS Contracting Policy are without prejudice and are subject to the terms of the DPA.

1. DEFINITIONS

Unless a contrary intention appears, in this CS Contracting Policy:

"Control" means:

- (A) the power (whether acting alone or Acting in Concert (as defined in the City Code on Takeovers and Mergers), whether directly or indirectly and whether by the ownership of share capital, the possession of voting rights, contract or otherwise) to appoint and/or remove all or such of the members of the board of directors or other governing body of that person as are able to cast the majority of the votes capable of being cast by the members of that board or body on all, or substantially all, matters, or otherwise to control or have the power to control the policies and affairs of that person (and for the purposes of determining whether the power to appoint or remove directors exists, the provisions of section 1159 of, and schedule 6 to, the Companies Act 2006 (as amended) shall apply); and/or
- (B) the power (whether acting alone or Acting in Concert (as defined in the City Code on Takeovers and Mergers), whether directly or indirectly and whether by the ownership of share capital, the possession of voting rights, contract or otherwise) to direct the voting in respect of more than 50 per cent. (50%) of the total voting rights exercisable at general meetings of that person on all, or substantially all, matters,

and **"Controlled"** shall be construed accordingly;

"CS Cost" means costs and expenditure directly and reasonably incurred by the counterparty to a CS Related Party Transaction which is not a member of the HoldCo Group with respect to the relevant CS Related Party Transaction together with:

- (A) a contribution to the reasonable overhead of the relevant counterparty to the extent that the same is properly attributable to such CS Related Party Transaction; and
- (B) if required by such counterparty, a reasonable margin in relation to such CS Related Party Transaction to compensate for the transaction structure, capital employed and the risks and liabilities that the counterparty is required to accept under such CS Related Party Transaction,

but in each case shall not include any Inappropriate Cost;

"CS Agreed Principles" means:

- (A) in relation to any CS Related Party Transaction, that:
 - (i) the CS Related Party Transaction:
 - (a) will not be structured or operated in a manner that is designed, or a main purpose of which is, to leak value from the Generator to a Shareholder Group or any member thereof; and
 - (b) will not leak value from the Generator to a Shareholder Group or any member thereof;

- (ii) the CS Related Party Transaction:
 - (a) and its terms are considered by the Generator, acting in accordance with the Reasonable and Prudent Standard, to be required for the Project and in the best interests of the Generator in connection with the Project; and
 - (b) is charged for at CS Cost, and these factors are formally minuted by the directors of the Generator accordingly;
 - (iii) either:
 - (a) the terms of the CS Related Party Transaction are documented in all material respects at an appropriate level of detail for an intra-group contract of the relevant size and cover all material terms that a contract with a third party supplier would include, except for terms relating to liability and dispute resolution, and provided that the pricing and other commercial terms of the CS Related Party Transaction will be appropriate for an intra-group arrangement charged for at CS Cost; or
 - (b) the terms of the CS Related Party Transaction are not materially less favourable to the Generator (either individually or in the aggregate) than those which would be negotiated and agreed between parties acting at arm's length and having regard, where appropriate, to contract terms negotiated and agreed in the low carbon electricity generation industry in the United Kingdom, North America and/or EU Member States;
- (B) in relation to any CS Third Party Transaction, that:
- (i) the terms of the CS Third Party Transaction are not materially less favourable to the Generator (either individually or in the aggregate) than those which would be negotiated and agreed between parties acting at arm's length and having regard, where appropriate, to contract terms negotiated and agreed in the low carbon electricity generation industry in the United Kingdom, North America and/or EU Member States;
 - (ii) the terms of the CS Third Party Transaction do not lack a main business or commercial purpose and do not involve contrived, abnormal, arbitrary or commercially unnecessary steps;
 - (iii) without limitation to the generality of paragraph (B)(ii) of this definition, the terms of the CS Third Party Transaction shall permit the Generator to terminate such CS Third Party Transaction for convenience on reasonable notice and the consequences for such termination shall be limited to the costs reasonably incurred by the counterparty to such CS Third Party Transaction to the effective date of termination of the CS Third Party Transaction and the costs reasonably incurred by such counterparty to the CS Third Party Transaction in demobilising following the effective date of termination of the CS Third Party Transaction, in each case, for the avoidance of doubt, excluding any amounts in respect of loss of profits, loss of opportunity, indirect loss or consequential loss of or incurred or suffered by the counterparty to such Third Party;

"CS Discount Amount" has the meaning given to that term in paragraph 2.3(C)(i) (*Audit*) of this Appendix 2 (*CS Contracting Policy*);

"CS Related Party Transaction" means any agreement or arrangement entered into between (i) any member of the HoldCo Group; and (ii) any member of any Shareholder Group (and whether or not including other persons to that agreement or arrangement);

"CS Third Party Transaction" means any agreement or arrangement entered into by any member of the HoldCo Group which is not a CS Related Party Transaction;

"CS Transaction" means any CS Related Party Transaction and/or any CS Third Party Transaction;

"HoldCo Group" means each of HoldCo and the Generator;

"Inappropriate Cost" means costs which are inappropriate and/or not justifiable as being in the best interests of the Project and shall include, without limitation:

- (A) costs which are in excess of the arm's length or market value of the applicable consideration provided by the counterparty which is not a member of the HoldCo Group, including (but not limited to) disproportionate fees or costs;
- (B) costs incurred pursuant to wasteful, unnecessary or extravagant outlays (including entertainment and hospitality);
- (C) extraordinary compensation payments (but not, for the avoidance of doubt, bonuses paid in the ordinary course of employment);
- (D) political subscriptions and donations;
- (E) break costs which exceed actual termination costs;
- (F) costs associated with termination periods which exceed actual termination costs and/or;
- (G) special, punitive or multiple damages;

"Services Expert" means an expert appointed under paragraph 2.2 (*Determination*) of this Appendix 2 (*CS Contracting Policy*); and

"Shareholder Groups" means each Investor Group and **"Shareholder Group"** shall mean any or a particular one of them as the context requires or permits.

2. CS TRANSACTIONS

Transactions

- 2.1 (A) Prior to submitting any Preliminary Cash Sweep Report, the Generator shall review each of the CS Transactions entered into, or having effect, during the relevant Cash Sweep Calculation Period and shall consider whether the CS Agreed Principles have applied in relation to all CS Transactions throughout their term or whether the CS Transaction does not comply with the CS Agreed Principles.
- (B) If at any time the CS Agreed Principles have not been applied in respect of any CS Transaction, appropriate adjustments shall be made to the Cash Sweep Amount in the relevant Cash Sweep Report, as required by Paragraph 2.
- (C) The Generator shall, within a reasonable period of a request by the DPA Counterparty, provide to the DPA Counterparty copies of any CS Transactions (or, if already provided, as amended since the last time provided).

- (D) For the purposes of this CS Contracting Policy, the Generator shall make available to the DPA Counterparty copies of any Transactions by uploading the relevant information to a virtual data room or equivalent storage facility which the Generator shall, at its own cost and expense, establish, maintain and administer in accordance with the Reasonable and Prudent Standard throughout the period for which this CS Contracting Policy applies and to which throughout such period the DPA Counterparty and its Representatives shall have unrestricted access (and for this purpose, and without prejudice to the generality of the foregoing, the Generator shall promptly provide users with any required user ID, passwords and other log-in details). Upon reasonable request of the DPA Counterparty and at the Generator's own cost and expense, the Generator shall allow the DPA Counterparty's external professional advisers (acting on a legally privileged basis and/or with a duty of confidentiality to the Generator, to the Generator's reasonable satisfaction) to inspect hard copies of the information and documents referred to in this paragraph 2.1(D) at the Generator's offices or other location chosen by the Generator (acting reasonably).
- (E) If the Generator has made or shall make available to the DPA Counterparty any information or document whether through a virtual data room or equivalent storage facility or otherwise howsoever, the act of making that information or document available (whether for the purposes of due diligence, the cost discovery and verification process or otherwise) shall neither be construed as an agreement, acceptance or approval by the DPA Counterparty of such information or document or of its terms or of any liabilities, costs or expenses disclosed thereby nor as prohibiting or restricting the right of the DPA Counterparty to make further enquiry as to, or to challenge, the same.
- (F) It is acknowledged that any task order or work order (or equivalent) which is issued pursuant to a CS Transaction which is in the form of a framework agreement will not constitute an amendment to the relevant CS Transaction.

Determination

- 2.2 (A) Subject to paragraph (B) below, if the DPA Counterparty does not consider, acting reasonably, that the CS Agreed Principles have been applied in relation to a CS Transaction or the CS Transaction does not comply with the CS Agreed Principles, it shall be entitled to request, by written notice to the Generator, that a Services Expert be appointed to review the terms of the CS Transaction to determine whether the CS Agreed Principles have been applied in relation thereto or the CS Transaction does not comply with the CS Agreed Principles.
- (B) The Services Expert shall be an independent expert appointed by agreement between the Generator and the DPA Counterparty or, failing agreement as to such appointment within ten (10) Business Days of receipt by the Generator of a notice referred to in paragraph (A) above, within a further ten (10) Business Days of such receipt (or such longer period, if any, as the Generator and the DPA Counterparty may agree) by the President for the time being of the Law Society of England and Wales on the application of either the Generator or the DPA Counterparty, and the Services Expert's terms of appointment shall oblige the Services Expert to keep confidential the terms of the relevant CS Transaction and any further information provided.
- (C) Within twenty (20) Business Days of its appointment (or such longer period, if any, as the Generator and the DPA Counterparty may agree), the Services Expert shall state in writing whether, in its opinion, the CS Agreed Principles have been and/or are being applied in relation to the CS Transaction specified in the notice given pursuant to paragraph (A) above and whether the CS Transaction complies with the CS Agreed Principles. If the Services Expert determines that the CS Agreed Principles have not

been and/or are not being applied in relation to the CS Transaction and/or the CS Transaction does not comply with the CS Agreed Principles in any respect, the Services Expert shall also state in writing the nature and extent of such non-compliance.

- (D) In so stating its opinion the Services Expert shall be deemed to act as an expert and not as an arbitrator and, save in the case of fraud or manifest error, its determination shall be final and binding on all concerned.
- (E) The Generator shall provide to the Services Expert sufficiently detailed information to enable the Services Expert to understand the application (or otherwise) of the CS Agreed Principles to the relevant CS Transaction. The Services Expert shall be entitled, acting reasonably having regard to its terms of reference, to appoint other professional advisers (including, but without limitation, accountants) in order to assist with the review of the relevant CS Transaction.
- (F) The terms of reference of the Services Expert shall provide that the Services Expert (and any professional adviser appointed by the Services Expert) shall enter into such confidentiality arrangements as the Generator (acting reasonably) may require and shall otherwise be on such terms (if any) as agreed between the Generator and the DPA Counterparty.
- (G) If the Services Expert states that the CS Agreed Principles have not been and/or are not being applied in relation to the CS Transaction specified in the notice given pursuant to paragraph (A) above and/or that the CS Transaction does not comply with the Agreed Principles (or, in the case of paragraph (A)(iii)(a) of Annex 5 of the definition of "CS Agreed Principles", does not comply with the CS Agreed Principles other than in any immaterial respect), the DPA Counterparty shall have a right to request an audit in accordance with paragraph 2.3 (*Audit*) below.
- (H) If the Services Expert determines that:
 - (i) the CS Agreed Principles have not been and/or are not being applied in relation to the reviewed CS Transaction and/or that the reviewed CS Transaction does not comply with the CS Agreed Principles, the Generator shall bear the costs of the Services Expert (including the costs of any professional adviser appointed by the Services Expert) and, if required by the DPA Counterparty pursuant to paragraph (G) above, the Auditor; and
 - (ii) the CS Agreed Principles have been and are being applied in relation to the reviewed CS Transaction and that the reviewed CS Transaction complies with the CS Agreed Principles, the DPA Counterparty shall bear the costs of the Services Expert (including the costs of any professional adviser appointed by the Services Expert).

2.3 **Audit**

- (A) In accordance with a determination by the Services Expert under paragraph 2.2(G) (*Determination*), the DPA Counterparty may by notice to the Generator require that a CS Transaction is audited in accordance with this paragraph 2.3. An Auditor shall be appointed by agreement between the Generator and the DPA Counterparty within ten (10) Business Days of receipt by the Generator of such notice or, failing agreement, within a further ten (10) Business Days of such receipt (or such longer period, if any, as the Generator and the DPA Counterparty may agree) by the President for the time being of the Institute of Chartered Accountants in England and Wales on the application of either the Generator or the DPA Counterparty.

- (B) The Generator shall provide to the Auditor sufficiently detailed information to enable the Auditor to:
 - (i) understand the application (or otherwise) of the CS Agreed Principles to the relevant Transaction;
 - (ii) understand the charging basis underlying the cost of the relevant CS Transaction; and
 - (iii) give its opinion and prepare and deliver its report referred to in paragraph 2.3(C).
- (C) The terms of reference of the Auditor shall provide that the Auditor shall:
 - (i) enter into such confidentiality arrangements as the Generator (acting reasonably) may require;
 - (ii) give its opinion as to the amount of money (if any) which would put the Generator into the position that it would have been in if the Agreed Principles had been applied in relation to the relevant CS Transaction and such CS Transaction had at all times complied with the CS Agreed Principles (the "**CS Discount Amount**"); and
 - (iii) report in writing accordingly to the Generator and the DPA Counterparty,

and shall otherwise be on such terms (if any) as agreed between the Generator and the DPA Counterparty.

Miscellaneous

- 2.4 (A) No Services Expert or Auditor appointed pursuant to paragraph 2.2 (*Determination*) above or paragraph 2.3 (*Audit*) above shall have the power to require disclosure of documents or information other than as provided for in this Appendix 2 (*CS Contracting Policy*) and each Services Expert or Auditor shall provide written reasons in support of any determination or opinion pursuant to this paragraph 2.
- (B) The DPA Counterparty shall not be entitled pursuant to this Appendix 2 (*CS Contracting Policy*) to access any documents or information, or working papers of, any Services Expert or Auditor appointed pursuant to paragraph 2.2 (*Determination*) or paragraph 2.3 (*Audit*) above.

Appendix 3
Form of T&S Equity Excess PCG

THIS GUARANTEE is made on [●] 202[●]

BETWEEN:

- (1) **[●] LIMITED** whose registered office is at [●] (the "**Guarantor**"); and
- (2) **LOW CARBON CONTRACTS COMPANY LTD** 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the "**DPA Counterparty**").

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

In this deed:

"Obligations" has the meaning given to it in clause 2.1(A) (*Guarantee and Indemnity*).

1.1 In this deed, unless a contrary indication appears:

- (A) a reference to any person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's successors and permitted assignees or transferees;
- (B) a reference to (or any specified provision of) any agreement, deed or other document is to be construed as a reference to that agreement, deed or other document (or that provision) as it may be from time to time, amended, varied, supplemented, restated or novated;
- (C) the headings in this deed are inserted for convenience only and are to be ignored in construing it;
- (D) words importing the plural shall include the singular and vice versa; and
- (E) words and expressions defined in the DPA shall bear the same meanings when used in this deed.

2. GUARANTEE AND INDEMNITY

2.1 The Guarantor irrevocably and unconditionally:

- (A) guarantees to the DPA Counterparty the punctual performance by the Generator of its obligations under Paragraph 2 of Annex 5 of the DPA (the "**Obligations**");
- (B) undertakes that whenever the Generator does not pay any amount comprised in the Obligations when due, the Guarantor will immediately on demand pay that amount as if it were the principal obligor; and
- (C) agrees with the DPA Counterparty that if, for any reason (including unenforceability or illegality of any of the Obligations), any amount claimed hereunder is not recoverable on the basis of a guarantee, it will, as an independent and primary obligation, indemnify the DPA Counterparty on demand against any cost, loss or liability it incurs as a result of the Generator not paying any amount which would, but for such reason, have been payable by it on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay hereunder if the amount claimed had been recoverable on the basis of a guarantee.

- 2.2 The Guarantor will pay interest to the DPA Counterparty on all amounts due from it under this deed from the date the DPA Counterparty demands payment from the Guarantor until payment of such amounts (both before and after any judgment) [at *specify rate*] on the basis that such interest shall be compounded monthly].

3. **CONTINUING GUARANTEE**

- 3.1 The obligations of the Guarantor under this deed:

- (A) are a continuing guarantee and will extend to the ultimate balance of the Obligations regardless of any intermediate payment or discharge in whole or part; and
- (B) are to be in addition to and are not in any way prejudiced by and shall not merge with any other guarantee or security which the DPA Counterparty may now or in the future hold.

- 3.2 If, notwithstanding clause 3.1 above the obligations of the Guarantor under this deed cease to be continuing obligations, the Guarantor will remain liable in relation to all Obligations as at the date of discontinuation (whether demanded or not) and whether or not the Generator is then in default in relation to the Obligations.

4. **DPA COUNTERPARTY PROTECTIONS**

- 4.1 The obligations of the Guarantor under this deed shall not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of those obligations (and whether or not known to the Guarantor or the DPA Counterparty) including:

- (A) any time, consent or waiver given to, or composition made with, the Generator or any other person;
- (B) any amendment to or replacement of, the DPA or any other agreement, instrument or security (however fundamental);
- (C) the taking, variation, compromise, renewal, release of or refusal or neglect to perfect or enforce any rights, remedies or securities against the Generator or any other person;
- (D) any incapacity, lack of power, authority or legal personality of or dissolution or change in the members or status of the Generator or any other person; or
- (E) any purported obligation of the Generator or any other person to the DPA Counterparty (or any security for that obligation) becoming wholly or in part void, invalid, illegal or unenforceable for any reason; and
- (F) any insolvency or similar proceedings.

- 4.2 The Guarantor waives any right it may have of first requiring the DPA Counterparty to proceed against or enforce any rights or security or claim payment from any person before claiming from it under this deed.

5. **NO COMPETITION**

Until all the Obligations have been irrevocably paid and discharged in full and unless the DPA Counterparty otherwise directs, the Guarantor will not exercise any rights which it may have by reason of performance by it of its obligations under Paragraph 2 of Annex 5 of the DPA or by reason of any amount being payable, or liability arising under this deed:

- (A) to be indemnified by the Generator;

- (B) to claim any contribution from any other guarantor of the Obligations;
- (C) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the DPA Counterparty under the DPA or of any other guarantee or security taken pursuant to, or in connection with, the DPA;
- (D) to bring legal or other proceedings for an order requiring the Generator to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under this deed;
- (E) to exercise any right of set-off against the Generator; and/or
- (F) to claim or prove as a creditor of the Generator in competition with the DPA Counterparty.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution (to the extent necessary to enable all amounts which may be or become payable to the DPA Counterparty by the Generator under or in connection with Paragraph 2 of Annex 5 of the DPA to be repaid in full) on trust for the DPA Counterparty and shall promptly pay or transfer the same to the DPA Counterparty or as the DPA Counterparty may direct.

6. **PAYMENTS**

6.1 All payments to be made by the Guarantor under this deed are to be made to the DPA Counterparty:

- (A) in immediately available cleared funds in the same currency in which the sums comprised in the Obligations are agreed to be paid in Annex 5 of the DPA to the account the DPA Counterparty specifies for this purpose; and
- (B) in full without set-off or counterclaim and not subject to any condition and free and clear of and without deduction or withholding for or on account of any taxes or any other purpose. If any deduction or withholding from any payment is required by law then the Guarantor will promptly pay to the DPA Counterparty an additional amount being the amount required to procure that the aggregate net amount received by the DPA Counterparty will equal the full amount which would have been received by it had no deduction or withholding been made.

6.2 Until all Obligations have been irrevocably satisfied in full, the DPA Counterparty may place and keep any money received or recovered from the Guarantor in relation to the Obligations in a suspense account. Amounts deposited in such account shall accrue interest at the DPA Counterparty's usual rate for deposits of a similar nature from time to time and interest accrued shall be credited to that account.

7. **CUMULATIVE POWERS AND AVOIDANCE OF PAYMENTS**

7.1 The powers which this deed confers on the DPA Counterparty are cumulative, without prejudice to its powers under the general law, and may be exercised as often as the DPA Counterparty thinks appropriate.

7.2 Any settlement or discharge between the DPA Counterparty and the Generator and/or the Guarantor shall be conditional upon no security or payment to the DPA Counterparty by the Generator or the Guarantor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the DPA Counterparty's other rights under this deed) the DPA

Counterparty shall be entitled to recover from the Guarantor the value which the DPA Counterparty has placed upon such security or the amount of any such payment as if such settlement or discharge had not occurred.

8. SET-OFF

8.1 The DPA Counterparty may at any time after it has made a demand on the Guarantor under this deed (without notice to the Guarantor) set-off any other obligations (whether or not then due for performance) owed by the DPA Counterparty to the Guarantor in or towards satisfaction of the Obligations (and any other amounts due under this deed).

8.2 If the relevant obligation or liability is unliquidated or unascertained the DPA Counterparty may set off the amount it estimates (in good faith) will be the final amount of such obligation or liability once it becomes liquidated or ascertained.

9. MISCELLANEOUS

9.1 The Guarantor will pay to the DPA Counterparty on demand the amount of all costs and expenses (including legal fees and any taxes thereon) incurred by the DPA Counterparty in connection with the negotiation, execution or enforcement of this deed.

9.2 No failure or delay by the DPA Counterparty in exercising any right under this deed shall operate as a waiver of that right nor shall any single or partial exercise of any right preclude any other or further exercise of that or any other right.

9.3 If any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

9.4 The DPA Counterparty may at any time assign or otherwise transfer all or any part of its rights under this deed.

9.5 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this deed and no person other than the parties to this deed or any permitted assignee of the DPA Counterparty shall have any rights under it, nor shall it be enforceable by virtue of that Act by any person other than the parties to it.

9.6 This deed may be executed in counterpart and both counterparts taken together shall be deemed to constitute one and the same deed.

9.7 Any notice, demand or other communication to be served under this deed must be in writing and must be made by letter or by facsimile transmission to the party to be served at its address or facsimile number shown on the signature page of this deed.

10. GOVERNING LAW AND SUBMISSION TO JURISDICTION

(A) This deed and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this deed or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

(B) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) (a "**Dispute**").

(C) The parties to this deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

- 10.2 [Without prejudice to any other permitted mode of service, the Guarantor agrees that service of any claim form, notice or other document for the purpose of any proceedings in such courts shall be duly served upon it if delivered or sent by special delivery post to [●] (marked for the attention of [●]) or such other address in England or Wales as the Guarantor may notify from time to time to the DPA Counterparty.]

IN WITNESS whereof the Parties have executed and delivered this Guarantee as a deed on the date first above written.

The Guarantor

Executed as a deed by)
 [●] acting by [*insert name of director*]:)
)
)

Signature of director

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

DPA Counterparty

Executed as a deed by)
LOW CARBON CONTRACTS COMPANY)
LTD acting by [*insert name of director*]:)
)

Signature of director

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

Appendix 4 Form of T&S Equity Excess Bond

Low Carbon Contracts Company Ltd, a company incorporated under the laws of England and Wales whose registered office is 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the "**Beneficiary**")

202[●]

Dear Sirs

Our Performance Bond (Ref [●])

1. We, [*the Qualifying Bond Provider*], have been informed that [the Generator] (Company number [●]) (the "**Principal**") has entered into an agreement with the Beneficiary dated [●] (the "**Contract**").
2. We, [*the Qualifying Bond Provider*], have been informed that it is a term of the Contract that the Principal obtains a performance bond in this form (the "**Bond**"). Capitalised terms in this Bond shall have the meaning ascribed to them in the Contract unless otherwise defined in this Bond.
3. At the request of the Principal and in consideration of £10.00 (ten pounds), receipt of which is acknowledged, we, [*the Qualifying Bond Provider*], hereby irrevocably and unconditionally undertake, as primary obligor, to pay you the Beneficiary any sum or sums not exceeding in aggregate a maximum amount of £[●] (the "**Guaranteed Amount**") within five (5) days of receipt by us of your demand in writing and your written statement stating:
 - (A) that the Principal is in breach of his obligation(s) under the Contract and confirming the respect in which the Principal is in breach and the amount of the demand,

without us being entitled and/or obliged to make any enquiry either of you or the Principal, without the need for you to take legal action against or to obtain the consent of the Principal, notwithstanding any objection by the Principal or any third party, without any further proof or conditions and without any withholding or deduction of any kind whether by way of right of set-off, counterclaim or otherwise.
4. Your written demand or demands shall be conclusive evidence of our liability to pay you and of the amount of the sum or sums which we are liable to pay to you. Our obligation to make payment under this Bond shall be a primary, independent, irrevocable and absolute obligation and we shall not be entitled to delay or withhold payment for any reason. Our obligations under this Bond shall not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate us from our obligations hereunder in whole or in part.
5. This Bond shall become effective no later than the T&S Termination Payment Date and shall be valid until [●] (the "**Expiration Date**") but this will not affect or discharge our obligation to make payment of any demand or demands made in accordance with this Bond which are received on or before the Expiration Date.
6. This Bond shall be returned to us immediately after the later to occur of:
 - (A) the Expiration Date; and

- (B) the final resolution of all demands under this Bond. **[Note: Expiry date of the Bond to be confirmed]**
7. This Bond shall not be abrogated or affected by any other bond, guarantee or indemnity which you may hold in connection with the Contract or by any extensions of time granted under the Contract or other indulgence, waiver or forbearance under the Contract or this Bond or by any variations or alterations to the Contract made, conceded, given or agreed with or without our knowledge or consent.
8. Our obligation to make payment under this Bond shall not be affected by any act, omission, matter or thing (including, without limitation, the amalgamation, reconstruction, liquidation, receivership, administration, administrative receivership or dissolution of the Principal) which but for this paragraph might operate to release or otherwise exonerate us from our obligations hereunder in whole or in part, including, without limitation, (and whether or not known to us or to you):
- (A) the taking, variation, compromise, renewal or release of or release or neglect to perfect or enforce any rights, remedies or securities (including, without limitation, any bond, guarantee or security) against the Principal or any other person; and
- (B) any legal limitation disability or incapacity relating to the Principal or any other person.
9. If at any time one or more of the provisions of this Bond is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Bond.
10. This Bond and the benefit conferred to it may be assigned by the Beneficiary without our consent, to any party at any time and references to the Beneficiary shall include its assignees. This Bond and the benefit conferred by it may not be assigned by us. The Beneficiary shall give written notice to us within 14 days of any assignment pursuant to this clause.
11. This Bond (and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Bond) shall be governed by and construed according to the laws of England.
12. The parties submit to the exclusive jurisdiction of the courts of England as regards any claim or matter arising in relation to this Bond.

Signed as a deed by)
)
 duly authorised for and on behalf of)
 [Qualifying Bond Provider])

in the presence of:

Signature of witness

Name of witness

Address of witness

.....

.....
Occupation of witness

Appendix 5

Form of Preliminary Cash Sweep Report

To: [●] (the "DPA Counterparty")

[Address]

From: [●] ("The Generator")

[Address]

Dated: [●]

DPA – PRELIMINARY CASH SWEEP REPORT

Dear Sirs,

1. We refer to Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*) of the DPA relating to [Project] dated [●] between, among others, you as the DPA Counterparty and us as the Generator (the "**Annex**"). Terms and expressions defined in or incorporated into the Annex have the same meaning when used in this report.
2. This is the Preliminary Cash Sweep Report relating to the Cash Sweep Calculation Period (the "**Subject Cash Sweep Calculation Period**") ending on the Cash Sweep Calculation Date falling on [●] (the "**Subject Cash Sweep Calculation Date**").
3. We refer to Paragraph 2.1 (*Preliminary Cash Sweep Report*) of the Annex.
4. The Total Cash Amount at the Subject Cash Sweep Calculation Date is [●]. [This amount has been calculated as follows [●]] / [Details of the calculation of this amount are set out in Annex [●] to this report].
5. The Capital Costs due but unpaid at the Subject Cash Sweep Calculation Date is [●]. [This amount has been calculated as follows [●]] / [Details of the calculation of this amount are set out in Annex [●] to this report]. [The reasons for such Capital Costs due but unpaid at the Subject Cash Sweep Calculation Date are as follows [●]].
6. The Operating Costs due but unpaid at the Subject Cash Sweep Calculation Date is [●]. [This amount has been calculated as follows [●]] / [Details of the calculation of this amount are set out in Annex [●] to this report]. [The reasons for such Operating Costs due but unpaid at the Subject Cash Sweep Calculation Date are as follows [●]].
7. Details of the payments the Generator has made since the Cash Sweep Calculation Date immediately preceding the Subject Cash Sweep Calculation Date and of the payments that it forecasts it will make are set out [below] / [in Annex [●] to this report].
8. We hereby confirm that there has been no failure to perform or comply with any of the Cash Sweep Rules [other than [●]]¹. [This failure has given rise to a Deemed Relevant Cash Amount of [●]. Details of the calculation of the Deemed Relevant Cash Amount are set out [below] / [in Annex [●] to this report].]

¹

Note to Reader: full details of the failure and its consequences to be provided.

9. We hereby confirm that there has been no failure to perform or comply with the CS Contracting Policy [other than [●]]². [The CS Related Party Discount Amount is [●]. Details of the calculation of the CS Related Party Discount Amount are set out [below] / [in Annex [●] to this report].]
10. Set out in Annex [●] to this report are details of the administrative costs and expenses of the Generator incurred since the Cash Sweep Calculation Date immediately preceding the Subject Cash Sweep Calculation Date and those administrative costs and expenses that the Generator forecasts that it will incur.
11. [We set out [below] / [in Annex [●] to this report] details of the Distributions we have made to HoldCo since the immediately preceding Cash Sweep Calculation Date, and details of any Distributions we propose to make to HoldCo in relation to the Subject Cash Sweep Calculation Period (including the amount and calculation thereof).]
12. Accompanying this report are copies of the documents referred to in Paragraphs 2.1(K)(i), 2.1(K)(ii), 2.1(K)(iii) and 2.1(K)(iv) (*Preliminary Cash Sweep Report*) of the Annex.

Yours faithfully,

.....
Duly authorised for and on behalf of
[●] (the Generator)

²

Note to Reader: full details of the failure and its consequences to be provided.

[ANNEXES TO THE PRELIMINARY CASH SWEEP REPORT]

Annex 6 Change Control Procedure

1. INTERPRETATION: ANNEX 6

Interpretation

- 1.1 In this Annex 6 (*Change Control Procedure*), any reference to an "amendment" (or grammatical variation thereof or any analogous term) in respect of any Proposed Amendment shall be deemed to include any change, replacement, deletion or supplement to or of any provision of:
- (A) the DPA;
 - (B) CCUS Programme DPAs (other than any CCUS Programme DPA to which this Annex 6 (*Change Control Procedure*) is expressed not to apply); or
 - (C) CCUS Programme DPAs of a particular category (other than any CCUS Programme DPA to which this Annex 6 (*Change Control Procedure*) is expressed not to apply).

2. CHANGE CONTROL PROCEDURE

Amendment Notifications

- 2.1 The DPA Counterparty may at any time give a notice to the Generator proposing an amendment to the DPA (an "**Amendment Notification**"). Each Amendment Notification shall:
- (A) set out the proposed amendment(s) (the "**Proposed Amendment**");
 - (B) specify the date on which the Proposed Amendment is proposed to become effective (the "**Proposed Amendment Effective Date**");
 - (C) state whether the DPA Counterparty considers the Proposed Amendment to be a Material Amendment or a Technical Amendment;
 - (D) if the DPA Counterparty considers the Proposed Amendment to be a Technical Amendment, state whether the Proposed Amendment is a General Amendment;
 - (E) if the Proposed Amendment is a General Amendment, state whether it applies to all CCUS Programme DPAs or only to those of a specified category or categories (in each case, other than any CCUS Programme DPA to which this Annex 6 (*Change Control Procedure*) is expressed not to apply) and, if the latter, set out those categories; and
 - (F) contain such Supporting Information as the DPA Counterparty considers necessary to enable the Generator to evaluate the Proposed Amendment.

Material Amendments: process

- 2.2 If an Amendment Notification specifies that the Proposed Amendment is a Material Amendment, the Generator shall, no later than twenty (20) Business Days after the Amendment Notification has been received, either:
- (A) confirm by notice in writing to the DPA Counterparty that it agrees with the Proposed Amendment and the Proposed Amendment Effective Date; or
 - (B) specify, by notice in writing to the DPA Counterparty (a "**Material Amendment Response Notification**"), any objections which the Generator has to:

- (i) the Proposed Amendment, any such notification to include details of:
 - (a) any proposal by the Generator to address the matters identified in the Amendment Notification by means of an alternative amendment; and
 - (b) any consequential matters arising from the Proposed Amendment which the Generator considers have not been identified in the Amendment Notification; or
 - (ii) the Proposed Amendment Effective Date.
- 2.3 Any Material Amendment Response Notification shall also include such Supporting Information as the Generator considers necessary to enable the DPA Counterparty to evaluate the matters covered in such notification.
- 2.4 No later than ten (10) Business Days after receipt by the DPA Counterparty of a Material Amendment Response Notification, the Parties shall meet and negotiate in good faith to agree:
 - (A) whether to effect the Proposed Amendment;
 - (B) the date on which the Proposed Amendment shall become effective (which need not be the Proposed Amendment Effective Date); and
 - (C) if effected:
 - (i) the terms of the Proposed Amendment; and
 - (ii) what, if any, consequential amendments need to be made to the DPA.

Material Amendments: implementation

- 2.5 A Material Amendment shall not become effective unless and until documented in writing and signed by each Party (a "**Material Amendment Agreement**"). Any Material Amendment Agreement shall:
 - (A) set out the amendment which is to be effected;
 - (B) state the effective date of the amendment; and
 - (C) detail any consequential amendments to be made (whether or not identified in the Amendment Notification).

Technical Amendments (bilateral Proposed Amendments): process

- 2.6 If an Amendment Notification:
 - (A) specifies that the Proposed Amendment is a Technical Amendment; and
 - (B) does not specify that it is a General Amendment, the Generator shall, no later than twenty (20) Business Days after receipt of the Amendment Notification (the "**Technical Amendment Response Period**"), either:
 - (i) confirm by notice in writing to the DPA Counterparty that it agrees with the Proposed Amendment and the Proposed Amendment Effective Date; or
 - (ii) specify, by notice in writing to the DPA Counterparty (a "**Technical Amendment Response Notification**"), any objections which the Generator has to:

- (a) the classification of the Proposed Amendment as a Technical Amendment (including reasonable details of the Generator's reasons for such objections) (a "**Classification Objection**");
- (b) the Proposed Amendment, any such notification to include details of:
 - (1) any proposal by the Generator to address the matters identified in the Amendment Notification by means of an alternative amendment; and
 - (2) any consequential matters arising from the Proposed Amendment which the Generator considers have not been identified in the Amendment Notification; or
- (c) the Proposed Amendment Effective Date.

2.7 Any Technical Amendment Response Notification shall also include such Supporting Information as the Generator considers necessary to enable the DPA Counterparty to evaluate the matters covered in such notification.

2.8 If the Generator:

- (A) does not give the DPA Counterparty a Technical Amendment Response Notification within the Technical Amendment Response Period, the Proposed Amendment shall be binding on the Parties with effect from the Proposed Amendment Effective Date; or
- (B) gives the DPA Counterparty a Technical Amendment Response Notification within the Technical Amendment Response Period, then the following provisions shall apply:
 - (i) if the Technical Amendment Response Notification included a Classification Objection, then:
 - (a) the Technical Amendment Response Notification shall constitute a Dispute Notice and the resulting Dispute shall be subject to the Dispute Resolution Procedure; and
 - (b) if, pursuant to the Dispute Resolution Procedure, either of the Parties agrees (whether by means of a Senior Representatives Settlement or otherwise) that the Proposed Amendment is a Material Amendment or it is otherwise determined or resolved pursuant to the Dispute Resolution Procedure that the Proposed Amendment is a Material Amendment, then the Proposed Amendment shall not become effective between the Parties unless and until a Material Amendment Agreement is entered into; and
 - (ii) if either:
 - (a) the Technical Amendment Response Notification did not include a Classification Objection; or
 - (b) (pursuant to the Dispute Resolution Procedure) the Parties agree (whether by means of a Senior Representatives Settlement or otherwise) that the Proposed Amendment is a Technical Amendment or it is otherwise determined or resolved pursuant to the Dispute Resolution Procedure that the Proposed Amendment is a Technical Amendment,

then:

- (1) the DPA Counterparty shall consider the objections of the Generator set out in the Technical Amendment Response Notification and may make such amendments to the Proposed Amendment as it deems appropriate having regard to such objections; and
- (2) the Proposed Amendment (as amended if the DPA Counterparty elects to so amend pursuant to paragraph 2.8(B)(ii)(b)(1)) shall become binding on the Parties with effect from the Proposed Amendment Effective Date.

Technical Amendments (General Amendments): process

2.9 If an Amendment Notification specifies that the Proposed Amendment is a Technical Amendment and is a General Amendment, then paragraphs 2.6 to 2.8 shall be applied, with the necessary modifications, on the following basis:

- (A) the confirmation provided for in paragraph 2.6(B)(i) shall be deemed to have been given by the Generator, and the Proposed Amendment shall (subject to paragraph 2.9(C)) be binding on the Generator with effect from the Proposed Amendment Effective Date, unless seventy-five per cent. (75%) or more in number of all CCP Affected Parties give a Technical Amendment Response Notification to the DPA Counterparty within the Technical Amendment Response Period;
- (B) if seventy-five per cent. (75%) or more in number of the CCP Affected Parties deliver a Technical Amendment Response Notification within the Technical Amendment Response Period then the procedure provided for in paragraph 2.8(B) shall be applied; and
- (C) if the Generator gives a Technical Amendment Response Notification within the Technical Amendment Response Period which includes a Classification Objection, then the Proposed Amendment shall become binding on the Generator only in accordance with the provisions of paragraph 2.8(B).

Technical Amendments: implementation

2.10 Where any Technical Amendment is to take effect in accordance with this Change Control Procedure, the Generator shall, if requested by the DPA Counterparty, promptly sign an agreement (a "**Technical Amendment Agreement**") which:

- (A) sets out the amendment which is to be effected;
- (B) states the effective date of the amendment; and
- (C) details any consequential amendments to be made (whether or not identified in the Amendment Notification),

in each case as agreed, determined or resolved in accordance with the relevant provisions of paragraphs 2.6 to 2.9 (inclusive).

2.11 Any failure or refusal by the Generator to sign a Technical Amendment Agreement shall not operate so as to prevent the relevant Technical Amendment being binding on the Parties with effect from the relevant Proposed Amendment Effective Date in accordance with the provisions of paragraph 2.8(B)(ii) or 2.9(A) (as appropriate).

Miscellaneous

- 2.12 The categorisation of any Proposed Amendment as a Technical Amendment (irrespective of whether it is a General Amendment) or a Material Amendment shall not operate so as to prevent the provisions of Condition 44 (*Consolidation of Connected Disputes*) applying to any Dispute arising in respect of that Proposed Amendment.
- 2.13 The Parties acknowledge and agree that any Proposed Amendment which the DPA Counterparty has made in order to identify a replacement carbon support price to reflect the representative Tax on CO₂ emissions produced by the Facility including by reference to the consumption of fuel gas in circumstances where the Carbon Support Price has been or is proposed to be novated or replaced, shall be categorised as a Material Amendment where such amendment would (taking into account, in the case of a Proposed Amendment providing for more than one (1) amendment, the net aggregate effect of all the Proposed Amendments contained within the relevant Amendment Notification) have an adverse effect on: (i) the revenues and/or costs of the Generator which are not fully compensated; or (ii) the overall balance of risks, benefits and liabilities of the Generator, in each case pursuant to the DPA.

Annex 7
Form of Direct Agreement

LOW CARBON CONTRACTS COMPANY LTD

as DPA Counterparty and

[●]

as [Lender(s)]/[Security Trustee]³ and

[●]

as Generator

DIRECT AGREEMENT

in relation to a DPA for [insert details of generating asset]

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THIS DIRECT AGREEMENT (this "**Deed**") is dated [●] and made as a deed

BETWEEN:

- (1) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated under the laws of England and Wales whose registered office is 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the "**DPA Counterparty**");
- (2) **[[insert name of the lender(s)]** a company incorporated under the laws of [●] whose registered office is [●] and whose company number is [●] [the "**Lender(s)**"; /in its capacity as [agent and] security trustee for and on behalf of the Finance Parties (the "**Security Trustee**"); and]
- (3) **[insert name of the generator]**, a company incorporated under the laws of [England and Wales] whose registered office is [●] and whose company number is [●] (the "**Generator**")⁴.

BACKGROUND

- (A) The DPA Counterparty has entered into the Contract with the Generator.
- (B) It is a condition precedent to the availability of funding under the Facilities Agreement that the Parties enter into this Deed.
- (C) The Parties intend this document to take effect as a deed.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions⁵

In this Deed, unless otherwise defined herein or the context requires otherwise:

"Affected Person" means any direct or indirect shareholder of the Generator who is able to evidence to the satisfaction of the DPA Counterparty that if it (or an agent or security trustee on its behalf) has or had the benefit of a Direct Agreement, it is or would be:

- (A) contractually obliged to exercise rights under the relevant Direct Agreement in accordance with the instructions of one (1) or more Lenders (or a security trustee on its or their behalf); or
- (B) party to an agreement regarding the exercise of rights under such Direct Agreement with a person falling within paragraph (A) above;

"Affiliate" means, in relation to a Party, any holding company or subsidiary company of the relevant Party from time to time or any company which is a subsidiary company of a holding company of that Party from time to time (and the expressions "holding company" and "subsidiary" shall have the meanings respectively ascribed to them by section 1159 of the Companies Act 2006);

"Appointed Representative" means the Representative identified in the Step-In Notice;

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

⁴ Note to draft: Parties to conform to underlying funding arrangements.

⁵ Note to draft: Definitions to conform to underlying funding arrangements

"Contract" means the dispatchable power agreement dated [●] and made between the DPA Counterparty and the Generator in relation to the Facility;

"Contract Default" has the meaning given to **"Default"** in the Contract;

"Control" means, in relation to an entity (the "controlled entity"), the ability of another entity (the "controlling entity") to:

- (A) exercise the majority of the voting rights in that entity; or
- (B) having become a direct or indirect shareholder, control the majority of the voting rights in that entity, either alone or pursuant to an agreement with other direct or indirect shareholders; or
- (C) having become a direct or indirect shareholder, appoint or remove a majority of the board of directors in that entity, or
- (D) having become a direct or indirect shareholder, exercise dominant influence or control over that entity.

and **"Controlled"** shall be construed accordingly;

"DPA Counterparty Enforcement Action" means:

- (A) the termination or revocation of the Contract by the DPA Counterparty (including the giving of any notice under or pursuant to Condition 36.1 (*Pre-Start Date termination*), 36.5 (*Termination for Prolonged Force Majeure*), 36.33 (*Default termination*), 36.35 (*Termination for failing to satisfy the Minimum Longstop Date Commissioning Requirements*) or 36.36 (*Termination for failing to satisfy the T&S Connection Confirmation Requirement*) of the Contract by the DPA Counterparty to the Generator terminating the Contract, but excluding the giving of any notice under or pursuant to Conditions 36.22 (*Termination for failing to remedy a T&S Prolonged Unavailability Event*), 36.37 (*Qualifying Change in Law termination*), or 36.39 (*QCIL Compensation termination*) of the Contract by the DPA Counterparty to the Generator terminating the Contract and the subsequent termination of the Contract under that Condition);
- (B) the suspension or withholding (as applicable) by the DPA Counterparty of payments under or pursuant to Conditions 7.2 (*Suspension of Payments (Annual NDC Test Obligation breach)*), 7.13 (*Suspension of Payments (Annual NDC Test Access Right breach)*) Condition 20.2 (*Failure to comply with compliance of technology undertaking*), 21.13 (*Failure to comply with Metering Schematic Obligation*), 21.19 (*Failure to provide Metering Access Right*), 21.24 (*Failure to comply with SCADA Systems Obligations*), 22.9 (*Failure to comply with Minimum CO₂ Capture Rate Obligation: Suspension*), 23.10 (*Suspension of payments (Failure to provide CO₂ Metered Data)*), 24.6 (*Suspension of Payments (Failure to provide Declaration Capacity Data)*) or 24.17 (*Failure to provide Declaration Access Right*), 36.16 (*Failure to comply with T&S Prolonged Unavailability Procedure Obligation: Suspension*), or 3.50 (*Failure to comply with T&S Connection Confirmation Requirement: Suspension*) of the Contract; or
- (C) the commencement by the DPA Counterparty of any proceedings for, or the petitioning by the DPA Counterparty for, the winding-up, administration, dissolution or liquidation of the Generator (or the equivalent procedure under the law of the jurisdiction in which the Generator is incorporated, domiciled or resident or carries on business or has assets);

"DPA Counterparty Enforcement Notice" means a notice given by the DPA Counterparty to the [Lender(s)]/[Security Trustee] specifying the DPA Counterparty Enforcement Action which the DPA Counterparty intends to take and, in reasonable detail, the grounds for such intended action;

"DPA Documents" has the meaning given to that term in the Contract;

"DPA Settlement Required Information" has the meaning given to that term in the Contract;

"DPA Settlement Services Provider" has the meaning given to that term in the Contract;

"Event of Default" means any event or circumstance the occurrence of which is treated as an event of default under the Facilities Agreement;

"Facilities Agreement" means the facilities agreement dated [[●]]/[on or around the date of this Deed]] between, amongst others, [the lenders named therein,] the [Lender(s)]/[Security Trustee], [the Facility Agent] and the Generator⁶;

"Facility" has the meaning given to that term in the Contract;

"Facility Agent" means the Facility Agent appointed under the Facilities Agreement⁷;

"Finance Documents" means the Facilities Agreement and the other documents defined as Finance Documents in the Facilities Agreement⁸;

"Finance Parties" means the parties with the benefit of security under the Security Documents and **"Finance Party"** means any of them⁹;

"Finance Party Discharge Date" means the date on which all of the Finance Party Obligations have been fully and irrevocably paid or discharged and no further Finance Party Obligations are capable of becoming outstanding;

"Finance Party Obligations" means any obligations owed to the Finance Parties in connection with the Finance Documents;

"Generator's Proceeds Account" means the account held by the Generator at [●] with the account number [●] and sort code [●] or such other account and bank as the Generator and the [Lender(s)]/[Security Trustee] may notify to the DPA Counterparty from time to time;

"Lender" means any bank or financial institution (excluding any direct or indirect shareholder of the Generator) which provides debt financing or refinancing in relation to the Facility.

"Non-Qualification Event" [means the Security Trustee ceasing, in respect of the rights afforded to it under this Deed, to act only on behalf of [any person who is:

- (A) [a] Lender(s) having the benefit of first ranking security over all or substantially all of the assets of the Generator (including its rights in respect of the Facility and under the Contract) and in whose favour the Generator has assigned its rights under the Contract and any other DPA Document in accordance with Condition 64.6 (*Permitted assignment by the Generator*) of the Contract; or
- (B) an Affected Person having the benefit of first ranking security over all or substantially all of the assets of the Generator (including its rights in respect of the Facility and under

⁶ Note to draft: Definition to conform to underlying funding arrangements
⁷ Note to draft: Definition to conform to underlying funding arrangements
⁸ Note to draft: Definition to conform to underlying funding arrangements
⁹ Note to draft: Definition to conform to underlying funding arrangements

the Contract) and in whose favour the Generator has assigned its rights under the Contract and any other DPA Document in accordance with Condition 64.6 (*Permitted assignment by the Generator*) of the Contract;

PROVIDED that there shall not be a Non-Qualification Event where a person who previously satisfied sub-paragraph (A) above has become a direct or indirect shareholder solely as a result of the creation or enforcement of a security interest held by them (a "**Security Shareholder**") and who otherwise continues to satisfy sub-paragraph (A) above, unless such Security Shareholder (whether directly or indirectly) has exercised Control over the Generator for a period of twenty (20) Business Days or more prior to the time of any breach, non-compliance or failure which is or may be the subject of a DPA Counterparty Enforcement Notice or, having the right, ability or power to do so, fails to prevent any breach, non-compliance or failure which is or may be the subject of a DPA Counterparty Enforcement Notice.]¹⁰

[means the Lender(s) ceasing, in respect of the rights afforded to [it]/[them] under this Deed, to be [a person who is/persons who are]:

- (A) Lender(s) having the benefit of first ranking security over all or substantially all of the assets of the Generator (including its rights in respect of the Facility and under the Contract) and in whose favour the Generator has assigned its rights under the Contract and any other DPA Document in accordance with Condition 64.6 (*Permitted assignment by the Generator*) of the Contract,

PROVIDED that there shall not be a Non-Qualification Event where [a person/ the persons] who previously satisfied sub-paragraph (A) above [has/have] become [a] direct or indirect shareholder(s) solely as a result of the creation or enforcement of a security interest held by them (a "**Security Shareholder**") but who otherwise continues to satisfy sub-paragraph (A) above, unless such Security Shareholder (whether directly or indirectly) has exercised Control over the Generator for a period of twenty (20) Business Days or more prior to the time of any breach, non-compliance or failure which is or may be the subject of a DPA Counterparty Enforcement Notice or, having the right, ability or power to do so, fails to prevent any breach, non-compliance or failure which is or may be the subject of a DPA Counterparty Enforcement Notice.]¹¹

"Novation Agreement" means a novation agreement entered into pursuant to Clause 9.3 (*Substitution Procedure*) between the DPA Counterparty, the Generator and the Substitute substantially in the form set out in Appendix 2 (*Form of Novation Agreement*);

"Novation Date" has the meaning given to that term in Clause 9.3(B) (*Substitution Procedure*);

"Novation Notice" means a notice given by the [Lender]/[Security Trustee] to the DPA Counterparty pursuant to Clause 9.1 (*Proposed Substitution*) specifying:

- (A) the identity of the proposed Substitute; and
- (B) the Proposed Novation Date;

"NQE Termination Trigger Date" means (as applicable) the date specified in the notice issued to the [Lender(s)]/[Security Trustee] pursuant to Clause 3.4(D)(i) (unless the [Lender(s)]/[Security Trustee] has remedied the failure or non-compliance prior to such date) or the date of a notice delivered to the DPA Counterparty pursuant to Clause 10.3;

¹⁰ Retain wording in square brackets if there is a Security Trustee.

¹¹ Retain wording in square brackets if there is a Lender but no Security Trustee.

"Party" means a party to this Deed;

"Proposed Novation Date" means the date proposed by the [Lender(s)]/[Security Trustee] in a Novation Notice for the novation to a Substitute of the Generator's rights and obligations under the Contract;

"Proposed Step-In Date" means the date proposed by the [Lender(s)]/[Security Trustee] in a Step-In Notice upon which the Appointed Representative shall give a Step-In Undertaking as contemplated by Clause 6.2 (*Step-In Undertaking*);

"Representative" means:

- (A) the [Facility Agent], [the Security Trustee] and any Finance Party and/or any of their Affiliates;
- (B) an administrator, administrative receiver, receiver, receiver and manager or any other insolvency official of the Generator and/or any or all of its assets appointed in connection with the Finance Documents;
- (C) a person directly or indirectly owned or Controlled by [the Facility Agent], [the Security Trustee] and/or the Finance Parties or any of them; or
- (D) any other person approved by the DPA Counterparty;

"Security Documents" means any documents creating or evidencing any existing or future security interest granted by the Generator to the [Lender(s)]/[Security Trustee] to secure the payment and discharge of any or all Finance Party Obligations;

"Security Shareholder" has the meaning given to that term in the definition "Non-Qualification Event";

"Step-In Date" means the date on which the Appointed Representative gives a Step-In Undertaking to the DPA Counterparty as contemplated by Clause 6.2 (*Step-In Undertaking*);

"Step-In Decision Period" means a period commencing on the date of receipt by the [Lender(s)]/[Security Trustee] from the DPA Counterparty of any DPA Counterparty Enforcement Notice and ending on the first to occur of the Step-In Date, the Novation Date and the date falling one hundred and twenty (120) days after the commencement of the Step-In Decision Period;

"Step-In Notice" has the meaning given to that term in Clause 6.1 (*Step-In Notice*);

"Step-In Period" means the period from the Step-In Date to and including the first to occur of:

- (A) the expiry of the notice period in any notice given under Clause 8 (*Step-Out*);
- (B) the Novation Date;
- (C) the Finance Party Discharge Date; and
- (D) the date of any termination or revocation of the Contract by the DPA Counterparty in accordance with this Deed and the Contract;

"Step-In Undertaking" means an undertaking substantially in the form set out in Appendix 1 (*Form of Step-In Undertaking*) given by the Appointed Representative;

"Step-Out Date" means the date upon which a Step-In Period ends;

"Step-Out Notice" has the meaning given to that term in Clause 8(A) (*Step-Out*);

"Substitute" means a person nominated by the [Lender(s)]/[Security Trustee] pursuant to Clause 9.1 (*Proposed Substitution*) or Clause 9.2 (*Objection to Substitute*), as the case may be, as the transferee of the Generator's rights and obligations under the Contract; and

"Supplier Obligation Regulations" has the meaning given to that term in the Contract; and

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

1.2 Interpretation

(A) Unless a contrary indication appears, any reference in this Deed to:

- (i) the **"DPA Counterparty"**, [the **"Facility Agent"**],[the **"Security Trustee"**], the **"Generator"**, [any **"Lender"**,][any **"Finance Party"**] or any **"Appointed Representative"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) an agreement includes a deed and instrument;
- (iii) an agreement is a reference to it as amended, supplemented, restated, novated or replaced from time to time;
- (iv) a provision of law is a reference to that provision as amended, extended or re-enacted and includes all laws and official requirements made under or deriving validity from it;
- (v) any **"obligation"** of any person under this Deed or any other agreement or document shall be construed as a reference to an obligation expressed to be assumed by or imposed on it under this Deed or, as the case may be, that other agreement or document (and **"due"**, **"owing"** and **"payable"** shall be similarly construed);
- (vi) a **"Clause"**, **"paragraph"** or **"Appendix"** is a reference to a clause or paragraph of, or an appendix to, this Deed;
- (vii) a **"person"** includes any individual, firm, company, corporation, unincorporated organisation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any other entity;
- (viii) time is a reference to time in London, England; and
- (ix) words in the singular shall be interpreted as including the plural, and *vice versa*.

(B) The words **"include"** and **"including"** shall be construed without limitation to the generality of the preceding words.

(C) Headings are for ease of reference only.

2. CONSENT TO SECURITY AND PAYMENT INSTRUCTIONS

2.1 Consent to Security

(A) The Generator hereby gives notice to the DPA Counterparty that, under or pursuant to the Security Documents, the Generator has assigned or charged by way of security to the [Lender(s)]/[Security Trustee] its rights, title and interest in and to the Contract.

- (B) The DPA Counterparty acknowledges receipt of notice of, and consents to, the grant of the security interests referred to in paragraph (A) above and to the security interest granted by HoldCo in favour of the [Lender(s)]/[Security Trustee] over the entire issued share capital of the Generator.
- (C) The DPA Counterparty acknowledges that neither the [Lender(s)]/[Security Trustee] nor any Finance Party shall have any obligations or liabilities to the DPA Counterparty (whether in place of the Generator or otherwise) in respect of the Contract as a result of any security interest created under the Security Documents except to the extent that the [Lender(s)]/[Security Trustee] or such Finance Party incur[(s)] such obligations or liabilities pursuant to Clause 6 (*Step-In*), Clause 7 (*Step-In Period*), Clause 8 (*Step-Out*) or Clause 9 (*Novation*).

2.2 No other Security Interests

The DPA Counterparty confirms that, as at the date of this Deed, it has not received notice of any other security interest granted over the Generator's rights, title and interest in and to the Contract or over the issued share capital of the Generator. The DPA Counterparty agrees to notify the [Lender(s)]/[Security Trustee] as soon as reasonably practicable if it receives any such notice.

2.3 Payment of Monies

- (A) Each of the Generator and the [Lender(s)]/[Security Trustee] irrevocably authorises and instructs the DPA Counterparty, and the DPA Counterparty agrees, to pay the full amount of each sum which it is obliged at any time to pay to the Generator under or in respect of the Contract (whether before or after termination of the Contract) to the Generator's Proceeds Account or [, following the occurrence of an Event of Default and at any time thereafter,] to such other account in the United Kingdom that the [Lender(s)]/[Security Trustee] may direct in writing to the DPA Counterparty on not less than ten (10) Business Days' notice.
- (B) Each payment made in accordance with paragraph (A) above shall constitute a good discharge *pro tanto* of the obligation of the DPA Counterparty to make the relevant payment to the Generator.
- (C) The authority and instructions set out in paragraph (A) above shall not be revoked or varied by the Generator without the prior written consent of the [Lender(s)]/[Security Trustee], copied to the DPA Counterparty.

2.4 Contract

The Parties acknowledge and agree that the exercise of the rights of the [Lender(s)]/[Security Trustee] or the Appointed Representative, as the case may be (a) under the Contract during the Step-In Period; and (b) in connection with the security interests granted by the Generator shall not amend, waive or suspend the provisions of the Contract and the rights of the DPA Counterparty under the Contract, except as expressly set out under this Deed and any Step-In Undertaking.

2.5 Statement as to Event of Default conclusive

The DPA Counterparty may treat any statement or notice from the [Lender(s)]/[Security Trustee] or the lenders under the Facility Agreement] that an Event of Default has occurred as conclusive evidence of the occurrence of the Event of Default.

3. NOTIFICATION BY DPA COUNTERPARTY

3.1 Notification of Default

- (A) The DPA Counterparty shall, as soon as reasonably practicable, send to the [Lender(s)]/[Security Trustee] a copy of any notice of default under the Contract served by the DPA Counterparty on the Generator.
- (B) The DPA Counterparty shall have no obligation to notify the [Lender(s)]/[Security Trustee] of a default under the Contract where the DPA Counterparty has not served a notice of default on the Generator.

3.2 Cure Right

The [Lender(s)]/[Security Trustee] may, at any time outside a Step-In Period, take or procure the taking of any action on behalf of the Generator in circumstances where:

- (A) the Generator's failure to take such action would be a breach of the Contract or would be or could reasonably be expected to contribute towards the occurrence of a Contract Default; or
- (B) the Generator has breached the Contract or a Contract Default has arisen,

and any such action will be deemed to have been taken by the Generator for the purposes of the Contract and any breach or Contract Default will be cured, remedied or will not arise (as appropriate) if such breach or Contract Default would have been cured or remedied or would not have arisen (as appropriate) if the Generator had taken such action itself.

3.3 DPA Counterparty Enforcement Action

Subject to Clause 7.2 (*DPA Counterparty Enforcement Action during a Step-In Period*), the DPA Counterparty shall not take any DPA Counterparty Enforcement Action without first giving a DPA Counterparty Enforcement Notice to the [Lender(s)]/[Security Trustee].

3.4 Non-Qualification Event

- (A) The [Lender(s)]/[Security Trustee] shall by the fifteenth (15th) Business Day after delivery to the [Lender(s)]/[Security Trustee] of:
 - (i) any DPA Counterparty Enforcement Notice; or
 - (ii) any notice from the DPA Counterparty requesting that the [Lender(s)]/[Security Trustee] evidence that a Non-Qualification Event has not taken place,
 (a **"Qualification Demonstration Deadline"**), evidence to the satisfaction of the DPA Counterparty (acting reasonably) that a Non-Qualification Event has not taken place.
- (B) For the purposes of Clause 3.4(A) unless otherwise agreed by the DPA Counterparty, the evidence provided shall be:
 - (i) a clear letter to the DPA Counterparty from the external legal advisors to the [Lender(s)]/[Security Trustee] (the **"NQE Confirmation"**):

- (a) setting out the corporate details of the [Lender(s)]/[Security Trustee] [and all persons for whom the Security Trustee acts in respect of the rights afforded to it under this Deed]¹²;
 - (b) [confirming that the Security Trustee acts only, in respect of the rights afforded to it under this Deed, on behalf of the person(s) referred to in paragraphs (A) or (B) of the definition of Non-Qualification Event;]¹³
 - (c) [if the Security Trustee acts on behalf of any person who is a direct or indirect shareholder of the Generator, explaining the basis upon which such person falls within (as applicable) paragraph (B) of the definition of Non-Qualification Event and]¹⁴ confirming whether [such person]¹⁵/[the Lender]¹⁶ is a Security Shareholder and, if so, when they became a Security Shareholder;
 - (d) confirming that the external legal advisors are not aware of a Non-Qualification Event having occurred; and
 - (e) explaining any changes to the Finance Parties, the Finance Documents, the Security Documents[,]/[and/or] the underlying financial arrangements relating or relevant to this Deed [and/or the persons on behalf of whom the Security Trustee is exercising the rights afforded by this Deed]¹⁷ since the last letter provided under this Clause 3.4(B) (or, if no letter has been provided, the date of this Deed) and confirming that: (i) insofar as it is aware having made due and careful enquiry of the [Lender(s)]/[Security Trustee], the Finance Documents and Security Documents are up to date, true, complete and accurate; and (ii) the contents of the NQE Confirmation are a true and accurate reflection of the relevant contents of the Finance Documents and the Security Documents; and
- (ii) a clear letter to the DPA Counterparty from the [Lender(s)]/[Security Trustee] ("**Further NQE Confirmation**") (signed by a duly authorised senior representative and/or in-house legal advisor) certifying that [insofar as it is aware having made all due and careful enquiry]¹⁸:
- (a) a Non-Qualification Event has not occurred;
 - (b) [if the Security Trustee acts on behalf of any person who is a direct or indirect shareholder of the Generator, whether such person falls within (as applicable) paragraph (B) of the definition of Non-Qualification Event and]¹⁹ whether [such person]²⁰/[the Lender]²¹ is a Security Shareholder;
 - (c) if a breach, non-compliance or failure has occurred which is or may be the subject of a DPA Counterparty Enforcement Notice, such breach, non-compliance or failure did not occur more than twenty (20) Business Days after the [Lender(s)]/[Security Trustee] became a Security Shareholder who has enforced its Security Documents and Controls the

¹² Words in square brackets to be retained if there is a Security Trustee.
¹³ Words in square brackets to be retained if there is a Security Trustee.
¹⁴ Words in square brackets to be retained if there is a Security Trustee.
¹⁵ Words in square brackets to be retained if there is a Security Trustee.
¹⁶ Words in square brackets to be retained in the case of a Lender and no Security Trustee.
¹⁷ Words in square brackets to be retained if there is a Security Trustee.
¹⁸ Words in square brackets to be retained only if there is a Security Trustee.
¹⁹ Words in square brackets to be retained if there is a Security Trustee.
²⁰ Words in square brackets to be retained if there is a Security Trustee.
²¹ Words in square brackets to be retained if there is a Lender and no Security Trustee.

Generator. In this case, the [Lender(s)]/[Security Trustee] shall also provide an explanation of the situation and information or evidence to support its certification and explanation;

- (d) the Finance Documents and Security Documents are up-to-date, true and complete; and constitute a true, complete, comprehensive and accurate record of the financial arrangements between the parties to them and are not misleading; and
 - (e) the [Lender(s)]/[Security Trustee] has provided all the Finance Documents and Security Documents to its external legal advisor for the purpose of such external legal advisor providing the NQE Confirmation; and
- (iii) if requested by the DPA Counterparty, up-to-date, complete and accurate copies of the relevant Finance Documents and Security Documents.
- (C) Without limitation of Clause 3.4(B), the DPA Counterparty may, within ten (10) Business Days of receipt of the NQE Confirmation, Further NQE Confirmation and/or the documentation referred to in Clause 3.4(B)(iii), request clarification of the contents of the NQE Confirmation, Further NQE Confirmation and/or documentation referred to in Clause 3.4(B)(iii). If the [Lender(s)]/[Security Trustee] receives such a request, it shall provide the requested clarification to the DPA Counterparty within ten (10) Business Days of receipt of the request.
- (D) Where the [Lender(s)]/[Security Trustee]:
 - (i) fails to comply with Clauses 3.4(A), 3.4(B) and/or 3.4(C) and/or if the Finance Documents and/or Security Documents provided under Clause 3.4(C) do not support and/or are inconsistent with or contradict the NQE Confirmation or Further NQE Confirmation,

the DPA Counterparty may give a notice to the [Lender(s)]/[Security Trustee] that this Deed shall terminate on the date specified in such notice (such date being no earlier than the date falling ten (10) Business Days after the date of such notice), and this Deed shall so terminate pursuant to Clause 10.1 unless, in the case of Clause 3.4(D)(i), in the intervening period the [Lender(s)]/[Security Trustee] has remedied (as applicable) its failure or non-compliance with Clause 3.4(A), 3.4(B) and/or Clause 3.4(C) and/or the failure of the Finance Documents and/or the Security Documents to support or be consistent with the NQE Confirmation, Further NQE Confirmation and/or any contradiction between the Finance Documents and/or Security Documents and the NQE Confirmation and/or Further NQE Confirmation.
- (E) Where the [Lender(s)]/[Security Trustee] complies with Clause 3.4(A) by the Qualification Demonstration Deadline, the DPA Counterparty shall provide confirmation of such compliance to the [Lender(s)]/[Security Trustee] as soon as reasonably practicable thereafter.

3.5 No Waiver

The provisions of this Clause 3 shall not constitute any waiver as against the Generator of the grounds for the intended exercise of the DPA Counterparty's rights to take any DPA Counterparty Enforcement Action or any of its other rights regarding such DPA Counterparty Enforcement Action and the giving of a DPA Counterparty Enforcement Notice shall not release the Generator from its obligations or liabilities under the Contract.

4. **NOTIFICATION BY THE [LENDER(S)]/[SECURITY TRUSTEE]**

4.1 **Notice of Event of Default**

The [Lender(s)]/[Security Trustee] shall, as soon as reasonably practicable, send to the DPA Counterparty a copy of any notice of an Event of Default served by or on behalf of the [Lender(s)]/[Security Trustee or the lenders under the Facility Agreement] on the Generator.

4.2 **Notices from the [Lender(s)]/[Security Trustee]**

After receiving notification of an Event of Default from the [Lender(s)]/[Security Trustee], the DPA Counterparty shall accept as validly given by the Generator any notices or demands pursuant to and in accordance with the Contract given or made by the [Lender(s)]/[Security Trustee] or Appointed Representative, as the case may be, provided, in each case, such notice or demand would have been validly given had it been given by the Generator itself. The Generator consents to the giving of such notices or demands and acknowledges and agrees that the service of such notices or demands by the [Lender(s)]/[Security Trustee] or Appointed Representative, as the case may be, shall not affect the rights and remedies of the DPA Counterparty under the Contract.

5. **STEP-IN DECISION PERIOD**

5.1 **Suspension of Rights and Remedial Action**

During a Step-In Decision Period the DPA Counterparty shall not take any DPA Counterparty Enforcement Action (other than any DPA Counterparty Enforcement Action taken pursuant to Clause 5.3 (*Revival of Remedies*) in relation to any prior Step-In Decision Period).

5.2 **Statement of Amounts Due**

- (A) As soon as reasonably practicable, and in any event within thirty (30) days, after the commencement of a Step-In Decision Period, the DPA Counterparty shall give the [Lender(s)]/[Security Trustee] a statement of any amounts owed by the Generator to the DPA Counterparty and any outstanding performance obligations of the Generator under the Contract of which the DPA Counterparty is aware as at the date of the DPA Counterparty Enforcement Notice.
- (B) For the avoidance of doubt, a failure by the DPA Counterparty to include in any such statement an amount owed or a performance obligation outstanding under the Contract shall not limit in any way the obligations or liabilities of the Generator under the Contract or the obligations or liabilities of the [Lender(s)]/[Security Trustee] or any Appointed Representative or Substitute under or pursuant to this Deed.

5.3 **Revival of Remedies**

If a DPA Counterparty Enforcement Notice has been given and:

- (A) neither the Step-In Date nor the Novation Date has occurred before expiry of the Step-In Decision Period; or
- (B) the Step-In Date has occurred before expiry of the Step-In Decision Period but a Step-Out Date has subsequently occurred without there being a Novation Date,

the DPA Counterparty shall be entitled to take DPA Counterparty Enforcement Action without serving a further DPA Counterparty Enforcement Notice if the default, event or circumstance in respect of which the DPA Counterparty gave the DPA Counterparty Enforcement Notice is

subsisting or has not been remedied or cured (whether by the Generator, [Lender(s)]/[Security Trustee] or any other person).

6. **STEP-IN**

6.1 **Step-In Notice**

- (A) At any time during a Step-In Decision Period, the [Lender(s)]/[Security Trustee] may give notice to the DPA Counterparty (a "**Step-In Notice**") specifying:
 - (i) the Appointed Representative who will give a Step-In Undertaking to the DPA Counterparty; and
 - (ii) the Proposed Step-In Date (which shall be a date no earlier than five (5) Business Days after the date of the Step-In Notice).
- (B) The Proposed Step-In Date must fall on or prior to the expiry of the Step-In Decision Period.
- (C) The [Lender(s)]/[Security Trustee] may revoke a Step-In Notice at any time prior to the Step-In Date by notice to the DPA Counterparty, provided that the relevant Step-In Decision Period shall be deemed to have expired on delivery of such notice to the DPA Counterparty.

6.2 **Step-In Undertaking**

Unless otherwise agreed by the DPA Counterparty in its sole and absolute discretion, the [Lender(s)]/[Security Trustee] shall procure that the Appointed Representative gives a Step-In Undertaking to the DPA Counterparty on the Proposed Step-In Date.

7. **STEP-IN PERIOD**

7.1 **Step-In Period**

During the Step-In Period:

- (A) the DPA Counterparty shall deal only with the Appointed Representative and not the Generator and the DPA Counterparty shall have no liability to the Generator for compliance with the instructions of the Appointed Representative or the [Lender(s)]/[Security Trustee] in priority to those of the Generator;
- (B) the DPA Counterparty agrees that payment by the Appointed Representative to the DPA Counterparty of any sums due under the Contract, or performance by the Appointed Representative of any other of the Generator's obligations under the Contract, shall comprise good discharge *pro tanto* of the Generator's payment and other obligations under the Contract; and
- (C) the DPA Counterparty shall owe its obligations under the Contract to the Generator and the Appointed Representative jointly but performance by the DPA Counterparty in favour of the Appointed Representative alone shall be a good discharge *pro tanto* of its obligations under the Contract.

7.2 **DPA Counterparty Enforcement Action during a Step-In Period**

- (A) During the Step-In Period, the DPA Counterparty shall be entitled to take DPA Counterparty Enforcement Action if:

- (i) the Appointed Representative breaches the terms of the Step-In Undertaking; and
 - (ii) such breach would, save for the terms of Clause 5.1 (*Suspension of Rights and Remedial Action*), entitle the DPA Counterparty to take the relevant DPA Counterparty Enforcement Action under or in connection with the Contract.
- (B) The provisions of Clause 3.3 (*DPA Counterparty Enforcement Action*) shall not apply to any DPA Counterparty Enforcement Action taken pursuant to this Clause 7.2.

8. STEP-OUT

- (A) The Appointed Representative or the [Lender(s)]/[Security Trustee] shall give the DPA Counterparty at least ten (10) Business Days' prior written notice of the date on which the Appointed Representative will step out (a "**Step-Out Notice**").
- (B) Upon the Step-Out Date (howsoever occurring):
- (i) all of the Appointed Representative's obligations and liabilities to the DPA Counterparty under the Step-In Undertaking will be cancelled, other than those for which the Appointed Representative is liable under the Step-In Undertaking and which arose or accrued prior to the Step-Out Date;
 - (ii) all of the Appointed Representative's rights against the DPA Counterparty under the Step-In Undertaking will be cancelled, other than those which arose or accrued prior to the Step-Out Date; and
 - (iii) without prejudice to sub-paragraph (i) above, the Appointed Representative will be released from all obligations and liabilities to the DPA Counterparty under the Contract and this Deed.
- (C) The Generator shall continue to be bound by the terms of the Contract notwithstanding the occurrence of the Step-Out Date and the DPA Counterparty shall continue to be entitled to exercise and enforce all of its rights and remedies under the Contract as against the Generator.

9. NOVATION

9.1 Proposed Substitution

- (A) Subject to paragraph (B) below, at any time:
- (i) during a Step-In Decision Period or a Step-In Period; or
 - (ii) during which an Event of Default is subsisting (and the DPA Counterparty may treat as conclusive evidence that an Event of Default is subsisting any notice served by the [Lender(s)]/[Security Trustee] pursuant to this paragraph (A)),
- the [Lender(s)]/[Security Trustee] may give a Novation Notice to the DPA Counterparty.
- (B) The [Lender(s)]/[Security Trustee] shall give the DPA Counterparty not less than fifteen (15) Business Days' prior notice of the Proposed Novation Date.

9.2 Objection to Substitute

The DPA Counterparty may only object to a proposed Substitute if the entry into a Novation Agreement or the Contract with the proposed Substitute would be unenforceable or illegal and

the DPA Counterparty gives notice of its objection to the [Lender(s)]/[Security Trustee] within ten (10) Business Days of receipt by the DPA Counterparty of the Novation Notice, in which case the [Lender(s)]/[Security Trustee] may propose an alternative Substitute.

9.3 Substitution Procedure

- (A) On the Proposed Novation Date or such later date (if any) as the identity of the Substitute is determined pursuant to Clause 9.2 (*Objection to Substitute*) the DPA Counterparty and the Generator shall each enter into a Novation Agreement with the Substitute.
- (B) The novation of the Generator's rights and obligations under the Contract pursuant to a Novation Agreement shall be effective from the date (the "**Novation Date**") which is the latest of the Proposed Novation Date, such later date (if any) as the identity of the Substitute is determined pursuant to Clause 9.2 (*Objection to Substitute*) and the date upon which each of the following conditions is satisfied, namely:
 - (i) the DPA Counterparty having received, in form and content satisfactory to the DPA Counterparty (acting reasonably):
 - (a) a certified copy of the constitutional documents and certificate of incorporation and any certificate of incorporation on change of name of the Substitute; and
 - (b) evidence of compliance by the Substitute with "know your customer" or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by the Novation Agreement, the Contract and the other DPA Documents;
 - (ii) the DPA Counterparty having received a legal opinion addressed to the DPA Counterparty, in form and content reasonably satisfactory to the DPA Counterparty, from the legal advisers to the Substitute confirming that the Substitute:
 - (a) is duly formed and validly existing under the laws of the jurisdiction of its formation; and
 - (b) has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, the Contract and the other DPA Documents;
 - (iii) the DPA Counterparty having received written confirmation from the DPA Settlement Services Provider that:
 - (a) it has received the DPA Settlement Required Information which is required from the Substitute prior to the Proposed Novation Date or such later date, as the case may be; and
 - (b) the Substitute has in place the systems and processes which are necessary for the continued provision of the DPA Settlement Required Information;
 - (iv) the Substitute being or having become the legal and beneficial owner of the Facility, subject only to any third party rights arising by reason of any security interest created or subsisting over or in respect of the Facility; and

- (v) any collateral required to be in place in accordance with the Schedule (*Gain Share*) having been provided by or on behalf of the Substitute.
- (C) The DPA Counterparty shall notify the [Lender(s)]/[Security Trustee] and the Substitute of the Novation Date as soon as reasonably practicable after it has occurred.
- (D) At the [Lender(s)]/[Security Trustee]'s cost, the DPA Counterparty shall, subject to and in accordance with Condition 64.6 (*Permitted assignment by the Generator*) of the Contract, enter into a direct agreement with the [Lender(s)]/[Security Trustee] (or such other representative of the lenders lending to such Substitute) and the Substitute on substantially the same terms as this Deed and effective from the Novation Date.

10. DURATION

10.1 This Deed shall commence on the date hereof and shall continue in full force and effect until the first to occur of:

- (A) the Finance Party Discharge Date;
- (B) expiry of the term of the Contract;
- (C) the termination or revocation of the Contract (in accordance with the Contract and this Deed); and
- (D) the NQE Termination Trigger Date,

in each case without prejudice to any accrued rights and obligations arising pursuant to this Deed existing at the date of termination.

10.2 The [Lender(s)]/[Security Trustee] shall promptly notify the DPA Counterparty of the occurrence of the Finance Party Discharge Date.

10.3 The [Lender(s)]/[Security Trustee] shall promptly notify the DPA Counterparty upon becoming aware of the occurrence of a Non-Qualification Event.

10.4 The [Lender(s)]/[Security Trustee] shall not exercise any rights under this Deed after becoming aware that a Non-Qualification Event is in operation as at the date when the right to exercise such rights would otherwise have arisen.

11. CHANGES TO PARTIES

11.1 Benefit of Deed

This Deed shall benefit and be binding on the Parties, their respective successors and any permitted assignee or transferee of all or some of a Party's rights and obligations under this Deed.

11.2 Assignment

Save as provided in Clause 9 (*Novation*) or Clause 11.3 (*Assignment by the [Lender(s)]/[Security Trustee]*), neither the [Lender(s)]/[Security Trustee] nor the Generator may assign, transfer, novate or otherwise dispose of all or any of their respective rights, benefits or obligations under this Deed without the prior consent of the other Parties.

11.3 **Assignment by the [Lender(s)]/[Security Trustee]**

The [Lender(s)]/[Security Trustee] may assign or transfer [its]/[their respective] rights under this Deed to any successor [Lender(s)]/[Security Trustee] without the consent of the DPA Counterparty.

11.4 **Generator's Acknowledgement**

The Generator joins in this Deed to acknowledge and consent to the arrangements set out in it and agrees not knowingly to do or omit to do anything that may prevent either of the other Parties from enforcing its rights under this Deed.

11.5 **Refinancing**

The Parties to this Deed acknowledge and agree that provisions of the DPA Documents, including Gain Share Schedule to the Contract (including the Gain Share Rules), should not be interpreted or construed as preventing or prohibiting any refinancing arrangements in relation to the Facility and any references to the Facilities Agreement shall be construed as references to the Facilities Agreement and any documents replacing the Facilities Agreement as a result of any such refinancing arrangements.

12. **NOTICES**

12.1 **Communications in Writing**

Any communications to be made pursuant to or in connection with this Deed shall be made in writing and shall be effective only if they are in writing and in English. Faxes are not permitted but email is permitted.

12.2 **Addresses**

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

(A) **DPA Counterparty**

Address: Low Carbon Contracts Company Ltd, 10 South Colonnade, London, England, E14 4PU

Attention: Head of Contract Management

(B) **[Lender(s)]/[Security Trustee]**

Address: [●]

Attention: [●]

(C) **Generator**

Address: [●]

Attention: [●]

12.3 **Changes to Notice Details**

A Party may change its notice details on giving notice to the other Party in accordance with this Clause 12 (*Notices*). Such notice shall be effective only from:

- (A) the date specified in such notice (being not less than three (3) Business Days after the date of delivery or deemed delivery of such notice); or
- (B) (if no date is specified in such notice or the date specified is fewer than three (3) Business Days after the date of delivery or deemed delivery of such notice) the date falling three (3) Business Days after the notification has been received.

12.4 **Deemed Delivery**

Any notice given pursuant to or in connection with this Deed shall, in the absence of evidence of earlier receipt, be deemed to have been received:

- (A) if delivered by hand, on the Business Day of delivery or, if delivered on a day other than a Business Day, on the next Business Day after the date of delivery;
- (B) if sent by first class post within the United Kingdom, on the third (3rd) Business Day after the day of posting;
- (C) if sent from one country to another, on the fifth (5th) Business Day after the day of posting; or
- (D) if sent by email, when sent except that an email shall be deemed not to have been sent if the sender receives a delivery failure notification,

provided that any notice given outside Working Hours in the place to which it is addressed (or, in the case of a notice sent by email, the location of the person to whom it is addressed) shall be deemed not to have been given until the start of the next period of Working Hours in such place.

13. **MISCELLANEOUS**

13.1 **Limited Recourse**

Notwithstanding any other provision of this Deed:

- (A) the liability of the DPA Counterparty pursuant to this Deed shall not exceed the aggregate of:
 - (i) the amounts from time to time received and held by the DPA Counterparty, and allocated to this Deed, pursuant to the Supplier Obligation Regulations; and
 - (ii) any other funds of the type referred to in Condition 54.3(E) (*DPA Counterparty payment undertakings*) of the Contract from time to time received and held by the DPA Counterparty, and allocated to this Deed, whether pursuant to the Supplier Obligation Regulations or otherwise; and
- (B) the DPA Counterparty shall not be in default pursuant to this Deed in not making any payment that is due and owing if and to the extent that it shall not have received the amounts and other funds referred to in paragraph (A) above which are necessary to make such payment, but if and to the extent that such payment is not made, the DPA Counterparty shall continue to owe an amount equal to the amount of the payment due and owing but not paid and shall make such payment promptly (and in any event within

two (2) Business Days) after and to the extent of its receipt of such corresponding and allocated amounts and other funds.

13.2 **Amendments**

This Deed may not be amended, waived, supplemented or otherwise varied unless in writing and signed by or on behalf of all of the Parties.

13.3 **Remedies and Waivers**

No failure to exercise, nor any delay in exercising, any power, right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

13.4 **Partial Invalidity**

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

13.5 **No Partnership**

Neither this Deed nor any other agreement or arrangement of which it forms part, nor the performance by the Parties of their respective obligations under any such agreement or arrangement, shall constitute a partnership between the Parties.

13.6 **Counterparts**

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

13.7 **Third Party Beneficiaries**

(A) Save as provided in paragraph (B) below, this Deed is intended for the sole and exclusive benefit of the Parties.

(B) The Contracts (Rights of Third Parties) Act 1999 is expressly excluded save for:

- (i) any rights of any Appointed Representative on and after the issue of a Step-In Undertaking by that Appointed Representative; or
- (ii) any rights of any Substitute on and after any Novation Date under or in connection with Clause 9 (*Novation*),

in each case, as if they were a party to this Deed.

(C) This Deed may be varied in any way and at any time by the Parties without the consent of any third party.

13.8 **Entire Agreement**

This Deed and the Contract constitute the entire agreement between the Parties with respect to the subject matter of this Deed.

13.9 Effect of this Deed

- (A) The Parties acknowledge and agree that the express or implied terms and conditions of this Deed shall, in the event of any inconsistency or conflict with the express or implied terms and conditions of the Contract, prevail over the relevant terms and conditions of the Contract.
- (B) Nothing in this Deed or the arrangements contemplated hereby shall prejudice the rights of any of the Finance Parties under the Finance Documents or any Security Documents or shall be construed as obliging the [Lender(s)]/[Security Trustee] to exercise, or limiting, any of [its]/[their respective] rights under the Security Documents or under this Deed.

14. GOVERNING LAW AND JURISDICTION

- (A) This Deed and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England.
- (B) The Parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligations arising out of or in connection with this Deed).

IN WITNESS WHEREOF this Deed has been duly executed and delivered as a deed on the date stated at the beginning of this Deed.

DPA Counterparty

EXECUTED and delivered as a **DEED** by)
LOW CARBON CONTRACTS COMPANY LTD)
 acting by its director/duly appointed attorney)
 Director/Attorney

in the presence of

Signature:.....

Print Name:.....

Address:.....

Occupation:.....

[Lender]/[Security Trustee]

EXECUTED and delivered as a **DEED** by)
 [●])
 acting by its director/duly appointed attorney)
 Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:.....

Generator

EXECUTED and delivered as a **DEED** by)
[●])
acting by its director/duly appointed attorney)
Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:.....

Appendix 1
Form of Step-In Undertaking

[From the Appointed Representative]

From: [Appointed Representative]

To: Low Carbon Contracts Company Ltd [insert address]

For the attention of: Head of Contract Management

Date: [insert date]

Dear Sir/Madam,

DIRECT AGREEMENT (the "Agreement")

1. In accordance with Clause 6 (*Step-In*) of the Agreement, we undertake to you that we will:
 - (A) pay, or procure payment, to you within three (3) Business Days of the date hereof any sum that is due and payable to you by the Generator but unpaid as of the date hereof;
 - (B) pay, or procure payment, to you any sum which becomes due and payable by the Generator to you pursuant to the terms of the Contract during the Step-In Period which is not paid by the Generator on the due date;
 - (C) perform or discharge, or procure the performance or discharge of, all outstanding performance obligations of the Generator which have arisen or fallen due prior to the date hereof:
 - (i) within ten (10) Business Days of the date hereof; or
 - (ii) if the performance or discharge of any obligation is being disputed pursuant to the provisions of the Contract, within ten (10) Business Days of the same being agreed or finally determined; and
 - (D) perform or discharge, or procure the performance or discharge of, any performance obligations of the Generator under the Contract which arise during the Step-In Period,

in each case in accordance with and subject to the terms of the Contract as if we were a party to the Contract in place of the Generator.
2. This Step-In Undertaking may be terminated by the giving of a Step-Out Notice to you in accordance with Clause 8 (*Step-Out*) of the Agreement and shall automatically terminate upon the Step-Out Date, save that we shall continue to be liable to you for outstanding obligations and liabilities arising prior to termination in accordance with Clause 8(B) (*Step-Out*) of the Agreement.
3. All capitalised terms used in this letter shall have the meanings given them in the Agreement.
4. This Step-In Undertaking and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England and the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with it.

Yours faithfully,

.....

For and on behalf of

[Appointed Representative]

Appendix 2

Form of Novation Agreement

THIS NOVATION AGREEMENT is dated [●] and made as a deed BETWEEN:

- (1) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated under the laws of England and Wales whose registered office is 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the **"DPA Counterparty"**);
- (2) **[insert name and details of the generator]**, a company incorporated under the laws of [England and Wales] whose registered office is [●] and whose company number is [●] (the **"Generator"**); and
- (3) **[insert name and details of the substitute]**, a company incorporated under the laws of [England and Wales] whose registered office is [●] and whose company number is [●] (the **"Substitute"**)

(together referred to as the **"Parties"**).

BACKGROUND

- (A) The Generator, the DPA Counterparty and the [Lender(s)]/[Security Trustee] have entered into an agreement (the **"Direct Agreement"**) dated [●] pursuant to which the [Lender(s)]/[Security Trustee] [has]/[have] the right to require the rights and obligations of the Generator under the Contract to be novated to a Substitute.
- (B) The Substitute has been identified as the Substitute for the purposes of Clause 9 (*Novation*) of the Direct Agreement.
- (C) This is the Novation Agreement referred to in Clause 9.3 (*Substitution Procedure*) of the Direct Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

Unless a contrary indication appears, words and expressions defined, or defined by reference, in the Direct Agreement have the same meanings in this Agreement.

2. DPA Counterparty Release and Discharge

With effect from the Novation Date, the DPA Counterparty releases and discharges the Generator from all liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or disputed, owing to the DPA Counterparty and arising out of or in respect of the Contract, save for the Generator's obligations under Condition 55 (*Confidentiality*) of the Contract.

3. Generator Release and Discharge

With effect from the Novation Date, the Generator releases and discharges the DPA Counterparty from all liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or disputed, owing to the Generator and arising out of or in respect of the Contract.

4. **Substitute Assumption of Liabilities**

The Substitute undertakes to assume all the liabilities, duties and obligations of the Generator of every description contained in the Contract, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or unascertained or disputed, and agrees to perform all the duties and to discharge all the liabilities and obligations of the Generator under the Contract and to be bound by their terms and conditions in every way as if the Substitute were named in the Contract as a party in place of the Generator from the date of the Contract.

5. **DPA Counterparty Agreement to Perform**

The DPA Counterparty agrees to perform all its duties and to discharge all its obligations under the Contract and to be bound by all the terms and conditions of the Contract in every way as if the Substitute were named in the Contract as a party in place of the Generator from the date of the Contract.

6. **Replacement of Generator by Substitute**

As from the Novation Date, reference to the Generator (by whatsoever name known) in the Contract shall be deleted and replaced by reference to the Substitute.

7. **Outstanding DPA Counterparty Claims**

The DPA Counterparty shall not take any DPA Counterparty Enforcement Action by reason of any event notified in a DPA Counterparty Enforcement Notice or any act or omission by the [Lender(s)]/[Security Trustee], any Appointed Representative and/or the Generator occurring prior to the Novation Date provided that the foregoing shall be without prejudice to the DPA Counterparty's remedies (including without limitation the right to take DPA Counterparty Enforcement Action) in respect of:

- (A) outstanding amounts properly due and payable to the DPA Counterparty on the Novation Date and which remain unpaid on the expiry of three (3) Business Days' notice from the DPA Counterparty to the Substitute that such amounts are due and payable; and
- (B) to the extent not covered by paragraph (A) above, any breach of a Step-In Undertaking or the Contract by an Appointed Representative, the Generator or the [Lender(s)]/[Security Trustee] occurring prior to the Novation Date which has not been remedied upon the expiry of ten (10) Business Days' notice from the DPA Counterparty to the Substitute that such breach has not been remedied.

8. **Continuance of the Contract**

It is hereby agreed and declared that the Contract shall continue in full force and effect and that, as from the Novation Date, the terms and conditions of the Contract have only changed to the extent set out in this Agreement.

9. **Further Assurance**

The Parties shall perform such further acts and execute and deliver such further documents as may be required by law or reasonably requested by each other to implement the purposes of and to perfect this Agreement.

10. **Contract (Rights of Third Parties) Act 1999**

This Agreement does not create any rights under the Contract (Rights of Third Parties) Act 1999 enforceable by any person who is not a party to it.

11. **Variations**

No variation of this Agreement shall be effective unless it is in writing and is signed by or on behalf of each of the parties to this Agreement.

12. **Notices**

Any notices to be served on the Substitute pursuant to the Contract shall be served in accordance with Condition 65 (*Notices*) of the Contract and to:

[insert Substitute contact details]

13. **Counterparts**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original but all the counterparts together shall constitute one and the same instrument.

14. **Governing Law and Jurisdiction**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England and the Parties hereby submit to the exclusive jurisdiction of the courts of England.

IN WITNESS WHEREOF this Agreement has been executed and delivered as a deed on the date first stated above²².

²²

Note to draft: execution blocks to be amended as appropriate

DPA Counterparty

EXECUTED and delivered as a **DEED** by)
LOW CARBON CONTRACTS COMPANY LTD)
 acting by its director/duly appointed attorney)
 Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:.....

Generator

EXECUTED and delivered as a **DEED** by)
 [●])
 acting by its director/duly appointed attorney)
 Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:.....

Substitute

EXECUTED and delivered as a **DEED** by)
 [●])
 acting by its director/duly appointed attorney)
 Director/Attorney

in the presence of

Signature:

Print Name:

Address:

Occupation:.....

Annex 8
Gas Reference Price Review

Part A
GRP Review Procedures

1. DEFINITIONS: ANNEX 6

1.1 In this Annex 8 (*Gas Reference Price Review*):

"10-TD Gas Sample Period" means a period of ten (10) consecutive days;

"Gas GB Day Ahead BD Index" means an index of Gas GB Day Ahead BD Prices or another source of Gas GB Day Ahead BD Prices and **"Gas GB Day Ahead BD Indices"** shall be construed accordingly;

"Gas GB Day Ahead BD Price" means the price (*expressed in pence/therm*) for a Gas GB Day Ahead Contract in a Business Day as reflected in a Gas GB Day Ahead BD Index or Gas GB Day Ahead BD Indices (as the context requires);

"Gas GB Day Ahead Contract" means a contract relating to the delivery of a firm volume of gas between 0:00 and 04:59 of a specified VP Settlement Unit entered into in the preceding GRP Trading Day, or the delivery of a firm volume of gas between 5:00 and 23:59 of the same VP Settlement Unit entered into on the same GRP Trading Day as such VP Settlement Unit (whether physically or cash settled);

"Gas GB Day Ahead N-BD Index" means an index of Gas GB Day Ahead N-BD Prices or another source of Gas GB Day Ahead N-BD Prices and **"Gas GB Day Ahead N-BD Indices"** shall be construed accordingly;

"Gas GB Day Ahead N-BD Price" means the price (*expressed in pence/therm*) for a Gas GB Day Ahead Contract in a non-Business Day as reflected in a Gas GB Day Ahead N-BD Index or Gas GB Day Ahead N-BD Indices (as the context requires);

"Gas Price BD Source" means the Gas GB Day BD Ahead Index to be used in the calculation of the Gas Reference Price in respect of each VP Settlement Unit which falls on a Business Day, being the Initial GRP BD Index or such other replacement or supplementary Gas GB Day Ahead BD Index which is required to be so used as a result of the operation of the provisions of Part B (*GRP Review Procedures*);

"Gas Price N-BD Source" means the Gas GB Day Ahead N-BD Index to be used in the calculation of the Gas Reference Price in respect of each VP Settlement Unit which falls on a non-Business Day, being the Initial GRP N-BD Index or such other replacement or supplementary Gas GB Day Ahead N-BD Index which is required to be so used as a result of the operation of the provisions of Part B (*GRP Review Procedures*);

"Gas Price Sources" means the Gas Price BD Source and Gas Price N-BD Source;

"Gas Reference Price" has the meaning given to that term in Condition 10.4 (*Gas Price calculation*);

"GRP Dispute" means a Dispute in relation to the outcome of a GRP Principles Review;

"GRP Dispute Generator" has the meaning given to that term in paragraph 2.1 (*Procedure for raising a Dispute*) of Part B (*GRP Review Procedures*);

"GRP Dispute Notice" has the meaning given to that term in paragraph 2.1 (*Procedure for raising a Dispute*) of Part B (*GRP Review Procedures*);

"GRP Dispute Threshold Criterion" has the meaning given to that term in paragraph 2.10 (*GRP Dispute Threshold Criterion*) of Part B (*GRP Review Procedures*);

"GRP Dispute Validity Notice" has the meaning given to that term in paragraph 2.3 (*Validity of GRP Dispute Notices*) of Part B (*GRP Review Procedures*);

"GRP Expert Appointment Threshold" has the meaning given to that term in paragraph 2.7 (*GRP Expert Appointment Threshold*) of Part B (*GRP Review Procedures*);

"GRP Mechanism Amendment" has the meaning given to that term in paragraph 1.6 (*Purpose of Gas Price Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles" means the prioritisation of the GRP Principles provided for in paragraph 1 (*GRP Principles*) of Part C (*GRP Principles*);

"GRP Principles Prioritisation" means the prioritisation of the GRP Principles provided for in paragraph 2 (*Prioritisation of GRP Principles*) of Part C (*GRP Principles*);

"GRP Principles Request Criterion" has the meaning given to that term in paragraph 1.3 (*Requirement to undertake GRP Principles Reviews*) of Part B (*GRP Review Procedures*);

"GRP Principles Request Notice" has the meaning given to that term in paragraph 1.2 (*Requirement to undertake GRP Principles Reviews*) of Part B (*GRP Review Procedures*);

"GRP Principles Request Validity Notice" has the meaning given to that term in paragraph 1.5 (*Validity of GRP Principles Request Notices*) of Part B (*GRP Review Procedures*);

"GRP Principles Review" means a review conducted by the DPA Counterparty pursuant to, and within the parameters specified in, paragraph 1 (*GRP Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles Review Implementation Date" has the meaning given to that term in paragraph 1.12(B) (*Notification of outcome of GRP Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles Review Notice" has the meaning given to that term in paragraph 1.8 (*Notification of GRP Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles Review Outcome Notice" has the meaning given to that term in paragraph 1.12 (*Notification of outcome of GRP Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles Review Proposals" has the meaning given to that term in paragraph 1.8(A) (*Notification of outcome of GRP Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles Review Response Deadline" has the meaning given to that term in paragraph 1.8(B) (*Notification of GRP Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles Review Response Notice" has the meaning given to that term in paragraph 1.9 (*Notification of GRP Principles Review*) of Part B (*GRP Review Procedures*);

"GRP Principles Review Trigger" has the meaning given to that term in paragraph 1.1 (*Requirement to undertake GRP Principles Reviews*) of Part B (*GRP Review Procedures*);

"GRP Quality Criteria" in respect of a price source, means the DPA Counterparty having determined that, as at the GRP Principles Review Response Deadline:

- (A) the underlying data used to compile or prepare such price source:
 - (i) is subject to reasonable procedures to ensure its accuracy and completeness;
 - (ii) is subject to reasonable procedures to ensure its retention by the administrator for a period of at least two (2) years such that it is capable of audit; and
 - (iii) consists only of transaction data with values derived using defined procedures and methodologies;
- (B) the methodology used by the administrator to prepare and compile such price source:
 - (i) is appropriately documented; and
 - (ii) may only be changed in accordance with documented change control procedures which provide adequate protection against conflicts of interest which exist or are reasonably likely to arise in connection with such methodology; and
- (C) the administrator of such price source and the submitters to such price source have effective organisational and administrative arrangements in place to identify and manage conflicts of interest and to protect commercial confidentiality,

and **"GRP Quality Criterion"** shall be construed accordingly;

"GRP Trading Day" means any Business Day;

"Initial GRP BD Index" means the European Spot Gas Markets (ESGM) Heren Day-Ahead Index as published by Independent Commodity Intelligence Services (ICIS);

"Initial GRP N-BD Index" means the European Spot Gas Markets (ESGM) British Spot Weekend Index as published by the Independent Commodity Intelligence Services (ICIS); and

"Proposed GRP Expert" has the meaning given to that term in paragraph 2.3(A) (*Validity of GRP Dispute Notices*) of Part B (*GRP Review Procedures*).

Part B
GRP Review Procedures

1. GRP PRINCIPLES REVIEW

Requirement to undertake GRP Principles Reviews

1.1 The DPA Counterparty:

- (A) shall conduct a GRP Principles Review if:
 - (i) either Gas Price Source ceases to be available to the DPA Counterparty;
 - (ii) the splitting of the Great Britain gas market has been proposed or effected by the relevant Competent Authority;
 - (iii) the volume (*expressed in therms*) of Gas GB Day Ahead Contracts in respect of gas to be delivered within Great Britain reflected in the Gas Price Sources is nil in any 10-TD Gas Sample Period;
 - (iv) either Gas Price Source ceases to be available to the DPA Counterparty on commercially reasonable terms;
 - (v) no Gas Reference Price is capable of being calculated pursuant to Condition 10.4(A) for a period of ten (10) consecutive days; or
 - (vi) the GRP Principles Request Criterion is met; and
- (B) may conduct a GRP Principles Review if it determines that the Gas Reference Price does not reflect the market price for the sale of gas delivered within Great Britain,

(each, a **"GRP Principles Review Trigger"**).

1.2 If the Generator considers that the calculation of the Gas Reference Price does not comply with all of the GRP Principles, the Generator may give a notice to the DPA Counterparty requesting the DPA Counterparty to undertake a GRP Principles Review (a **"GRP Principles Request Notice"**). A GRP Principles Request Notice:

- (A) shall specify which of the GRP Principles the Generator believes the calculation of the Gas Reference Price does not comply with;
- (B) may include proposals from the Generator with respect to the manner in which the non-compliance with the GRP Principles should be addressed (including any proposals regarding GRP Mechanism Amendments which the Generator considers should be effected); and
- (C) shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the matters in paragraphs (A) and (B).

1.3 For the purposes of paragraph 1.1(A)(vi), the **"GRP Principles Request Criterion"** is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have given the DPA Counterparty a GRP Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the GRP Principles Request Criterion is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have given a GRP Principles Request Notice as a percentage of the total number of DPA Generators; and

- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have given a GRP Principles Request Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Validity of GRP Principles Request Notices

- 1.4 The Generator acknowledges and agrees that all GRP Principles Request Notices shall be invalid and of no effect if the GRP Principles Request Criterion is not met.
- 1.5 The DPA Counterparty shall notify the Generator no later than ten (10) Business Days after the GRP Principles Request Criterion has been met (a "**GRP Principles Request Validity Notice**").

Purpose of Gas Price Principles Review

- 1.6 If the DPA Counterparty is required or elects to undertake a GRP Principles Review pursuant to paragraph 1.1, then the purpose of such GRP Principles Review shall be to assess the extent to which:
 - (A) the calculation of the Gas Reference Price in accordance with Condition 10.4 (*Gas Price calculation*) is compliant with the GRP Principles and, if the calculation of the Gas Reference Price in accordance with Condition 10.4 (*Gas Price calculation*) is not compliant with the GRP Principles, the changes to Condition 10.4 (*Gas Price calculation*) which the DPA Counterparty considers to be necessary to ensure compliance with all of the GRP Principles; and
 - (B) any of the following would ensure compliance with all of the GRP Principles:
 - (i) an amendment or supplement to, or replacement or removal of, the Gas Price Sources;
 - (ii) the application of any Business Day and non-Business Day price methodology used in the calculation of the Gas Reference Price; or
 - (iii) a change to the day-ahead methodology for calculating the Gas Reference Price, including any consequential changes to Condition 10 (*Variable Payment Calculation*) and this Annex 8 (*Gas Reference Price Review*) which are necessary to give effect to any of the foregoing,

(each such change, or any combination of such changes, a "**GRP Mechanism Amendment**").
- 1.7 If the DPA Counterparty considers that it is not possible to effect any GRP Mechanism Amendment in a manner which will be compliant with all of the GRP Principles, the DPA Counterparty shall assess which GRP Mechanism Amendment should be effected in order to comply with the greatest number of GRP Principles in accordance with the GRP Principles Prioritisation.

Notification of GRP Principles Review

- 1.8 If the DPA Counterparty is required or elects to undertake a GRP Principles Review pursuant to paragraph 1.1, the DPA Counterparty shall give a notice to the Generator (a "**GRP Principles Review Notice**") and, if the DPA Counterparty has been required to undertake a GRP Principles Review pursuant to paragraph 1.1(A)(iii), the DPA Counterparty shall give the

GRP Principles Review Notice no later than five (5) Business Days after such GRP Principles Review Trigger has occurred. A GRP Principles Review Notice shall:

- (A) specify the GRP Principles Review Trigger which has occurred; and
- (B) specify a deadline by which the Generator may provide a GRP Principles Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the GRP Principles Review Notice is received by the Generator (the **"GRP Principles Review Response Deadline"**).

1.9 The Generator may, as soon as reasonably practicable and not later than the GRP Principles Review Response Deadline, give a notice to the DPA Counterparty (the **"GRP Principles Review Response Notice"**). A GRP Principles Review Response Notice:

- (A) shall include all of the Supporting Information which the Generator wishes the DPA Counterparty to take account of in undertaking the GRP Principles Review; and
- (B) may include proposals from the Generator with respect to the manner in which the GRP Principles Review Trigger should be addressed (including any proposals regarding GRP Mechanism Amendments which the Generator considers should be effected).

1.10 The DPA Counterparty may disregard any GRP Principles Review Response Notice received by the DPA Counterparty after the GRP Principles Review Response Deadline.

Gas Price Sources during GRP Principles Review

1.11 From the date on which the GRP Principles Review Notice is given, the Gas Price Sources prior to the commencement of the relevant GRP Principles Review shall remain unamended pending the outcome of a GRP Principles Review.

Notification of outcome of GRP Principles Review

1.12 The DPA Counterparty shall give a notice to the Generator of the outcome of a GRP Principles Review (a **"GRP Principles Review Outcome Notice"**) as soon as reasonably practicable following the conclusion of a GRP Principles Review. A GRP Principles Review Outcome Notice shall:

- (A) set out the outcome of the GRP Principles Review (including the details of any GRP Mechanism Amendments which the DPA Counterparty proposes to effect) (the **"GRP Principles Review Proposals"**) and, if paragraph 1.7 applies:
 - (i) a summary of the reasons for the DPA Counterparty having determined that it is not possible to effect any GRP Mechanism Amendment in a manner which complies with all of the GRP Principles; and
 - (ii) the GRP Principles which the DPA Counterparty considers will be complied with by virtue of the GRP Mechanism Amendments being effected; and
- (B) specify the date from which any GRP Mechanism Amendments are to take effect, such date being:
 - (i) no earlier than three (3) Months after the date on which the GRP Principles Review Outcome Notice is given (or such other earlier date as may be agreed by the Parties); and

- (ii) in the case of GRP Mechanism Amendments relating to a GRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii), not before such splitting of the Great Britain gas market occurs,

(the "**GRP Principles Review Implementation Date**").

GRP Principles Review: Disputes

- 1.13 Paragraph 2 (*GRP Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 1 (*GRP Principles Reviews*).
- 1.14 Subject to paragraph 2.9, the GRP Mechanism Amendments set out in the GRP Principles Review Outcome Notice shall take effect on the GRP Principles Review Implementation Date.

2. GRP REVIEWS: DISPUTE PROCESS

Procedure for raising a Dispute

- 2.1 The Generator may, no later than twenty (20) Business Days after receipt of a GRP Principles Review Outcome Notice, give a notice to the DPA Counterparty that it wishes to raise a Dispute in relation to the outcome of such GRP Principles Review (a "**GRP Dispute Notice**" and any such Generator, a "**GRP Dispute Generator**"). Each GRP Dispute Notice shall comply with the requirements of a Dispute Notice as specified in Conditions 40.3(A) to 40.3(H) (*Outline of Dispute Resolution Procedure*) (inclusive).

Validity of GRP Dispute Notices

- 2.2 The Generator acknowledges and agrees that all GRP Dispute Notices shall be invalid and of no effect if the GRP Dispute Threshold Criterion in respect of the relevant GRP Dispute is not met.
- 2.3 The DPA Counterparty shall notify the Generator no later than twenty (20) Business Days after the GRP Dispute Threshold Criterion has been met (irrespective of whether or not the Generator is a GRP Dispute Generator) (a "**GRP Dispute Validity Notice**"). A GRP Dispute Validity Notice shall:
 - (A) include a proposal as to the identity, and terms of reference, of an Expert to determine the GRP Dispute (the "**Proposed GRP Expert**") and details of the relevant expertise that the DPA Counterparty considers qualifies the Proposed GRP Expert to determine such GRP Dispute (being a person fulfilling the requirements of Condition 42.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents the Proposed GRP Expert from determining the GRP Dispute);
 - (B) comply with the requirements of an Expert Determination Notice as specified in Condition 42.1 (*Expert Determination Procedure*); and
 - (C) comply with the requirements of a Consolidation Request as specified in Condition 44.2 (*Consolidation of Connected Disputes*).

Permitted bases of Dispute: GRP Principles Review

- 2.4 For the purposes of paragraph 2.1, the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any GRP Principles Review if:
 - (A) the DPA Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Generator requested the DPA Counterparty to take

account of in undertaking the GRP Principles Review (as set out in its GRP Principles Review Response Notice);

- (B) the DPA Counterparty has proposed to effect a GRP Mechanism Amendment which was stated in the GRP Principles Review Outcome Notice to be compliant with all of the GRP Principles and the Generator considers that such GRP Mechanism Amendment contravenes one (1) or more of the GRP Principles; or
- (C) the DPA Counterparty has proposed to effect a GRP Mechanism Amendment on the basis contemplated by paragraph 1.7 and the Generator considers that either:
 - (i) one (1) or more of the proposed GRP Mechanism Amendments contravenes one (1) of the GRP Principles which the DPA Counterparty considers would be complied with by virtue of such GRP Mechanism Amendment being effected; or
 - (ii) an alternative GRP Mechanism Amendment complies with a greater number of GRP Principles (in accordance with the GRP Principles Prioritisation) than the GRP Mechanism Amendments contained within the GRP Principles Review Proposals,

and any GRP Dispute Notice which is based upon grounds other than those specified in this paragraph 2.4 shall be invalid and of no effect.

Resolution of valid GRP Disputes

2.5 If:

- (A) the GRP Dispute Threshold Criterion is met in respect of any GRP Dispute; and
- (B) the relevant GRP Dispute complies with paragraph 2.4,

then such GRP Dispute shall be finally resolved in accordance with paragraph 2.6.

2.6 If paragraph 2.5 applies to any GRP Dispute:

- (A) Condition 41 (*Resolution by Senior Representatives*) shall not apply to such GRP Dispute;
- (B) no agreement between the Generator and the DPA Counterparty to settle the relevant GRP Dispute shall be valid and binding unless such resolution is agreed with all DPA Generators;
- (C) the Arbitration Procedure shall not apply to such GRP Dispute;
- (D) the Generator agrees not to raise any objection to the consolidation of such GRP Dispute in accordance with Condition 44 (*Consolidation of Connected Disputes*);
- (E) the Expert Determination Procedure shall apply to such GRP Dispute on the basis that:
 - (i) (if the GRP Expert Appointment Threshold is met) the DPA Counterparty shall be deemed to have satisfied the requirements of, and to have given an Expert Determination Notice pursuant to, Condition 42.1 (*Expert Determination Procedure*) and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed GRP Expert;
 - (ii) (if the GRP Expert Appointment Threshold is not met):

- (a) the DPA Counterparty may, within ten (10) Business Days, either:
 - (1) make an alternative proposal as to the identity of an Expert to determine the GRP Dispute, in which case paragraphs 2.3(A) and 2.6(E)(i), and this paragraph 2.6(E)(ii)(a)(1), shall apply to such proposed Expert as if that Expert were a Proposed GRP Expert; or
 - (2) request the LCIA to nominate an Expert for the purposes of determining the GRP Dispute in accordance with Condition 42.4 (*Expert Determination Procedure*); and
- (b) the terms of reference of the Proposed GRP Expert (or any Expert nominated by the LCIA pursuant to paragraph 2.6(E)(ii)(a)(2)) shall be determined by the DPA Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any Generator), and shall be binding on the Parties, provided that such terms of reference are sufficiently broad to enable the Expert to determine the GRP Dispute;
- (iii) if the DPA Counterparty and the DPA Generators fail to agree on the terms of appointment of the Expert within ten (10) Business Days of the identity of the Expert having been agreed (or deemed to have been agreed) pursuant to paragraph 2.6(E)(i) or having been nominated by the LCIA pursuant to paragraph 2.6(E)(ii)(a)(2), such terms shall be determined by the DPA Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any DPA Generator), and shall be binding on the Parties, provided that the terms of appointment comply with the requirements of paragraph 2.6(E)(iii) and Conditions 42.5(B) and 42.5(C) (*Expert Determination Procedure*);
- (iv) Condition 42.5 (*Expert Determination Procedure*) shall be deemed to have been modified such that the Parties shall use reasonable endeavours to procure that the terms of appointment of the Expert prohibit the Expert from disclosing any Supporting Information disclosed or delivered by:
 - (a) the Generator to the Expert in consequence of, or in respect of, their appointment as the Expert to any other DPA Generator or the DPA Counterparty; or
 - (b) the DPA Counterparty in consequence of, or in respect of, their appointment as the Expert to any DPA Generator (including the Generator);
- (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the GRP Dispute, to afford the Generator an opportunity to make submissions in respect of the GRP Dispute irrespective of whether or not the Generator is a GRP Dispute Generator;
- (vi) if the circumstances described in Condition 42.8 (*Expert Determination Procedure*) arise, paragraphs 2.3(A), 2.6(E)(i) and 2.6(E)(ii) shall apply, with the necessary modifications, to the appointment of a replacement Expert;
- (vii) for the purposes of Condition 42.12 (*Expert Determination Procedure*), the Expert shall be: (i) required to include in their determination provision for the allocation of their fees and the costs and expenses of the DPA Counterparty among each of the GRP Dispute Generators in such manner as the Expert, in

their absolute discretion, determines is fair and equitable if the Expert makes a determination against the GRP Dispute Generators; and (ii) permitted to allocate their fees and the costs and expenses of the DPA Counterparty in such manner as the Expert determines is fair and equitable if the Expert makes a determination in favour of the GRP Dispute Generators; and

- (viii) the Expert shall, notwithstanding any other provision of the Expert Determination Procedure, be instructed to reach a determination which is to be applied to all CCUS Programme DPAs; and
- (F) the Generator acknowledges and agrees that the determination of the Expert in any GRP Dispute shall be applied to all CCUS Programme DPAs, irrespective of whether the Generator was a party to the GRP Dispute giving rise to that determination;
- (G) if the GRP Dispute falls within paragraph 2.4(A), 2.4(B) or 2.4(C)(i), the Expert shall be instructed to determine whether the GRP Mechanism Amendments contravene the GRP Principles (or such of the GRP Principles as were specified by the DPA Counterparty as being complied with by virtue of the proposed implementation of the GRP Mechanism Amendments) and, if the Expert finds in favour of the Generator, to include within their determination: (i) a GRP Mechanism Amendment which will comply with all of the GRP Principles; or (ii) (if the Expert considers that it is not possible to effect any GRP Mechanism Amendment in a manner which will be compliant with all of the GRP Principles) the GRP Mechanism Amendment which will comply with the greatest number of GRP Principles in accordance with the GRP Principles Prioritisation;
- (H) if the GRP Dispute falls within paragraph 2.4(C)(ii), the Expert shall be instructed to determine whether the GRP Mechanism Amendments proposed by the Generator would result in compliance with a greater number of GRP Principles (in accordance with the GRP Principles Prioritisation) than the GRP Mechanism Amendments contained within the GRP Principles Review Proposals and, if the Expert finds in favour of the Generator, to stipulate the GRP Mechanism Amendments which will comply with the greatest number of GRP Principles in accordance with the GRP Principles Prioritisation;
- (I) notwithstanding paragraphs (F) and (G), the Expert shall not be permitted to include within their determination any alternative GRP Mechanism Amendments to those contained within the GRP Principles Review Proposals unless such proposals contravene one (1) or more principles and the Expert has determined that there is a GRP Mechanism Amendment which will comply with a greater number of GRP Principles (in accordance with the GRP Principles Prioritisation) than the GRP Principles Review Proposals and, as such, the Expert's role shall not extend to an assessment of whether the GRP Principles Review Proposals represent an optimal solution in the context of the parameters contemplated by the GRP Principles.

GRP Expert Appointment Threshold

2.7 For the purposes of paragraphs 2.6(E)(i) and 2.6(E)(ii), the **"GRP Expert Appointment Threshold"** is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed GRP Expert. For the purposes of determining whether the GRP Expert Appointment Threshold is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have consented or have been deemed to have consented to the Proposed GRP Expert as a percentage of the total number of DPA Generators; and

- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have consented or have been deemed to have consented to the Proposed GRP Expert are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Provisions applying pending resolution of a GRP Dispute

- 2.8 If there is a valid GRP Dispute requiring resolution in accordance with the provisions of paragraphs 2.5 to 2.7 then, pending resolution of such GRP Dispute, paragraph 2.9 shall apply.
- 2.9 If there is a valid GRP Dispute relating to a GRP Principles Review:
 - (A) the relevant GRP Principles Review Outcome Notice shall be deemed to be valid and effective and the GRP Principles Review Proposals shall apply with effect from the GRP Principles Review Implementation Date; and
 - (B) if the Expert finds in favour of the Generator, the GRP Mechanism Amendments provided for in the determination of such Expert shall be implemented on a date falling no earlier than three (3) Months after the date on which the Expert has made their determination.

GRP Dispute Threshold Criterion

- 2.10 For the purposes of this paragraph 2 (*GRP Reviews: Dispute Process*), the "**GRP Dispute Threshold Criterion**" is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have given the DPA Counterparty a GRP Dispute Notice in respect of any given GRP Dispute prior to the date specified in paragraph 2.1. For the purposes of determining whether the GRP Dispute Threshold Criterion is met, the DPA Counterparty shall calculate:
 - (A) the number of DPA Generators which have given a GRP Dispute Notice as a percentage of the total number of DPA Generators; and
 - (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have given a GRP Dispute Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Part C

GRP Principles

1. GRP PRINCIPLES

The following are the "**GRP Principles**":

- (A) Save in respect of a GRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii) of Part B, the calculation of the Gas Reference Price shall be the same for all CCUS Programme DPAs.
- (B) The calculation of the Gas Reference Price shall reflect the market price for the sale of gas within Great Britain or, in the event of a GRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii) of Part B, the relevant part of Great Britain.
- (C) The Gas Reference Price shall be calculated using prices in respect of contracts as far in advance of the delivery of gas pursuant to such contracts as possible, provided that, for this purpose, the Gas Reference Price calculation shall not include prices that are quoted further in advance than Gas GB Day Ahead Contracts.
- (D) The Gas Reference Price shall be calculated so as to reflect a reasonable volume of trades from a reasonable number and diverse range of market participants.
- (E) The Gas Reference Price shall be calculated so as not to unduly dampen, dilute, disrupt or otherwise distort components of the gas market in Great Britain that would, absent the existence of CCUS Programme DPAs, contribute to the operational behaviour of the gas market in Great Britain and the pricing thereof.
- (F) The Gas Reference Price shall be calculated using price sources which are available to the DPA Counterparty on commercially reasonable terms.
- (G) The Gas Reference Price calculation is to utilise price sources which satisfy the GRP Quality Criteria.
- (H) If a GRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii) of Part B occurs or has occurred, the Gas Reference Price calculation shall pay regard to the physical location of the Facility and the extent to which such physical location and constraints on the delivery of gas into the market thereby imposed may have on the price for the sale of its gas delivered within Great Britain or the relevant part of Great Britain.

2. PRIORITISATION OF GRP PRINCIPLES

If:

- (A) the application of any combination of the GRP Principles gives rise to a conflict; or
- (B) it is not possible for a methodology for calculating the Gas Reference Price to satisfy all of the GRP Principles,

the GRP Principle first appearing in the list in paragraph 1 (*GRP Principles*) shall be afforded priority.

Annex 9

Carbon Market Reference Price Review

1. DEFINITIONS: ANNEX 7

1.1 In this Annex 9 (*Carbon Market Reference Price Review*):

"10-TD UKA Sample Period" means a period of ten (10) consecutive CMRP Trading Days;

"Carbon Market Reference Price" has the meaning given to that term in Condition 10.7 (*Carbon Price calculation*);

"CMRP Dispute" means a Dispute in relation to the outcome of a CMRP Principles Review;

"CMRP Dispute Generator" has the meaning given to that term in paragraph 2.1 (*Procedure for raising a Dispute*) of Part A (*CMRP Review Procedures*);

"CMRP Dispute Notice" has the meaning given to that term in paragraph 2.1 (*Procedure for raising a Dispute*) of Part A (*CMRP Review Procedures*);

"CMRP Dispute Threshold Criterion" has the meaning given to that term in paragraph 2.10 (*CMRP Dispute Threshold Criterion*) of Part A (*CMRP Review Procedures*);

"CMRP Dispute Validity Notice" has the meaning given to that term in paragraph 2.3 (*Validity of CMRP Dispute Notices*) of Part A (*CMRP Review Procedures*);

"CMRP Expert Appointment Threshold" has the meaning given to that term in paragraph 2.7 (*CMRP Expert Appointment Threshold*) of Part A (*CMRP Review Procedures*);

"CMRP Mechanism Amendment" has the meaning given to that term in paragraph 1.6 (*Purpose of Carbon Price Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles" has the meaning given to that term in paragraph 1 (*CMRP Principles*) of Part B (*CMRP Principles*);

"CMRP Principles Prioritisation" means the prioritisation of the CMRP Principles provided for in paragraph 2 (*Prioritisation of CMRP Principles*) of Part B (*CMRP Principles*);

"CMRP Principles Request Criterion" has the meaning given to that term in paragraph 1.3 (*Requirement to undertake CMRP Principles Reviews*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Request Notice" has the meaning given to that term in paragraph 1.2 (*Requirement to undertake CMRP Principles Reviews*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Request Validity Notice" has the meaning given to that term in paragraph 1.5 (*Validity of CMRP Principles Request Notices*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review" means a review conducted by the DPA Counterparty pursuant to, and within the parameters specified in, paragraph 1 (*CMRP Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review Implementation Date" has the meaning given to that term in paragraph 1.12(B) (*Notification of outcome of CMRP Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review Notice" has the meaning given to that term in paragraph 1.8 (*Notification of CMRP Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review Outcome Notice" has the meaning given to that term in paragraph 1.12 (*Notification of outcome of CMRP Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review Proposals" has the meaning given to that term in paragraph 1.12(A) (*Notification of outcome of CMRP Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review Response Deadline" has the meaning given to that term in paragraph 1.8(B) (*Notification of CMRP Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review Response Notice" has the meaning given to that term in paragraph 1.9 (*Notification of CMRP Principles Review*) of Part A (*CMRP Review Procedures*);

"CMRP Principles Review Trigger" has the meaning given to that term in paragraph 1.1 (*Requirement to undertake CMRP Principles Reviews*) of Part A (*CMRP Review Procedures*);

"CMRP Quality Criteria" in respect of a price source, means the DPA Counterparty having determined that, as at the CMRP Principles Review Response Deadline:

- (A) the underlying data used to compile or prepare such price source:
 - (i) is subject to reasonable procedures to ensure its accuracy and completeness;
 - (ii) is subject to reasonable procedures to ensure its retention by the administrator for a period of at least two (2) years such that it is capable of audit; and
 - (iii) consists only of transaction data with values derived using defined procedures and methodologies;
- (B) the methodology used by the administrator to prepare and compile such price source:
 - (i) is appropriately documented;
 - (ii) may only be changed in accordance with documented change control procedures which provide adequate protection against conflicts of interest which exist or are reasonably likely to arise in connection with such methodology; and
- (C) the administrator of such price source and the submitters to such price source have effective organisational and administrative arrangements in place to identify and manage conflicts of interest and to protect commercial confidentiality,

and **"CMRP Quality Criterion"** shall be construed accordingly;

"CMRP Source" means the UKA Futures Index to be used in the calculation of the Carbon Market Reference Price, being the Initial CMRP Index or such other replacement or supplementary UKA Futures Index which is required to be so used as a result of the operation of the provisions of Part A (*CMRP Review Procedures*);

"CMRP Trading Day" means any Business Day;

"ICE Futures Europe Index" means the UKA Futures Index reported by ICE Futures Europe;

"Initial CMRP Index" means the ICE Futures Europe Index;

"Proposed CMRP Expert" has the meaning given to that term in paragraph 2.3(A) (*Validity of CMRP Dispute Notices*) of Part A (*CMRP Review Procedures*);

"UK Emissions Trading Registry" means the registry established pursuant to the UK Emissions Trading Scheme;

"UK Emissions Trading Scheme" means the emissions trading scheme in the UK established pursuant to The Greenhouse Gas Emissions Trading Scheme Order 2020;

"UK ETS Allowance" means an allowance created under the UK Emissions Trading Scheme;

"UKA Futures December Contract" means a futures contract which expires in December of the relevant year relating to the transfer of a fixed number of UK ETS Allowances for the relevant year (in which the Carbon Market Reference Price is calculated) between two or more accounts established under the UK Emissions Trading Registry;

"UKA Futures December Contract Trading Price" means the settlement price (*expressed in £/tCO₂e*) for a UKA Futures December Contract as reflected in a UKA Futures Index or UKA Futures Indices (as the context requires); and

"UKA Futures Index" means an index of UKA Futures December Contract Trading Prices or another source of UKA Futures December Contract Trading Prices and **"UKA Futures Indices"** shall be construed accordingly.

Part A
CMRP Review Procedures

1. CMRP PRINCIPLES REVIEW

Requirement to undertake CMRP Principles Reviews

1.1 The DPA Counterparty:

- (A) shall conduct a CMRP Principles Review if:
 - (i) the requirement for the CMRP Source to publish a UKA Futures December Contract Trading Price is materially amended, repealed or replaced;
 - (ii) the replacement, repeal or restructuring of the UK Emissions Trading Scheme has been proposed or effected by the relevant Competent Authority;
 - (iii) the number of UK ETS Allowances traded pursuant to UKA Futures December Contracts reflected in the CMRP Source is nil in any 10-TD Sample Period;
 - (iv) the CMRP Source ceases to be available to the DPA Counterparty on commercially reasonable terms;
 - (v) no Carbon Market Reference Price is capable of being calculated pursuant to Condition 10.7(A) for a period of ten (10) consecutive Business Days; or
 - (vi) the CMRP Principles Request Criterion is met; and
 - (B) may conduct a CMRP Principles Review if it determines that the Carbon Market Reference Price does not reflect the market price for the trading of UK ETS Allowances,
- (each, a **"CMRP Principles Review Trigger"**).

1.2 If the Generator considers that the calculation of the Carbon Market Reference Price does not comply with all of the CMRP Principles, the Generator may give a notice to the DPA Counterparty requesting the DPA Counterparty to undertake a CMRP Principles Review (a **"CMRP Principles Request Notice"**). A CMRP Principles Request Notice:

- (A) shall specify which of the CMRP Principles the Generator believes the calculation of the Carbon Market Reference Price does not comply with;
- (B) may include proposals from the Generator with respect to the manner in which the non-compliance with the CMRP Principles should be addressed (including any proposals regarding CMRP Mechanism Amendments which the Generator considers should be effected); and
- (C) shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the matters in paragraphs (A) and (B).

1.3 For the purposes of paragraph 1.1(A)(vi), the **"CMRP Principles Request Criterion"** is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have given the DPA Counterparty a CMRP Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the CMRP Principles Request Criterion is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have given a CMRP Principles Request Notice as a percentage of the total number of DPA Generators; and

- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have given a CMRP Principles Request Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Validity of CMRP Principles Request Notices

- 1.4 The Generator acknowledges and agrees that all CMRP Principles Request Notices shall be invalid and of no effect if the CMRP Principles Request Criterion is not met.
- 1.5 The DPA Counterparty shall notify the Generator no later than ten (10) Business Days after the CMRP Principles Request Criterion has been met (a "**CMRP Principles Request Validity Notice**").

Purpose of Carbon Price Principles Review

- 1.6 If the DPA Counterparty is required or elects to undertake a CMRP Principles Review pursuant to paragraph 1.1, then the purpose of such CMRP Principles Review shall be to assess the extent to which:
 - (A) the calculation of the Carbon Market Reference Price in accordance with Condition 10.7 (*Carbon Price calculation*) is compliant with the CMRP Principles and, if the calculation of the Carbon Market Reference Price in accordance with Condition 10.7 (*Carbon Price calculation*) is not compliant with the CMRP Principles, the changes to Condition 10.7 (*Carbon Price calculation*) which the DPA Counterparty considers to be necessary to ensure compliance with all of the CMRP Principles; and
 - (B) any of the following would ensure compliance with all of the CMRP Principles:
 - (i) an amendment or supplement to, or replacement or removal of, the CMRP Source;
 - (ii) the application of any weighting (whether by volume or number of trades) with respect to any price sources used in the calculation of the Carbon Market Reference Price; or
 - (iii) a change to the methodology for calculating the Carbon Market Reference Price, including any consequential changes to Condition 10.7 (*Carbon Price calculation*) and this Annex 9 (*Carbon Market Reference Price Review*) which are necessary to give effect to any of the foregoing,

(each such change, or any combination of such changes, a "**CMRP Mechanism Amendment**").
- 1.7 If the DPA Counterparty considers that it is not possible to effect any CMRP Mechanism Amendment in a manner which will be compliant with all of the CMRP Principles, the DPA Counterparty shall assess which CMRP Mechanism Amendment should be effected in order to comply with the greatest number of CMRP Principles in accordance with the CMRP Principles Prioritisation.

Notification of CMRP Principles Review

- 1.8 If the DPA Counterparty is required or elects to undertake a CMRP Principles Review pursuant to paragraph 1.1, the DPA Counterparty shall give a notice to the Generator (a "**CMRP Principles Review Notice**") and, if the DPA Counterparty has been required to undertake a

CMRP Principles Review pursuant to paragraph 1.1(A)(iii), the DPA Counterparty shall give the CMRP Principles Review Notice no later than five (5) Business Days after such CMRP Principles Review Trigger has occurred. A CMRP Principles Review Notice shall:

- (A) specify the CMRP Principles Review Trigger which has occurred; and
- (B) specify a deadline by which the Generator may provide a CMRP Principles Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the CMRP Principles Review Notice is received by the Generator (the **"CMRP Principles Review Response Deadline"**).

1.9 The Generator may, as soon as reasonably practicable and not later than the CMRP Principles Review Response Deadline, give a notice to the DPA Counterparty (the **"CMRP Principles Review Response Notice"**). A CMRP Principles Review Response Notice:

- (A) shall include all of the Supporting Information which the Generator wishes the DPA Counterparty to take account of in undertaking the CMRP Principles Review; and
- (B) may include proposals from the Generator with respect to the manner in which the CMRP Principles Review Trigger should be addressed (including any proposals regarding CMRP Mechanism Amendments which the Generator considers should be effected).

1.10 The DPA Counterparty may disregard any CMRP Principles Review Response Notice received by the DPA Counterparty after the CMRP Principles Review Response Deadline.

CMRP Source during CMRP Principles Review

1.11 From the date on which the CMRP Principles Review Notice is given, the CMRP Source prior to the commencement of the relevant CMRP Principles Review shall remain unamended pending the outcome of a CMRP Principles Review.

Notification of outcome of CMRP Principles Review

1.12 The DPA Counterparty shall give a notice to the Generator of the outcome of a CMRP Principles Review (a **"CMRP Principles Review Outcome Notice"**) as soon as reasonably practicable following the conclusion of a CMRP Principles Review. A CMRP Principles Review Outcome Notice shall:

- (A) set out the outcome of the CMRP Principles Review (including the details of any CMRP Mechanism Amendments which the DPA Counterparty proposes to effect) (the **"CMRP Principles Review Proposals"**) and, if paragraph 1.7 applies:
 - (i) a summary of the reasons for the DPA Counterparty having determined that it is not possible to effect any CMRP Mechanism Amendment in a manner which complies with all of the CMRP Principles; and
 - (ii) the CMRP Principles which the DPA Counterparty considers will be complied with by virtue of the CMRP Mechanism Amendments being effected; and
- (B) specify the date from which any CMRP Mechanism Amendments are to take effect, such date being:
 - (i) no earlier than three (3) Months after the date on which the CMRP Principles Review Outcome Notice is given (or such other earlier date as may be agreed by the Parties); and

- (ii) in the case of CMRP Mechanism Amendments relating to a CMRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii), not before such replacement or repeal of the UK Emissions Trading Scheme occurs,

(the "**CMRP Principles Review Implementation Date**").

CMRP Principles Review: Disputes

- 1.13 Paragraph 2 (*CMRP Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 1 (*CMRP Principles Review*).
- 1.14 Subject to paragraph 2.9, the CMRP Mechanism Amendments set out in the CMRP Principles Review Outcome Notice shall take effect on the CMRP Principles Review Implementation Date.

2. CMRP REVIEWS: DISPUTE PROCESS

Procedure for raising a Dispute

- 2.1 The Generator may, no later than twenty (20) Business Days after receipt of a CMRP Principles Review Outcome Notice, give a notice to the DPA Counterparty that it wishes to raise a Dispute in relation to the outcome of such CMRP Principles Review (a "**CMRP Dispute Notice**" and any such Generator, a "**CMRP Dispute Generator**"). Each CMRP Dispute Notice shall comply with the requirements of a Dispute Notice as specified in Conditions 40.3(A) to 40.3(H) (*Outline of Dispute Resolution Procedure*) (inclusive).

Validity of CMRP Dispute Notices

- 2.2 The Generator acknowledges and agrees that all CMRP Dispute Notices shall be invalid and of no effect if the CMRP Dispute Threshold Criterion in respect of the relevant CMRP Dispute is not met.
- 2.3 The DPA Counterparty shall notify the Generator no later than twenty (20) Business Days after the CMRP Dispute Threshold Criterion has been met (irrespective of whether or not the Generator is a CMRP Dispute Generator) (a "**CMRP Dispute Validity Notice**"). A CMRP Dispute Validity Notice shall:
 - (A) include a proposal as to the identity, and terms of reference, of an Expert to determine the CMRP Dispute (the "**Proposed CMRP Expert**") and details of the relevant expertise that the DPA Counterparty considers qualifies the Proposed CMRP Expert to determine such CMRP Dispute (being a person fulfilling the requirements of Condition 42.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents the Proposed CMRP Expert from determining the CMRP Dispute);
 - (B) comply with the requirements of an Expert Determination Notice as specified in Condition 42.1 (*Expert Determination Procedure*); and
 - (C) comply with the requirements of a Consolidation Request as specified in Condition 44.2 (*Consolidation of Connected Disputes*).

Permitted bases of Dispute: CMRP Principles Review

- 2.4 For the purposes of paragraph 2.1, the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any CMRP Principles Review if:
 - (A) the DPA Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Generator requested the DPA Counterparty to take

account of in undertaking the CMRP Principles Review (as set out in its CMRP Principles Review Response Notice);

- (B) the DPA Counterparty has proposed to effect a CMRP Mechanism Amendment which was stated in the CMRP Principles Review Outcome Notice to be compliant with all of the CMRP Principles and the Generator considers that such CMRP Mechanism Amendment contravenes one (1) or more of the CMRP Principles; or
- (C) the DPA Counterparty has proposed to effect a CMRP Mechanism Amendment on the basis contemplated by paragraph 1.7 and the Generator considers that either:
 - (i) one (1) or more of the proposed CMRP Mechanism Amendments contravenes one (1) of the CMRP Principles which the DPA Counterparty considers would be complied with by virtue of such CMRP Mechanism Amendment being effected; or
 - (ii) an alternative CMRP Mechanism Amendment complies with a greater number of CMRP Principles (in accordance with the CMRP Principles Prioritisation) than the CMRP Mechanism Amendments contained within the CMRP Principles Review Proposals,

and any CMRP Dispute Notice which is based upon grounds other than those specified in this paragraph 2.4 shall be invalid and of no effect.

Resolution of valid CMRP Disputes

2.5 If:

- (A) the CMRP Dispute Threshold Criterion is met in respect of any CMRP Dispute; and
- (B) the relevant CMRP Dispute complies with paragraph 2.4,

then such CMRP Dispute shall be finally resolved in accordance with paragraph 2.6.

2.6 If paragraph 2.5 applies to any CMRP Dispute:

- (A) Condition 41 (*Resolution by Senior Representatives*) shall not apply to such CMRP Dispute;
- (B) no agreement between the Generator and the DPA Counterparty to settle the relevant CMRP Dispute shall be valid and binding unless such resolution is agreed with all DPA Generators;
- (C) the Arbitration Procedure shall not apply to such CMRP Dispute;
- (D) the Generator agrees not to raise any objection to the consolidation of such CMRP Dispute in accordance with Condition 44 (*Consolidation of Connected Disputes*);
- (E) the Expert Determination Procedure shall apply to such CMRP Dispute on the basis that:
 - (i) (if the CMRP Expert Appointment Threshold is met) the DPA Counterparty shall be deemed to have satisfied the requirements of, and to have given an Expert Determination Notice pursuant to, Condition 42.1 (*Expert Determination Procedure*) and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed CMRP Expert;

- (ii) (if the CMRP Expert Appointment Threshold is not met):
 - (a) the DPA Counterparty may, within ten (10) Business Days, either:
 - (1) make an alternative proposal as to the identity of an Expert to determine the CMRP Dispute, in which case paragraphs 2.3(A) and 2.6(E)(i), and this paragraph 2.6(E)(ii)(a)(1), shall apply to such proposed Expert as if that Expert were a Proposed CMRP Expert; or
 - (2) request the LCIA to nominate an Expert for the purposes of determining the CMRP Dispute in accordance with Condition 42.4 (*Expert Determination Procedure*); and
 - (b) the terms of reference of the Proposed CMRP Expert (or any Expert nominated by the LCIA pursuant to paragraph 2.6(E)(ii)(a)(2)) shall be determined by the DPA Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any DPA Generator), and shall be binding on the Parties, provided that such terms of reference are sufficiently broad to enable the Expert to determine the CMRP Dispute;
- (iii) if the DPA Counterparty and the DPA Generators fail to agree on the terms of appointment of the Expert within ten (10) Business Days of the identity of the Expert having been agreed (or deemed to have been agreed) pursuant to paragraph 2.6(E)(i) or having been nominated by the LCIA pursuant to paragraph 2.6(E)(ii)(a)(2), such terms shall be determined by the DPA Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any DPA Generator), and shall be binding on the Parties, provided that the terms of appointment comply with the requirements of paragraph 2.6(E)(iii) and Conditions 42.5(B) and 42.5(C) (*Expert Determination Procedure*);
- (iv) Condition 41.5 (*Expert Determination Procedure*) shall be deemed to have been modified such that the Parties shall use reasonable endeavours to procure that the terms of appointment of the Expert prohibit the Expert from disclosing any Supporting Information disclosed or delivered by:
 - (a) the Generator to the Expert in consequence of, or in respect of, their appointment as the Expert to any other DPA Generator or the DPA Counterparty; or
 - (b) the DPA Counterparty in consequence of, or in respect of, their appointment as the Expert to any DPA Generator (including the Generator);
- (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the CMRP Dispute, to afford the Generator an opportunity to make submissions in respect of the CMRP Dispute irrespective of whether or not the Generator is a CMRP Dispute Generator;
- (vi) if the circumstances described in Condition 42.8 (*Expert Determination Procedure*) arise, paragraphs 2.3(A), 2.6(E)(i) and 2.6(E)(ii) shall apply, with the necessary modifications, to the appointment of a replacement Expert;

- (vii) for the purposes of Condition 42.12 (*Expert Determination Procedure*), the Expert shall be: (i) required to include in their determination provision for the allocation of their fees and the costs and expenses of the DPA Counterparty among each of the CMRP Dispute Generators in such manner as the Expert, in their absolute discretion, determines is fair and equitable if the Expert makes a determination against the CMRP Dispute Generators; and (ii) permitted to allocate their fees and the costs and expenses of the DPA Counterparty in such manner as the Expert determines is fair and equitable if the Expert makes a determination in favour of the CMRP Dispute Generators; and
- (viii) the Expert shall, notwithstanding any other provision of the Expert Determination Procedure, be instructed to reach a determination which is to be applied to all CCUS Programme DPAs;
- (F) the Generator acknowledges and agrees that the determination of the Expert in any CMRP Dispute shall be applied to all CCUS Programme DPAs, irrespective of whether the Generator was a party to the CMRP Dispute giving rise to that determination;
- (G) if the CMRP Dispute falls within paragraph 2.4(A), 2.4(B) or 2.4(C)(i), the Expert shall be instructed to determine whether the CMRP Mechanism Amendments contravene the CMRP Principles (or such of the CMRP Principles as were specified by the DPA Counterparty as being complied with by virtue of the proposed implementation of the CMRP Mechanism Amendments) and, if the Expert finds in favour of the Generator, to include within their determination: (i) a CMRP Mechanism Amendment which will comply with all of the CMRP Principles; or (ii) (if the Expert considers that it is not possible to effect any CMRP Mechanism Amendment in a manner which will be compliant with all of the CMRP Principles) the CMRP Mechanism Amendment which will comply with the greatest number of CMRP Principles in accordance with the CMRP Principles Prioritisation;
- (H) if the CMRP Dispute falls within paragraph 2.4(C)(ii), the Expert shall be instructed to determine whether the CMRP Mechanism Amendments proposed by the Generator would result in compliance with a greater number of CMRP Principles (in accordance with the CMRP Principles Prioritisation) than the CMRP Mechanism Amendments contained within the CMRP Principles Review Proposals and, if the Expert finds in favour of the Generator, to stipulate the CMRP Mechanism Amendments which will comply with the greatest number of CMRP Principles in accordance with the CMRP Principles Prioritisation; and
- (I) notwithstanding paragraphs (F) and (G), the Expert shall not be permitted to include within their determination any alternative CMRP Mechanism Amendments to those contained within the CMRP Principles Review Proposals unless such proposals contravene one (1) or more principles and the Expert has determined that there is a CMRP Mechanism Amendment which will comply with a greater number of CMRP Principles (in accordance with the CMRP Principles Prioritisation) than the CMRP Principles Review Proposals and, as such, the Expert's role shall not extend to an assessment of whether the CMRP Principles Review Proposals represent an optimal solution in the context of the parameters contemplated by the CMRP Principles.

CMRP Expert Appointment Threshold

- 2.7 For the purposes of paragraphs 2.6(E)(i) and 2.6(E)(ii), the **"CMRP Expert Appointment Threshold"** is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed CMRP Expert. For the purposes of determining whether the CMRP Expert Appointment Threshold is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have consented or have been deemed to have consented to the Proposed CMRP Expert as a percentage of the total number of DPA Generators; and
- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have consented or have been deemed to have consented to the Proposed CMRP Expert are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Provisions applying pending resolution of a CMRP Dispute

- 2.8 If there is a valid CMRP Dispute requiring resolution in accordance with the provisions of paragraphs 2.5 to 2.7 then, pending resolution of such CMRP Dispute, paragraph 2.9 shall apply.
- 2.9 If there is a valid CMRP Dispute relating to a CMRP Principles Review:
 - (A) the relevant CMRP Principles Review Outcome Notice shall be deemed to be valid and effective and the CMRP Principles Review Proposals shall apply with effect from the CMRP Principles Review Implementation Date; and
 - (B) if the Expert finds in favour of the Generator, the CMRP Mechanism Amendments provided for in the determination of such Expert shall be implemented on a date falling no earlier than three (3) Months after the date on which the Expert has made their determination.

CMRP Dispute Threshold Criterion

- 2.10 For the purposes of this paragraph 2 (*CMRP Reviews: Dispute Process*), the "**CMRP Dispute Threshold Criterion**" is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have given the DPA Counterparty a CMRP Dispute Notice in respect of any given CMRP Dispute prior to the date specified in paragraph 2.1. For the purposes of determining whether the CMRP Dispute Threshold Criterion is met, the DPA Counterparty shall calculate:
 - (A) the number of DPA Generators which have given a CMRP Dispute Notice as a percentage of the total number of DPA Generators; and
 - (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have given a CMRP Dispute Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Part B

CMRP Principles

1. CMRP PRINCIPLES

The following are the "**CMRP Principles**":

- (A) Save in respect of a CMRP Principles Review Trigger pursuant to paragraph 1.1(A)(ii) of Part A (*CMRP Principles Review*), where the replacement, repeal or restructuring of the UK Emissions Trading Scheme has led to the introduction of separate emissions trading, carbon pricing or similar schemes within the separate constituent countries of the United Kingdom, the calculation of the Carbon Market Reference Price shall:
 - (i) be the same for all CCUS Programme DPAs; and
 - (ii) reflect the market price for the sale of UK ETS Allowances.
- (B) The Carbon Market Reference Price shall be calculated using prices in respect of contracts as far in advance of the sale of UK ETS Allowances pursuant to such contracts as possible, provided that, for this purpose, the Carbon Market Reference Price calculation shall not include prices that are quoted further in advance than UKA Futures December Contracts.
- (C) The Carbon Market Reference Price shall be calculated so as to reflect a reasonable volume of trades from a reasonable number and diverse range of market participants.
- (D) The Carbon Market Reference Price shall be calculated so as not to unduly dampen, dilute, disrupt or otherwise distort components of the UK Emissions Trading Scheme that would, absent the existence of CCUS Programme DPAs, contribute to the operational behaviour of participants in, and the pricing of UK ETS Allowances under, such scheme.
- (E) The Carbon Market Reference Price shall be calculated using price sources which are available to the DPA Counterparty on commercially reasonable terms.
- (F) The Carbon Market Reference Price calculation is to utilise price sources which satisfy the CMRP Quality Criteria.

2. PRIORITISATION OF CMRP PRINCIPLES

If:

- (A) the application of any combination of the CMRP Principles gives rise to a conflict; or
- (B) it is not possible for a methodology for calculating the Carbon Market Reference Price to satisfy all of the CMRP Principles,

the CMRP Principle first appearing in the list in paragraph 1 (*CMRP Principles*) shall be afforded priority.

Annex 10 Reference Plant Review

1. DEFINITIONS: ANNEX 8

1.1 In this Annex 10 (*Reference Plant Review*):

"Acceptable Grounds of Objection" has the meaning given to that term in paragraph 1.6 (*Proposed Energy Consultant and Proposed Terms of Reference*) of Part A (*Reference Plant Review Procedures*);

"Base Performance Assumptions Adjustments" has the meaning given to that term in paragraph 1.15 (*Notification of outcome of Reference Plant Criteria Review*) of Part A (*Reference Plant Review Procedures*);

"Energy Consultant" means any person who meets the Energy Consultant Appointment Criteria and who is appointed to conduct a Reference Plant Criteria Review in accordance with the Reference Plant Criteria Review Procedure;

"Energy Consultant Appointment Criteria" means a person or firm who is:

- (A) an internationally recognised, leading energy consultant experienced in advising clients in the UK electricity generation sector including in relation to the design, engineering, procurement and construction of Plants; and
- (B) not an Affiliate of either Party or any other DPA Generator;

"Energy Consultant Appointment Threshold" has the meaning given to that term in paragraph 1.8 (*Energy Consultant Appointment Threshold*) of Part A (*Reference Plant Review Procedures*);

"Energy Consultant Information Request" has the meaning given to that term in paragraph 1.13 (*Energy Consultant Information Request*) of Part A (*Reference Plant Review Procedures*);

"Energy Consultant Minimum Criteria" has the meaning given to that term in paragraph 1.5 (*Proposed Energy Consultant and Proposed Terms of Reference*) of Part A (*Reference Plant Review Procedures*);

"Generator Objection Notice" has the meaning given to that term in paragraph 1.6 (*Proposed Energy Consultant and Proposed Terms of Reference*) of Part A (*Reference Plant Review Procedures*);

"Initial Reference Plant" means a Plant with the Initial Base Performance Assumptions;

"Minimum Terms of Reference Requirements" means that the Proposed Energy Consultant is required to:

- (A) conduct a Reference Plant Criteria Review;
- (B) commence the Reference Plant Criteria Review on the Reference Plant Criteria Review Commencement Date;
- (C) produce and deliver a Reference Plant Criteria Review Report no later than 01 November (or, if such date is not a Business Day, the first (1st) Business Day thereafter), to the DPA Counterparty; and

- (D) consent to the DPA Counterparty disclosing each Reference Plant Criteria Review Report to all DPA Generators;

"Plant" means an unabated electricity generation from fossil gaseous and liquid fuels facility capable of generating and metering electricity;

"Proposed Energy Consultant" means the Energy Consultant notified by the DPA Counterparty to the Generator in accordance with paragraph 1.5 (*Proposed Energy Consultant and Proposed Terms of Reference*) of Part A (*Reference Plant Review Procedures*);

"Proposed Energy Consultant Deadline" has the meaning given to that term in paragraph 1.5 (*Proposed Energy Consultant and Proposed Terms of Reference*) of Part A (*Reference Plant Review Procedures*);

"Proposed Energy Consultant Determination Notice" has the meaning given to that term in paragraph 1.5 (*Proposed Energy Consultant and Proposed Terms of Reference*) of Part A (*Reference Plant Review Procedures*);

"Proposed Reference Plant Expert" has the meaning given to that term in paragraph 3.3(A) (*Validity of Reference Plant Dispute Notices*) of Part A (*Reference Plant Review Procedures*);

"Proposed Terms of Reference" means the terms of reference for the Proposed Energy Consultant notified by the DPA Counterparty to the Generator in accordance with paragraph 1.5 (*Proposed Energy Consultant and Proposed Terms of Reference*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant" means the Initial Reference Plant or such other replacement Plant which becomes the new Reference Plant as result of the operation of the provisions of Part A (*Reference Plant Review Procedures*);

"Reference Plant Criteria" means the Plant with the highest lower heating value (LHV) efficiency on the Great Britain electricity system at the time of each Reference Plant Criteria Review based on the Reference Plant Criteria Methodology;

"Reference Plant Criteria Methodology" means the following methodology that the Energy Consultant shall apply in order to determine the Reference Plant in accordance with the Reference Plant Criteria for each Reference Plant Criteria Review:

- (A) define a standard set of reference site conditions in order to determine the Reference Plant ("**Reference Plant Site Conditions**");
- (B) review Industry Documents and industry publications in order to determine the technical detail of Plants on the Great Britain electricity system, including (but not limited to):
 - (i) gas turbine model;
 - (ii) plant configuration;
 - (iii) cycle design parameters; and
 - (iv) cooling system design;
- (C) review industry publications, and/or use an industry recognised thermal performance modelling software, in order to determine a Plant's expected technology design basis plant performance level for normal full load operation (including plant net efficiency) under new and clean conditions;

- (D) develop an independent thermal performance model for a Plant using industry recognised thermal performance modelling software for verification of expected plant performance level for normal full load operation at design basis conditions with consideration of previous details identified under (B) and (C) above and appropriate technical assumptions, and subsequent off-design adjustment to the plant performance to account for operation at Reference Plant Site Conditions under new and clean conditions; and
- (E) determine the equivalent Base Performance Assumptions which correspond to a Plant's performance at Reference Plant Site Conditions under new and clean conditions as determined pursuant to limb (D);

"Reference Plant Criteria Review" means a review of the Reference Plant conducted by an Energy Consultant pursuant to, and within the parameters specified in, paragraph 1 (*Reference Plant Criteria Reviews*) of Part A (*Reference Plant Review Procedures*) in order to determine:

- (A) whether the Reference Plant meets the Reference Plant Criteria; and
- (B) where the Reference Plant does not meet the Reference Plant Criteria:
 - (i) the identity of the replacement Reference Plant; and
 - (ii) the changes required to the Base Performance Assumptions used in CCUS Programme DPAs to reflect the replacement Reference Plant;

"Reference Plant Criteria Review Commencement Date" means 01 August (or, if such date is not a Business Day, the first (1st) Business Day thereafter);

"Reference Plant Criteria Review Dispute" means a Dispute in relation to the outcome of a Reference Plant Criteria Review;

"Reference Plant Criteria Review Dispute Notice" has the meaning given to that term in paragraph 2.1(A) (*Procedure for raising a Dispute*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Criteria Review Implementation Date" has the meaning given to that term in paragraph 1.15 (*Notification of outcome of Reference Plant Criteria Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Criteria Review Outcome Notice" has the meaning given to that term in paragraph 1.15 (*Notification of outcome of Reference Plant Criteria Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Criteria Review Procedure" means the rules, obligations and procedures set out in paragraph 1 (*Reference Plant Criteria Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Criteria Review Report" means the report prepared by the Energy Consultant referred to in paragraph 1.14 (*Energy Consultant's Reference Plant Criteria Review Report*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Criteria Review Year" means each calendar year during the Term in which a Reference Plant Criteria Review will be conducted, provided that:

- (A) the first calendar year in which a Reference Plant Criteria Review shall be conducted shall be the year 2029; and

- (B) each subsequent calendar year(s) in which a Reference Plant Criteria Review(s) shall be conducted shall be determined in accordance with paragraph 1.3 (*Reference Plant Criteria Review Years*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Dispute" means a Reference Plant Criteria Review Dispute or a Reference Plant Principles Review Dispute;

"Reference Plant Dispute Generator" has the meaning given to that term in paragraph 3.1 (*Procedure for raising a Dispute*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Dispute Notice" has the meaning given to that term in paragraph 3.1 (*Procedure for raising a Dispute*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Dispute Threshold Criterion" has the meaning given to that term in paragraph 3.14 (*Reference Plant Dispute Threshold Criterion*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Dispute Validity Notice" has the meaning given to that term in paragraph 3.3 (*Validity of Reference Plant Dispute Notices*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Expert Appointment Threshold" has the meaning given to that term in paragraph 3.10 (*Reference Plant Expert Appointment Threshold*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Mechanism Amendment" has the meaning given to that term in paragraph 2.6 (*Purpose of Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles" means the principles set out in paragraph 1 (*Reference Plant Principles*) of Part B (*Reference Plant Principles*);

"Reference Plant Principles Prioritisation" means the prioritisation of the Reference Plant Principles provided for in paragraph 2 (*Prioritisation of Reference Plant Principles*) of Part B (*Reference Plant Principles*);

"Reference Plant Principles Request Criterion" has the meaning given to that term in paragraph 2.3 (*Requirement to undertake Reference Plant Principles Reviews*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Request Notice" has the meaning given to that term in paragraph 2.2 (*Requirement to undertake Reference Plant Principles Reviews*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Request Validity Notice" has the meaning given to that term in paragraph 2.5 (*Validity of Reference Plant Principles Request Notices*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review" means a review conducted by the DPA Counterparty pursuant to, and within the parameters specified in, paragraph 2 (*Reference Plant Principles Reviews*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Dispute" means a Dispute in relation to the outcome of a Reference Plant Principles Review;

"Reference Plant Principles Review Dispute Notice" has the meaning given to that term in paragraph 3.1(B) (*Procedure for raising a Dispute*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Implementation Date" has the meaning given to that term in paragraph 2.12(B) (*Notification of outcome of Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Notice" has the meaning given to that term in paragraph 2.8 (*Notification of Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Outcome Notice" has the meaning given to that term in paragraph 2.12 (*Notification of outcome of Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Proposals" has the meaning given to that term in paragraph 2.12(A) (*Notification of outcome of Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Response Deadline" has the meaning given to that term in paragraph 2.8(B) (*Notification of Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Response Notice" has the meaning given to that term in paragraph 2.9 (*Notification of Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*);

"Reference Plant Principles Review Trigger" has the meaning given to that term in paragraph 2.1 (*Requirement to undertake Reference Plant Principles Reviews*) of Part A (*Reference Plant Review Procedures*); and

"Reference Plant Review" means a Reference Plant Criteria Review or a Reference Plant Principles Review (as the context requires) and **"Reference Plant Reviews"** shall be construed accordingly.

Part A
Reference Plant Review Procedures

1. REFERENCE PLANT CRITERIA REVIEWS

Reference Plant Criteria Review Years

- 1.1 Subject to paragraphs 1.2, 1.3, and 1.4, the DPA Counterparty shall procure that an Energy Consultant conducts a Reference Plant Criteria Review in each Reference Plant Criteria Review Year in accordance with the provisions of this paragraph 1.
- 1.2 The DPA Counterparty shall not be required to procure that an Energy Consultant conducts a Reference Plant Criteria Review before 1 August 2029.
- 1.3 Subject to paragraph 1.4, if a Reference Plant Criteria Review Outcome Notice specifies:
 - (A) that no change should be made to the Reference Plant and the Base Performance Assumptions, the next Reference Plant Criteria Review Year shall be the year immediately following the year in which the Reference Plant Criteria Review that has been completed has been conducted; or
 - (B) that a change should be made to the Reference Plant and the Base Performance Assumptions, the DPA Counterparty shall be required to procure that an Energy Consultant conducts a Reference Plant Criteria Review five (5) years from the year in which the Reference Plant Criteria Review that has been completed has been conducted.
- 1.4 The DPA Counterparty shall not be required to conduct a Reference Plant Criteria Review pursuant to paragraph 1.1 if, as at the Reference Plant Criteria Review Commencement Date, a Reference Plant Principles Review is being conducted.

Proposed Energy Consultant and Proposed Terms of Reference

- 1.5 The DPA Counterparty shall notify the Generator in writing (a **"Proposed Energy Consultant Determination Notice"**) of:
 - (A) the identity of the Proposed Energy Consultant; and
 - (B) the Proposed Terms of Reference,

for each Reference Plant Criteria Review no later than 01 February (or, if such date is not a Business Day, the first (1st) Business Day thereafter) in each Reference Plant Criteria Review Year (the **"Proposed Energy Consultant Deadline"**). Each Proposed Energy Consultant Determination Notice shall contain reasonable details in order to demonstrate that the Proposed Energy Consultant meets the Energy Consultant Appointment Criteria and that the Proposed Terms of Reference are materially consistent with the Minimum Terms of Reference Requirements (the **"Energy Consultant Minimum Criteria"**).
- 1.6 The Generator may, no later than twenty (20) Business Days following the receipt of the Proposed Energy Consultant Determination Notice, notify the DPA Counterparty in writing that it objects to the appointment of the Proposed Energy Consultant (**"Generator Objection Notice"**), where it considers (acting reasonably) that one (1) or more of the Energy Consultant Minimum Criteria are not satisfied (the **"Acceptable Grounds of Objection"**). A Generator Objection Notice shall include all Supporting Information in relation to the matters specified therein.
- 1.7 The Generator acknowledges and agrees that:

- (A) it may only submit a Generator Objection Notice on the basis of the Acceptable Grounds of Objection; and
- (B) a Generator Objection Notice which objects to the appointment of the Proposed Energy Consultant on any other grounds shall be invalid and of no effect.

Energy Consultant Appointment Threshold

- 1.8 For the purposes of paragraphs 1.9 and 1.10, the **"Energy Consultant Appointment Threshold"** is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have consented, or have been deemed to have consented by not submitting a valid objection in writing within the period referred to in paragraph 1.6 above, to the Proposed Energy Consultant and the Proposed Terms of Reference. For the purposes of determining whether the Energy Consultant Appointment Threshold is met, the DPA Counterparty shall calculate:
- (A) the number of DPA Generators which have consented or have been deemed to have consented to the Proposed Energy Consultant and the Proposed Terms of Reference as a percentage of the total DPA Generators; and
 - (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have consented or have been deemed to have consented to the Proposed Energy Consultant and the Proposed Terms of Reference are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, **"volume"** shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each CCUS Programme DPA).
- 1.9 If the Energy Consultant Appointment Threshold is met, the Energy Consultant Minimum Criteria shall be deemed to have been satisfied and paragraph 1.12 shall apply.
- 1.10 If the Energy Consultant Appointment Threshold is not met, the DPA Counterparty shall, within twenty (20) Business Days of the expiry of the period referred to in paragraph 1.6 above, either:
- (A) make an alternative proposal in relation to the Proposed Energy Consultant and/or the Proposed Terms of Reference; or
 - (B) (1) request the LCIA to nominate an alternative Proposed Energy Consultant and/or alternative Proposed Terms of Reference; and (2) following such nomination by the LCIA, the DPA Counterparty shall make such alternative proposal to the Generator,
- following which, in either case, paragraphs 1.5 to 1.11 shall apply to such alternative proposal.
- 1.11 The DPA Counterparty shall notify the Generator no later than ten (10) Business Days after the Energy Consultant Appointment Threshold is met.

Appointment of Energy Consultant

- 1.12 Where paragraph 1.9 applies, the DPA Counterparty shall no later than sixty (60) days prior to the Reference Plant Criteria Review Commencement Date, or where there is a Dispute in relation to the appointment of the Proposed Energy Consultant as soon as reasonably practicable:
- (A) at its own cost and expense, appoint the Proposed Energy Consultant as the Energy Consultant to conduct the Reference Plant Criteria Review based on the Proposed Terms of Reference;
 - (B) use reasonable endeavours to procure that:

- (i) the Energy Consultant confirms in writing to the DPA Counterparty that:
 - (a) it is willing and available to conduct the Reference Plant Criteria Review; and
 - (b) it has no conflict of interest which prevents it from conducting the Reference Plant Criteria Review;
- (ii) the terms of appointment and the terms of reference of the Energy Consultant include:
 - (a) an undertaking that the Energy Consultant shall not disclose any Supporting Information disclosed or delivered by: (i) the Generator to the Energy Consultant in consequence of, or in respect of, its appointment as the Energy Consultant to any other DPA Generator; and (ii) the DPA Counterparty to the Energy Consultant in consequence of, or in respect of, its appointment as the Energy Consultant to any DPA Generator other than the Generator; and
 - (b) to exempt the Energy Consultant (and any employee, agent or adviser of or to the Energy Consultant) from liability for anything done or omitted in the discharge or purported discharge of the Energy Consultant's functions, unless such act or omission is fraudulent or in bad faith;
- (C) instruct the Energy Consultant:
 - (i) to act fairly and impartially;
 - (ii) to produce and deliver the Reference Plant Criteria Review Report;
 - (iii) to use its professional judgement, discretion and experience in making its determination;
 - (iv) to reach a determination which is to be applied to all CCUS Programme DPAs; and
 - (v) to determine whether the Reference Plant meets the Reference Plant Criteria and, if not, determine the change to the Reference Plant (if any) and the consequential change(s) (if any) that will need to be made to the Base Performance Assumptions used in CCUS Programme DPAs, as the Energy Consultant considers appropriate, to reflect the change to the Reference Plant; and
- (D) provide the Energy Consultant with all Supporting Information and assistance that the Energy Consultant reasonably requires to undertake the Reference Plant Criteria Review (and if the DPA Counterparty fails to provide any such Supporting Information or assistance, the Energy Consultant shall continue to undertake the Reference Plant Criteria Review without that Supporting Information or assistance).

Energy Consultant Information Request

- 1.13 For the purposes of a Reference Plant Criteria Review, the Energy Consultant shall be entitled to request that the Parties provide such Supporting Information relating to the Reference Plant Criteria Review (an "**Energy Consultant Information Request**") as the Energy Consultant reasonably requires, and if the Energy Consultant delivers an Energy Consultant Information Request to one (1) or more Parties, the Parties shall, not later than ten (10) Business Days

after receipt of the request, or such longer period as is specified by the Energy Consultant, prepare and deliver such Supporting Information to the Energy Consultant.

Energy Consultant's Reference Plant Criteria Review Report

- 1.14 Each Reference Plant Criteria Review Report shall be a document comprising at least the following:
- (A) a summary of the report's contents;
 - (B) the following statements:
 - (i) confirmation that the Energy Consultant is not an Affiliate of either Party or any other DPA Generator;
 - (ii) confirmation that the Energy Consultant has acted in the capacity of an independent professional in undertaking the Reference Plant Criteria Review and producing the Reference Plant Criteria Review Report; and
 - (iii) any reasons that the Energy Consultant wishes to give for considering that it is independent of both Parties and any other DPA Generator;
 - (C) the determination of the Energy Consultant as to whether the Reference Plant:
 - (i) meets the Reference Plant Criteria; or
 - (ii) does not meet the Reference Plant Criteria, with a summary of the reasons for the Energy Consultant having reached such conclusion, and either:
 - (a) details relating to the change(s) to the Reference Plant (if any) and the consequential change(s) (if any) that will need to be made to the Base Performance Assumptions used in CCUS Programme DPAs, as the Energy Consultant considers appropriate, to reflect change to the Reference Plant; or
 - (b) a statement that the Energy Consultant has determined that no Plant meets the Reference Plant Criteria;
 - (D) a section setting out:
 - (i) any assumptions made by the Energy Consultant in making its determination in respect of the Reference Plant Criteria Review Report;
 - (ii) the professional rules or standards which apply to the Energy Consultant;
 - (iii) the curriculum vitae of the key personnel who have prepared the Reference Plant Criteria Review Report and/or any other details of the Energy Consultant's qualifications and experience that it wishes to provide; and
 - (iv) any other fact-based evidence as the Energy Consultant in its professional judgement, opinion and experience determines is relevant.

Notification of outcome of Reference Plant Criteria Review

- 1.15 The DPA Counterparty shall, no later than 01 December (or, if such date is not a Business Day, the first (1st) Business Day thereafter) in the relevant Reference Plant Criteria Review Year, notify the Generator of the outcome of the Reference Plant Criteria Review (a

"Reference Plant Criteria Review Outcome Notice"). Each Reference Plant Criteria Review Outcome Notice shall:

- (A) set out whether the Reference Plant, pursuant to the Reference Plant Criteria Review and based on the Reference Plant Criteria Review Report:
 - (i) meets the Reference Plant Criteria; or
 - (ii) does not meet the Reference Plant Criteria, with a summary of the reasons for such determination having been made, and setting out either:
 - (a) subject to paragraph 1.18, the change to the Reference Plant with:
 - (1) the consequential change(s) that will be made to the Base Performance Assumptions used in CCUS Programme DPAs to reflect the change to the Reference Plant (the **"Base Performance Assumptions Adjustments"**); and
 - (2) the date on which the Base Performance Assumptions Adjustments will take effect and will be utilised to calculate the Variable Payment Rate, such date being 01 January in the year immediately following the relevant Reference Plant Criteria Review Commencement Date (a **"Reference Plant Criteria Review Implementation Date"**); or
 - (b) that the DPA Counterparty has determined that no Plant meets the Reference Plant Criteria; and
- (B) include a copy of the relevant Reference Plant Criteria Review Report (redacted as necessary to protect Information which, in the opinion of the DPA Counterparty (acting reasonably), is commercially confidential to the DPA Counterparty or a DPA Generator).

Implementation of outcome of Reference Plant Criteria Review

- 1.16 Any Base Performance Assumption Adjustments shall take effect from the Reference Plant Criteria Review Implementation Date and shall be reflected in the calculation of the Variable Payment in the Variable Payment Billing Statements for each subsequent VP Billing Periods.
- 1.17 If, pursuant to a Reference Plant Criteria Review, an Energy Consultant has determined that no Plant meets the Reference Plant Criteria, the Reference Plant prior to the commencement of the relevant Reference Plant Criteria Review shall continue to apply pending the outcome of a Reference Plant Principles Review pursuant to paragraph 2 (*Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*).
- 1.18 The Base Performance Assumptions Adjustments shall only be implemented pursuant to paragraph 1.15(A)(ii)(a) if the Base Performance Assumptions as adjusted by the Base Performance Assumptions Adjustments are lower than the Base Performance Assumptions which applied prior to the Reference Plant Criteria Review.

Reference Plant Criteria Review: Disputes

- 1.19 Subject to Paragraph 3.4 of Part 3 (*Reference Plant Reviews: Dispute Process*), Paragraph 3 (*Reference Plant Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 1 (*Reference Plant Criteria Reviews*).

2. REFERENCE PLANT PRINCIPLES REVIEWS

Requirement to undertake Reference Plant Principles Reviews

- 2.1 The DPA Counterparty shall conduct a Reference Plant Principles Review if:
- (A) the DPA Counterparty determines the Reference Plant Criteria and/or any one (1) or more of the Reference Plant Criteria Methodology are inconsistent with the Reference Plant Principles;
 - (B) an Energy Consultant determines as part of a Reference Plant Criteria Review that no Plant meets the Reference Plant Criteria;
 - (C) a material change to the Great Britain electricity market has been proposed or effected by the relevant Competent Authority; or
 - (D) the Reference Plant Principles Request Criterion is met,
- (each, a **"Reference Plant Principles Review Trigger"**).
- 2.2 If the Generator considers that the Reference Plant and/or any one (1) or more of the Base Performance Assumptions are inconsistent with the Reference Plant Principles, the Generator may give a notice to the DPA Counterparty requesting the DPA Counterparty to undertake a Reference Plant Principles Review (a **"Reference Plant Principles Request Notice"**). A Reference Plant Principles Request Notice:
- (A) shall specify which one (1) or more of the Reference Plant Principles the Generator believes the Reference Plant and/or any one (1) or more of the Base Performance Assumptions are inconsistent with;
 - (B) may include proposals from the Generator with respect to the manner in which the inconsistencies with the Reference Plant Principles should be addressed (including any proposals regarding Reference Plant Mechanism Amendments which the Generator considers should be effected); and
 - (C) shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the matters in paragraphs (A) and (B) above.
- 2.3 For the purposes of paragraph 2.1(D), the **"Reference Plant Principles Request Criterion"** is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have given the DPA Counterparty a Reference Plant Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the Reference Plant Principles Request Criterion is met, the DPA Counterparty shall calculate:
- (A) the number of DPA Generators which have given a Reference Plant Principles Request Notice as a percentage of the total number of DPA Generators; and
 - (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have given a Reference Plant Principles Request Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, **"volume"** shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each CCUS Programme DPA).

Validity of Reference Plant Principles Request Notices

- 2.4 The Generator acknowledges and agrees that all Reference Plant Principles Request Notices shall be invalid and of no effect if the Reference Plant Principles Request Criterion is not met.
- 2.5 The DPA Counterparty shall notify the Generator no later than ten (10) Business Days after the Reference Plant Principles Request Criterion has been met (a **"Reference Plant Principles Request Validity Notice"**).

Purpose of Reference Plant Principles Review

- 2.6 If the DPA Counterparty is required or elects to undertake a Reference Plant Principles Review pursuant to paragraph 2.1, then the purpose of such Reference Plant Principles Review shall be to assess the extent to which:
- (A) the Reference Plant Criteria and/or any one (1) or more of the Reference Plant Criteria Methodology are inconsistent with the Reference Plant Principles and, if there are any such inconsistencies, the changes to the Reference Plant Criteria and/or the Reference Plant Criteria Methodology which the DPA Counterparty considers to be necessary to ensure consistency with all of the Reference Plant Principles; and
 - (B) an amendment or supplement to, or replacement or removal of, the Reference Plant Criteria and/or one (1) or more Reference Plant Criteria Methodology would ensure consistency with all of the Reference Plant Principles,
- including any consequential changes to Condition 10 (*Variable Payment Calculation*) and this Annex 10 (*Reference Plant Reviews*) which are necessary to give effect to any of the foregoing (each such change, or any combination of such changes, a **"Reference Plant Mechanism Amendment"**).
- 2.7 If the DPA Counterparty considers that it is not possible to effect any Reference Plant Mechanism Amendment in a manner that will ensure that the Reference Plant Criteria and the Reference Plant Criteria Methodology will be consistent with all of the Reference Plant Principles, the DPA Counterparty shall assess which Reference Plant Mechanism Amendment(s) should be effected in order to ensure that the Reference Plant Criteria and the Reference Plant Criteria Methodology are consistent with the greatest number of Reference Plant Principles in accordance with the Reference Plant Principles Prioritisation.

Notification of Reference Plant Principles Review

- 2.8 If the DPA Counterparty is required or elects to undertake a Reference Plant Principles Review pursuant to paragraph 2.1, the DPA Counterparty shall give a notice to the Generator (a **"Reference Plant Principles Review Notice"**). A Reference Plant Principles Review Notice shall:
- (A) specify the Reference Plant Principles Review Trigger which has occurred; and
 - (B) specify a deadline by which the Generator may provide a Reference Plant Principles Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the Reference Plant Principles Review Notice is received by the Generator (the **"Reference Plant Principles Review Response Deadline"**).
- 2.9 The Generator may, as soon as reasonably practicable and not later than the Reference Plant Principles Review Response Deadline, give a notice to the DPA Counterparty (the **"Reference Plant Principles Review Response Notice"**). A Reference Plant Principles Review Response Notice:

- (A) shall include all of the Supporting Information which the Generator wishes the DPA Counterparty to take account of in undertaking the Reference Plant Principles Review; and
- (B) may include proposals from the Generator with respect to the manner in which the Reference Plant Principles Review Trigger should be addressed (including any proposals regarding Reference Plant Mechanism Amendments which the Generator considers should be effected).

2.10 The DPA Counterparty may disregard any Reference Plant Principles Review Response Notice received by the DPA Counterparty after the Reference Plant Principles Review Response Deadline.

Reference Plant during Reference Plant Principles Review

2.11 From the date on which the Reference Plant Principles Review Notice is given, the Reference Plant and the Base Performance Assumptions applying prior to the commencement of the relevant Reference Plant Principles Review shall remain unamended pending the outcome of a Reference Plant Principles Review.

Notification of outcome of Reference Plant Principles Review

2.12 The DPA Counterparty shall give a notice to the Generator of the outcome of a Reference Plant Principles Review (a "**Reference Plant Principles Review Outcome Notice**") as soon as reasonably practicable following the conclusion of a Reference Plant Principles Review. A Reference Plant Principles Review Outcome Notice shall:

- (A) set out the outcome of the Reference Plant Principles Review (including the details of any Reference Plant Mechanism Amendments which the DPA Counterparty proposes to effect) (the "**Reference Plant Principles Review Proposals**") and, if paragraph 2.7 applies:
 - (i) a summary of the reasons for the DPA Counterparty having determined that it is not possible to effect any Reference Plant Mechanism Amendment in a manner which ensures that the Reference Plant and the Base Performance Assumptions are consistent with all of the Reference Plant Principles; and
 - (ii) the Reference Plant Principles which the DPA Counterparty considers that the Reference Plant and the Base Performance Assumptions will be consistent with by virtue of the Reference Plant Mechanism Amendments being effected; and
- (B) specify the date from which any Reference Plant Mechanism Amendments are to take effect, such date being:
 - (i) no earlier than three (3) Months after the date on which the Reference Plant Principles Review Outcome Notice is given (or such other earlier date as may be agreed by the Parties); and
 - (ii) in the case of Reference Plant Mechanism Amendments relating to a Reference Plant Principles Review Trigger pursuant to paragraph 2.1(C), not before such material change to the Great Britain electricity market occurs,

(the "**Reference Plant Principles Review Implementation Date**").

Reference Plant Principles Review: Disputes

- 2.13 Subject to Paragraph 3.5 of Part 3 (*Reference Plant Reviews: Dispute Process*), Paragraph 3 (*Reference Plant Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 2 (*Reference Plant Principles Reviews*).
- 2.14 Subject to paragraph 3.13, the Reference Plant Mechanism Amendments set out in the Reference Plant Principles Review Outcome Notice shall take effect on the Reference Plant Principles Review Implementation Date.

3. REFERENCE PLANT REVIEWS: DISPUTE PROCESS

Procedure for raising a Dispute

- 3.1 The Generator may, no later than twenty (20) Business Days after receipt of:
- (A) a Reference Plant Criteria Review Outcome Notice, give a notice to the DPA Counterparty that it wishes to raise a Dispute in relation to the outcome of such Reference Plant Criteria Review (a **"Reference Plant Criteria Review Dispute Notice"**); or
 - (B) a Reference Plant Principles Review Outcome Notice, give a notice to the DPA Counterparty that it wishes to raise a Dispute in relation to the outcome of such Reference Plant Principles Review (a **"Reference Plant Principles Review Dispute Notice"**),
- (a Reference Plant Criteria Review Dispute Notice and a Reference Plant Principles Review Dispute Notice each being a **"Reference Plant Dispute Notice"** and any such Generator, a **"Reference Plant Dispute Generator"**). Each Reference Plant Dispute Notice shall comply with the requirements of a Dispute Notice as specified in Conditions 40.3(A) to 40.3(H) (*Outline of Dispute Resolution Procedure*) (inclusive).

Validity of Reference Plant Dispute Notices

- 3.2 The Generator acknowledges and agrees that all Reference Plant Dispute Notices shall be invalid and of no effect if the Reference Plant Dispute Threshold Criterion in respect of the relevant Reference Plant Dispute is not met.
- 3.3 The DPA Counterparty shall notify the Generator no later than ten (10) Business Days after the Reference Plant Dispute Threshold Criterion has been met (irrespective of whether or not the Generator is a Reference Plant Dispute Generator) (a **"Reference Plant Dispute Validity Notice"**). A Reference Plant Dispute Validity Notice shall:
- (A) include a proposal as to the identity, and terms of reference, of an Expert to determine the Reference Plant Dispute (the **"Proposed Reference Plant Expert"**) and details of the relevant expertise that the DPA Counterparty considers qualifies the Expert to determine such Reference Plant Dispute (being a person fulfilling the requirements of Condition 42.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents the Expert from determining the Reference Plant Dispute);
 - (B) comply with the requirements of an Expert Determination Notice as specified in Condition 42.1 (*Expert Determination Procedure*); and
 - (C) comply with the requirements of a Consolidation Request as specified in Condition 42.2 (*Expert Determination Procedure*).

Permitted bases of Dispute: Reference Plant Criteria Review

- 3.4 For the purposes of paragraph 3.1(A), the Generator acknowledges and agrees that:

- (A) it may only raise a Dispute with respect to the outcome of any Reference Plant Criteria Review if there is manifest error or fraud in respect of the determination made by the relevant Energy Consultant: (i) as to whether or not the Reference Plant meets the Reference Plant Criteria; and/or (ii) where the Energy Consultant determines that the Reference Plant does not meet the Reference Plant Criteria, of the consequential change(s) (if any) that will need to be made to the Base Performance Assumptions used in CCUS Programme DPAs; and
- (B) any Reference Plant Criteria Review Dispute Notice which is based upon grounds other than those specified in this paragraph 3.4 shall be invalid and of no effect.

Permitted bases of Dispute: Reference Plant Principles Review

3.5 For the purposes of paragraph 3.1(B), the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any Reference Plant Principles Review if:

- (A) the DPA Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Generator requested the DPA Counterparty to take account of in undertaking the Reference Plant Principles Review (as set out in its Reference Plant Principles Review Response Notice);
- (B) the DPA Counterparty has proposed to effect a Reference Plant Mechanism Amendment which was stated in the Reference Plant Principles Review Outcome Notice would ensure that the Reference Plant Criteria and the Reference Plant Criteria Methodology would be consistent with all of the Reference Plant Principles, in respect of which the Generator disagrees; or
- (C) the DPA Counterparty has proposed to effect a Reference Plant Mechanism Amendment on the basis contemplated by paragraph 2.7 and the Generator considers that either:
 - (i) one (1) or more of the proposed Reference Plant Mechanism Amendments would result in the Reference Plant Criteria and/or the Reference Plant Criteria Methodology being inconsistent with one (1) of the Reference Plant Principles, which the DPA Counterparty considers the Reference Plant Criteria and/or the Reference Plant Criteria Methodology would be consistent with by virtue of such Reference Plant Mechanism Amendment being effected; or
 - (ii) an alternative Reference Plant Mechanism Amendment would result in the Reference Plant Criteria and/or the Reference Plant Criteria Methodology complying with a greater number of Reference Plant Principles (in accordance with the Reference Plant Principles Prioritisation) than the Reference Plant Mechanism Amendments contained within the Reference Plant Principles Review Proposals,

and any Reference Plant Principles Review Dispute Notice which is based upon grounds other than those specified in this paragraph 3.5 shall be invalid and of no effect.

Resolution of valid Reference Plant Disputes

3.6 If:

- (A) the Reference Plant Dispute Threshold Criterion is met in respect of the relevant Reference Plant Dispute; and

- (B) the relevant Reference Plant Dispute complies with paragraph 3.4 (in respect of any Reference Plant Criteria Review Dispute Notice) or 3.5 (in respect of any Reference Plant Principles Review Dispute Notice) (as the context requires),

then such Reference Plant Dispute shall be finally resolved in accordance with paragraphs 3.7 and 3.8.

3.7 If paragraph 3.6 applies to any Reference Plant Dispute:

- (A) Condition 41 (*Resolution by Senior Representatives*) shall not apply to such Reference Plant Dispute;
- (B) no agreement between the Generator and the DPA Counterparty to settle the relevant Reference Plant Dispute shall be valid and binding unless such resolution is agreed with all DPA Generators;
- (C) the Arbitration Procedure shall not apply to such Reference Plant Dispute;
- (D) the Generator agrees not to raise any objection to the consolidation of such Reference Plant Dispute in accordance with Condition 44 (*Consolidation of Connected Disputes*);
- (E) the Expert Determination Procedure shall apply to such Reference Plant Dispute on the basis that:
 - (i) (if the Reference Plant Expert Appointment Threshold is met) the DPA Counterparty shall be deemed to have satisfied the requirements of, and to have given an Expert Determination Notice pursuant to, Condition 42.1 (*Expert Determination Procedure*) and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed Reference Plant Expert;
 - (ii) (if the Reference Plant Expert Appointment Threshold is not met):
 - (a) the DPA Counterparty may, within twenty (20) Business Days, either:
 - (1) make an alternative proposal as to the identity of an Expert to determine the Reference Plant Dispute, in which case paragraphs 3.3(A) and 3.7(E)(i), and this paragraph 3.7(E)(ii)(a)(1), shall apply to such proposed Expert as if they were a Proposed Reference Plant Expert; or
 - (2) request the LCIA to nominate an Expert for the purposes of determining the Reference Plant Dispute in accordance with Condition 42.4 (*Expert Determination Procedure*); and
 - (b) the terms of reference of the Proposed Reference Plant Expert (or any Expert nominated by the LCIA pursuant to paragraph 3.7(E)(ii)(a)(2)) shall be determined by the DPA Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any DPA Generator), and shall be binding on the Parties, provided that such terms of reference are sufficiently broad to enable the Expert to determine the Reference Plant Dispute;
 - (iii) if the DPA Counterparty and the DPA Generators fail to agree on the terms of appointment of the Expert within ten (10) Business Days of the identity of the Expert having been agreed (or deemed to have been agreed) pursuant to paragraph 3.7(E)(i) or having been nominated by the LCIA pursuant to

paragraph 3.7(E)(ii)(a)(2), such terms shall be determined by the DPA Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any DPA Generator), and shall be binding on the Parties, provided that the terms of appointment comply with the requirements of paragraph 3.7(E)(ii) and Conditions 42.5(B) and 42.5(C) (*Expert Determination Procedure*);

- (iv) Condition 42.5 (*Expert Determination Procedure*) shall be deemed to have been modified such that the Parties shall use reasonable endeavours to procure that the terms of appointment of the Expert prohibit the Expert from disclosing any Supporting Information disclosed or delivered by:
 - (a) the Generator to the Expert in consequence of, or in respect of, its appointment as the Expert to any other DPA Generator or the DPA Counterparty; or
 - (b) the DPA Counterparty in consequence of, or in respect of, its appointment as the Expert to any DPA Generator (including the Generator);
- (v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the Reference Plant Dispute, to afford the Generator an opportunity to make submissions in respect of the Reference Plant Dispute irrespective of whether or not the Generator is a Reference Plant Dispute Generator;
- (vi) if the circumstances described in Condition 42.12, (*Expert Determination Procedure*) arise, paragraphs 3.3(A), 3.7(E)(i) and 3.7(E)(ii) shall apply, with the necessary modifications, to the appointment of a replacement Expert;
- (vii) for the purposes of Condition 42.12 (*Expert Determination Procedure*), the Expert shall be: (a) required to include in its determination provision for the allocation of their fees and the costs and expenses of the DPA Counterparty among each of the Reference Plant Dispute Generators in such manner as the Expert, in their absolute discretion, determines is fair and equitable if the Expert makes a determination against the Reference Plant Dispute Generators; and (b) permitted to allocate their fees and the costs and expenses of the DPA Counterparty in such manner as the Expert determines is fair and equitable if the Expert makes a determination in favour of the Reference Plant Dispute Generators; and
- (viii) the Expert shall, notwithstanding any other provision of the Expert Determination Procedure, be instructed to reach a determination which is to be applied to all CCUS Programme DPAs; and
- (F) the Generator acknowledges and agrees that the determination of the Expert in any Reference Plant Dispute shall be applied to all CCUS Programme DPAs, irrespective of whether the Generator was a party to the Reference Plant Dispute giving rise to that determination.

3.8 If the Reference Plant Dispute is a Reference Plant Principles Review Dispute, the following additional provisions shall apply:

- (A) if the Reference Plant Principles Review Dispute falls within paragraph 3.5(A), 3.5(B) or 3.5(C)(i), the Expert shall be instructed to determine whether the Reference Plant Mechanism Amendments would result in the Reference Plant Criteria and/or the

Reference Plant Criteria Methodology being inconsistent with the Reference Plant Principles (or such of the Reference Plant Principles that the DPA Counterparty specified the Reference Plant Criteria and/or the Reference Plant Criteria Methodology would be consistent with by virtue of the proposed implementation of the Reference Plant Mechanism Amendments) and, if the Expert finds in favour of the Generator, to include within its determination: (i) a Reference Plant Mechanism Amendment that will ensure that the Reference Plant Criteria and the Reference Plant Criteria Methodology are consistent with all of the Reference Plant Principles; or (ii) (if the Expert considers that this is not possible) the Reference Plant Mechanism Amendment that will ensure that the Reference Plant Criteria and the Reference Plant Criteria Methodology are consistent with the greatest number of Reference Plant Principles in accordance with the Reference Plant Principles Prioritisation;

- (B) if the Reference Plant Principles Review Dispute falls within paragraph 3.5(C)(ii), the Expert shall be instructed to determine whether the Reference Plant Mechanism Amendments proposed by the Generator would result in the Reference Plant Criteria and/or the Reference Plant Criteria Methodology being consistent with a greater number of Reference Plant Principles (in accordance with the Reference Plant Principles Prioritisation) than the Reference Plant Mechanism Amendments contained within the Reference Plant Principles Review Proposals and, if the Expert finds in favour of the Generator, to stipulate the Reference Plant Mechanism Amendments that will ensure that the Reference Plant Criteria and the Reference Plant Criteria Methodology are consistent with the greatest number of Reference Plant Principles in accordance with the Reference Plant Principles Prioritisation; and
- (C) notwithstanding paragraphs 3.8(A) and 3.8(B), the Expert shall not be permitted to include within its determination any alternative Reference Plant Mechanism Amendments to those contained within the Reference Plant Principles Review Proposals unless such proposals would result in the Reference Plant Criteria and/or the Reference Plant Criteria Methodology being inconsistent with one (1) or more Reference Plant Principles and the Expert has determined that there is a Reference Plant Mechanism Amendment that will ensure that the Reference Plant Criteria and the Reference Plant Criteria Methodology are consistent with a greater number of Reference Plant Principles (in accordance with the Reference Plant Principles Prioritisation) than the Reference Plant Principles Review Proposals and, as such, the Expert's role shall not extend to an assessment of whether the Reference Plant Principles Review Proposals represent an optimal solution in the context of the parameters contemplated by the Reference Plant Principles.

3.9 If the Reference Plant Dispute is a Reference Plant Criteria Review Dispute, the Expert shall be instructed to determine:

- (A) whether there is manifest error or fraud in respect of the determination made by the relevant Energy Consultant as to whether or not the Reference Plant meets the Reference Plant Criteria; and/or
- (B) where the Energy Consultant determines that the Reference Plant does not meet the Reference Plant Criteria, the consequential change(s) (if any) that will need to be made to the Base Performance Assumptions used in CCUS Programme DPAs.

Reference Plant Expert Appointment Threshold

3.10 For the purposes of paragraphs 3.7(E)(i) and 3.7(E)(ii), the **"Reference Plant Expert Appointment Threshold"** is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed Reference Plant Expert. For the purposes of determining whether

the Reference Plant Expert Appointment Threshold is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have consented or have been deemed to have consented to the Proposed Reference Plant Expert as a percentage of the total number of DPA Generators; and
- (B) the volume attributable to CCUS Programme DPAs to which DPA Generators which have consented or have been deemed to have consented to the Proposed Reference Plant Expert are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, "**volume**" shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Provisions applying pending resolution of a Reference Plant Dispute

- 3.11 If there is a valid Reference Plant Dispute requiring resolution in accordance with the provisions of paragraphs 3.6 to 3.10 then, pending resolution of such Reference Plant Dispute, paragraphs 3.12 and 3.13 shall apply.
- 3.12 If there is a valid Reference Plant Dispute relating to a Reference Plant Criteria Review:
 - (A) the relevant Reference Plant Criteria Review Outcome Notice shall be deemed to be valid and effective and paragraphs 1.16 and 1.17 shall be applied for the purposes of determining the Reference Plant with effect from the Reference Plant Criteria Review Implementation Date; and
 - (B) if the Expert determines that a Plant:
 - (i) meets the Reference Plant Criteria, such Plant shall be the Reference Plant with effect from the date falling three (3) Months after the date on which the Expert has made its determination; or
 - (ii) does not meet the Reference Plant Criteria, then (subject to the operation of the provisos contained in paragraph 1.17), the Reference Plant prior to the commencement of the relevant Reference Plant Criteria Review shall continue to apply pending the outcome of a Reference Plant Principles Review pursuant to paragraph 2 (*Reference Plant Principles Review*) of Part A (*Reference Plant Review Procedures*).
- 3.13 If there is a valid Reference Plant Dispute relating to a Reference Plant Principles Review:
 - (A) the relevant Reference Plant Principles Review Outcome Notice shall be deemed to be valid and effective and the Reference Plant Principles Review Proposals shall apply with effect from the Reference Plant Principles Review Implementation Date; and
 - (B) if the Expert finds in favour of the Generator, the Reference Plant Mechanism Amendments provided for in the determination of such Expert shall be implemented on a date falling no earlier than three (3) Months after the date on which the Expert has made its determination.

Reference Plant Dispute Threshold Criterion

- 3.14 For the purposes of this paragraph 3 (*Reference Plant Reviews: Dispute Process*), the "**Reference Plant Dispute Threshold Criterion**" is that thirty per cent. (30%) or more of DPA Generators, by volume or number, have given the DPA Counterparty a Reference Plant

Dispute Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the Reference Plant Dispute Threshold Criterion is met, the DPA Counterparty shall calculate:

- (A) the number of DPA Generators which have given a Reference Plant Dispute Notice as a percentage of the total number of DPA Generators; and
- (B) the volume attributable to CCUS Programme DPAs to which have given a Reference Plant Dispute Notice are party as a percentage of the total volume attributable to CCUS Programme DPAs (and, for this purpose, **"volume"** shall be calculated by the DPA Counterparty using the Net Dependable Capacity in each relevant CCUS Programme DPA).

Part B
Reference Plant Principles

1. REFERENCE PLANT PRINCIPLES

The following are the "**Reference Plant Principles**":

- (A) The Reference Plant should be the same for all DPA Generators.
- (B) The Reference Plant Criteria Methodology must be able to identify the Plant with the highest lower heating value (LHV) efficiency on the Great Britain electricity system at the time of each Reference Plant Criteria Review.
- (C) The Base Performance Assumptions utilised to calculate the Variable Payment Rate should not result in consequences that are inconsistent with the decarbonisation of the Great Britain electricity system.
- (D) If a Reference Plant Principles Review Trigger pursuant to paragraph 2.1(C) of Part A (*Reference Plant Review Procedures*) has occurred, the Base Performance Assumptions shall take into consideration the physical location of the Facility.

2. PRIORITISATION OF REFERENCE PLANT PRINCIPLES

If:

- (A) the application of any combination of the Reference Plant Principles gives rise to a conflict; or
- (B) it is not possible for a methodology for calculating the Reference Plant to satisfy all of the Reference Plant Principles,

the Reference Plant Principle first appearing in the list in paragraph 1 (*Reference Plant Principles*) shall be afforded priority.

Annex 11 Form of Supply Chain Report

Part A

1. HOW TO COMPLETE THIS FORM

- 1.1 Please use the text boxes in this template (Part A) and the tables in the accompanying spreadsheet (Part B) to report on the economic benefits and CCUS Programme supply chains associated with the development of the Project. The purpose of this reporting is to provide the DPA Counterparty and the Secretary of State with the key economic, technical, and commercial data around the supply chain and the value drivers that underpin it. For the avoidance of doubt, submission of each Supply Chain Report relates to the Generator's supply chain reporting obligations pursuant to Condition 25 of the DPA only.
- 1.2 Please ensure that each submission is complete and includes all required evidence and Supporting Information. At the point of publication of the Conditions, this template is indicative only and the Secretary of State reserves the right to review and amend the requirement for Generators to report on economic benefits and supply chains in relation to their Project. As such, the template may be updated with final amendments during the negotiation phase of the Track-1 Phase-2 of the CCUS Programme cluster sequencing process.

2. MINIMUM REQUIREMENTS

2.1 Each Supply Chain Report must:

- (A) be submitted by the relevant Supply Chain Report Deadline;
- (B) be accompanied by a Directors' Certificate;
- (C) be completed in full, ensuring fields are not left blank;
- (D) be completed with information that is relevant to the question asked; and
- (E) comply with the restrictions on the type of data that can be entered into the accompanying spreadsheet (Part B) and the word count limits specified for the text boxes of this form (Part A).

- 2.2 If the DPA Counterparty has issued a Supply Chain Report Response Notice which states that the relevant Supply Chain Report does not comply with the requirements set out in this Annex, the Generator will be required to pay the Supply Chain Report Fees in respect of the Generator's failure to provide the DPA Counterparty with the relevant Supply Chain Report.

3. CONTACT AND PROJECT DETAILS

Company name and project name		Authorised representative(s)	
Company address		Preferred contact number(s)	
Preferred email(s)		Preferred contact person	

4. REPORT SUBMISSION DECLARATION

To the best of your knowledge, is the information provided in this report accurate, complete, and compliant with the requirements set out in the guidance above? Please provide details on how the information and data have been quality assured.	Yes/No (delete as appropriate) Details:
Has the submission of this report been accompanied with a Directors' Certificate?	Yes/No (delete as appropriate)
Report milestone (1, 2, or 3) and version number. Please provide further details if this is not the first version submitted for a report milestone, including whether a non-compliance notice had been issued.	(e.g. Report 1, Version 1)
Has this report been submitted within the deadline? Please provide further details if necessary.	Yes/No (delete as appropriate)
Report Submission Date	[DD/MM/YYYY]

5. DISCLOSURE OF INFORMATION

- 5.1 The DPA Counterparty will pass the Information provided in each Supply Chain Report, including information provided in supporting documents, to the Secretary of State, pursuant to Condition 55.3(L)(ii). The Secretary of State may look to publish extracts from these reports in order to share information with wider industry, to support the implementation of a CCUS Programme supply chain and to support the development of the CCUS Programme.
- 5.2 The Secretary of State may be required to disclose any information provided by Generators in accordance with the Secretary of State's legal obligations (including, but not limited to, under the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018, UK General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004 (EIR)). More information on the FOIA, Data Protection Act 2018, GDPR and EIR (including information on exemptions) can be found at: <https://ico.org.uk/for-organisations/>.
- 5.3 To help the Secretary of State deal with information requests and without prejudice to the paragraph above, in the box below, please set out the reasons why you consider any specific information should not be disclosed, including (if possible) by reference to the specific exemption contained in the relevant legislation (for example, because disclosure of the information would prejudice your commercial interests under section 43 of the FOIA), explaining why this is the case. Where appropriate, please also state whether you consider your reasons for non-disclosure only apply for a particular time period.

Please detail what specific information, if any, within this report submission should not be disclosed and the reasons why. Please include (if possible)	
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reference to the specific exemption contained in the relevant legislation.	
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6. SUPPLY CHAIN SUMMARY

- 6.1 For this section and Section 5 below, it would be useful to make references to activities that have either already taken place, are ongoing or planned. Where activities have already been completed or are ongoing, Generators should provide evidence of what has taken place and progress towards delivery (*expressed as a % if relevant*), the metric used to measure the intended outcomes, and evidence of the outcome of the activity where known. Where there is reference to activities that are planned, Generators should explain how these will be implemented, including sources of funding and engagement with key stakeholders.
- 6.2 Include in your responses metrics and KPIs to measure outcomes, who is responsible, milestones, date of achieving expected outcome and how you will monitor progress in delivery of the activity and outcomes. Please specify in responses to the below sections the main risks to achieving the intended outcomes, including those arising from interdependencies and how they will be mitigated. Examples of success and lessons learnt can also be referenced.
- 6.3 It is also important to explain any deviations from the supply chain activities or plans proposed in the Project's CCUS Programme cluster sequencing phase-2 submission and progress towards making any improvements that have been suggested to Generators following the assessment of the submission.
- 6.4 Where relevant within this Part A and Part B of the Form of Supply Chain Report and supporting documentation, please describe data sources, underlying evidence and assumptions that have been used to estimate the data, and methods for quality assuring estimates. Please specify the time periods over which data forecasts and estimates are provided, providing a breakdown between data relevant to the contract term length and data forecasts or estimates provided for time periods beyond the contract term length (if applicable).
- 6.5 Generators should provide sufficient information and evidence to support their answers within this Part A and Part B of the Form of Supply Chain Report, but should note that there is not a target length for information that should be provided for this reporting requirement. Generators should, however, not exceed the maximum word limit (which is specified for each section below and excludes information provided in Part B and supporting documentation).

Supply chain planning and risks (1000 words)

- 6.6 Please complete sections 6.6 and 6.7 for the first report only. Projects should provide a concise explanation of the assessment of the supply chain, labour and skills needed to support the proposed delivery timescales for the project and any identified gaps.

This should include:

- (A) a description of the key uncertainties linked to the supply chain, the consequential uncertainty in project costs and timelines, and when the uncertainty is expected to be resolved;
- (B) a description of the key risks and challenges linked to the supply chain and potential mitigations or solutions. This could also include any key supply chain risks arising from interactions with the T&S Network or the wider cluster;
- (C) a description of the supply chain capacity and capability to support the project; and

- (D) any uncertainties, risks, or issues with the supply chain that government or industry could help to resolve.

Reference to specific related activities in the project programme would be helpful.

- 6.7 Please also confirm the project developers will and/or are following best practice in sourcing of labour and materials.

References to supporting documentation for Section 6.7	

Supply chain engagement (750 words in Part A and Table 1 in Part B)

- 6.8 Please complete this section 6.8 for the first Supply Chain Report only, providing a concise explanation of the extent of the supply chain engagement, including which parts of the supply chain have been engaged with and where there are key contracts in place. Please include a description of:
- (A) the current view of capability and capacity and how any associated challenges are being addressed;
 - (B) agreements which have been entered into with third parties and their scope; and
 - (C) the effectiveness of engagement with the supply chain.

References to supporting documentation for Section 6.8	

7. ECONOMIC BENEFITS

- 7.1 Information provided in this section can help to demonstrate the contribution that the Project is making or can make to the UK economy and the UK government's levelling up agenda, in addition to the UK government's objective of supporting clean, resilient and sustainable economic growth. Information should be provided in the text boxes below and through supporting documentation, and in the accompanying spreadsheet (Part B).

Number and quality of jobs (500 words in Part A and Table 2 in Part B)

- 7.2 The Generator should indicate plans, initiatives, or metrics relating to the quality of jobs in relation to the Project (e.g. employee salary measured against national/local salary, financial security, social protection offered by employers, openness of employer for employees to participate in trade unions etc.).

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References to supporting documentation for Section 7.2	

Transparency of supply chain procurement processes (750 words)

- 7.3 Please provide information on how you are making or have made the Project procurement strategies as transparent as possible. For example, identifying and implementing supply chain opportunities, advertising them as early as possible and improving the visibility of them to suppliers, and undertaking meaningful engagement with CCUS Programme supply chain companies including SMEs. It would be useful to describe the effectiveness of early engagement with the supply chain and of transparent supply chain processes more generally. Generators should explain any challenges they have identified in implementing their procurement process and how they are working to overcome these.

References to supporting documentation for Section 7.3	

Investment in CCUS Programme related skills (750 words in Part A and Table 3 in Part B)

- 7.4 Please provide details on the types of initiatives to upskill/reskill employees and building capability. This can include any formal training that has been (or is being) offered and the impact of this on the NVQ level of employees and whether non-formal training is being or has been considered such as vocational courses or digital training. It would be useful to describe whether training has been (or is being) internally and/or externally led. Any collaboration with educational institutions should be mentioned.
- 7.5 Please also provide evidence that demonstrates where consortium partners have (or are) individually or collectively investing in training programmes to develop CCUS Programme related skills, for example in apprenticeships and retraining programmes. We ask that projects provide detail on time and duration of these programmes and specifically how they have (or are) supporting retraining workforces transitioning from other sectors – locally, regionally and nationally.

References to supporting documentation for Sections 7.4 and 7.5		

Wider economic benefits (750 words in Part A and Table 4 in Part B)

- 7.6 Noting the commitments made in the UK government's Ten Point Plan and the CCUS Programme supply chains roadmap, which set out the UK government's objective to drive local and regional growth to level up across the UK, please set out how the Project has contributed or is contributing to economic growth within the local area in line with the following strategic priorities:
- (A) synergies with other decarbonisation programmes and potential to be a 'SuperPlace' (as defined in the UK government's Ten Point Plan). This could be demonstrated through, for example, the mapping of a broader decarbonisation pathway for the region, identifying the economic benefits and opportunities of decarbonisation, as well as the development of skills required to realise these benefits;
 - (B) regeneration and community renewal: Generators should consider how the Project has contributed or is contributing to improving and widening the economic benefits associated with their development and impact on local communities. This could include but is not limited to, impacts on air quality, increased attractiveness to other businesses, local transport links or land value. Generators should provide evidence of any wider economic benefits that they deem to be relevant. Generators should reference any engagement with local communities or institutions that has taken place, or will take place, and the outcome of any such engagement; and
 - (C) equality, diversity and inclusion: Generators should demonstrate how they are continuing to ensure the diversity and inclusivity of their workforce, as well as how they are or plan to incorporate hiring practices which do not disadvantage those with protected characteristics. Generators should describe how their recruitment process removes barriers to recruitment of suitably qualified and skilled workers and provides equal and fair consideration of applicants.

References to supporting documentation for Section 7.6	

Tables to be completed in Excel spreadsheet

7.7 In addition to the text boxes within this Part A of the Form of Supply Chain Report, please also complete the tables in the accompanying spreadsheet (Part B), which can be found on the following page: <https://www.gov.uk/government/publications/carbon-capture-usage-and-storage-ccus-business-models>. For ease, these tables are listed below.

Table 1	List of suppliers	To be completed
Table 2	Jobs	To be completed
Table 3	Skills and training	To be completed
Table 4	Wider economic benefits	To be completed

7.8 For any enquiries regarding the content of the Form of Supply Chain Report Power Projects should contact the following email: powerccus@DESNZ.gov.uk

Part B

[Dispatchable Power Agreement, Form of Supply Chain Report: Part B (Spreadsheet), available at: <https://www.gov.uk/government/publications/carbon-capture-usage-and-storage-ccus-business-models>.]

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Directors' Certificate

[Company Name]
[Unique reference number: [●]]

(the "Company")

DPA – DIRECTORS' CERTIFICATE

To: [●] (the "DPA Counterparty")

I, [●], being a Director of the Company, refer to the DPA entered into by the Company and the DPA Counterparty on [●] in relation to the [●] Project (the **"Agreement"**). Terms defined in or incorporated into the Agreement have the same meanings when used in this Certificate.

I hereby certify that, having made all due and careful enquiries, the information contained in and enclosed with **[to insert description of matters being certified]** is in all material respects true, complete and accurate and not misleading, in each case by reference to the facts and circumstances then existing.

This Certificate is governed by and construed in accordance with English law.

.....
 Name: [●]
 Position: Director
 Dated: [●]

.....
 Name: [●]
 Position: Director
 Dated: [●]

OR:

.....
 Name: [●]
 Position: Director
 Dated: [●]

in the presence of:

.....
 Witness's name: [●]
 Occupation: [●]
 Address: [●]
 Dated: [●]

OCP Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – OCP NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.7(B).
3. This is an OCP Notice.
4. We consider that the following Operational Condition Precedent has been fulfilled: [●].
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice and which we consider to be relevant to evidence the fulfilment of the Operational Condition Precedent.
6. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is in all material respects true, complete and accurate and not misleading.

Yours faithfully,

.....

For and on behalf
of the **Generator**

OCP Response Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – OCP RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.9(A) / 3.9(B).
3. This is an OCP Response Notice in relation to the OCP Notice dated [●] relating to paragraph [●] of the Agreement.
4. [We consider that you have [not] fulfilled the Operational Condition Precedent to which the OCP Notice relates.]/[We consider that we have not been provided with sufficient Supporting Information to determine whether you have fulfilled the Operational Condition Precedent to which the OCP Notice relates. We require the following OCP Supporting Information: [●].]

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Further OCP Response Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – FURTHER OCP RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.10(C)(ii).
3. This is a Further OCP Response Notice in relation to the OCP Notice dated [●] and the OCP Response Notice dated [●] relating to paragraph [●] of the Agreement.
4. Following our receipt of the OCP Supporting Information from you on [●], we consider that you have [not] fulfilled the Operational Condition Precedent.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

OCP Non-Compliance Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – OCP NON-COMPLIANCE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.11.
3. This is an OCP Non-Compliance Notice.
4. The Affected OCP is: [●].
5. [The Affected OCP [[will not]/[is not reasonably likely to] be fulfilled by the Longstop Date as a result of [●].]/[, which we previously notified to you as fulfilled pursuant to Condition 3.7(B), is no longer fulfilled.]] The reasons for this are: [●].
6. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to the content of this notice.
7. We [have taken]/[are proposing to take] the following remedial action: [●].
8. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Project Delay Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – PROJECT DELAY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.15.
3. This is a Project Delay Notice.
4. [We consider there is likely to be a delay to the **[design, development, construction, completion, testing and/or commissioning of the Facility]**]. The reasons for this are: [●].
5. We [have taken]/[are proposing to take] the following remedial action: [●].
6. We [enclose] /[set out] **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** the following:
 - (A) a revised Project timetable; and
 - (B) the estimated additional costs to the Project arising as a result of the delay to the Project.
7. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the delay of the **[design, development, construction, completion, testing and/or commissioning of the Facility]**.
8. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....
For and on behalf of
the **Generator**

Audit Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – AUDIT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.18.
3. This is an Audit Notice.
4. We [*intend*]/[*nominate* [●]] to exercise the Audit Right.
5. The date by which you must, in accordance with Condition 3.19, permit the exercise of the Audit Right is [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Start Date Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – START DATE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Conditions 3.22 and 3.23.
3. This is a Start Date Notice.
4. We propose that the Start Date shall be: [●].
5. We **[enclose] / [will deliver to you on the Start Date]** a Directors' Certificate certifying that the matters provided for in Condition 3.26(C) are, as at the date of this notice [and on the proposed Start Date specified in this notice], true, complete and accurate in all material respects and are not misleading.

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

TCDE Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – TCDE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.30.
3. This is a TCDE Notice.
4. The following T&S Commissioning Delay Event has occurred: [●].
5. ***[We hereby request an extension of the Longstop Date, the Milestone Delivery Date and/or the Target Commissioning Window as a result of the T&S Commissioning Delay Event.][We hereby request that the DPA Counterparty temporarily waives the T&S Connection Confirmation CP as a result of the T&S Commissioning Delay Event.]***
6. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the T&S Commissioning Delay Event and to evidence that we have fulfilled the Generator T&S Connection Works.
7. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

TCDE Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – TCDE RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.32.
3. This is a TCDE Response Notice in relation to the TCDE Notice dated [●].
4. *[We consider that a T&S Commissioning Delay Event as specified in the TCDE Notice has [not] occurred and is [not] continuing.]/[We consider that the Generator T&S Connection Works have [not] been completed]/[We consider that we have not been provided with sufficient Supporting Information to determine whether a T&S Commissioning Delay Event has occurred and is continuing and/or the Generator has [not] fulfilled the Generator T&S Connection Works. We require the following Supporting Information: [●].]*

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Further TCDE Response Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – FURTHER TCDE RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.33(C)(ii).
3. This is a Further TCDE Response Notice in relation to the TCDE Notice dated [●] and the TCDE Response Notice dated [●].
4. Following our receipt of the TCDE Supporting Information from you on [●], we consider that a T&S Commissioning Delay Event has **[not]** occurred and is **[not]** continuing and you have **[not]** fulfilled the Generator T&S Connection Works.

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

TCDE Termination Notice

To: [●] (the "**Generator**")
[Unique reference number: [●]]

From: [●] (the "**DPA Counterparty**")
[Address]

Dated: [●]

DPA – TCDE TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.36.
3. This is a TCDE Termination Notice.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

T&S Network Availability Notice

To: **[●]** (the "DPA Counterparty")
[Address]/ [●] (the "Generator")
[Unique reference number: [●]]

From: **[[●]** (the "Generator")
[Unique reference number: [●]]/ [●] (the "DPA Counterparty")
[Address]]

Dated: **[●]**

DPA – T&S NETWORK AVAILABILITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated **[●]** between you as the **[Generator/DPA Counterparty]** and us as the **[Generator/DPA Counterparty]** in relation to the **[●]** Project (the "Agreement"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.44.
3. This is a T&S Network Availability Notice.
4. The T&S Network Availability Date is **[●]**.
5. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Annex 1 to this notice)]** Supporting Information listed in Annex 1 to this notice which we consider to be relevant to the T&S Network Availability Date.
6. **[We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.]**

Yours faithfully,

.....

For and on behalf of
the **[Generator/DPA Counterparty]**

T&S Network Availability Response Notice

To: **[[●]]** (the "DPA Counterparty")
[Address]/ [●] (the "Generator")
[Unique reference number: [●]]

From: **[[●]]** (the "Generator")
[Unique reference number: [●]]/ [●] (the "DPA Counterparty")
[Address]

Dated: **[●]**

DPA – T&S NETWORK AVAILABILITY RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated **[●]** between you as the **[Generator/DPA Counterparty]** and us as the **[Generator/DPA Counterparty]** in relation to the **[●]** Project (the "Agreement"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.45.
3. This is a T&S Network Availability Response Notice.
4. ***We consider that the T&S Network is [not] available to enable the Facility to export captured CO₂ to the T&S Network to enable [us/the Generator] to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement./[We consider that we have not been provided with sufficient Supporting Information to determine whether the T&S Network is available to enable the Facility to export captured CO₂ to the T&S Network to enable [us/the Generator] to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement. We require the following Supporting Information: [●]].***
5. ***[We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.]***

Yours faithfully,

.....
 For and on behalf of
 the **[Generator/DPA Counterparty]**

Further T&S Network Availability Response Notice

To: **[[●]]** (the "DPA Counterparty")
[Address]/ [●] (the "Generator")
[Unique reference number: [●]]

From: **[[●]]** (the "Generator")
[Unique reference number: [●]]/ [●] (the "DPA Counterparty")
[Address]

Dated: **[●]**

DPA – FURTHER T&S NETWORK AVAILABILITY RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated **[●]** between you as the [Generator/DPA Counterparty] and us as the [Generator/DPA Counterparty] in relation to the **[●]** Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 3.46(C)(ii).
3. This is a Further T&S Network Availability Response Notice.
4. We consider that the T&S Network is **[not]** available to enable the Facility to export captured CO₂ to the T&S Network to enable **[us/the Generator]** to fulfil or procure the fulfilment of the T&S Connection Confirmation Requirement.
5. **[We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.]**

Yours faithfully,

.....

For and on behalf of
the **[Generator/DPA Counterparty]**

Milestone Requirement Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – MILESTONE REQUIREMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 4.1.
3. This is a Milestone Requirement Notice.
4. ***[We enclose invoices, payment receipts and other Supporting Information with respect to the Project [which are listed in Appendix 1 to this notice] which we consider to be relevant to evidence expenditure by us and our direct shareholders of ten per cent. (10%) or more of the Total Project Pre-Commissioning Costs (Nominal), being £[●].]/(We enclose information as is listed as the Project Commitments and the following Supporting Information [which are listed in Appendix 1 to this notice] which we consider to be relevant to evidence compliance or fulfilment of the Project Commitments: [●].]***
5. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Milestone Assessment Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – MILESTONE ASSESSMENT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 4.3.
3. This is a Milestone Assessment Response Notice in relation to the Milestone Requirement Notice dated [●].
4. ***[We consider that you have [not] complied with and fulfilled a Milestone Requirement [and the Milestone Satisfaction Date is [●]].]/[We consider that we have not been provided with sufficient Supporting Information to determine whether you have complied with and fulfilled a Milestone Requirement. We require the following Requested Milestone Supporting Information: [●].]***

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Further Milestone Assessment Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – FURTHER MILESTONE ASSESSMENT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 4.4(C)(ii).
3. This is a Further Milestone Assessment Response Notice in relation to the Milestone Requirement Notice dated [●] and the Milestone Assessment Response Notice dated [●].
4. Following our receipt of the Requested Milestone Supporting Information from you on [●], we consider that you have **[not]** complied with and fulfilled a Milestone Requirement [and the Milestone Satisfaction Date is [●]]..

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

Milestone Delay Notice

To: [●] (the "DPA Counterparty")
 [Address]

From: [●] (the "Generator")
 [Unique reference number: [●]]

Dated: [●]

DPA – MILESTONE DELAY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 4.8.
3. This is a Milestone Delay Notice.
4. [We consider there is likely to be a delay to the fulfilment of the Milestone Requirement and the Milestone Requirement will not be met by the Milestone Delivery Date]. The reasons for this are: [●].
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the delay of the Milestone Requirement.
6. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
 the **Generator**

NDCE Adjustment Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – NDCE ADJUSTMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 5.1.
3. This is an NDCE Adjustment Notice.
4. The Net Dependable Capacity will be lower than the Net Dependable Capacity Estimate by: [●] MW.
5. The Revised NDCE is: [●] MW.
6. The following change to the assets comprising the Facility will result from the reduction to the Net Dependable Capacity Estimate: [●].
7. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence of the change to the assets comprising the Facility which will result from the reduction to the Net Dependable Capacity Estimate.
8. *[We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] the proposed Heat and Material Balance Diagram and any Supporting Information we consider to be relevant to evidence such changes to the Initial Heat and Material Balance Diagram.]*

Yours faithfully,

.....
For and on behalf of
the **Generator**

Longstop Date Capacity Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – LONGSTOP DATE CAPACITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 6.1.
3. This is a Longstop Date Capacity Notice.
4. The Net Dependable Capacity is [●]MW.
5. The Test Achieved CO₂ Capture Rate is [●].
6. The Plant Net Efficiency is [●].
7. The Start Up Times are:
 - (A) Hot start: [●]
 - (B) Warm start: [●]
 - (C) Cold start: [●]
8. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times, including details of the assets comprising the Facility at the date of this notice.
9. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....
For and on behalf of
the **Generator**

Longstop Date Capacity Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – LONGSTOP DATE CAPACITY RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 6.4.
3. This is a Longstop Date Capacity Response Notice in relation to the Longstop Date Capacity Notice dated [●].
4. ***[We [do not] agree with Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times as specified in the Longstop Date Capacity Notice and consider that you have [not] met the Minimum Longstop Date Commissioning Requirements.]/[We consider that we have not been provided with sufficient Supporting Information to determine [the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times]/[the assets comprising the Facility as at the date of the Longstop Date Capacity Notice]. We require the following Supporting Information: [●].]***

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Further Longstop Date Capacity Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – FURTHER LONGSTOP DATE CAPACITY RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 6.5(B)(ii).
3. This is a Further Longstop Date Capacity Response Notice in relation to the Longstop Date Capacity Notice dated [●] and the Longstop Date Capacity Response Notice dated [●].
4. Following our receipt of the Longstop Date Capacity Supporting Information from you on [●], we consider that you have **[not]** demonstrated the Minimum Longstop Date Commissioning Requirements and we agree with the Net Dependable Capacity, the Test Achieved CO₂ Capture Rate, the Plant Net Efficiency and the Start Up Times as specified in the Longstop Date Capacity Notice.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Annual NDC Test Date Adjustment Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – ANNUAL NDC TEST DATE ADJUSTMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7.1(C).
3. This is an Annual NDC Test Date Adjustment Notice.
4. The Revised Notified Annual NDC Test Date is [●].
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the reasons for the change from the Initial Notified Annual NDC Test Date to the Revised Notified Annual NDC Test Date.

Yours faithfully,

.....
For and on behalf of
the **Generator**

Annual NDC Test Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – ANNUAL NDC TEST NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7.1(D).
3. This is an Annual NDC Test Notice.
4. The net generating capacity demonstrated is [●]
5. The Annual Adjusted NDC is [●].
6. We enclose a copy of the Annual NDC Test Report.
7. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the information contained in or enclosed with this notice.
8. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Annual NDC Test Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – ANNUAL NDC TEST RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7.4.
3. This is an Annual NDC Test Response Notice in relation to the Annual NDC Test Notice dated [●].
4. *[We [do not] agree with Annual Adjusted NDC as specified in the Annual NDC Test Notice.]/[We consider that we have not been provided with sufficient Supporting Information to determine Annual Adjusted NDC]. We require the following Supporting Information: [●].]*

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

Further Annual NDC Test Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – FURTHER ANNUAL NDC TEST RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7.5(C)(ii).
3. This is a Further Annual NDC Test Response Notice in relation to the Annual NDC Test Notice dated [●] and the Annual NDC Test Response Notice dated [●].
4. Following our receipt of the Annual NDC Test Supporting Information from you on [●], ***[We agree with Annual Adjusted NDC as specified in the Annual NDC Test Notice.]/[We do not agree with Annual Adjusted NDC as specified in the Annual NDC Test Notice.]***

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Annual NDC Test Access Notice

To: [●] (the "DPA Counterparty")
 [Address]

From: [●] (the "Generator")
 [Unique reference number: [●]]

Dated: [●]

DPA – ANNUAL NDC TEST ACCESS NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 7.11.
3. This is an Annual NDC Test Access Notice.
4. We [intend]/[nominate [●]] to exercise the Annual NDC Test Access Right.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Outage Relief Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – OUTAGE RELIEF NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 9.6.
3. This is an Outage Relief Notice.
4. We consider that a **[Generation Outage Relief Event]/[Capture Outage Relief Event]** has occurred, the relevant details of which are: [●].
5. The **[Generation Outage Relief Event]/[Capture Outage Relief Event]** has had the following impact on the **[Net Dependable Capacity, Availability of Generation and/or Achieved CO₂ Capture Rate]**.
6. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** Supporting Information listed in Appendix 1 to this notice and which we consider to be relevant to the foregoing.
7. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** Supporting Information evidencing, in reasonable detail, the steps that we **[have taken]/[and]/[propose to take]** to comply with Condition 47.3 and the Reasonable and Prudent Standard.
8. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....
For and on behalf of
the **Generator**

Outage Relief Response Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – OUTAGE RELIEF RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 9.8.
3. This is an Outage Relief Response Notice in relation to the Outage Relief Notice dated [●].
4. ***[We consider that you have [not] provided sufficient evidence in relation to [Generation Outage Relief Event]/[Capture Outage Relief Event] as specified in the Outage Relief Notice]/[We consider that we have not been provided with sufficient Supporting Information as to whether a [Generation Outage Relief Event]/[Capture Outage Relief Event] has occurred. We require the following Outage Relief Supporting Information: [●].]***

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Further Outage Relief Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – FURTHER OUTAGE RELIEF RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 9.9(C)(ii).
3. This is a Further Outage Relief Response Notice in relation to the. Outage Relief Notice dated [●] and the Outage Relief Response Notice dated [●].
4. Following our receipt of the Outage Relief Supporting Information from you on [●], [We consider that you have [not] provided sufficient evidence in relation to **[Generation Outage Relief Event]/[Capture Outage Relief Event] as specified in the Outage Relief Notice**].

Yours faithfully,

.....
for and on behalf of
the **DPA Counterparty**

Outage Relief Event Update Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – OUTAGE RELIEF EVENT UPDATE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 9.11.
3. This is an Outage Relief Event Update Notice.
4. We hereby notify you of the following updates to the Information provided in the Outage Relief Notice dated [●]: [●].
5. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.
6. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice and which we consider to be relevant to the foregoing.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Billing Statement Dispute Notice

To: [●]

From: [●]

Dated: [●]

DPA – BILLING STATEMENT DISPUTE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [you]/[us] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 13.4.
3. This is a Billing Statement Dispute Notice. The Billing Statement[s] to which the Dispute relates [is]/[are] [●].
4. [Our]/[The Generator's] [name]/[unique identifier] is [●].
5. The [name]/[unique identifier] of the Facility is [●].
6. The Billing Statement items to which the Dispute relates are [●].
7. The amount in dispute is [●]. The apportionment of this amount in relation to the relevant Billing Statement items is [●].
8. ***[We consider that the following Billing Statement dispute should be [consolidated with]/[joined to] this dispute: [●].]***
9. We consider the correct position is [●]. Our reasons for this are [●].
10. We intend to rely on the following Supporting Information, copies of which are enclosed: [●].
11. We enclose the following additional Information which we consider relevant in relation to the dispute: [●].

Yours faithfully,

.....

For and on behalf of
[●]

Metering Breach Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – METERING BREACH NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 21.4.
3. This is a Metering Breach Notice.
4. ***[We consider that you are in breach of the following Metering Obligation: [●].]***
5. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information listed in Appendix 1 to this notice and which we consider to be relevant to evidence the breach of Metering Obligation.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Metering Breach Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – METERING BREACH RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 21.5(A) / 21.5(B).
3. This is a Metering Breach Response Notice in relation to the Metering Breach Notice dated [●].
4. We **[do not]** accept that there has been a breach of the Metering Obligation as specified in the Metering Breach Notice.
5. [The date from which there has been a breach of the Metering Obligation is: [●].]
6. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** Supporting Information listed in Appendix 1 to this notice which we consider to be relevant and supportive of the foregoing.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator Metering Remediation Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR METERING REMEDIATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 21.7(C).
3. This is an Generator Metering Remediation Notice.
4. We successfully completed the implementation of the Metering Remediation Plan on [●].
5. We enclose the Supporting Information which we consider to be relevant and supportive of the foregoing.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator Metering Remediation Notice Information Request

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GENERATOR METERING REMEDIATION NOTICE INFORMATION REQUEST

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 21.8.
3. This is a Generator Metering Remediation Notice Information Request.
4. We require the following Supporting Information in relation to the Generator Metering Remediation Notice dated [●].

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Metering Schematic Obligation Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – METERING SCHEMATIC OBLIGATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 21.11(A).
3. This is a Metering Schematic Obligation Notice.
4. We have identified a Material Change to the Facility Metering Equipment: *[insert reasons for and details of the Material Change]*.
5. This Material Change occurred on *[insert date Material Change occurred]*.
6. *[We enclose an updated version of the relevant metering schematic diagram referred to in paragraph [●] of [●] of Annex 1 of the Conditions.]*
7. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Metering Inspection Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – METERING INSPECTION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 21.16.
3. This is a Metering Inspection Notice.
4. [We]/[●], nominated by us in accordance with Condition 21.15, intend to exercise the Metering Access Right.
5. The date by which you must, in accordance with Condition 21.17, permit the exercise of the Metering Access Right, is [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Capture Rate Breach Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – CAPTURE RATE BREACH NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 22.2.
3. This is a Capture Rate Breach Notice.
4. ***[We consider that you have breached the Minimum CO₂ Capture Rate Obligation for [three (3) consecutive AP Billing Periods]/[three (3) non-consecutive AP Billing Periods within six (6) consecutive AP Billing Periods].]***
5. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of our conclusions.
6. We hereby notify you that we may serve a Default Termination Notice in accordance with Condition 36.33 on [●].

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Capture Rate Breach Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – CAPTURE RATE BREACH RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 22.3.
3. This is a Capture Rate Breach Response Notice.
4. ***[We intend to rectify the breach of the Minimum CO₂ Capture Rate Obligation by [achieving an Achieved and Declared CO₂ Capture Rate Average equal to or greater than eighty five per cent. (85%) for three (3) consecutive AP Billing Periods prior to the Capture Rate Breach Deadline]/[providing the DPA Counterparty with and implement a Capture Rate Breach Rectification Plan]].***

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Capture Rate Breach Rectification Review Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – CAPTURE RATE BREACH RECTIFICATION REVIEW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 22.5(B).
3. This is a Capture Rate Breach Rectification Review Notice.
4. *[We approve the draft Capture Rate Breach Rectification Plan submitted to us on [●].]/[We consider that we have not been provided with sufficient Supporting Information in relation to the draft Capture Rate Breach Rectification Plan, in order to determine whether or not to approve such plan. We require the following Supporting Information: [●].]/[We require the following amendments to be made to the draft Capture Rate Breach Rectification Plan: [●]]/[We do not approve the draft Capture Rate Breach Rectification Plan for the following reasons: [●].]*

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Generator Capture Rate Breach Remediation Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR CAPTURE RATE BREACH REMEDIATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 22.7(B).
3. This is a Generator Capture Rate Breach Remediation Notice.
4. We successfully completed the implementation of the Approved Capture Rate Breach Rectification Plan on [●].
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice and which we consider to be relevant to evidence that the breach of the Minimum CO₂ Capture Rate Obligation has been remedied.

Yours faithfully,

.....

For and on behalf of
the **Generator**

DPA Counterparty CO₂ Metered Data Breach Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – DPA COUNTERPARTY CO₂ METERED DATA BREACH NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 23.2.
3. This is a DPA Counterparty CO₂ Metered Data Breach Notice.
4. We consider that you are in breach of the following CO₂ Metered Data Obligation: [●].
5. **[We consider such breach to constitute a Generator CO₂ Metered Data System Failure.]**
6. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the breach of the CO₂ Metered Data Obligation.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

CO₂ Metered Data Breach Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – CO₂ METERED DATA BREACH RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 23.3.
3. This is a CO₂ Metered Data Breach Response Notice.
4. ***[We [do not] accept that there has been a breach of the CO₂ Metered Data Obligation as specified in the DPA Counterparty CO₂ Metered Data Breach Notice dated [●]. We consider that it is [not] technically feasible to correct such error(s).]***

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator CO₂ Metered Data Breach Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR CO₂ METERED DATA BREACH NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 23.5.
3. This is a Generator CO₂ Metered Data Breach Notice.
4. We consider ourselves to be in breach of the following CO₂ Metered Data Obligation [●]. We consider that it is **[not]** technically feasible to correct such error(s).
5. **[We consider such breach to constitute a Generator CO₂ Metered Data System Failure.]**
6. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** Supporting Information which we consider to be relevant to evidence the breach of the CO₂ Metered Data Obligation.
7. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

DPA Counterparty CO₂ Metered Data Breach Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – DPA COUNTERPARTY CO₂ METERED DATA BREACH RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 23.7.
3. This is a DPA Counterparty CO₂ Metered Data Breach Response Notice.
4. ***[We agree that there has been a breach of the CO₂ Metered Data Obligation specified in the Generator CO₂ Metered Data Breach Notice dated [●]. We consider that it is [not] technically feasible to correct such error(s).] / [We consider that there has not been a breach of the CO₂ Metered Data Obligation specified in the Generator CO₂ Metered Data Breach Notice dated [●].]***

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Amended DCR Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – AMENDED DCR NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 24.1(D)(ii).
3. This is an Amended DCR Notice.
4. The Amended DCR Settlement Unit occurred on: [●].
5. The Change Declared CO₂ Capture Rate is: [●].
6. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* the reasons for the change in the Declared CO₂ Capture Rate together with Supporting Information listed in Appendix 1 to this notice in respect of the reasons for such a change and the impact on the Declared CO₂ Capture Rate.

Yours faithfully,

.....

For and on behalf of
the **Generator**

DPA Counterparty Declaration Breach Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – DPA COUNTERPARTY DECLARATION BREACH NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 24.3.
3. This is a DPA Counterparty Declaration Breach Notice.
4. [We consider that you are in breach of the following Declaration Obligation: [●].]
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 which we consider to be relevant to evidence the breach of the Declaration Obligation.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Generator Outage Declaration Breach Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR DECLARATION BREACH NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 24.4.
3. This is a Generator Declaration Breach Notice.
4. [We consider that we are in breach of the following Declaration Obligation: [●].]
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 which we consider to be relevant to evidence the breach of Declaration Obligation.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Declaration Inspection Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – DECLARATION INSPECTION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 24.10.
3. This is a Declaration Inspection Notice.
4. We [*intend*]/[*nominate* [●]] to exercise the Declaration Access Right.
5. The date by which you must, in accordance with Condition 24.11, permit the exercise of the Declaration Access Right, is [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

CO₂ Capture Rate Test Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CO₂ CAPTURE RATE TEST NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 24.13.
3. This is a CO₂ Capture Rate Test Notice.
4. We request that you carry out a CO₂ Capture Rate Test.
5. The date by which you must carry out the CO₂ Capture Rate Test is [●].
6. The date by which you must submit the CO₂ Capture Rate Test Report is [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Supply Chain Report Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – SUPPLY CHAIN REPORT RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 26.4.
3. This is a Supply Chain Report Response Notice. [in relation to the Supply Chain Report dated [●]].
4. ***[We consider that the Supply Chain Report does [not] comply with the requirements set out in Annex [●] (Form of Supply Chain Report)/[We consider that you have failed to submit a Supply Chain Report by the Supply Chain Report Deadline.]***

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

DPA Counterparty QCiL Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – DPA COUNTERPARTY QCIL NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 27.1.
3. This is a DPA Counterparty QCiL Notice.
4. We *[enclose]/[set out]* the following reasonable details of the Qualifying Change in Law which we consider *[has been implemented, occurred or become effective]/[is shortly to be implemented, occur or become effective]/[: [●]]*.
5. The *[QCiL Effective Date]/[Expected QCiL Effective Date]* is [●].
6. We consider that the Change in Law *[constitutes]/[will constitute]* a Qualifying Change in Law for the following reasons: [●]. We consider the Qualifying Change in Law to be *[a Discriminatory]/[a Specific]/[an Other]* Change in Law.
7. *[We consider that the Notified Change in Law will give rise to or result in QCiL Operating Costs]/[Savings].]*
8. *[We consider that the Notified Change in Law will give rise to or result in QCiL Capital Costs]/[Savings].]*
9. *[We consider that the Notified Change in Law will give rise to or result in an Adjusted Revenues Period. Our ARP Estimate is [●].]*
10. *[We consider that the Notified Change in Law will give rise to or result in a QCiL Construction Event.]*
11. *[We consider that the Notified Change in Law will give rise to or result in a QCiL Operations Cessation Event.]*

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

Generator QCiL Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR QCIL RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "Agreement"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 27.2.
3. This is a Generator QCiL Response Notice in relation to the DPA Counterparty QCiL Notice dated [●].
4. *[We consider that the Notified Change in Law [constitutes]/[will constitute] a Qualifying Change in Law.]/[We do not consider that the Notified Change in Law [constitutes]/[will constitute] a Qualifying Change in Law and enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of that conclusion.]*
5. *[We agree with the [QCIL Effective Date]/[Expected QCIL Effective Date] specified in the DPA Counterparty QCiL Notice.]/[We do not agree with the [QCIL Effective Date]/[Expected QCIL Effective Date] specified in the DPA Counterparty QCiL Notice and we consider the [QCIL Effective Date]/[Expected QCIL Effective Date] to be [●].]*
6. *[We consider that the Notified Change in Law will give rise to or result in QCiL Operating [Costs]/[Savings]. Our good faith estimate of the QCiL Operating [Costs]/[Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Operating [Costs]/[Savings] are [●]. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]*
7. *[We consider that the Notified Change in Law will give rise to or result in QCiL Capital [Costs]/[Savings]. Our good faith estimate of the QCiL Capital [Costs]/ [Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Capital [Costs]/[Savings] are [●]. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]*
8. *[We consider that the Notified Change in Law will give rise to or result in an Adjusted Revenues Period. Our ARP Estimate is [●]. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and this estimate.]*

9. ***[We consider that the Notified Change in Law will give rise to or result in a QCiL Construction Event. Our good faith estimates of the QCiL Construction Event Costs and QCiL Construction Event Savings are [●] and [●] respectively. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]***
10. ***[We consider that the Notified Change in Law will give rise to or result in a QCiL Operations Cessation Event. Our good faith estimates of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings are [●] and [●] respectively. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]***
11. ***[We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information listed in Appendix 1 which we consider to be relevant to evidence the impact of the Qualifying Change in Law on the Facility's:***
 - (A) ***process heat and mass balance data;***
 - (B) ***cost base data and related process consumption parameters; and***
 - (C) ***load factor and short run marginal cost.]***
12. ***We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information evidencing, in reasonable detail, the steps that we [have taken]/[and]/[propose to take] to comply with Condition 47.3 and the Reasonable and Prudent Standard.***
13. ***We enclose a Directors' Certificate certifying the matters specified in Condition 27.4.***

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator QCiL Response Notice Information Request

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GENERATOR QCIL RESPONSE NOTICE INFORMATION REQUEST

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 27.6.
3. This is a Generator QCiL Response Notice Information Request.
4. We require the following Supporting Information in relation to the **[Generator QCiL Response Notice dated [●]]/[Revised Generator QCiL Response Information received from you on [●]]: [●]**.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Generator QCiL Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR QCIL NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "Agreement"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 27.8.
3. This is a Generator QCiL Notice.
4. We *[enclose]/[set out the following]* reasonable details of the Qualifying Change in Law which we consider *[has been implemented, occurred or become effective]/[is shortly to be implemented, occur or become effective]/[: [●]]*.
5. The *[QCIL Effective Date]/[Expected QCIL Effective Date]* is [●].
6. We consider that the Notified Change in Law *[constitutes]/[will constitute]* a Qualifying Change in Law for the following reasons: [●]. We consider the Qualifying Change in Law to be *[a Discriminatory]/[a Specific]/[an Other]* Change in Law. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of that conclusion.
7. *[We consider that the Notified Change in Law will give rise to or result in QCiL Operating [Costs]/[Savings]. Our good faith estimate of the QCiL Operating [Costs]/[Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Operating [Costs]/[Savings] are [●]. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]*
8. *[We consider that the Notified Change in Law will give rise to or result in QCiL Capital [Costs]/[Savings]. Our good faith estimate of the QCiL Capital [Costs]/ [Savings] is [●]. Our good faith estimates as to the profile of the [incurrence of]/[making or receipt of] such QCiL Capital [Costs]/[Savings] are [●]. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]*
9. *[We consider that the Notified Change in Law will give rise to or result in an Adjusted Revenues Period. Our ARP Estimate is [●]. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and this estimate.]*

10. ***[We consider that the Notified Change in Law will give rise to or result in a QCiL Construction Event. Our good faith estimates of the QCiL Construction Event Costs and QCiL Construction Event Savings are [●] and [●] respectively. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]***
11. ***[We consider that the Notified Change in Law will give rise to or result in a QCiL Operations Cessation Event. Our good faith estimates of the QCiL Operations Cessation Event Costs and QCiL Operations Cessation Event Savings are [●] and [●] respectively. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]. Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of this conclusion and these estimates.]***
12. ***[We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, listed in Appendix 1 which we consider to be relevant to evidence the impact of the Qualifying Change in Law on the Facility's:***
 - (A) ***process heat and mass balance data;***
 - (B) ***cost base data and related process consumption parameters; and***
 - (C) ***load factor and short run marginal cost.]***
13. ***We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information evidencing, in reasonable detail, the steps that we [have taken]/[and]/[propose to take] to comply with Condition 47.3 and the Reasonable and Prudent Standard.***
14. ***We enclose a Directors' Certificate certifying the matters specified in Condition 27.9.***

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator QCiL Notice Information Request

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GENERATOR QCIL NOTICE INFORMATION REQUEST

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 27.11.
3. This is a Generator QCiL Notice Information Request.
4. We require the following Supporting Information in relation to the **[Generator QCiL Notice dated [●]]/[Revised Generator QCiL Information received from you on [●]]: [●]**.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

DPA Counterparty QCiL True-Up Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – DPA COUNTERPARTY QCIL TRUE-UP NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 30.1.
3. This is a DPA Counterparty QCiL True-Up Notice in relation to *[identify relevant Qualifying Change in Law]*.
4. We hereby require you to confirm the QCiL True-Up Information.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Generator QCiL True-Up Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR QCIL TRUE-UP RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 30.3.
3. This is a Generator QCiL True-Up Response Notice in relation to the DPA Counterparty QCiL True-Up Notice dated [●].
4. We enclose the QCiL True-Up Information.
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the information contained in or enclosed with this notice.
6. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator QCiL True-Up Response Notice Information Request

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GENERATOR QCiL TRUE-UP RESPONSE NOTICE INFORMATION REQUEST

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 30.6.
3. This is a Generator QCiL True-Up Response Notice Information Request.
4. We require the following Supporting Information in relation to the ***[Generator QCiL True-Up Response Notice dated [●]]/[Revised Generator QCiL True-Up Response Information received from you on [●]]: [●]***.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Generator QCiL True-Up Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR QCIL TRUE-UP NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 30.8.
3. This is a Generator QCiL True-Up Notice in relation to *[identify Qualifying Change in Law]*.
4. We enclose the QCiL True-Up Information.
5. We confirm that *[we have not recovered (and are not entitled to recover) any amount pursuant to Conditions [47.6] and [47.7]/[we have recovered the amount of [●] pursuant to Conditions [47.6] and [47.7].*
6. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of our conclusions.
7. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator QCiL True-Up Notice Information Request

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GENERATOR QCIL TRUE-UP NOTICE INFORMATION REQUEST

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 30.11.
3. This is a Generator QCiL True-Up Notice Information Request.
4. We require the following Supporting Information in relation to the **[Generator QCiL True-Up Notice dated [●]]/[Revised Generator QCiL True-Up Information received from you on [●]]: [●]**.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

QSE Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – QSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 31.1.
3. This is a QSE Notice.
4. We consider that a Qualifying Shutdown Event has occurred, the relevant details of which are: [●].
5. The Qualifying Shutdown Event occurred on [●].
6. Our good faith estimates of the QCiL Operations Cessation Event Costs and the QCiL Operations Cessation Event Savings are [●] and [●] respectively.
7. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information evidencing, in reasonable detail, the Qualifying Shutdown Event and the steps that the Generator has taken and/or proposes to take to comply with Condition 47.3 and the Reasonable and Prudent Standard.
8. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

CiAL Request Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – CIAL REQUEST NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 33.2.
3. This is a CiAL Request Notice.
4. We consider that a Change in Applicable Law [has been implemented, occurred or become effective]/[is expected to be implemented, occur or become effective] for the following reasons: [●].
5. The date on which the Change in Applicable Law ***[was implemented, occurred or became effective was]/[is expected to be implemented, occur or become effective is]*** [●].
6. We consider that the Change in Applicable Law ***[results]/[will result]*** in one (1) or more of the Required CiAL Amendment Objectives ceasing to be met for the following reasons: [●].
7. ***[We consider that the Required CiAL Amendment(s) are [●].]***
8. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.

Yours faithfully,

.....

For and on behalf of
the **Generator**

CiAL Request Validity Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CIAL REQUEST VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 33.5.
3. This is a CiAL Request Validity Notice.
4. The CiAL Request Criterion has been met.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

CiAL Review Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CIAL REVIEW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 33.6.
3. This is a CiAL Review Notice.
4. The following CiAL Review Trigger has occurred: [●].
5. The CiAL Review Response Deadline is: [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

CiAL Review Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – CIAL REVIEW RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 33.7.
3. This is a CiAL Review Response Notice in relation to the CiAL Review Notice dated [●].
4. We **[enclose]/[set out the following]** Supporting Information which we wish you to take account of in undertaking the CiAL Review: [●].
5. **[We consider that the Required CiAL Amendment(s) are [●].]**

Yours faithfully,

.....

For and on behalf of
the **Generator**

CiAL Review Outcome Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CIAL REVIEW OUTCOME NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 33.9.
3. This is a CiAL Review Outcome Notice.
4. The outcome of the CiAL Review was as follows: [●]. ***[The Required CiAL Amendments are as follows: [●].]***
5. ***[The date from which the Required CiAL Amendments will take effect is: [●].]***

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

CiAL Dispute Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – CIAL DISPUTE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 34.1.
3. This is a CiAL Dispute Notice.
4. The subject matter of the Dispute is [●].
5. The issues to be resolved are [●].
6. The [Condition]/[paragraph] [to which the Dispute relates]/[pursuant to which the Dispute arises] is [●].
7. We consider the correct position is [●]. Our reasons for this are [●].
8. *[We consider the following [claim[s]],[dispute[s]] arising out of another CCUS Programme DPA should be consolidated with or joined to the Dispute: [●].]*
9. *[We intend to rely on the following Supporting Information, copies of which we enclose: [●].]*
10. The [relief]/[determination]/[remedy]/[recourse] that we seek in relation to the Dispute is [●].
11. We **[do not]** consider the Dispute should (without a Senior Representatives Settlement being reached) be referred for **[determination in accordance with the Expert Determination Procedure]/[resolution in accordance with the Arbitration Procedure]**.
12. Our Senior Representative is [●].

Yours faithfully,

.....

For and on behalf of
the **Generator**

CiAL Dispute Validity Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – CIAL DISPUTE VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 34.3.
3. This is a CiAL Dispute Validity Notice in relation to the CiAL Dispute Notice dated [●].
4. The CiAL Dispute Threshold Criterion has been met.
5. We propose that the Proposed CiAL Expert appointed be [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the Proposed CiAL Expert has the relevant expertise which qualifies the Proposed CiAL Expert to determine the relevant CiAL Dispute for the following reasons: [●].
6. We enclose an Expert Determination Notice in relation to the CiAL Dispute Notice.
7. We enclose a Consolidation Request in relation to the CiAL Dispute.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Pre-Start Date Termination Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – PRE-START DATE TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.1.
3. This is a Pre-Start Date Termination Notice.
4. The Pre-Start Date Termination Date is [●].
5. **[The following Termination Event has occurred: [●].]**

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Prolonged FM Event Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – PROLONGED FM EVENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.5.
3. This is a Prolonged FM Event Notice.
4. The following Prolonged FM Event has occurred: [●].
5. The Prolonged FM Trigger Date is: [●].
6. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the Prolonged FM Event.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Prolonged FM Termination Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – PROLONGED FM TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.6.
3. This is a Prolonged FM Termination Notice.
4. The Prolonged FM Termination Date is [●].
5. **[The following Prolonged FM Event has occurred: [●].]**

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

T&S Prolonged Unavailability Event Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – T&S PROLONGED UNAVAILABILITY EVENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.8.
3. This is a T&S Prolonged Unavailability Event Notice.
4. The following T&S Prolonged Unavailability Event has occurred: [●]
5. We hereby notify you that the Generator T&S Prolonged Unavailability Response Deadline is: [●].
6. We hereby notify you that we may serve a T&S Prolonged Unavailability Termination Notice in accordance with Condition 36.22 on [●].
7. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the T&S Prolonged Unavailability Event.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

T&S Prolonged Unavailability Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – T&S PROLONGED UNAVAILABILITY RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.9.
3. This is a T&S Prolonged Unavailability Response Notice in relation to the T&S Prolonged Unavailability Event Notice dated [●].
4. ***[We consider that the T&S Prolonged Unavailability Event is no longer continuing. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.]***
5. ***[We consider that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.]***
6. ***[We intend to provide an Alternative T&S Network Solution Plan.]***
7. ***[We consider that the T&S Prolonged Unavailability Event will not be remedied by the T&S Unavailability Remediation Deadline and we cannot provide a feasible Alternative T&S Network Solution Plan for the following reasons: [●].]***
8. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information evidencing, in reasonable detail, the steps that we ***[have taken]/[and]/[propose to take]*** to comply with Condition 47.3 and the Reasonable and Prudent Standard.
9. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

T&S Prolonged Unavailability Review Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – T&S PROLONGED UNAVAILABILITY REVIEW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.11.
3. This is T&S Prolonged Unavailability Review Notice.
4. *[We consider that you have [not] delivered evidence, in form and content satisfactory to the DPA Counterparty, that the T&S Prolonged Unavailability Event is no longer continuing as at such date]*
5. *[We consider that we have not been provided with sufficient Supporting Information to determine whether the T&S Prolonged Unavailability Event is no longer continuing. We require the following Supporting Information: [●].]*
6. *[We consider that you have [not] delivered sufficient evidence, that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline.]/[We consider that you cannot provide a feasible Alternative T&S Network Solution Plan.]*
7. *[We consider that we have not been provided with sufficient Supporting Information to determine whether the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline and you cannot provide a feasible Alternative T&S Network Solution Plan. We require the following Supporting Information: [●].]*

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

T&S Prolonged Unavailability Further Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – T&S PROLONGED UNAVAILABILITY FURTHER RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.12(A)(iv).
3. This is a T&S Prolonged Unavailability Further Response Notice in relation to the T&S Prolonged Unavailability Event Notice dated [●] and the T&S Prolonged Unavailability Response Notice dated [●].
4. ***[We consider that the T&S Prolonged Unavailability Event is no longer continuing. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.]***
5. ***[We consider that the T&S Prolonged Unavailability Event will be remedied by the T&S Prolonged Unavailability Remediation Deadline. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.]***
6. ***[We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] a draft Alternative T&S Network Solution Plan together with Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.]***
7. ***[We consider that the T&S Prolonged Unavailability Event will not be remedied by the T&S Prolonged Unavailability Remediation Deadline and we cannot provide a feasible Alternative T&S Network Solution Plan for the following reasons: [●]. We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.]***

Yours faithfully,

.....

For and on behalf of
the **Generator**

Alternative T&S Network Review Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – ALTERNATIVE T&S NETWORK REVIEW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.13(C).
3. This is an Alternative T&S Network Review Notice.
4. *[We approve the draft Alternative T&S Network Solution Plan submitted to us on [●].]/[We consider that we have not been provided with sufficient Supporting Information in relation to the draft Alternative T&S Network Solution Plan, in order to determine whether or not to approve such plan. We require the following Supporting Information: [●].]/[We require the following amendments to be made to the draft Alternative T&S Network Solution Plan: [●]]/[We do not approve the draft Alternative T&S Network Solution Plan for the following reasons: [●].]*

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Generator T&S Prolonged Unavailability Remediation Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR T&S PROLONGED UNAVAILABILITY REMEDIATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.18(B).
3. This is a Generator T&S Prolonged Unavailability Remediation Notice.
4. We successfully completed the implementation of the Alternative T&S Network Solution Plan on [●].
5. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice and which we consider to be relevant to evidence that the T&S Prolonged Unavailability Event has been remedied..

Yours faithfully,

.....

For and on behalf of
the **Generator**

T&S Prolonged Unavailability Termination Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – T&S PROLONGED UNAVAILABILITY TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.22.
3. This is a T&S Prolonged Unavailability Termination Notice.
4. The T&S Prolonged Unavailability Termination Date is [●].
5. ***[The following T&S Prolonged Unavailability Event has occurred: [●].]***

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Generator T&S Termination Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR T&S TERMINATION RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.23.
3. This is a Generator T&S Termination Response Notice.
4. We consider the T&S Termination Payment is: [●]
5. The principal inputs used by us to calculate such T&S Termination Payment were: [●].
6. We enclose *[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]* Supporting Information listed in Appendix 1 to this notice which we consider to be necessary to enable you to calculate the T&S Termination Payment.
7. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Generator T&S Prolonged Unavailability Termination Event Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR T&S PROLONGED UNAVAILABILITY TERMINATION EVENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.27.
3. This is a Generator T&S Prolonged Unavailability Termination Event Notice.
4. The T&S Prolonged Unavailability Termination Event occurred on: [●].
5. ***[The following T&S Prolonged Unavailability Event has occurred: [●].]***
6. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence the T&S Prolonged Unavailability Termination Event.
7. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Default Termination Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – DEFAULT TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.33.
3. This is a Default Termination Notice.
4. The Default Termination Date is [●].
5. The following Termination Event has occurred: [●].

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Minimum Longstop Date Termination Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – MINIMUM LONGSTOP DATE TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.35.
3. This is a Minimum Longstop Date Termination Notice.

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

QCiL Termination Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – QCiL TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.37.
3. This is a QCiL Termination Notice.
4. The QCiL Termination Date is [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

QCiL Compensation Termination Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – QCiL COMPENSATION TERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 36.39.
3. This is a QCiL Compensation Termination Notice.
4. The QCiL Compensation Termination Date is [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

T&S Termination Payment Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – T&S TERMINATION PAYMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 37.3(B).
3. This is a T&S Termination Payment Notice.
4. The T&S Termination Payment is [●].
5. The principal inputs used by us to calculate such T&S Termination Payment were: [●].
6. The T&S Termination Payment shall be payable *[as a lump sum]/[as staged payments]*.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Default Termination Payment Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – DEFAULT TERMINATION PAYMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 37.10(B).
3. This is a Default Termination Payment Notice.
4. The Default Termination Payment is [●].
5. The principal inputs used by us to calculate such Default Termination Payment were: [●].

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Dispute Notice

To: [●]

From: [●]

Dated: [●]

DPA – DISPUTE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 40.3.
3. This is a Dispute Notice.
4. The subject matter of the Dispute is [●].
5. The issues to be resolved are [●].
6. The Condition to which the Dispute relates is [●].
7. We consider that the correct position is [●]. Our reasons for believing this is the correct position are [●].
8. ***[We consider that the following dispute or claim relating to or arising out of another CCUS Programme DPA should be [consolidated with]/[joined to] this Dispute: [●].]***
9. ***[We intend to rely on the following Supporting Information, copies of which we enclose: [●].]***
10. The ***[relief]/[determination]/[remedy]/[recourse]*** which we seek in relation to the Dispute is [●].
11. We [do not] consider the Dispute should (without a Senior Representatives Settlement being reached) be referred for ***[determination in accordance with the Expert Determination Procedure]/[resolution in accordance with the Arbitration Procedure]***.
12. Our Senior Representative is [●].

Yours faithfully,

.....
For and on behalf of [●]

Expert Determination Notice**To: [●]****From: [●]****Dated: [●]****DPA – EXPERT DETERMINATION NOTICE**

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 42.1.
3. This is an Expert Determination Notice.
4. The subject matter of the Dispute is [●].
5. The issues to be resolved are [●].
6. The relevant Condition to which the Dispute relates is [●].
7. We consider that the correct position is [●]. Our reasons for this are [●].
8. ***[We consider that the following dispute or claim relating to or arising out of another CCUS Programme DPA should be [consolidated with]/[joined to] this Dispute: [●].]***
9. ***[We intend to rely on the following Supporting Information, copies of which we enclose: [●].]***
10. The ***[relief]/[determination]/[remedy]/[recourse]*** which we seek in relation to the Dispute is [●].
11. We propose that the Expert appointed be [●].
12. We propose that the proposed Expert be appointed on the basis of the following terms of reference: [●].
13. We believe that the proposed Expert has the relevant expertise which qualifies the proposed Expert to determine the relevant Expert Dispute for the following reasons: [●]

Yours faithfully,

.....

For and on behalf of

[●]

Expert Determination Response Notice

To: [●]

From: [●]

Dated: [●]

DPA – EXPERT DETERMINATION RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 42.3.
3. This is an Expert Determination Response Notice.
4. We ***[do not]*** accept the Expert proposed in the Expert Determination Notice dated [●]. ***[We propose [●] as an alternative Expert.]***
5. We ***[do not]*** accept the terms of reference proposed in the Expert Determination Notice dated [●]. ***[We propose the following alternative terms of reference: [●].]***

Yours faithfully,

.....

For and on behalf of

[●]

Consolidation Request

To: ***[All the parties to a Connected Dispute]***

From: ***[●]***

Dated: ***[●]***

DPA – CONSOLIDATION REQUEST

Dear Sir/Madam,

1. We refer to the agreement dated ***[●]*** between ***[●]*** as the DPA Counterparty and ***[●]*** as the Generator in relation to the ***[●]*** Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 44.2.
3. This is a Consolidation Request.
4. The subject matter of the Dispute is ***[●]***.
5. We consider that the following dispute[s] ***[is]/[are]*** Connected Dispute[s]: ***[●]***.
6. Our reasons for considering that these disputes should be consolidated with the Connected Dispute[s] are ***[●]***.
7. ***[We intend to rely on the following Supporting Information, copies of which we enclose: [●].]***
8. This notice ***[has been]/[will be]*** copied to the ***[Expert]/[Arbitrator(s)]*** determining the Connected Dispute[s] ***[at the same time this notice was given to the [addressees]]/[forthwith upon appointment of the [Expert]/[Arbitrator(s)]]***.

Yours faithfully,

.....

For and on behalf of

[●]

Change of Material Investor Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA –CHANGE OF MATERIAL INVESTOR NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 64.12.
3. This is a Change of Material Investor Notice.
4. We enclose details of the new ownership structure (legal and beneficial) that will apply following the Change of Material Investor.
5. ***[We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence:***
 - (A) ***the fulfilment of the Investor Group Requirements; and***
 - (B) ***that the proposed Change of Material Investor is [not] a Restricted Share Transfer.]***
6. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Change of Material Investor Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – CHANGE OF MATERIAL INVESTOR RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 64.14.
3. This is a Change of Material Investor Response Notice.
4. *[We consider that the Investor Group Requirements have [not] be fulfilled following the proposed Change of Material Investor.]/[We consider that you have [not] evidenced whether or not the proposed Change of Material Investor is a Restricted Share Transfer.]*
5. *[We consider that we have not been provided with sufficient Supporting Information to determine whether the Investor Group Requirements would be fulfilled following the proposed Change of Material Investor [and]/[or] whether or not the proposed Change of Material Investor is a Restricted Share Transfer. We require you to provide the following Change of Material Investor Supporting Information [●].]*

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Test Procedure Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA –TEST PROCEDURE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.1 of Part A of Annex 2 (*Testing Requirements*).
3. This is a Test Procedure Notice.
4. We enclose the draft Performance Test Procedure we propose to be adopted for the purposes of the Performance Tests.
5. The Facility's pre-test uncertainty calculations for the instrumentation to be used for the performance test measurements in each Performance Test are [●].
6. The Proposed Corrections Curves are [●].
7. The Proposed Heat and Material Balance Diagram is [●].
8. ***[We enclose [(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)] Supporting Information listed in Appendix 1 to this notice which we consider to be relevant to evidence any changes relevant to this notice.]***
9. The proposed date to carry out such Performance Test is [●].

Yours faithfully,

.....

For and on behalf of
the **Generator**

PTP Response Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – PTP RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.2 of Part A of Annex 2 (*Testing Requirements*).
3. This is a PTP Response Notice.
4. We **[do not]** approve the draft Performance Test Procedure proposed in the Performance Test Procedure dated [●]. **[We propose [●] as an alternative Performance Test Procedure.]**
5. We require the Generator to provide the following additional Supporting Information [●].
6. We require the following amendment[s] to the draft Performance Test Procedure [●].

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Performance Test Access Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – PERFORMANCE TEST ACCESS NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.6 of Part A of Annex 2 (*Testing Requirements*).
3. This is a Performance Test Access Notice.
4. We [intend]/[nominate [●]] to exercise the Performance Test Access Right.

Yours faithfully,

.....

For and on behalf of
 the **DPA Counterparty**

Scheduled Performance Test Date Window Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA– SCHEDULED PERFORMANCE TEST DATE WINDOW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.1 of Annex 2 (*Testing Requirements*).
3. This is a Scheduled Performance Test Date Window Notice.
4. The anticipated window of ten (10) Business Days within which we propose to conduct the Performance Test is [●].

Yours faithfully,

.....
For and on behalf
of the **Generator**

Performance Test Date Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – PERFORMANCE TEST DATE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.2 of Part A of Annex 2 (*Testing Requirements*).
3. This is a Performance Test Date Notice.
4. We confirm that the Performance Test Date is [●].

Yours faithfully,

.....

For and on behalf of
the **Generator**

Performance Test Date Adjustment Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – PERFORMANCE TEST DATE ADJUSTMENT NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.3 of Annex 2 (*Testing Requirements*).
3. This is an Performance Test Date Adjustment Notice.
4. The Revised Notified Performance Test within the Scheduled Performance Test Date Window is [●].
5. We enclose *[(by way of upload(s) to the DPA Counterparty document transfer application on the dates set out in Appendix 1 to this notice)]* the following Supporting Information evidencing the reasons for the change from the Initial Notified Performance Test Date to the Revised Notified Performance Test Date: [●]

Yours faithfully,

.....
For and on behalf
of the **Generator**

Amendment Notification

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – AMENDMENT NOTIFICATION

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.1 of Annex 6 (*Change Control Procedure*).
3. This is an Amendment Notification.
4. The Proposed Amendment is [●].
5. The Proposed Amendment Effective Date is [●].
6. We consider the Proposed Amendment to be a **[Material Amendment]/[Technical Amendment]**.
7. **[We consider the Proposed Amendment to be a Technical Amendment and we [do not] consider the Proposed Amendment to be a General Amendment.]/[We consider the Proposed Amendment to be a General Amendment and we [do not] consider that it applies to all CCUS Programme DPAs]/[consider that it applies only to those of [a specified category]/[specified categories], being [●]].]**
8. We enclose the following Supporting Information which we consider necessary to enable you to evaluate the Proposed Amendment: [●].

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

Material Amendment Response Notification

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – MATERIAL AMENDMENT RESPONSE NOTIFICATION

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.2(B) of Annex 6 (*Change Control Procedure*).
3. This is a Material Amendment Response Notification.
4. We [do not] accept the Proposed Amendment proposed in the Amendment Notification dated [●]. [We propose [●] as an alternative amendment.]
5. ***[We note that the Amendment Notification has not addressed the following consequential matters: [●].]***
6. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information listed in Appendix 1 to this notice which we consider necessary to enable you to evaluate the matters covered in this Material Amendment Response Notification.
7. We [do not] accept the Proposed Amendment Effective Date proposed in the Amendment Notification dated [●]. ***[We propose [●] as an alternative effective date.]***

Yours faithfully,

.....

For and on behalf of
the **Generator**

Technical Amendment Response Notification

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – TECHNICAL AMENDMENT RESPONSE NOTIFICATION

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.6(B)(ii) of Annex 6 (*Change Control Procedure*).
3. This is a Technical Amendment Response Notification.
4. We **[do not]** accept the Proposed Amendment proposed in the Amendment Notification dated [●]. **[We propose [●] as an alternative amendment.]**
5. **[We note that the Amendment Notification has not addressed the following consequential matters: [●].]**
6. We **[do not]** accept the Proposed Amendment Effective Date proposed in the Amendment Notification dated [●]. **[We propose [●] as an alternative effective date.]**

Yours faithfully,

.....

For and on behalf of
the **Generator**

GRP Principles Request Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GRP PRINCIPLES REQUEST NOTICE

Dear Sir/Madam

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.2 of Part B of Annex 8 (*Gas Reference Price Review*).
3. This is a GRP Principles Request Notice.
4. We believe the calculation of the Gas Reference Price does not comply with the following GRP Principle[s]: [●].
5. ***[We propose that the non-compliance with the GRP Principle[s] should be addressed as follows: [●].]***
6. We enclose the following Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the matters in paragraph[s] 4 [and 5] above.

Yours faithfully,

.....

For and on behalf of
the **Generator**

GRP Principles Request Validity Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GRP PRINCIPLES REQUEST VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.5 of Part B of Annex 8 (*Gas Reference Price Review*).
3. This is a GRP Principles Request Validity Notice.
4. The GRP Principles Request Criterion has been met.

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

GRP Principles Review Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GRP PRINCIPLES REVIEW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.8 of Part B of Annex 8 (*Gas Reference Price Review*).
3. This is a GRP Principles Review Notice.
4. The following GRP Principles Review Trigger has occurred: [●].
5. The GRP Principles Review Response Deadline is: [●].

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

GRP Principles Review Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GRP PRINCIPLES REVIEW RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.9 of Part B of Annex 8 (*Gas Reference Price Review*).
3. This is a GRP Principles Review Response Notice in relation to the GRP Principles Review Notice dated [●].
4. We enclose the following Supporting Information which we wish you to take account of in undertaking the GRP Principles Review: [●].
5. **[We propose that the GRP Principles Review Trigger should be addressed as follows: [●].]**

Yours faithfully,

.....
For and on behalf of
the **Generator**

GRP Principles Review Outcome Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – GRP PRINCIPLES REVIEW OUTCOME NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.12 of Part B of Annex 8 (*Gas Reference Price Review*).
3. This is a GRP Principles Review Outcome Notice.
4. We ***[enclose a]/[set out the following]*** summary of the outcome of the GRP Principles Review[:[●]]. ***[The GRP Principles Review Proposals are as follows: [●].]***
5. ***[We enclose a summary of the reasons for determining that it is not possible to effect any GRP Mechanism Amendment (or combination of GRP Mechanism Amendments) in a manner which complies with all of the GRP Principles. We consider that the following GRP Principles will be complied with by virtue of the GRP Mechanism Amendments being effected: [●].]***
6. The GRP Principles Review Implementation Date is: [●].

Yours faithfully,

.....

For and on behalf of
the **DPA Counterparty**

GRP Dispute Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GRP DISPUTE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.1 of Part B of Annex 8 (*Gas Reference Price*).
3. This is a GRP Dispute Notice.
4. The subject matter of the Dispute is [●]. The issues to be resolved are [●].
5. The [Condition]/[paragraph] to which the Dispute relates is [●].
6. We consider the correct position is [●]. Our reasons for this are [●].
7. ***[We consider the following [claim(s)/dispute(s)] arising out of other CCUS Programme DPA Contracts should be consolidated with or joined to the dispute: [●]]***
8. ***[We intend to rely on the following Supporting Information, copies of which we enclose: [●].]***
9. The [relief]/[determination]/[remedy]/[recourse] which we seek in relation to the Dispute is [●].
10. We ***[do not]*** consider that the Dispute should (without a Senior Representatives Settlement being reached) be referred for ***[determination in accordance with the Expert Determination Procedure]/[resolution in accordance with the Arbitration Procedure]***.
11. Our Senior Representative is: [●].

Yours faithfully,

.....

For and on behalf of
the **Generator**

GRP Dispute Validity Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – GRP DISPUTE VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.3 of Part B of Annex 8 (*Gas Reference Price Review*).
3. This is a GRP Dispute Validity Notice in relation to the GRP Dispute Notice dated [●].
4. The GRP Dispute Threshold Criterion has been met.
5. We propose that the Proposed GRP Expert appointed be [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the Proposed GRP Expert has the relevant expertise which qualifies the Proposed GRP Expert to determine the relevant GRP Dispute for the following reasons: [●].
6. We enclose a Consolidation Request in relation to the GRP Dispute.

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

CMRP Principles Request Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – CMRP PRINCIPLES REQUEST NOTICE

Dear Sir/Madam

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.2 of Part A of Annex 9 (*Carbon Market Reference Price Review*).
3. This is a CMRP Principles Request Notice.
4. We believe the calculation of the Carbon Market Reference Price does not comply with the following CMRP Principle[s]: [●].
5. ***[We propose that the non-compliance with the CMRP Principle[s] should be addressed as follows: [●].]***
6. We enclose the following Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the matters in paragraph[s] 5 [and 6] above.

Yours faithfully,

.....

For and on behalf of
the **Generator**

CMRP Principles Request Validity Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CMRP PRINCIPLES REQUEST VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.5 of Part A of Annex 9 (*Carbon Market Reference Price Review*).
3. This is a CMRP Principles Request Validity Notice.
4. The CMRP Principles Request Criterion has been met.

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

CMRP Principles Review Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CMRP PRINCIPLES REVIEW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.8 of Part A of Annex 9 (*Carbon Market Reference Price Review*).
3. This is a CMRP Principles Review Notice.
4. The following CMRP Principles Review Trigger has occurred: [●].
5. The CMRP Principles Review Response Deadline is: [●].

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

CMRP Principles Review Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – CMRP PRINCIPLES REVIEW RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.9 of Part A of Annex 9 (*Carbon Market Reference Price Review*).
3. This is a CMRP Principles Review Response Notice in relation to the CMRP Principles Review Notice dated [●].
4. We enclose the following Supporting Information which we wish you to take account of in undertaking the CMRP Principles Review: [●].
5. **[We propose that the CMRP Principles Review Trigger should be addressed as follows: [●].]**

Yours faithfully,

.....

For and on behalf of
the **Generator**

CMRP Principles Review Outcome Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CMRP PRINCIPLES REVIEW OUTCOME NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.12 of Part A of Annex 9 (*Carbon Market Reference Price Review*).
3. This is a CMRP Principles Review Outcome Notice.
4. We **[enclose a]/[set out the following]** summary of the outcome of the CMRP Principles Review[:[●]]. **[The CMRP Principles Review Proposals are as follows: [●].]**
5. **[We enclose a summary of the reasons for determining that it is not possible to effect any CMRP Mechanism Amendment (or combination of CMRP Mechanism Amendments) in a manner which complies with all of the CMRP Principles. We consider that the following CMRP Principles will be complied with by virtue of the CMRP Mechanism Amendments being effected: [●].]**
6. The CMRP Principles Review Implementation Date is: [●].

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

CMRP Dispute Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – CMRP DISPUTE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.1 of Part A of Annex 9 (*Carbon Market Reference Price Review*).
3. This is a CMRP Dispute Notice.
4. The subject matter of the Dispute is [●]. The issues to be resolved are [●].
5. The [Condition]/[paragraph] to which the Dispute relates is [●].
6. We consider the correct position is [●]. Our reasons for this are [●].
7. **[We consider the following [claim(s)/dispute(s)] arising out of other CCUS Programme DPA Contracts should be consolidated with or joined to the dispute: [●]]**
8. **[We intend to rely on the following Supporting Information, copies of which we enclose: [●].]**
9. The [relief]/[determination]/[remedy]/[recourse] which we seek in relation to the Dispute is [●].
10. We **[do not]** consider that the Dispute should (without a Senior Representatives Settlement being reached) be referred for **[determination in accordance with the Expert Determination Procedure]/[resolution in accordance with the Arbitration Procedure]**.
11. Our Senior Representative is: [●].

Yours faithfully,

.....

For and on behalf of
the **Generator**

CMRP Dispute Validity Notice

To: [●] (the "Generator")
 [Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
 [Address]

Dated: [●]

DPA – CMRP DISPUTE VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.3 of Part A of Annex 9 (*Carbon Market Reference Price Review*).
3. This is a CMRP Dispute Validity Notice in relation to the CMRP Dispute Notice dated [●].
4. The CMRP Dispute Threshold Criterion has been met.
5. We propose that the Proposed CMRP Expert appointed be [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the Proposed CMRP Expert has the relevant expertise which qualifies the Proposed CMRP Expert to determine the relevant CMRP Dispute for the following reasons: [●].
6. We enclose a Consolidation Request in relation to the CMRP Dispute.

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

Proposed Energy Consultant Determination Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – PROPOSED ENERGY CONSULTANT DETERMINATION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 1.5 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Proposed Energy Consultant Determination Notice.
4. We propose that the Proposed Energy Consultant appointed be [●].
5. We propose that [s]he be appointed on the basis of the following terms of reference: [●].
6. We believe that the Proposed Energy Consultant meets the Energy Consultant Appointment Criteria for the following reasons: [●]
7. We consider that the Proposed Terms of Reference are [materially] consistent with the Minimum Terms of Reference Requirements for the following reasons: [●]

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

Generator Objection Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – GENERATOR OBJECTION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project v (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 1.6 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Generator Objection Notice.
4. We do not accept the appointment of the Proposed Energy Consultant proposed in the Proposed Energy Consultant Determination Notice dated [●] for the following reasons: [●]
5. We enclose ***[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]*** Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the foregoing.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Reference Plant Criteria Review Outcome Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – REFERENCE PLANT CRITERIA REVIEW OUTCOME NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.15 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant Criteria Review Outcome Notice.
4. ***[We [enclose a]/[set out the following] summary of the reasons for determining that the Reference Plant meets the Reference Plant Criteria.]/[We consider that the Reference Plant does not meet the Reference Plant Criteria for the following reasons: [●]. [The Base Performance Assumptions will be adjusted as follows: [●]. The Reference Plant Criteria Review Implementation Date is: [●]]/[We consider that no Plant meets the Reference Plant Criteria.]]***
5. We enclose a copy of the Reference Plant Criteria Review Report.

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

Reference Plant Principles Request Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – REFERENCE PLANT PRINCIPLES REQUEST NOTICE

Dear Sir/Madam

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.2 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant Principles Request Notice.
4. We believe the [Reference Plant]/[Base Performance Assumptions] do[es] not comply with the following Reference Plant Principle[s]: [●].
5. **[We propose that the non-compliance with the Reference Plant Principle[s] should be addressed as follows: [●].]**
6. We enclose the following Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the matters in paragraph[s] 5 [and 6] above.

Yours faithfully,

.....

For and on behalf of
the **Generator**

Reference Plant Principles Request Validity Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – REFERENCE PLANT PRINCIPLES REQUEST VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.5 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant Principles Request Validity Notice.
4. The Reference Plant Principles Request Criterion has been met.

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

Reference Plant Principles Review Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – REFERENCE PLANT PRINCIPLES REVIEW NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.8 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant Principles Review Notice.
4. The following Reference Plant Principles Review Trigger has occurred: [●].
5. The Reference Plant Principles Review Response Deadline is: [●].

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

Reference Plant Principles Review Response Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – REFERENCE PLANT PRINCIPLES REVIEW RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.9 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant Principles Review Response Notice in relation to the Reference Plant Principles Review Notice dated [●].
4. We enclose the following Supporting Information which we wish you to take account of in undertaking the Reference Plant Principles Review: [●].
5. ***[We propose that the Reference Plant Principles Review Trigger should be addressed as follows: [●].]***

Yours faithfully,

.....

For and on behalf of
the **Generator**

Reference Plant Principles Review Outcome Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – REFERENCE PLANT PRINCIPLES REVIEW OUTCOME NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.12 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant Principles Review Outcome Notice.
4. We ***[enclose a]/[set out the following]*** summary of the outcome of the Reference Plant Principles Review[:[●]]. ***[The Reference Plant Principles Review Proposals are as follows: [●].]***
5. ***[We enclose a summary of the reasons for determining that it is not possible to effect any Reference Plant Mechanism Amendment (or combination of Reference Plant Mechanism Amendments) in a manner which complies with all of the Reference Plant Principles. We consider that the following Reference Plant Principles will be complied with by virtue of the Reference Plant Mechanism Amendments being effected: [●].]***
6. The Reference Plant Principles Review Implementation Date is: [●].

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

Reference Plant Dispute Notice

To: [●] (the "DPA Counterparty")
[Address]

From: [●] (the "Generator")
[Unique reference number: [●]]

Dated: [●]

DPA – REFERENCE PLANT DISPUTE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the DPA Counterparty and [●] as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 3.1 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant **[Criteria Review]/[Principles Review]** Dispute Notice.
4. The subject matter of the Dispute is [●]. The issues to be resolved are [●].
5. The **[Condition]/[paragraph]** to which the Dispute relates is [●].
6. We consider the correct position is [●]. Our reasons for this are [●].
7. **[We consider the following [claim(s)/dispute(s)] arising out of other CCUS Programme DPA Contracts should be consolidated with or joined to the dispute: [●]]**
8. **[We intend to rely on the following Supporting Information, copies of which we enclose: [●].]**
9. The **[relief]/[determination]/[remedy]/[recourse]** which we seek in relation to the Dispute is [●].
10. We **[do not]** consider that the dispute should (without a Senior Representatives Settlement being reached) be referred for [determination in accordance with the Expert Determination Procedure]/**[resolution in accordance with the Arbitration Procedure]**.
11. Our Senior Representative is: [●].

Yours faithfully,

.....

For and on behalf of
the **Generator**

Reference Plant Dispute Validity Notice

To: [●] (the "Generator")
[Unique reference number: [●]]

From: [●] (the "DPA Counterparty")
[Address]

Dated: [●]

DPA – REFERENCE PLANT DISPUTE VALIDITY NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between [●] as the Generator and [●] as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 3.3 of Part A of Annex 10 (*Reference Plant Review*).
3. This is a Reference Plant Dispute Validity Notice in relation to the Reference Plant Dispute Notice dated [●].
4. The Reference Plant Dispute Threshold Criterion has been met.
5. We propose that the Proposed Reference Plant Expert appointed be [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the Proposed Reference Plant Expert has the relevant expertise which qualifies the Proposed Reference Plant Expert to determine the relevant Reference Plant Dispute for the following reasons: [●].
6. We enclose a Consolidation Request in relation to the Reference Plant Dispute.

Yours faithfully,

.....

For and on behalf of the **DPA**
Counterparty

T&S Meter Proving Test Notice

To: [●] (the "DPA Counterparty")
 [Unique reference number: [●]][Address]

From: [●] (the "Generator")
 [Unique reference number: [●]][Address]

Dated: [●]

DPA – T&S METER PROVING TEST NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.9 of Part C of Annex 3 (*T&S Meter Measurement System – Operations*).
3. This is a T&S Meter Proving Test Notice.
4. The T&S Meter Measurement System **[has/has not]** passed the T&S Meter Proving Test.
5. We enclose **[(by way of upload(s) to the DPA Counterparty's document transfer application on the dates set out in Appendix 1 to this notice)]** Supporting Information which we consider to be relevant to the content of this notice.
6. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is true, complete and accurate in all material respects and is not misleading.

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

T&S Meter Proving Test Response Notice

To: [●] (the "Generator")
 [Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
 [Unique reference number: [●]][Address]

Dated: [●]

DPA – T&S METER PROVING TEST RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.11 of Part C of Annex 3 (*T&S Meter Measurement System – Operations*).
3. This is a T&S Meter Proving Test Response Notice in relation to the T&S Meter Proving Test Notice dated [●].
4. We consider that the T&S Meter Proving Test **[has/has not]** been carried out in accordance with paragraph 4.8 of Part C of Annex 3 (*T&S Meter Measurement System – Operations*).
5. **[We [do not] agree that the relevant T&S Meter Measurement System [has/has not] passed the T&S Meter Proving Test.]**
6. **[We consider that we have not been provided with sufficient Supporting Information to determine whether the T&S Meter Proving Test has been carried out in accordance with paragraph 4.8 of Part C of Annex 3 (*T&S Meter Measurement System – Operations*), [and/or] whether the relevant T&S Meter Measurement System [has/has not] passed the T&S Meter Proving Test to which the T&S Meter Proving Test Notice relates.] [We require the following Supporting Information: [●].]**

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

Further T&S Meter Proving Test Response Notice

To: [●] (the "Generator")
[Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
[Unique reference number: [●]][Address]

Dated: [●]

DPA – FURTHER T&S METER PROVING TEST RESPONSE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.12(C)(ii) of Part C of Annex 3 (*T&S Meter Measurement System – Operations*).
3. This is a Further T&S Meter Proving Test Response Notice in relation to the T&S Meter Proving Test Notice dated [●], and the T&S Meter Proving Test Response Notice date [●].
4. Following our receipt of the T&S Meter Proving Test Supporting Information from you on [●], we consider that the T&S Meter Proving Test **[has/has not]** been carried out in accordance with paragraph 4.8 of Part C of Annex 3 (*T&S Meter Measurement System – Operations*), and the relevant T&S Meter Measurement System **[has/has not]** passed the T&S Meter Proving Test.

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

KYC Notice

To: [●] (the "DPA Counterparty")
[Unique reference number: [●]][Address]

From: [●] (the "Generator")
[Unique reference number: [●]][Address]

Dated: [●]

DPA – KYC NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to Condition 64.17.
3. *[We hereby notify you of a[n] [proposed]/[actual] change of our legal name. The details of our new legal name are as follows: [●].]*
4. *[We hereby notify you of a[n] [proposed]/[actual] Change of Ownership. The details of our new ownership structure that would apply following such Change of Ownership are as follows: [●].]*
5. *[We hereby notify you of a[n] [proposed]/[actual] change of Ultimate Investor. The details of the [incoming]/[outgoing] Ultimate Investor are as follows: [●].]*
6. *[We hereby notify you of a[n] [proposed]/[actual] change of appointment of a director. The details of the incoming director are as follows: [●].]*
7. *[We hereby notify you of a[n] [proposed]/[actual] change of our legal jurisdiction. The details of our new legal jurisdiction are as follows: [●].]*
8. We enclose a Directors' Certificate certifying that the information contained in, and enclosed with, this notice is in all material respects true, complete and accurate and not misleading.

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

Additional OCP Performance Test Date Notice

To: [●] (the "DPA Counterparty")
 [Unique reference number: [●]][Address]

From: [●] (the "Generator")
 [Unique reference number: [●]][Address]

Dated: [●]

DPA – ADDITIONAL OCP PERFORMANCE TEST DATE NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 2.9 of Part A of Annex 2 (*Testing Requirements*).
3. This is an Additional OCP Performance Test Date Notice.
4. We confirm that the Additional OCP Performance Test Date is: [●].

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

Longstop Performance Test Notice

To: [●] (the "DPA Counterparty")
 [Unique reference number: [●]][Address]

From: [●] (the "Generator")
 [Unique reference number: [●]][Address]

Dated: [●]

DPA – LONGSTOP PERFORMANCE TEST NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 1.10 of Part A of Annex 2 (*Testing Requirements*).
3. This is a Longstop Performance Test Notice.
4. We confirm that the Longstop Proposed Test Date Window is: [●].
5. We enclose the Approved Test Procedure.

Yours faithfully,

.....
 For and on behalf of
 the **Generator**

T&S TP Collateral Correction Notice

To: [●] (the "Generator")
[Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
[Unique reference number: [●]][Address]

Dated: [●]

DPA – T&S TP COLLATERAL CORRECTION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 3.4(A) of Annex 5 (*Post T&S Prolonged Unavailability Event Termination Procedure*).
3. This is a T&S TP Collateral Correction Notice.
4. The following Posted T&S Equity Excess Collateral ***[is not]/[has ceased to be]*** Acceptable Collateral: [●]. The reason that prevents such collateral from constituting Acceptable Collateral is [●].
5. The Deficient T&S TP Collateral Amount is: [●].

Yours faithfully,

.....
For and on behalf of
the **DPA Counterparty**

Collateral Correction Notice

To: [●] (the "Generator")
[Unique reference number: [●]][Address]

From: [●] (the "DPA Counterparty")
[Unique reference number: [●]][Address]

Dated: [●]

DPA – COLLATERAL CORRECTION NOTICE

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the Generator and us as the DPA Counterparty in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph 4.4(A) (*Altering Collateral*) of Part B (*Gain Share*).
3. This is a Collateral Correction Notice.
4. The following Posted Collateral *[is not]/[has ceased to be]* Acceptable Collateral: [●]. The reason that prevents such collateral from constituting Acceptable Collateral is: [●].
5. The Deficient Collateral Amount is [●].

Yours faithfully,

.....
 For and on behalf of
 the **DPA Counterparty**

**Letter of Credit Details Notice/Parent Company Guarantee Details Notice/Performance Bond
Details Notice**

To: [●] (the "DPA Counterparty")
[Unique reference number: [●]][Address]

From: [●] (the "Generator")
[Unique reference number: [●]][Address]

Dated: [●]

**DPA – [LETTER OF CREDIT DETAILS NOTICE/PARENT COMPANY GUARANTEE DETAILS
NOTICE/PERFORMANCE BOND DETAILS NOTICE]**

Dear Sir/Madam,

1. We refer to the agreement dated [●] between you as the DPA Counterparty and us as the Generator in relation to the [●] Project (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.
2. We further refer you to paragraph **[3.2(B) of Annex 5 (Post T&S Prolonged Unavailability Event Termination Procedure)]/[4.3(A)(ii) (Transfers and custody of collateral) of Part B (Gain Share) of the Schedule (Gain Share)]**.
3. This is a **[Letter of Credit Details Notice/Parent Company Guarantee Details Notice/Performance Bond Details Notice]**.
4. We **[have delivered to you] [intend to deliver/renew] a [replacement] [Letter of Credit/Gain Share Parent Company Guarantee/Gain Share Bond]**.
5. We hereby notify you of the terms of such **[Letter of Credit/T&S Equity Excess PCG/Gain Share Parent Company Guarantee/T&S Equity Bond/Gain Share Bond]**:
 - (A) The **[Qualifying Issuer/T&S Equity Excess] Guarantor/Qualifying Bond Provider** is: [●].
 - (B) The credit rating of the **[Qualifying Issuer/T&S Equity Excess] Guarantor/Qualifying Bond Provider** is: [●].
 - (C) The relevant contact details for the **[Qualifying Issuer/T&S Equity Excess] Guarantor/Qualifying Bond Provider**'s **[representative]/ [relationship manager]** are: [●].
 - (D) **[The [Letter of Credit/Gain Share Bond] is for an amount of: £[●].]**
 - (E) **[The term of the [renewed]/[delivered]/[replacement] [Letter of Credit/Gain Share Parent Company Guarantee/T&S Equity Excess PCG/T&S Equity Bond/Gain Share Bond] is: [●].]**

Yours faithfully,

.....
For and on behalf of
the **Generator**

Schedule Gain Share

Part A – Introduction

1. APPLICATION OF THIS SCHEDULE

The Parties

1.1 This Schedule (which shall include the provisions of the DPA which are referred to in Paragraph 1.4 of this Part A) shall be binding upon, and shall enure for the benefit, of:

- (A) the Original Parties;
 - (B) the Gain Share Acceding Parties; and
 - (C) the respective lawful transferees and successors of each of them,
- (each a "**Party**" and together the "**Parties**").

Term and Survival

1.2 This Schedule shall (except in circumstances in which the DPA is terminated pursuant to Condition 36A.1 (*Termination for failure to fulfil the Escrow Release Condition*) whereby this Schedule shall, subject to the remainder of this Paragraph, terminate) remain effective and binding until the date falling two (2) years after the Specified Expiry Date (the "**Gain Share Term**") provided that the expiry, lapse or termination of this Schedule shall not affect:

- (A) the provisions of this Schedule as they relate to the payment of any sums due by one Party to the other pursuant to this Schedule; and
- (B) the continued existence and validity of, and the continuing rights and obligations of, each Party under or in respect of Part A (*Introduction*), Paragraph 4 (*Gain Share: Security and Enforcement*) of Part B (*Gain Share*), Paragraphs 3 (*Payment Disruption Event*) to Paragraph 5 (*Set-off*) inclusive of Part D (*Miscellaneous*) of this Schedule.

Gain Share Provisions

1.3 The only provisions of the DPA which apply to, are binding on and are enforceable by the Gain Share Acceding Parties are those set out in, or which are stated to be incorporated into, this Schedule. For the avoidance of doubt, all other provisions of the DPA shall not apply to, be binding on or be enforceable by the Gain Share Acceding Parties and such parties shall have no other rights or remedies in respect of such provisions, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or disputed.

1.4 Subject to Paragraph 1.5 of this Part A, the Conditions detailed in Paragraph 1.4(M) shall be incorporated into this Schedule and shall apply to each Gain Share Acceding Party as if they were set out in this Schedule save that:

- (A) references to "Party" shall be to a Party to this Schedule;
- (B) references to "the DPA" shall be replaced by "this Schedule", save that in Conditions 53, 55.5, 55.11, 56.2 and 56.4, references to "the DPA" shall be replaced by "the DPA and this Schedule";

- (C) words such as "herein", "hereof", "hereunder", "hereby" and "hereto" where they appear in such provisions shall be construed accordingly;
- (D) references to "either Party" shall be replaced by "any Party or Parties";
- (E) references to "the other Party" shall be replaced by "any other Party or Parties";
- (F) references to "DPA Document" shall be replaced by "Gain Share Transaction Document" and references to "DPA Documents" shall be replaced by "Gain Share Transaction Documents", save that:
 - (i) in Condition 50, where references to "other DPA Documents and", ", the other DPA Documents" and ", any other DPA Document" shall be entirely deleted;
 - (ii) in Condition 53, 55.6, 55.11, 56.2 and 56.4, "other DPA Document" shall be replaced by "other DPA Document or Gain Share Transaction Document;"
- (G) references to "the Generator" shall be replaced by "a Gain Share Party", save that:
 - (i) in Conditions 55.5, 55.6(L), 55.7 and 57.1(B), "the Generator" shall be replaced by "the Gain Share Party or Gain Share Parties to which the information relates";
 - (ii) in Condition 48.4, "the Generator" shall be replaced by "the Gain Share Party or Gain Share Parties to which that information or document relates"
 - (iii) in Conditions 55.8, 55.10, 55.11, 57.1, 57.2 and 57.3, the first occurrence (respectively) of "the Generator" shall be replaced by "each Gain Share Party";
 - (iv) in Conditions 55.12, 56.2(A), 56.6, 57.3, 57.4, 57.7 and 73.2, the second occurrence (respectively) of "the Generator" shall be replaced by "that Gain Share Party";
 - (v) in Condition 57.4, the third occurrence of "the Generator" shall be replaced by "that Gain Share Party"; and
 - (vi) in Conditions 55.11(A), 55.11(D), 55.12, 56.2(A)(i), 56.2(B)(iv), 57.5 and 57.6, "the Generator" shall be replaced by "the Gain Share Party";
- (H) references to "Generator Confidential Information" shall be replaced by "Gain Share Party Confidential Information";
- (I) references to "Generator Permitted Purposes" shall be replaced by "Gain Share Parties Permitted Purposes";
- (J) references to "Information" shall be replaced by "GS Information";
- (K) references to "acknowledges and agrees" in Condition 55.6(L), shall be replaced by "acknowledge and agree";
- (L) the entirety of Condition 72.1 shall be deleted and replaced by the following:

"This provision shall apply to this Schedule only if it expressed by a Gain Share Acceding Party in its Deed of Accession that Agent for Service of Process shall apply."

(M) The following provisions of the DPA shall be incorporated into this Schedule:

- (i) Part 10 (Dispute Resolution);
- (ii) Condition 48 (No Waiver);
- (iii) Condition 49 (Consents);
- (iv) Condition 50 (Entire agreement);
- (v) Condition 53 (Severability);
- (vi) Condition 55 (Confidentiality);
- (vii) Condition 56 (Announcements);
- (viii) Condition 57 (Freedom of Information);
- (ix) Condition 63 (No partnership);
- (x) Condition 67 (Further assurance);
- (xi) Condition 69 (No variation);
- (xii) Condition 71 (Governing law and jurisdiction);
- (xiii) Condition 72 (Agent for service of process); and
- (xiv) Condition 73 (Language).

1.5 Part 10 (*Dispute Resolution*) of the Conditions shall be incorporated into this Schedule and apply as specified in Paragraphs 1.4(A) to 1.4(B) of this Part A save that:

- (A) references to "a Party" shall be replaced by "a party to the Dispute";
- (B) references to "each Party" shall be replaced by "each party to the Dispute";
- (C) references to "the Parties" shall be replaced by "the parties to the Dispute";
- (D) references to "referring Party" shall be replaced by "referring party or parties";
- (E) references to "either Party" shall be replaced by "any party to the Dispute";
- (F) references to "neither Party" shall be replaced by "no party to the Dispute";
- (G) references to "the other Party" shall be replaced by "the other party or parties to the Dispute";
- (H) references to "both Parties" shall be replaced by "all parties to the Dispute";
- (I) the reference to "The Party" in Condition 42.3 shall be replaced by "The party or parties"
- (J) references to "Generator and the DPA Counterparty" in Condition 40.2 shall be replaced by "Parties";

- (K) references to "considers" in Conditions 40.3(C), 40.3(D), 40.3(E) and 42.1(B) shall be replaced by "consider(s)";
- (L) references to "intends" in Condition 40.3(E) shall be replaced by "intend(s)";
- (M) references to "seeks" in Condition 40.3(F) shall be replaced by "seek(s)";
- (N) "Senior Representative" in Condition 40.3(H) shall be replaced by "Senior Representative(s)";
- (O) the reference to "one or other or both of the Parties pay the Expert's fees and expenses and each other's costs" in Condition 42.12 shall be replaced by "one or several or all of the parties involved in the Dispute pay the Expert's fees and expenses and one another's costs";
- (P) the reference to "the general principle that the allocation of costs should reflect the Parties' relative success and failure in the Expert Determination Procedure" in Condition 42.12 shall be replaced by "the general principle that the allocation of costs should reflect the relative success and failure of the parties to the Dispute in the Expert Determination Procedure";
- (Q) the entirety of Condition 43.5(A) shall be deleted and replaced by the following:
 - "(A) three (3) Arbitrators, and:
 - (i) there are only two (2) parties to the Dispute, each party to the Dispute shall nominate one (1) Arbitrator to be appointed by the LCIA as contemplated by the LCIA Arbitration Rules and the third Arbitrator shall be nominated by the Arbitrators nominated by the parties to the Dispute and shall act as chair; or
 - (ii) there are three (3) or more parties to the Dispute:
 - (a) the DPA Counterparty shall nominate one (1) Arbitrator to be appointed by the LCIA as contemplated by the LCIA Arbitration Rule;
 - (b) the remaining parties to the Dispute shall use reasonable endeavours to jointly nominate one (1) Arbitrator to be appointed by the LCIA as contemplated by the LCIA Arbitration Rules no later than ten (10) Business Days after the date the Arbitration Dispute is referred to arbitration pursuant to Condition 43.1, failing which the Arbitrator shall be appointed by the LCIA as contemplated by the LCIA Arbitration Rules; and
 - (c) the third Arbitrator shall be nominated by the Arbitrators nominated by the parties to the Dispute and shall act as chair; or";
- (R) references to "Claimant" shall be replaced with "Claimant(s)";
- (S) references to "Respondent" shall be replaced with "Respondent(s)"; and
- (T) the reference to "either" in Condition 44.6 shall be replaced by "any".

2. DEFINITIONS AND INTERPRETATION

Definitions

2.1 In this Schedule (*Gain Share*):

"Abusive" has the meaning given to that term in Paragraph 5.1(B) (*Unconditional Investor undertakings*) of Part B (*Gain Share*) of this Schedule;

"Accession Conditions Precedent" means the conditions precedent set out in Appendix 1 (*Accession Conditions Precedent*) of this Schedule;

"Accession Date" means, in relation to any person who is not an Original Party, the date on which that person acceded to the DPA by executing a Deed of Accession;

"Accountant's Report" means, in respect of the Equity IRR Model, a report of factual findings from an Auditor, prepared in accordance with International Standard on Related Services (ISRS) 4400 Engagements to Perform Agreed-Upon Procedures Regarding Financial Information published by the International Auditing and Assurance Standards Board (or any replacement standard) and confirming:

(A)

- (i) that the Project Cash Flows for the most recent Project Gain Share Calculation Period have been correctly extracted and adjusted from all relevant information including that referred to in Paragraph 5.1(D) (*Preliminary Equity IRR Report*) of Part B (*Gain Share*);
- (ii) if the Equity IRR Model includes Sale Cash Flows, that the Sale Cash Flows have been correctly extracted and adjusted from all relevant information (including sale documentation); and
- (iii) that any non-Generator cash flows specified in the Equity IRR Model agree back to source documentation (including investment cost documentation, investment disposal documentation or credit support costs documentation);

(B) that the figures for the Project Cash Flows specified in the Equity IRR Model agree back to the relevant Project Cash Flow figures for the previous Project Gain Share Calculation Period and (where relevant) Sale Cash Flows associated with the relevant TopCo Tranche or TopCo Tranches which are the subject of the Relevant Sale specified in the Equity IRR Model, agree back to the Project Cash Flows attributable to each relevant TopCo Tranche;

(C) that the calculation of the Gain Share Amounts set out in the Equity IRR Model is arithmetically accurate and has been computed in accordance with the requirements of this Schedule;

(D) that, in the case of a Sale Gain Share calculation, the determination of the TopCo Tranches as set out in the Equity IRR Model is arithmetically accurate and has been derived in accordance with the definition thereof; and

(E) the arithmetical accuracy of calculations set out in the Equity IRR Model;

"Acquirer" means, in relation to a Relevant Sale, the person(s) that acquire(s) the Economic Interests which are the subject of the Relevant Sale;

"Affiliate Tax Arrangement(s)" means any arrangement(s) entered into or put in place between the Generator and any member of the Generator's Investment Structure including, but not limited to, one (1) or more of the following:

- (A) a Group Relief Arrangement;
- (B) a Corporate Interest Restriction Arrangement;
- (C) a Loss Restriction Arrangement; and/or
- (D) VAT Group Re-charge Arrangement;

"Agreed Principles" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Annual ACF Amounts" means the aggregate of the Available Cash Flow and/or Deemed Available Cash Flow, Apportioned to each TopCo Tranche, and calculated as at the relevant Project Gain Share Calculation Date in respect of each year of the relevant Project Gain Share Calculation Period, as a time series and not as an individual aggregated number;

"Apportioned" means, in relation to a TopCo and the TopCo Tranches of such TopCo, apportioned between such TopCo Tranches pro rata to the then current Economic Interests in HoldCo represented by each such TopCo Tranche and as from the date of creation of the relevant TopCo Tranche to the date such TopCo Tranche ceases to exist (which shall include where it is cancelled or combined with another TopCo Tranche following a Relevant Sale) provided that for the purposes of any definition relevant to a Sale Gain Share calculation, any amount so apportioned shall be further apportioned to the portion of the TopCo Tranche which is the subject of the Sale Gain Share calculation;

"Associated" means, in respect of a person, the Investor and/or TopCo with which the relevant person is associated, either by reason of being a member of the same Group as such Investor and/or TopCo, as applicable, or by being attributed to such Investor and/or TopCo, as applicable, by written notice to the DPA Counterparty in accordance with the terms of this Schedule;

"Auditor" means the auditors of the Generator, which shall be:

- (A) Deloitte & Touche LLP;
- (B) Ernst & Young;
- (C) KPMG;
- (D) PricewaterhouseCoopers; or
- (E) another firm of independent and internationally reputable auditors of good standing approved by the DPA Counterparty;

"Available Cash Flow" means, as of a Project Gain Share Calculation Date:

- (A) all cash of the Generator (including (x) cash in hand, at bank or on deposit or which is cash pooled or similar, and (y) all cash equivalents including any financial instruments or money market instruments not part of the ordinary course of trade of the Generator) on the relevant Project Gain Share Calculation Date other than any such amounts as are at that date:
 - (i) required to be retained in the Generator to satisfy its reserve requirements under:

- (a) applicable Law, Directives or Required Authorisations; or
- (b) the terms of:
 - (aa) the DPA Documents and/or Gain Share Transaction Documents, but in each case if the Contracting Policy is applicable to the relevant DPA Document or Gain Share Transaction Document only to the extent the terms of such document are at that date in compliance with the Contracting Policy; or
 - (bb) the Finance Documents or, to the extent entered into on arm's length, market standard terms with Third Party Lenders, any replacements thereof (including any retention obligations under such documents); or
- (ii) considered by the directors of the Generator to be necessary to retain in the Generator taking account (without double counting) the requirements of the documents referred to in paragraphs (A)(i)(a) and (A)(i)(b) above and any directors' duties imposed by applicable Law, Directives or Required Authorisations, provided that any cash amounts retained under this paragraph (A)(i), when taken together with any amounts retained under paragraph (A)(i) above, shall not in aggregate exceed an amount that reasonable and prudent directors would consider it necessary to retain in the Generator,

less

- (B) all cash of the Generator (including (x) cash in hand, at bank or on deposit or which is cash pooled or similar, and (y) all cash equivalents including any financial instruments or money market instruments not part of the ordinary course of trade of the Generator) on the immediately preceding Project Gain Share Calculation Date (or, if there is no such immediately preceding Project Gain Share Calculation Date, the Agreement Date) other than any such amounts as were at that date:
 - (i) required to be retained in the Generator to satisfy its reserve requirements under:
 - (a) applicable Law, Directives or Required Authorisations; or
 - (b) the terms of:
 - (cc) the DPA Documents and/or Gain Share Transaction Documents, but in each case if the Contracting Policy is applicable to the relevant DPA Document or Gain Share Transaction Document only to the extent the terms of such document were at that date in compliance with the Contracting Policy; or
 - (dd) the Finance Documents or, to the extent entered into on arm's length, market standard terms with Third Party Lenders, any replacements thereof (including any retention obligations under such documents); or
 - (ii) considered by the directors of the Generator to be necessary to retain in the Generator taking account (without double counting) of the requirements of the documents referred to in paragraphs (B)(i)(a) and (B)(i)(b) above and any directors' duties imposed by applicable Law, Directives or Required Authorisations, provided that any cash amounts retained under this paragraph (B)(ii), when taken together with any amounts retained under paragraph (B)(i)

above, shall not in aggregate exceed an amount that reasonable and prudent directors would at that date have considered it necessary to retain in the Generator,

plus

- (C) the amount or cash equivalent amount of any Distributions made by the Generator in the period:
 - (i) commencing on the day after the Project Gain Share Calculation Date referred to in paragraph (B) above (or, if there is no such immediately preceding Project Gain Share Calculation Date, commencing on the Agreement Date); and
 - (ii) ending on (and including) the Project Gain Share Calculation Date referred to in paragraph (A) above,

provided that the Available Cash Flow shall not be less than zero (0);

"Avoidance Event" means, subject to paragraph (C) below, any contract, arrangement, scheme, transaction or series of transactions which (when taken together) and whether real, virtual, hybrid or synthetic, entered into or facilitated or participated in, directly or indirectly, by any of the Generator, HoldCo, the TopCos, the Investors or any Tracked Person, or any organising, structuring or restructuring by any such person of its capital or debt or business or affairs (or the conducting of the same) or the undertaking by any such person of any act or the making by any such person of any omission, in any such case which is designed to or a main purpose of which is to:

- (A)
 - (i) evade, avoid, circumvent, frustrate or reduce in whole or in part the payment to or receipt by the DPA Counterparty of amounts which might otherwise be payable to the DPA Counterparty under Paragraph 2 (*Gain Share: Project Gain Share Provisions*) of Part B (*Gain Share*) or Paragraph 3 (*Gain Share: Sale Gain Share Provisions*) of Part B (*Gain Share*);
 - (ii) remove, extract or leak value from any such person so as to reduce in whole or in part the payment to or receipt by the DPA Counterparty of amounts which might otherwise be payable to the DPA Counterparty under Paragraph 2 (*Gain Share: Project Gain Share Provisions*) of Part B (*Gain Share*) or Paragraph 3 (*Gain Share: Sale Gain Share Provisions*) of Part B (*Gain Share*);
 - (iii) satisfy the Threshold Test and avoid a transferee of Economic Interests in HoldCo being a Tracked Person; or
 - (iv) avoid a sale of Economic Interests being a Relevant Sale;
- (B) provided that they satisfy the criteria set out in paragraph (A) above, Avoidance Events may be or involve (without limitation):
 - (i) any reorganisation of the direct or indirect shareholding structure in, of, or relating to, any member of the HoldCo Group or the Project;
 - (ii) any issue, raising or grant of any Economic Interest at less than fair market value;
 - (iii) any issue, raising or grant of any Economic Interest other than for the purpose of funding the Project (and, for this purpose, funding the Project shall not include any voluntary cash collateralisation);

- (iv) any securitisation of cash or cash flows or moneys standing to the credit of any bank account, in any such case of, from or relating to any member of the HoldCo Group or the Project;
 - (v) any borrowing using as collateral cash or moneys standing to the credit of any bank account of, from or relating to any member of the HoldCo Group or the Project;
 - (vi) any borrowing of Economic Interests relating to any member of the HoldCo Group from any holder of such Economic Interests, whether or not for consideration; or
 - (vii) the entry into any Affiliate Tax Arrangement(s), to the extent that such arrangement(s) involve the provision (or the absence of any provision) of consideration in an amount that is less favourable to the Generator than the consideration that would have been paid or given between third parties dealing at arm's length (including circumstances where no consideration is provided) (assuming for these purposes that the Affiliate Tax Arrangements in question are arrangements to which third parties were capable of being party);
- (C) the following shall not constitute Avoidance Events:
- (i) the entry into a Related Party Transaction for goods or services which complies with the Agreed Principles under and as defined in the Contracting Policy;
 - (ii) the entry into any transaction with any person to dispose of an Economic Interest in HoldCo for fair market value and which is subject to the equity sales gain share mechanism in Paragraph 3 (*Gain Share: Sale Gain Share Provisions*);
 - (iii) without prejudice to Paragraph (B)(ii) above, Paragraph 5.1(D) (*Unconditional Investor undertakings*) of Part B (*Gain Share*) and Paragraph 14 (*Group Structure*) of Appendix 2 of the Gain Share Rules, the corporate restructuring within any Investor Group or the transfer of shares within such group of companies where the Ultimate Investor in respect of such Investor Group or, where there is no Ultimate Investor, the ultimate holding company in respect of such Investor Group remains the same; or
 - (iv) to the extent entered into on arm's length terms, complying with any third party financing made available other than by a member of the Shareholder Group to the Generator or to HoldCo for on-lending to the Generator for the purposes of the Project, unless, in each case, it is demonstrated that the relevant event does in fact satisfy the criteria set out in paragraph (A) above;

"Bond Events" has the meaning given to that term in Paragraph 4.5(C)(iv) (*Letter of Credit Events, Bond Events and Guarantee Events*) of Part B (*Gain Share*);

"Collateral Correction Notice" has the meaning given to that term in Paragraph 4.4(A) (*Altering Collateral*) of Part B (*Gain Share*);

"Contracting Policy" means the contracting policy set out at Appendix 5 (*Contracting Policy*) of this Schedule, as the same may be amended as agreed in writing between the DPA Counterparty and the Generator;

"Control" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Corporate Interest Restriction Arrangement" means any arrangement where the allocation within the Generator's Investment Structure of any restriction arising under Part 10 of, or Schedule 7A to, the Taxation (International and Other Provisions) Act 2010 is such that the Generator is allocated a restriction in excess of that which would have arisen on a standalone basis;

"Cost" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Daily Discount Amount" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Deed of Accession" means a deed substantially in the form set out in Appendix 6 (*Form of Deed of Accession*) of this Schedule executed by all Parties or in such other form as the DPA Counterparty may from time to time agree in writing, acting reasonably;

"Deemed Available Cash Flow" means, in respect of the relevant Project Gain Share Calculation Period:

- (A) a sum equal to the amount of Available Cash Flow agreed between the DPA Counterparty and the Generator or, failing agreement, determined by an Expert in accordance with the Expert Determination Procedure as the additional amount that would have arisen but for a failure by any of the relevant Investor, TopCo, HoldCo or the Generator or any Tracked Person to perform or comply with one (1) or more of the Gain Share Rules, in each case as applicable to it, where such failure has been agreed between the DPA Counterparty and the Generator or determined by an Expert in accordance with the Expert Determination Procedure; and
- (B) the amount agreed between the DPA Counterparty and HoldCo or, failing agreement, determined by an Expert in accordance with the Expert Determination Procedure as being a Related Party Discount Amount,

but, in any such case, for the purpose of calculating the Project Cash Flow or the Sale Cash Flow, before deducting any Gain Share Amount payable and not yet paid as a result of such Deemed Available Cash Flow;

"Deficient Collateral Amount" has the meaning given to that term in Paragraph 4.4(A)(ii) (*Altering Collateral*) of Part B (*Gain Share*);

"Discount Amount" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Discounting" means converting a currency amount that:

- (A) is forecast to be incurred, paid or accrued after a particular date; or
- (B) has been incurred, paid or accrued prior to a particular date,

into Present Value terms as at that particular date and **"Discounted"** shall be construed accordingly;

"Dispute" means any dispute or claim in any way relating to or arising out of this Schedule, whether contractual or non-contractual (and including any dispute or claim regarding: (i) its existence, negotiation, validity or enforceability; (ii) the performance or non-performance of a Party's obligations pursuant to it; or (iii) breach or termination of any of them);

"Distribution" means, in relation to any person, any payment, repayment, redemption (by way of set-off, counterclaim or otherwise) or other distribution or the like of any money or other

asset in each case to a direct or indirect shareholder in, or a direct or indirect member of, such person, whether in cash or in kind and whether pursuant to the terms of an agreement or by way of gift or otherwise; and

- (A) includes payment of any dividend or return of capital to or for the benefit of, or any share repurchase from, any such shareholder or member or the making of any payment of interest, principal, costs, fees or expenses in respect of any debt (whether or not subordinated) owed to any such shareholder or member, but
- (B) excludes any payment due under a Related Party Transaction unless that Related Party Transaction is an Economic Interest,

and **"Distribute"** and **"Distributed"** shall be construed accordingly;

"Divestment Proceeds" means, in relation to any Relevant Sale:

- (A) all consideration (whether cash or non-cash and pro-rated as necessary by reference to the Valuation Percentage) paid or payable by or on behalf of the Acquirer to the seller under and in respect of such Relevant Sale or, if greater, the amount which would have been paid or payable but for a failure by any of the relevant Investor, TopCo, HoldCo or the Generator or any Tracked Person to perform or comply with one (1) or more of the Gain Share Rules or the Contracting Policy, in each case as applicable to it (where such failure has been agreed between the DPA Counterparty and the Generator or determined by an Expert in accordance with the Expert Determination Procedure),

less

- (B) any reasonable third party professional services fees reasonably and necessarily incurred by the seller exclusively for the purposes of such Relevant Sale, pro-rated as necessary by reference to the Valuation Percentage,

and for the purposes of comparing against the Equity IRR Threshold, calculated and expressed in Nominal Terms by reference to the date of completion of such Relevant Sale;

"DPA Counterparty Designated Account" means the bank account designated by the DPA Counterparty to receive payments under and in accordance with Part B (*Gain Share*);

"Draft Equity IRR Model Information Request" has the meaning given to that term in Paragraph 6.2(F) (*Revision of the Equity IRR Model*) of Part B (*Gain Share*) of this Schedule;

"Draft Revised Equity IRR Model" has the meaning given to that term in Paragraph 6.2(C) (*Revision of the Equity IRR Model*) of Part B (*Gain Share*) of this Schedule;

"Economic Interest" means, in relation to any person:

- (A) shares or other securities, direct or indirect interests in shares or other securities, (including, in each case, convertible securities and warrants and options in respect of shares or securities) of the relevant person or other equity, partnership or other ownership interests, direct or indirect, in the relevant person;
- (B) loans, loan capital or other debt interests (whether or not subordinated) made, directly or indirectly, to, or held in, such person by a direct or indirect shareholder in, or a direct or indirect member of, such person (each, a **"Shareholder Interest"**) or any loans, loan capital or other debt interests (whether or not subordinated) made to, or held in, such person which were originally Shareholder Interests; and/or

- (C) any other economic interest, direct or indirect, in such person the purpose of which is to distribute or return, or which has the effect of distributing or returning, value from such person to a direct or indirect shareholder in, or a direct or indirect member of, such person (each, an **"Other Economic Interest"**) or any other economic interest, direct or indirect, in such person which was originally an Other Economic Interest, excluding any such interest which arises solely by reason of being a counterparty under:
- (i) an agreement for the provision of goods or services to such person or the Generator entered into by such person in compliance with the Contracting Policy for the purposes of the Project;
 - (ii) any guarantee, indemnity, performance bond, letter of credit or letter of support in respect of the obligations of the Generator entered into by such person in compliance with the Contracting Policy for the purposes of the Project;
 - (iii) any hedging arrangement in respect of interest rates, foreign exchange or power sales entered into by such person in compliance with the Contracting Policy for the purposes of the Project; or
 - (iv) any financing or refinancing arrangements (other than any hedging arrangements) entered into by such person,

in each case which does not fall within paragraph (A) or (B) above,

"Equity IRR" means the IRR calculated in relation to a Project Gain Share Calculation Period by reference to the relevant Annual ACF Amounts and:

- (A) for this purpose, ACF (as defined in the definition of "Project Cash Flow" in this Schedule) for each Project Gain Share Calculation Period shall be recognised on the date that an amount equal to the Available Cash Flow could have been Distributed by the Generator, being for the purpose of this calculation the date falling one hundred (100) Business Days after the relevant Project Gain Share Calculation Date for the purposes of the Equity IRR Report in respect of the Project Gain Share Calculation Period ending on such Project Gain Share Calculation Date, corrected for subsequent Project Gain Share Calculation Periods (the **"Subsequent ACF Correction"**) to the date falling five (5) Business Days after the date that such Equity IRR Report is agreed or determined;
- (B) for the purposes of comparing against the Equity IRR Threshold, calculated using the Project Cash Flows in relation to such Project Gain Share Calculation Period, which thereby presents a Nominal IRR; and
- (C) for the purposes of calculating any Sale Gain Share Amount, calculated on a TopCo Tranche by TopCo Tranche basis;

"Equity IRR Model" means the financial computer model in respect of the Project used to calculate Gain Share Amounts and corresponding to the description and requirements set out in Paragraph 6.1 (*Description of the Equity IRR Model*) of Part B (*Gain Share*), as amended, revised or replaced from time to time in accordance with this Schedule;

"Equity IRR Report" has the meaning given to that term in Paragraph 2.3 (*Equity IRR Report*) of Part B (*Gain Share*) of this Schedule;

"Equity IRR Threshold" has the meaning given to that term in the Agreement;

"Facilities Agreement" has the meaning given to that term in the Agreement;

"Finance Documents" means the Facilities Agreement and the other documents defined as Finance Documents in the Facilities Agreement;

"Financial Indebtedness" means (without double counting) any indebtedness for or in respect of:

- (A) moneys borrowed;
- (B) any amount raised by acceptance under any acceptance credit facility;
- (C) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (D) the amount of any liability in respect of any agreement which would, in accordance with IFRS, be treated as a finance or capital lease;
- (E) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (F) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of borrowing which is of a type not referred to in any other paragraph of this definition;
- (G) any hedging or derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (H) shares which are expressed to be redeemable or are otherwise classified as borrowings under IFRS;
- (I) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (J) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset; or
- (K) the amount of any liability in respect of any guarantee or indemnity or similar assurance for any of the items referred to in paragraphs (A) to (J) (inclusive) above;

"Further Sale IRR Information Request" has the meaning given to that term in Paragraph 3.3(D) (*Preliminary Sale IRR Report*) of Part B (*Gain Share*) of this Schedule;

"Gain Share" means a Project Gain Share or a Sale Gain Share, as applicable;

"Gain Share Acceding Parties" means any person who agrees to become bound by the terms of the DPA by executing a Deed of Accession and **"Gain Share Acceding Party"** means any one of them;

"Gain Share Amount" means a Project Gain Share Amount or a Sale Gain Share Amount, as applicable;

"Gain Share Bond" means a bond issued by a Qualifying Bond Provider substantially in the form set out in Appendix 9 to this Schedule;

"Gain Share Collateral Amount" means an amount equal to one third (1/3) of the Default Termination Payment as calculated in accordance with paragraph 1.1 of Annex 4 (*Calculation of Default Termination Payment*);

"Gain Share Parent Company Guarantee" means a guarantee provided by the Guarantor in favour of the DPA Counterparty substantially in the form set out in Appendix 7 (*Form of Gain Share Parent Company Guarantee*) of this Schedule;

"Gain Share Party" means:

- (A) the Generator;
- (B) each Investor;
- (C) HoldCo; and
- (D) each TopCo,

and **"Gain Share Parties"** shall be construed accordingly.

"Gain Share Party Confidential Information" means:

- (A) all Information which is confidential or proprietary in nature and which relates (directly or indirectly) to one (1) or more Gain Share Parties which the DPA Counterparty (or its Representatives) receives or has received from:
 - (i) any Gain Share Party (or its Representatives); or
 - (ii) any third party who receives or has received such Information from any Gain Share Party (or its Representatives),

in each case including any Information which the DPA Counterparty prepares which contains or makes explicit reference to such Information or from which such Information is readily ascertainable; and

- (B) any Information which relates to or arises from negotiations, discussions and correspondence in connection with the Schedule,

but excluding in each case all Excluded Information;

"Gain Share Party Permitted Purposes" means:

- (A) complying with the Gain Share Party's responsibilities and obligations, and exercising the Gain Share Party's rights, powers and discretions, under or in connection with this Schedule or any other Gain Share Transaction Documents; and
- (B) complying with the Gain Share Party's responsibilities and obligations under or by virtue of the EA 2013, any other Law, or any Directive, policy or guidance;

"Gain Share Rules" means the provisions set out at Appendix 2 (*Gain Share Rules*) of this Schedule;

"Gain Share Schedule" means this Schedule (*Gain Share*) to the DPA;

"Gain Share Term" has the meaning given to that term in Paragraph 1.2 (*Application of this Schedule*) of Part B (*Gain Share*) of this Schedule;

"Gain Share Transaction Documents" means:

- (A) this Schedule;
- (B) each Deed of Accession; and
- (C) any Gain Share Parent Company Guarantee,

and **"Gain Share Transaction Document"** shall be construed accordingly;

"Generator's Investment Structure" means:

- (A) the Generator's subsidiaries, subsidiary undertakings and associated undertakings;
- (B) any of the Generator's holding company, TopCo and Investor(s);
- (C) all other subsidiaries, subsidiary undertakings and associated undertakings of any such holding company, TopCo and Investor(s) from time to time; and
- (D) if the Generator is a company owned by a consortium or becomes a company owned by a consortium at any point after the date of this Agreement, any member of the consortium (and for these purposes "company owned by a consortium" and "member of the/a consortium" have the meanings given in section 153 of the Corporation Tax Act 2010);

"Group Relief Arrangement" means any arrangement under Part 5 or Part 5A of the Corporation Tax Act 2010 for the surrender by the Generator to any member of the Generator's Investment Structure of any Tax loss, relief, deficit, expense, allowance and/or credit;

"GS Information" means any information of whatever nature and in whatever form, including written, oral and electronic and in visual or machine-readable form (including CD-ROM, magnetic and digital form) and, in relation to any obligation of any person to provide information pursuant to the Schedule or any other Gain Share Transaction Document, shall be limited to such information that is within the control of that person, and for these purposes information shall be deemed to be within the control of a person if: (i) it is within the possession of such person; (ii) such person has a right to possession of it; or (iii) such person has a right to inspect or take copies of it;

"Guarantee Events" has the meaning given to that term in Paragraph 4.5(B) (*Letter of Credit Events, Bond Events and Guarantee Events*) of Part B (*Gain Share*) of this Schedule;

"Guarantor" means a holding company of the Generator who is a Qualifying Guarantor who enters into a Gain Share Parent Company Guarantee pursuant to the provisions of this Schedule;

"HoldCo" has the meaning given to that term in the Agreement;

"HoldCo Group" means each of HoldCo and the Generator;

"IFRS" means the body of pronouncements issued or adopted by the International Accounting Standards Board ("**IASB**") including International Financial Reporting Standards and associated interpretations issued by the IASB and International Accounting Standards and associated interpretations adopted by the IASB;

"Inappropriate Cost" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Insolvency Event" means the Qualifying Issuer, the Guarantor and/or the Qualifying Bond Provider;

- (A) is dissolved (other than pursuant to a solvent consolidation, amalgamation or merger) or becomes insolvent or unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (B) has an order made or resolution passed for its winding-up or liquidation (other than pursuant to a solvent consolidation, amalgamation or merger); or
- (C) is subject to any event with respect to it which, pursuant to the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in Paragraph (A) or (B) of this definition;

"Investment Cost" means, in relation to any Relevant Sale, the aggregate of:

- (A) all consideration (whether cash or non-cash and pro-rated as necessary by reference to the Valuation Percentage) paid or payable by or on behalf of the Acquirer to the seller under and in respect of such Relevant Sale or, if greater, the amount which would have been paid or payable but for a failure by any of the relevant Investor, TopCo, HoldCo or the Generator or any Tracked Person to perform or comply with, one (1) or more of the Gain Share Rules or the Contracting Policy, in each case as applicable to it (where such failure has been agreed between the DPA Counterparty and HoldCo or determined by an Expert in accordance with the Expert Determination Procedure); and
- (B) any reasonable third party professional services fees reasonably and necessarily incurred by the Acquirer exclusively for the purposes of such Relevant Sale, pro-rated as necessary by reference to the Valuation Percentage, and for the purposes of comparing against the Equity IRR Threshold, calculated and expressed in Nominal Terms by reference to the date of completion of such Relevant Sale;

"Investment Structure Chart" means the group structure chart set out at Annex 7 (*Investment Structure Chart*) of the Agreement;

"Investor" means:

- (A) an Original Investor; and
- (B) any person which has become a Party as an Investor in accordance with Paragraph 1 (*Changes to the Parties*),

in each case which has not ceased to be a Party as an Investor in accordance with that Paragraph;

"Investor Group" means, in respect of an Investor, that Investor and its Group;

"IRR" means the internal rate of return calculated as the annual discount rate which, when applied to a series of cash flows, produces a net present value equal to zero;

"Issuing Entity" has the meaning given to that term in Paragraph 1.5 (*Issues of new Economic Interests below TopCos*) of Part D (*Miscellaneous*) of this Schedule;

"Letter of Credit" means an unconditional, irrevocable standby letter of credit denominated in pounds and in form and content reasonably satisfactory to the DPA Counterparty which is issued by a Qualifying Issuer and which shall be available for payment at a United Kingdom branch of such Qualifying Issuer in favour of the DPA Counterparty or its designee;

"Letter of Credit Details Notice" has the meaning given to that term in Paragraph 4.3(A)(ii) (*Transfers and custody of collateral*) of Part B (*Gain Share*) of this Schedule;

"Letter of Credit Events" has the meaning given to that term in Paragraph 4.5(A) (*Letter of Credit Events, Bond Events and Guarantee Events*) of Part B (*Gain Share*) of this Schedule;

"Loss Restriction Arrangement" means any arrangement where the allocation within the Generator's Investment Structure of any deductions allowance arising under Part 7ZA of the Corporation Tax Act 2010 is such that the Generator is allocated a deductions allowance which is less favourable than that which would have been available to the Generator on a standalone basis;

"Mixed Company" means a company in respect of which the Valuation Percentage is less than sixty per cent. (60%) at the date of the DPA (or, if the relevant company accedes to the DPA after that date, the date upon which it accedes to the DPA) and in respect of which there is no agreement or announced intention to take any step which would result in the Valuation Percentage in respect of that company exceeding sixty per cent. (60%);

"Money of the Year" means a currency amount in a particular year and expressed in the price base of that particular year;

"Nominal Value" means a currency amount expressed in Money of the Year for the year in which the amount was incurred or saved or forecast to be incurred or saved, and **"Nominal"** and **"Nominal Terms"** shall be construed accordingly;

"Original Investor" has the meaning given to that term in the Agreement;

"Original TopCo" has the meaning given to that term in the Agreement;

"Original Party" means the persons named as Parties to the Agreement on the date on which it was originally executed;

"Parent Company Guarantee Details Notice" has the meaning given to that term in Paragraph 4.3(A)(ii) (*Transfers and custody of collateral*) of Part B (*Gain Share*) of this Schedule;

"PDE Affected Party" has the meaning given to that term in Paragraph 3.1 (*Relief due to Payment Disruption Event*) of this Schedule;

"PDE Obligations" has the meaning given to that term in Paragraph 3.1 (*Relief due to Payment Disruption Event*) of this Schedule;

"Penultimate Project Gain Share Calculation Date" means, in relation to the Project Gain Share Secondary Period, the fourteenth (14th) anniversary of the earlier of the Start Date and the last day of the Target Commissioning Window;

"Performance Bond Details Notice" has the meaning given to that term in Paragraph 4.3(A)(ii) (*Transfers and custody of collateral*) of Part B (*Gain Share*) of this Schedule;

"Posted Collateral" means the aggregate amount of all Acceptable Collateral transferred or delivered by or on behalf of the Generator in accordance with this Schedule from time to time to the extent that the same has not been: (i) returned to the Generator by or on behalf of the DPA Counterparty pursuant to the provisions of Paragraph 4.7 (*Return of collateral*) of Part B (*Gain Share*); or (ii) subject to a Posted Collateral Demand;

"Posted Collateral Demand" has the meaning given to that term in Paragraph 4.6 (*Making a Posted Collateral Demand*) of Part B (*Gain Share*) of this Schedule;

"Post-Tax Nominal Discount Rate" means the Post-Tax Real Discount Rate, as adjusted for each year of the discounting time horizon using the value of 'CPI':

- (A) forecasted by the Office for Budget Responsibility in its most recent published 'Economic and Fiscal Outlook' (for years of the discounting time horizon that lie beyond the time horizon of the 'Economic and Fiscal Outlook', the last CPI value of the 'Economic and Fiscal Outlook' forecast shall be used for those remaining years in the discounting calculation); or
- (B) if that forecast is no longer being published, such forecast as the DPA Counterparty may reasonably determine to be appropriate in the circumstances;

"Preliminary Equity IRR Report" means a written report satisfying the requirements of Paragraph 2.1(C) (*Preliminary Equity IRR Report*) of Part B (*Gain Share*), which expression shall include each element of, and each computation contained or referred to in, such report and all Supporting Information referred to in Paragraphs 2.1(C) and 2.1(D) (*Preliminary Equity IRR Report*) of Part B (*Gain Share*) of this Schedule;

"Preliminary Sale IRR Report" means a written report satisfying the requirements of Paragraph 3.3(A) (*Preliminary Sale IRR Report*) of Part B (*Gain Share*), which expression shall include each element of, and each computation contained or referred to in, such report and all Supporting Information referred to in Paragraph 3.3(A) (*Preliminary Sale IRR Report*) of Part B (*Gain Share*) of this Schedule;

"Present Value" means the value, as of any particular date, "**t**", of a currency amount or any other amount, "**AMT**", that is forecast to be incurred, paid or accrued on any other date (that is, relative to that particular date "**t**"), "**T**" (with "**t-T**" expressed in years or fractions thereof), which shall be calculated in accordance with the following formula and using:

- (A) the Post-Tax Real Discount Rate, expressed as an annual effective discount rate, if the amount being Discounted is expressed in Real Terms; or
- (B) a Post-Tax Nominal Discount Rate, expressed as an annual effective discount rate, if the amount being Discounted is expressed in Nominal Terms,

(both "**r**"),

$$Present\ Value = \frac{AMT}{(1+r)^{t-T}}$$

any such discounting to be calculated from day to day on the basis of the actual number of days elapsed and a year of three hundred and sixty-five (365) days, and "**Present Valued**" shall be construed accordingly;

"Project Cash Flow" means, in relation to any TopCo and each TopCo Tranche relating to such TopCo, the cash flow in respect of each Project Gain Share Calculation Period, calculated in accordance with the following formula:

$$PCF = ACF + PACF - E - IC - PEC$$

where:

PCF is the Project Cash Flow (*expressed in pounds (£)*);-

ACF is the aggregate of the amounts of Available Cash Flow and/or Deemed Available Cash Flow, Apportioned to such TopCo Tranche and calculated as at the relevant Project Gain Share Calculation Date;

PACF is the aggregate of the amounts of Available Cash Flow and/or Deemed Available Cash Flow, Apportioned to such TopCo Tranche as at each previous Project Gain Share Calculation Date;

E is the aggregate Apportioned (at the time of payment in the case of paragraph (i) below) to such TopCo Tranche of:

- (i) (a) the amount of equity injections made by such TopCo into HoldCo on or after the date of incorporation of the Generator;
- (b) the principal amount of all shareholder loans made by such TopCo to HoldCo; and
- (c) the amount paid by such TopCo in respect of any other Economic Interest in HoldCo,

(other than any Investment Cost), in each case to the extent that the same amount is in fact contributed to the Generator for the purposes of funding Project costs (and not, for the avoidance of doubt, funding Distributions) and without double counting, and calculated as at the date of the relevant payment or advance, as applicable;

- (ii) the amount of equity injections made by HoldCo into the Generator, where such equity injection was made in settlement of amounts owed by the Generator to a member of an Original TopCo's Group in respect of costs borne by that person to the Generator before the Agreement Date; and

- (iii) a fixed credit support cost equal to an annual rate of 2.2% per annum accruing on a daily basis for procuring Acceptable Collateral pursuant to this Schedule;

IC is the Investment Cost (if any) attributed to such TopCo Tranche as at the date such TopCo Tranche was created following a Relevant Sale, Apportioned where a portion of such TopCo Tranche is the subject of a Sale Gain Share calculation, and calculated as at the date of completion of the Relevant Sale; and

PEC is the Project Excess Cashflow under Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*) of Part B (*Gain Share*), Apportioned to such TopCo Tranche and calculated as at the date of such payment;

"Project Excess Cashflow" means, in respect of the relevant Project Gain Share Calculation Period, an amount (expressed in pounds) applied to the Equity IRR Model as a deduction from the Available Cash Flow at the relevant Project Gain Share Calculation Date, to reduce the Equity IRR to the Equity IRR Threshold;

"Project Gain Share" means the determination of a Project Gain Share Amount in accordance with this Schedule;

"Project Gain Share Amount" means the amount paid or payable, as the case may be, to the DPA Counterparty as a result of the operation of Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*) of Part B (*Gain Share*) of this Schedule;

"Project Gain Share Calculation Date" means:

- (A) in relation to the Project Gain Share Preliminary Period, the fifth (5th) anniversary of the earlier of the Start Date and the last day of the Target Commissioning Window;

- (B) in relation to the Project Gain Share Secondary Period, the sixth (6th) anniversary, and each subsequent anniversary, of the earlier of the Start Date and the last day of the Target Commissioning Window; and/or
- (C) such other date or dates in those years as the DPA Counterparty may (acting reasonably) agree in writing with the Generator;

"Project Gain Share Calculation Period" has the meaning given to that term in the Agreement;

"Project Gain Share Due Date" means, in respect of any Project Gain Share Calculation Period:

- (A) unless Paragraph (B) or Paragraph (C) of this definition applies, the date falling ten (10) Business Days after the date of agreement or determination of the Equity IRR Report for the relevant Project Gain Share Calculation Period or, if Paragraph 2.1(B) (Preliminary Equity IRR Report) of Part B (*Gain Share*) applies, ten (10) Business Days after the date of the independent expert's opinion; or
- (B) if the DPA Counterparty elects to receive any Project Gain Share Amount by way of a Series of Payments, the relevant due dates for payment as determined by the DPA Counterparty and notified to the Generator in accordance with Paragraph 2.4(C) of Part B (*Gain Share*); or
- (C) such other date as the DPA Counterparty and the Responsible TopCo may agree in writing;

"Project Gain Share Payment Deadline" has the meaning given to that term in Paragraph 4.8(A) (*Enforcement Mechanism for Project Gain Share Provisions*) of Part B (*Gain Share*) of this Schedule;

"Project Gain Share Preliminary Period" means the period from (and including) the Agreement Date to (and including) the fifth (5th) anniversary of the earlier of the Start Date and the last day of the Target Commissioning Window;

"Project Gain Share Secondary Period" means the period from (but not including) the last day of the Project Gain Share Preliminary Period to (and including) the Specified Expiry Date;

"Protective Provisions" means the provisions set out at Appendix 4 (*Protective Provisions*) of this Schedule;

"Qualifying Bond Provider" means:

- (A) a bank or financial institution having a minimum short-term rating of A-1 with Standard and Poor's, P-1 with Moody's or F1 with Fitch; or
- (B) such other bank or financial institution, having such lower minimum rating as the DPA Counterparty may consent to or specify from time to time;

"Qualifying Economic Interest" means an Economic Interest in one (1) or more persons:

- (A) which directly or indirectly have an Economic Interest or Economic Interests in HoldCo or the Generator; and
- (B) in respect of which the Valuation Percentage of all such Economic Interests is no less than sixty per cent. (60%),

and, without prejudice to the generality of the foregoing, any directly held Economic Interest in the Generator, HoldCo or a TopCo shall be a Qualifying Economic Interest, and provided always that:

- (C) Economic Interests in a publicly listed person which have been offered to the market and which are publicly traded on a recognised UK securities exchange; and
- (D) Economic Interests held directly or indirectly by a person who directly or indirectly participates in, but does not have day-to-day control over the management of, any collective or pooled investment scheme, but only to the extent that such holding arises as a result of such person's direct or indirect participation in the collective or pooled investment scheme,

shall not constitute Qualifying Economic Interests and, for the purpose of this definition, **"collective or pooled investment scheme"** means an arrangement:

- (E) with respect to property of any description (but including Economic Interests in HoldCo), the purpose of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income;
- (F) which has the following characteristics:
 - (i) the contributions of the participants and the profits or income out of which payments are to be made to them are pooled; and
 - (ii) the property is managed as a whole by or on behalf of the operator of the scheme who shall be a professional fund manager contracted on arm's length terms and provided that the Economic Interests in HoldCo which are pooled and managed by such professional fund manager do not constitute a material part of such manager's business; and
- (G) which is operated by way of business;

"Qualifying Guarantor" has the meaning given to that term in the Agreement;

"Qualifying Issuer" means:

- (A) a bank or financial institution having a minimum short-term rating of A-1 with Standard and Poor's, P-1 with Moody's or F1 with Fitch; or
- (B) such other bank or financial institution, having such lower minimum rating as the DPA Counterparty may consent to or specify from time to time;

"Real" means a currency amount that has been adjusted from a Nominal Value to remove the effects of inflation, thus expressed in prices at any one particular day, being the Real Reference Date. For the avoidance of doubt, this is irrespective of the date at which the amount was incurred or saved, or forecast to be incurred or saved and **"Real Terms"** shall be construed accordingly;

"Real Project Cash Flow" means the Project Cash Flow deflated to Base Year terms by multiplying the cash flow on any given day by the Base Year CPI and dividing by the value of the CPI for the month in which the cash flow was received or paid (or if that latter CPI is not available, the Reference CPI) and in each case, for the avoidance of doubt, taking into account any rebasing of the relevant index;

"Real Reference Date" means the date in whose prices a Real currency amount is expressed, irrespective of the date or year in which the amount was incurred or saved, or forecast to be incurred or saved;

"Related Party Discount Amount" means, in respect of a Related Party Transaction, the sum (*expressed in pounds (£)*) of any Discount Amount (as determined by an Auditor in accordance with the Contracting Policy);

"Related Party Transaction" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Relevant Sale" means, unless otherwise agreed in writing by the DPA Counterparty:

- (A) a sale, assignment, novation, transfer or other disposal of;
- (B) the enforcement of any pledge, charge, mortgage, lien or other security interest or encumbrance on or over;
- (C) creating any trust or conferring any interest in, over or in respect of;
- (D) any agreement, arrangement or understanding in respect of votes or the right to receive dividends in respect of;
- (E) the renunciation or assignment of any right to subscribe or receive share(s) or any legal or beneficial interest in share(s) in respect of;
- (F) any agreement or arrangement to do, or having substantially the same effect as, any of the above in respect of; or
- (G) transmission by operation of law of,

any Qualifying Economic Interest which occurs before the end of the Sale Gain Share Period, and shall include any deemed Relevant Sale pursuant to Paragraph 4.10(B)(i) of Part B (*Gain Share*);

"Responsible Investor" means, as applicable, in relation to a Relevant Sale:

- (A) the Investor through which a person holds; or
- (B) the Investor that holds;
- (C) the Investor of the TopCo that holds,

the relevant Qualifying Economic Interest which is the subject of the Relevant Sale, provided that, if no Responsible Investor can be identified with respect to the Qualifying Economic Interest which is the subject of the Relevant Sale:

- (i) the Investor with whom the relevant Qualifying Economic Interest was last identified shall be the "Responsible Investor" for the purposes of this Schedule; or
- (ii) if no such Investor can be identified, the "Responsible Investor" for the purposes of this Schedule shall be that Investor that the DPA Counterparty considers, acting reasonably and on the basis of information available to it, to satisfy paragraph (A), (B) or (C) above;

"Responsible TopCo" means, as applicable, in relation to a Relevant Sale:

- (A) the TopCo through which a person holds; or
- (B) the TopCo that holds,

the Qualifying Economic Interest which is the subject of the Relevant Sale, provided that, if no Responsible TopCo can be identified with respect to the Qualifying Economic Interest which is the subject of the Relevant Sale:

- (i) the TopCo with whom the relevant Qualifying Economic Interest was last identified shall be the "Responsible TopCo" for the purposes of this Schedule; or
- (ii) if no such TopCo can be identified, the "Responsible TopCo" for the purposes of this Schedule shall be that TopCo that the DPA Counterparty considers, acting reasonably and on the basis of information available to it, to satisfy paragraph (A) or (B) above;

"Sale Cash Flow" means, in relation to any TopCo and each TopCo Tranche relating to such TopCo or any portion thereof which is subject to a Sale Gain Share calculation, the cash flow in respect of each Sale IRR Calculation Period, calculated in accordance with the following formula:

$$SCF = ACF + PACF + DP - E - IC - PEC$$

where:

SCF is the Sale Cash Flow (*expressed in pounds (£)*);

ACF is the aggregate of the amounts of Available Cash Flow and Deemed Available Cash Flow, Apportioned to such TopCo Tranche or portion thereof and calculated as at the Project Gain Share Calculation Date immediately preceding the date of completion of the Relevant Sale;

PACF is the aggregate of the amounts of Available Cash Flow or Deemed Available Cash Flow, Apportioned to such TopCo Tranche as at each previous Project Gain Share Calculation Date;

DP is the Divestment Proceeds attributed to such TopCo Tranche or portion thereof pro rata to the TopCo Tranches which are the subject of the Relevant Sale;

E is the aggregate Apportioned (at the time of payment in the case of paragraph (a) below) to such TopCo Tranche or portion thereof of:

- (i) (a) the amount of equity injections made by such TopCo into HoldCo on or after the date of incorporation of the Generator; and
- (b) the principal amount of all shareholder loans made by such TopCo to HoldCo; and
- (c) the amount paid by such Investor in respect of any other Economic Interest in HoldCo,

(other than any Investment Cost), in each case to the extent that the same amount is in fact contributed to the Generator for the purposes of funding Project costs (and not, for the avoidance of doubt, funding Distributions) and without double counting, and calculated as at the date of the relevant payment or advance, as applicable;

- (ii) the amount of equity injections made by HoldCo into the Generator, where such equity injection was made in settlement of amounts owed by the Generator to a member of an Original TopCo's Group in respect of costs borne by that person to the Generator before the Agreement Date; and
- (iii) a fixed credit support cost equal to an annual rate of 2.2% per annum accruing on a daily basis for procuring Acceptable Collateral pursuant to this Schedule.

IC is the Investment Cost (if any) attributed to such TopCo Tranche as at the date such TopCo Tranche was created following a Relevant Sale, Apportioned where a portion of such TopCo Tranche is the subject of a Sale Gain Share calculation and calculated as at the date of completion of the Relevant Sale; and

PEC is the Project Excess Cashflow under Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*) of Part B (*Gain Share*), Apportioned to such TopCo Tranche;

"Sale Gain Share" means the determination of a Sale Gain Share Amount in accordance with this Schedule;

"Sale Gain Share Amount" means the amount paid or payable, as the case may be, to the DPA Counterparty as a result of the operation of Paragraph 3.6 (*Sale Gain Share with the DPA Counterparty*) of Part B (*Gain Share*) as such amount may be increased pursuant to Paragraph 3.3(A) (*Preliminary Sale IRR Report*) of Part B (*Gain Share*);

"Sale Gain Share Due Date" means, in respect of any Sale IRR Calculation Period:

- (A) the date falling ten (10) Business Days after the date of agreement or determination of the Sale IRR Report for the relevant Sale IRR Calculation Period; or
- (B) if Paragraph 3.3(B) (*Preliminary Sale IRR Report*) of Part B (*Gain Share*) applies, ten (10) Business Days after the date of the independent expert's opinion; or
- (C) such other date as the DPA Counterparty and the Responsible TopCo may agree in writing;

"Sale Gain Share Payment Deadline" has the meaning given to that term in Paragraph 4.9(A) (*Enforcement Mechanism for Sale Gain Share Provisions*) of Part B (*Gain Share*) of this Schedule;

"Sale Gain Share Period" means the period from the date of the DPA until the later of:

- (A) the date falling five (5) years after the Start Date; and
- (B) the date on which the aggregate Economic Interest of the Investor Group which is undertaking, or is subject to, the relevant transaction listed in any of paragraphs (A) to (G) of the definition of "Relevant Sale" falls below sixty per cent. (60%) of the aggregate Economic Interest held by that Investor Group on the date of the DPA (or, if later, the date on which the relevant Investor acceded to this DPA);

"Sale IRR" means the IRR calculated for each TopCo Tranche, or portion thereof which is subject to a Sale Gain Share calculation, comprising the Qualifying Economic Interests which are the subject of a Relevant Sale (in this definition, the **"Relevant TopCo Tranche"**) in relation to the Sale IRR Calculation Period for such Relevant Sale and calculated using the Sale Cash Flows attributable to the Relevant TopCo Tranche(s) in relation to such Sale IRR Calculation Period, which thereby presents a Nominal IRR;

"Sale IRR Calculation Period" has the meaning given to that term in the Agreement;

"Sale IRR Report" has the meaning given to that term in Paragraph 3.5 (*Sale IRR Report*) of Part B (*Gain Share*) of this Schedule;

"Secured Sums" means each amount agreed or determined as due to the DPA Counterparty under Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*) of Part B (*Gain Share*) of this Schedule;

"Security Interest" means any mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, other encumbrance or security interest of any kind, and any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect;

"Security Trustee" has the meaning given to that term in Annex 5 (*Form of Direct Agreement*);

"Selling Shareholder" means, in relation to a Relevant Sale, the seller of the relevant Qualifying Economic Interest which is the subject of the Relevant Sale and, in respect of rights, obligations and liabilities of a Selling Shareholder under this Schedule, only to the extent that such seller is party to this Schedule;

"Series of Payments" means, in respect of any amount payable by a Party, a series of payments which is commercially equivalent to such amount had it been paid as a lump sum on the due date therefor, taking into account the payment plan and the risk associated with the payments being made;

"Shareholder Group" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Single Purpose Company" means that the Generator's business is limited to:

- (A) the Project; and
- (B) activities associated with any or all of the foregoing or reasonably incidental or preparatory thereto, including under any Gain Share Transaction Documents or Finance Documents to which it is a party;

"Subject Entity" has the meaning given to that term in Paragraph 1(B) of Appendix 3 (*Valuation Procedure*) of this Schedule;

"Subsequent ACF Correction" has the meaning given to that term in paragraph (A) of the definition of **"Equity IRR"** in this Schedule;

"Third Party Lender" means any commercial lender which is not a Government Entity;

"Third Party Transaction" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Threshold Excess Sale Proceeds" means, in respect of a Relevant Sale, an amount (*expressed in pounds (£)*) equal to:

- (A) the Divestment Proceeds (Apportioned as necessary) in respect of such Relevant Sale, less
- (B) the Divestment Proceeds (Apportioned as necessary) which would have needed to have been realised in respect of such Relevant Sale for the result of those proceeds to be that the Sale IRR would have been equal to the Equity IRR Threshold,

provided that the Threshold Excess Sale Proceeds shall not be less than zero;

"Threshold Test" means, in respect of any transfer or issue of Economic Interest(s) in HoldCo (other than a transfer of Qualifying Economic Interest(s) or a transfer or issue to a member of an Investor Group) whether actual or (in the case of paragraph (C) or (D) of the definition of "Tracked Person") notional, if the product of:

- (A) the proportion which the Economic Interests in HoldCo which are the subject of, or form part of, the transfer or issue bears to the total Economic Interests in HoldCo of all TopCos, expressed as a decimal; and
- (B) the value of the Generator, expressed in pounds, where such value shall be assessed:
 - (i) in the period from (and including) the Agreement Date to (but excluding) the Start Date, on the basis of the book value of HoldCo's Economic Interests in the Generator; and
 - (ii) thereafter, on the basis of the fair market value of HoldCo's Economic Interests in the Generator,

is less than an amount equal to three point five per cent. (3.5%) of the book value of HoldCo's Economic Interests in the Generator, as determined in the event of a Dispute by an Expert in accordance with the Expert Determination Procedure (and the Threshold Test shall be considered to be satisfied if such condition is met), and for the purposes of this definition, any reference to the book value of HoldCo's Economic Interests in the Generator shall be determined as at the date of the transfer or issue by reference to the management accounts of HoldCo produced at or updated to the date of the relevant transfer or issue, and such management accounts shall include the relevant information as to book value and be prepared in accordance with generally accepted accounting principles, as determined in the event of a Dispute by an Expert in accordance with the Expert Determination Procedure;

"TopCo" means:

- (A) an Original TopCo; and
- (B) any person which has become a Party as a Topco in accordance with Paragraph 1 (*Changes to the Parties*),

in each case which has not ceased to be a Party as a TopCo in accordance with that Clause;

"TopCo Group" means, in relation to any person, the TopCo through which that person's Economic Interests in HoldCo are held or, as applicable, the TopCo which holds such Economic Interests in HoldCo and any member of the HoldCo Group;

"TopCo Tranche" means, in relation to each TopCo, a tranche of Economic Interests in HoldCo determined and attributed to the relevant TopCo in accordance with the following rules:

- (A) at the Agreement Date, a TopCo's aggregate Economic Interests in HoldCo shall constitute a single TopCo Tranche and any Economic Interests in HoldCo acquired thereafter (other than pursuant to a Relevant Sale) and relating to such TopCo shall accrete to the Topco Tranche to which those Economic Interests most closely relate;
- (B) at the date a new party becomes a TopCo other than by way of Relevant Sale, the aggregate Economic Interests in HoldCo of such TopCo shall constitute a single TopCo Tranche;

- (C) if there is a Relevant Sale by such TopCo or any person who holds a Qualifying Economic Interest through that TopCo, the TopCo Tranche(s) relating to such TopCo which, at that time, together comprise such TopCo's aggregate Economic Interests in HoldCo shall be re-tranched, revised or cancelled as follows:
- (i) the Sale Gain Share calculation shall be carried out in relation to that portion of each TopCo Tranche which is subject to the Relevant Sale where, for each such TopCo Tranche, such portion is equal to the ratio (*expressed as a percentage (%)*) of the Economic Interests in HoldCo that are the subject of the Relevant Sale, divided by the aggregate Economic Interests in HoldCo of the TopCo Tranches to which the Economic Interests that are the subject of the Relevant Sale relate;
 - (ii) if the percentage share under sub-paragraph (i) above is less than one hundred per cent. (100%), each existing TopCo Tranche (relating to such TopCo) to which the Economic Interests that are the subject of the Relevant Sale relate shall be divided into two parts such that:
 - (a) one part, representing the Economic Interests in HoldCo which are referable to the Relevant Sale, shall be subject to the Sale Gain Share calculation referred to in sub-paragraph (i) above and, following that Sale Gain Share calculation, shall be cancelled; and
 - (b) the other part shall remain as a TopCo Tranche relating to such TopCo but shall reference the reduced Economic Interests in HoldCo, being those which are not subject to the Sale Gain Share calculation referred to in sub-paragraph (i) above;
 - (iii) a new TopCo Tranche with Economic Interests in HoldCo equal to the Economic Interests in HoldCo which were referable to the Relevant Sale shall be created in relation to the TopCo which is the Acquirer (or, where the Acquirer is not the TopCo, the TopCo through which the relevant Economic Interest is held) of those latter Economic Interests and, for the avoidance of doubt, such new TopCo Tranche shall be in addition to and separate from any other then existing TopCo Tranche(s) relating to such TopCo; and
 - (iv) any TopCo Tranche(s) of the relevant TopCo which is (or are) not the subject of a Sale Gain Share calculation pursuant to sub-paragraphs (iii) and (iv) above shall continue to exist unamended; and
- (D) for the avoidance of doubt, the Economic Interests in HoldCo represented in aggregate by all TopCo Tranches shall always be equal to the aggregate of the actual Economic Interests in HoldCo of all TopCos;

"Tracked Person" means, in respect of each Investor and TopCo:

- (A) each person who holds an Economic Interest in HoldCo through such person at the Agreement Date;
- (B) each person in that person's Shareholder Group, and any member of the TopCo Group who holds an Economic Interest in HoldCo;
- (C) each Transferee and each other person in that Transferee's Group who, by virtue of the transfer of Economic Interests in HoldCo, holds an Economic Interest in HoldCo which if that Economic Interest, together with any other Economic Interests in HoldCo held by

such person as at the time of transfer, were to be transferred by such person would not satisfy the Threshold Test; and

- (D) each person to whom Economic Interests in HoldCo are issued which, if those Economic Interests, together with any other Economic Interests in HoldCo held by such person as at the time of issue, were to be transferred by such person, would not satisfy the Threshold Test, and each other person in such person's Group who, by virtue of such issue of Economic Interests, holds an Economic Interest in HoldCo which if that Economic Interest, together with any other Economic Interests in HoldCo held by such person as at the time of issue, were to be transferred by such person would not satisfy the Threshold Test,

and shall include any deemed Tracked Person pursuant to Paragraph 4.10(B)(ii) of Part B (*Gain Share*);

"Transaction" has the meaning given to that term in Appendix 5 (*Contracting Policy*) of this Schedule;

"Transfer" has the meaning given to that term in Paragraph 1.1 (*Restrictions on Transfers*) of Part D (*Miscellaneous*) of this Schedule;

"Transferee" means, in respect of each Investor, and each TopCo, each person to whom Economic Interests in HoldCo originally held by or through that Investor or TopCo or any other person referred to in the definition of **"Tracked Person"** (other than the Transferee itself) are transferred or further transferred, provided that:

- (A) if the Threshold Test is applicable to such Transferee, a person shall not be a "Transferee" for the purposes of this Schedule if the Economic Interests in HoldCo transferred to such person satisfy the Threshold Test; and
- (B) for the avoidance of doubt, if that person becomes an Investor or is or becomes Associated with another Investor, in each case in accordance with this Schedule, such person shall be deemed to be a Transferee for the purposes of the definition of **"Tracked Person"** with respect to such other Investor;

"Transferee Investor" means, as appropriate, the person which acquires Economic Interests in HoldCo through a Transferee TopCo or from an Investor or through an issue of Economic Interests in HoldCo, in each case, in accordance with Paragraph 1 (*Changes to the Parties*) and which will become an Investor upon execution of a Deed of Accession;

"Transferee TopCo" means, as appropriate, the person which acquires Economic Interests in HoldCo from a TopCo or through an issue of Economic Interests in HoldCo, in each case, in accordance with Paragraph 1 (*Changes to the Parties*) and which will become a TopCo upon execution of a Deed of Accession;

"Transferor TopCo" means the TopCo which transfers Economic Interests in HoldCo in accordance with Paragraph 1 (*Changes to the Parties*);

"UK Insolvency Regulation" has the meaning given to that term in paragraph 5 of Appendix 3 (*Valuation Procedure*) of this Schedule;

"Ultimate Investor" means any person who has Control (as defined in Appendix 5 (*Contracting Policy*) of this Schedule) of an Investor or who holds a direct or indirect interest in thirty per cent. (30%) or more of the equity share capital (or other economic interests) of an Investor;

"Ultimate Investor Group" means each Ultimate Investor and their respective subsidiaries and holding companies;

"Valuation Percentage" has the meaning given to that term in paragraph 3(A) of Appendix 3 (*Valuation Procedure*) of this Schedule;

"Valuer" means any person appointed pursuant to paragraph 1 (*Appointment of Valuer*) of Appendix 3 (*Valuation Procedure*) of this Schedule; and

"VAT Group Re-charge Arrangement" means any arrangement where: (i) the Generator is appointed as the representative member of a VAT group containing the Generator and one (1) or more other members of the Generator's Investment Structure; and (ii) no provisions are put in place pursuant to which the Generator is entitled to recover from the other members of that VAT group any amounts in respect of VAT for which the Generator has accounted (in its capacity as representative member) and which are attributable to supplies, acquisitions, exports or imports made or received by those other members of the VAT group.

Interpretation

- 2.2 Subject to Paragraph 2.3 of this Schedule, unless a contrary indication appears, terms defined in Condition 1.1 (*Definitions*) of the Conditions have the same meaning in this Schedule.
- 2.3 Where a term is defined in both Paragraph 2.1 of this Schedule and in Condition 1.1 (*Definitions*) of the Conditions, the definition in Paragraph 2.1 of this Schedule shall apply instead of the definition in the Condition 1.1 (*Definitions*) of the Conditions.
- 2.4 The principles of interpretation and construction set out in Conditions 1.3 to 1.14 of the Conditions shall have effect as if set out in this Schedule.
- 2.5 This Schedule forms part of the DPA and shall have the same force and effect as if expressly set out in the body of the DPA, and any reference to the Schedule shall include the Appendices.

Person through which a Qualifying Economic Interest is held

- 2.6 Any reference in this Schedule to a person through which a Qualifying Economic Interest which is the subject of a Relevant Sale is held shall be construed as a reference to the person through which the Economic Interest in HoldCo is held to which the relevant Qualifying Economic Interest which is the subject of the Relevant Sale relates.

Part B – Gain Share

1. GAIN SHARE: GENERAL

Introduction

- 1.1 Each of the Generator, HoldCo, the TopCos and the Investors intends that the DPA Counterparty shall be entitled to receive sums under this Part B calculated by reference to:
- (A) the Available Cash Flow and Deemed Available Cash Flow; and
 - (B) the proceeds of the sale of Qualifying Economic Interests (on a TopCo Tranche by TopCo Tranche basis),
- in each case as and when the Equity IRR Threshold is reached.

Gain Share: No double counting of cash

- 1.2 In the event of a Relevant Sale, there shall be no double counting for the purposes of any Sale Gain Share of cash in, or cash which has been deemed to be in, the Generator in respect of which a Project Gain Share Amount has previously been calculated, and in the event of a subsequent Project Gain Share calculation there shall be no double counting for that purpose of cash or deemed cash in respect of which a Sale Gain Share has previously been calculated.

2. GAIN SHARE: PROJECT GAIN SHARE PROVISIONS

Preliminary Equity IRR Report

2.1

- (A) No later than forty (40) Business Days after each Project Gain Share Calculation Date, the Generator shall provide the DPA Counterparty with a written report in respect of the Project Gain Share Calculation Period ending immediately prior to the relevant Project Gain Share Calculation Date, satisfying the requirements of Paragraph 2.1(C).
- (B) If the report referred to in Paragraph 2.1(A) is not provided in respect of any Project Gain Share Calculation Period on or by the date referred to in that Paragraph:
 - (i) the DPA Counterparty may obtain at the Generator's cost and expense an opinion from an independent expert as to the Equity IRR (which opinion shall be final and binding on the Parties in the absence of fraud or manifest error) for the Project Gain Share Calculation Period that would otherwise have been covered by the relevant Preliminary Equity IRR Report and that opinion shall be treated as the Equity IRR Report for the relevant Project Gain Share Calculation Period and used in the determination of the amounts payable to the DPA Counterparty under Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*);
 - (ii) no Preliminary Equity IRR Report or separate or further Equity IRR Report shall be required for this purpose;
 - (iii) the Generator shall provide the independent expert with such information and assistance as the independent expert may reasonably request for the purposes referred to in Paragraph 2.1(B)(i);
 - (iv) the DPA Counterparty shall provide a copy of any independent expert's final opinion obtained by it pursuant to Paragraph 2.1(B)(i) to the Generator as soon as reasonably practicable; and

- (v) the DPA Counterparty may suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator under the DPA in any period during which the Generator is in breach of the obligation set out in Paragraph 2.1(A).
- (C) Each Preliminary Equity IRR Report shall:
- (i) be prepared at the cost and expense of the Generator;
 - (ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;
 - (iii) be substantially in the form and with the content set out at Appendix 8 (*Form of Preliminary Equity IRR Report*) of this Schedule and be accompanied by the Information referred to in Paragraph 2.1(D);
 - (iv) set out in reasonable detail the Available Cash Flow in respect of the relevant Project Gain Share Calculation Period;
 - (v) give reasons in reasonable detail for the retention of any amounts retained by the Generator as referred to in Paragraph (A)(ii) of the definition of "Available Cash Flow" in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of this Schedule together with reasonable details of the amounts so retained and the calculation thereof;
 - (vi) contain confirmation that there has been no failure to perform or comply with one (1) or more of the Gain Share Rules or, if such an event has occurred, full details of such failure and the consequences thereof, including the amount and calculation of any resultant Deemed Available Cash Flow;
 - (vii) contain confirmation that there has been no failure to perform or comply with the Contracting Policy or, if such an event has occurred, full details of such failure and the consequences thereof, including the amount and calculation of any resultant Related Party Discount Amount;
 - (viii) set out, in reasonable detail, all Project Cash Flows and Real Project Cash Flows in respect of the relevant Project Gain Share Calculation Period including the dates on which each such cash flow was received or paid, or is forecast to be received or paid;
 - (ix) set out, in reasonable detail, the calculation of the Equity IRR for the Project Gain Share Calculation Period ending immediately prior to the relevant Project Gain Share Calculation Date (taking into account, among other things, the information referred to in Paragraph 2.1(C)(viii)) as at the Project Gain Share Calculation Date relating to that Project Gain Share Calculation Period;
 - (x) specify whether, and the extent to which, the Equity IRR as at such Project Gain Share Calculation Date exceeds the Equity IRR Threshold;
 - (xi) contain full details of the administrative costs and expenses of the Generator incurred since the immediately preceding Project Gain Share Calculation Date and of the administrative costs and expenses that it forecasts it will incur, in each case in respect of this Schedule (*Gain Share*); and
 - (xii) contain full details of any Distribution which has been made, and any proposed Distribution which is to be made, by the Generator to HoldCo and by HoldCo to

each TopCo and the Project Gain Share Amount to be paid to the DPA Counterparty consequent upon the Project Cash Flows in relation to the relevant Project Gain Share Calculation Period, including the amount and calculation thereof, and the Generator's estimate of the Project Gain Share Due Date.

- (D) Each Preliminary Equity IRR Report shall be accompanied by:
- (i) a Directors' Certificate from the directors of the Generator in relation to the Information contained in, or enclosed with, the Preliminary Equity IRR Report;
 - (ii) the Equity IRR Model which shall include details of the cash flows from the Generator (including the Available Cash Flow) and the calculation of the amount available for distribution by the Generator and the Project Gain Share Amount (if any);
 - (iii) copies of:
 - (a) the then latest audited accounts of the Generator covering at least three-fifths (3/5th) of the five (5) year period immediately prior to the last day of the relevant Project Gain Share Calculation Period;
 - (b) the then latest management accounts of the Generator covering the balance of the relevant Project Gain Share Calculation Period which is not covered by the latest audited accounts provided pursuant to Paragraph 2.1(D)(iii)(a) above;
 - (c) a reconciliation statement against each of the latest audited accounts and the latest management accounts of the Generator; and
 - (d) any other Supporting Information, in reasonable detail, which the Generator considers to be relevant to the matters which are the subject of the Preliminary Equity IRR Report, for the relevant Project Gain Share Calculation Period;
 - (iv) a certificate from the Auditors addressed to the DPA Counterparty confirming the statements made in the Preliminary Equity IRR Report, certifying the audited accounts and management accounts provided pursuant to Paragraphs 2.1(D)(iii)(a) and 2.1(D)(iii)(b) above, and certifying the Available Cash Flow, Deemed Available Cash Flow and Equity IRR in respect of such Project Gain Share Calculation Period together with computations in reasonable detail in support; and
 - (v) an update of the Equity IRR Report(s) for earlier Project Gain Share Calculation Period(s) correcting the Equity IRR calculation thereunder solely for the dates in accordance with the Subsequent ACF Correction.
- (E) The DPA Counterparty may, by notice to the Generator during the thirty (30) Business Day period after receipt of the Preliminary Equity IRR Report, request the Generator to provide to the DPA Counterparty such Supporting Information in relation to the Preliminary Equity IRR Report (a **"Further Equity IRR Information Request"**) as the DPA Counterparty reasonably requires.
- (F) If the DPA Counterparty gives a Further Equity IRR Information Request to the Generator, the Generator shall within thirty (30) Business Days of such request, or such longer period, if any, as is agreed between the DPA Counterparty and the Generator (each acting reasonably), prepare and deliver such further Supporting Information to

the DPA Counterparty, together with a Directors' Certificate and a certificate from the Auditors in relation to the Supporting Information provided in response to such Further Equity IRR Information Request.

- (G) The DPA Counterparty shall, within ninety (90) Business Days after receipt of the Preliminary Equity IRR Report or, if it has given a Further Equity IRR Information Request to the Generator, within ninety (90) Business Days after receipt of the further Supporting Information requested in the relevant Further Equity IRR Information Request, notify the Generator whether or not it approves the matters which are the subject of the Preliminary Equity IRR Report and, where the DPA Counterparty does not approve the matters which are the subject of the Preliminary Equity IRR Report, it shall give the Generator reasons in support.
- (H) If the DPA Counterparty does not notify the Generator whether or not it approves the matters which are the subject of a Preliminary Equity IRR Report within the ninety (90) Business Day period referred to in Paragraph 2.1(G), that Preliminary Equity IRR Report shall be deemed not to be agreed.

Disputes in relation to a Preliminary Equity IRR Report

2.2

- (A) If the Generator and the DPA Counterparty are not able to agree, or are deemed not to have agreed, the matters which are the subject of a Preliminary Equity IRR Report or related matters (including Supporting Information), either the Generator or the DPA Counterparty may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure.
- (B) Until the Generator and the DPA Counterparty agree the matters which are the subject of a Preliminary Equity IRR Report or a Dispute in respect of it has been determined by an Expert in accordance with the Expert Determination Procedure, there shall be no Equity IRR Report in respect of the relevant Project Gain Share Calculation Date.

Equity IRR Report

2.3

Upon:

- (A) the DPA Counterparty notifying the Generator that it approves the matters which are the subject of a Preliminary Equity IRR Report;
- (B) the DPA Counterparty and the Generator agreeing the matters which are the subject of a Preliminary Equity IRR Report (and any amendments to that Preliminary Equity IRR Report being made in accordance with that agreement); or
- (C) any Dispute (other than merely as to whether the Generator has submitted all the information required for a Preliminary Equity IRR Report) with respect to the matters which are the subject of a Preliminary Equity IRR Report being resolved or determined as provided in Paragraph 2.2 (*Disputes in relation to a Preliminary Equity IRR Report*) (and any amendments to the Preliminary Equity IRR Report being made in accordance with that resolution or determination),

the Preliminary Equity IRR Report (once delivered and as amended, if applicable) shall become the **"Equity IRR Report"** in respect of the relevant Project Gain Share Calculation Date. Without prejudice to the foregoing, each of the Generator and the DPA Counterparty

acknowledges and agrees that it is its intention, and (subject and without prejudice to the Expert Determination Procedure) each such person shall use its reasonable endeavours to ensure, that there shall be an Equity IRR Report in respect of a Project Gain Share Calculation Period before the date which is eighteen (18) months after the relevant Project Gain Share Calculation Date.

Project Gain Share with the DPA Counterparty

2.4

- (A) Where the Equity IRR (set out in the latest Equity IRR Report or in the latest report of the independent expert pursuant to Paragraph 2.1(B) (*Preliminary Equity IRR Report*)) is or falls below the Equity IRR Threshold, no Project Gain Share Amount shall be payable.
- (B) Where the Equity IRR (set out in the latest Equity IRR Report or in the latest report of the independent expert pursuant to Paragraph 2.1(B) (*Preliminary Equity IRR Report*)) exceeds the Equity IRR Threshold, the Generator shall pay to the DPA Counterparty a Project Gain Share Amount in an amount equivalent to thirty per cent. (30%) of the Project Excess Cashflow, in all cases in accordance with Paragraph 2.4(C) and by the Project Gain Share Due Date.
- (C) Where Paragraph 2.4(B) applies, the DPA Counterparty shall elect by notice to, and after consultation with, the Generator:
 - (i) to receive any Project Gain Share Amount referred to in Paragraph 2.4(B), by way of a Series of Payments and/or a single lump sum payment made to the credit of the DPA Counterparty Designated Account; and
 - (ii) the relevant Project Gain Share Due Date(s) by which the Generator shall make such payment(s).
- (D) The Project Gain Share Amount shall be Discounted to Present Value as at the Project Gain Share Calculation Date using the Post-Tax Real Discount Rate.

3. GAIN SHARE: SALE GAIN SHARE PROVISIONS

Calculation of Economic Interests following a Relevant Sale

3.1 Subject to Paragraph 3.2(A), any calculation under this Schedule of the Economic Interests of any person in HoldCo following a Relevant Sale, or any calculation of the apportionment between, or of a portion or proportion of, or of the attribution of any amount to, a TopCo Tranche following a Relevant Sale, shall be made by reference to the direct or indirect shareholding of such person in HoldCo represented by such TopCo Tranche to which the Economic Interests in HoldCo referred to above relate.

3.2 Where:

- (A) Economic Interests in a person forming part of a TopCo Tranche are the subject of a Relevant Sale and are of different types; and
- (B) each such type of Economic Interests is not held in the same proportion as the same type of Economic Interests held by each other holder of Economic Interests in that person which also form part of the same TopCo Tranche,

then such calculation shall be made by reference to the par value of the shares and the principal amount of shareholder loans plus any accrued, unpaid interest (or nearest equivalent

in the case of other Economic Interests) directly or indirectly held in or (as applicable) made to HoldCo by such person.

Preliminary Sale IRR Report

3.3

- (A) No later than twenty (20) Business Days after completion of a Relevant Sale, the Responsible TopCo and (if party to this DPA) the Acquirer shall, and shall be jointly and severally liable to, calculate the Sale IRR(s) and provide the DPA Counterparty with a written report setting out:
 - (i) reasonable details of the Relevant Sale, including details of the seller, the Acquirer, the Qualifying Economic Interest which is the subject of the Relevant Sale, details of any new Tracked Person(s) as a result of the Relevant Sale, details of the relevant Investor and TopCo with which the Acquirer is or is to be Associated, the date of the Relevant Sale agreement, the date of completion of the Relevant Sale and the consideration received or receivable or potentially receivable;
 - (ii) if, as a result of the Relevant Sale, there is any change in the Economic Interests held by an Investor (including any Economic Interests held by any member of the Investor's Group and any of its Associated persons), reasonable details of the division of Economic Interests between such Investor (or any such member or Associated person) and the Acquirer;
 - (iii) the Sale IRR(s) and reasonable details of the calculation thereof;
 - (iv) any calculations and other Supporting Information, in reasonable detail, which the Responsible TopCo or the Acquirer considers to be relevant to the Preliminary Sale IRR Report; and
 - (v) confirmation that there has been no failure by the Responsible TopCo, the seller or any member of the TopCo Group of the Responsible TopCo, to comply with one (1) or more of the Gain Share Rules or the Contracting Policy, in each case as applicable to it, or, if such an event has occurred, full details of such failure and the consequences thereof, including the amount and calculation of any resultant change in the Divestment Proceeds or Investment Cost. For the avoidance of doubt, the DPA Counterparty shall be entitled to increase the Sale Gain Share Amount by any amount by which it has been reduced as a result of:
 - (a) any failure to comply with the Gain Share Rules or the Contracting Policy; and/or
 - (b) any Avoidance Event or Abusive arrangement.
- (B) If the Responsible TopCo or the Acquirer does not provide the report referred to in Paragraph 3.3(A) within the period referred to in Paragraph 3.3(A):
 - (i) the DPA Counterparty may obtain at the cost and expense of the Responsible TopCo or (if party to this DPA) the Acquirer an opinion from an independent expert as to the Sale IRR(s) (which opinion shall be final and binding on the Parties in the absence of fraud or manifest error) and that opinion shall be treated as the Sale IRR Report and used in the determination of the amounts payable to the DPA Counterparty under Paragraph 3.6 (*Sale Gain Share with the DPA Counterparty*);

- (ii) no Preliminary Sale IRR Report or separate or further Sale IRR Report shall be required for this purpose;
 - (iii) the Responsible TopCo and the Acquirer shall provide the Expert with such information and assistance as it may reasonably request for the purposes referred to in Paragraph 3.3(B)(i); and
 - (iv) the DPA Counterparty shall provide a copy of any independent expert's final opinion obtained by it pursuant to Paragraph 3.3(B)(i) to the Responsible TopCo and the Acquirer as soon as reasonably practicable.
- (C) The Preliminary Sale IRR Report shall be accompanied by:
- (i) a Directors' Certificate from the directors of the Responsible TopCo and (if party to this DPA) the Acquirer in relation to the information contained in, or enclosed with, the Preliminary Sale IRR Report; and
 - (ii) a certificate from the Auditors addressed to the DPA Counterparty confirming the statements made in the Preliminary Sale IRR Report and certifying the calculation of the Sale IRR together with computations in reasonable detail in support.
- (D) The DPA Counterparty may, by notice to the Responsible TopCo during the thirty (30) Business Day period after receipt of the Preliminary Sale IRR Report, request the Responsible TopCo and (if party to this DPA) the Acquirer to provide to the DPA Counterparty such Supporting Information in relation to the Preliminary Sale IRR Report (a **"Further Sale IRR Information Request"**) as the DPA Counterparty reasonably requires.
- (E) If the DPA Counterparty gives a Further Sale IRR Information Request to the Responsible TopCo, the Responsible TopCo and (if party to this DPA) the Acquirer shall within thirty (30) Business Days of such request, or such longer period, if any, as is agreed between the DPA Counterparty and the Responsible TopCo (each acting reasonably), prepare and deliver such further Supporting Information to the DPA Counterparty, together with a Directors' Certificate and a certificate from the Auditors in relation to the Supporting Information provided in response to such Further Sale IRR Information Request.
- (F) The DPA Counterparty shall, within thirty (30) Business Days after receipt of the Preliminary Sale IRR Report or, if it has given a Further Sale IRR Information Request to the Responsible TopCo, within thirty (30) Business Days after receipt of the further Supporting Information requested in the relevant Further Sale IRR Information Request, notify the Responsible TopCo whether or not it approves the matters which are the subject of the Preliminary Sale IRR Report and, where the DPA Counterparty does not approve the matters which are the subject of the Preliminary Sale IRR Report, it shall give the Responsible TopCo reasons in support.
- (G) If the DPA Counterparty does not notify the Responsible TopCo whether or not it approves the matters which are the subject of the Preliminary Sale IRR Report within the relevant thirty (30) Business Day period referred to in Paragraph 3.3(F), the Preliminary Sale IRR Report shall be deemed not to be agreed.

Disputes in relation to a Preliminary Sale IRR Report

- (A) If the Responsible TopCo and the DPA Counterparty are not able to agree, or are deemed not to have agreed, the matters which are the subject of a Preliminary Sale IRR Report or related matters (including Supporting Information), either the Responsible TopCo or the DPA Counterparty may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure.
- (B) Until the Responsible TopCo and the DPA Counterparty agree the matters which are the subject of a Preliminary Sale IRR Report or the Dispute in respect of it has been determined by an Expert in accordance with the Expert Determination Procedure, there shall be no Sale IRR Report.

Sale IRR Report

3.5

Upon:

- (A) the DPA Counterparty notifying the Responsible TopCo that it approves the matters which are the subject of a Preliminary Sale IRR Report;
- (B) the DPA Counterparty and the Responsible TopCo agreeing the matters which are the subject of a Preliminary Sale IRR Report (and any amendments to that Preliminary Sale IRR Report being made in accordance with that agreement); or
- (C) any Dispute (other than merely as to whether the Responsible TopCo or the Acquirer has submitted all the information required for a Preliminary Sale IRR Report) with respect to the matters which are the subject of a Preliminary Sale IRR Report being resolved or determined as provided in Paragraph 3.2 (*Disputes in relation to a Preliminary Sale IRR Report*) (and any amendments to the Preliminary Sale IRR Report being made in accordance with that resolution or determination),

the Preliminary Sale IRR Report (once delivered and as amended, if applicable) shall become the "**Sale IRR Report**" in respect of the Relevant Sale.

Sale Gain Share with the DPA Counterparty

3.6

- (A) Where the Sale IRR(s) (set out in the Sale IRR Report or in the report of the independent expert pursuant to Paragraph 3.3(B) (*Preliminary Sale IRR Report*)) exceeds the Equity IRR Threshold, the Responsible TopCo and (if party to this DPA) the Selling Shareholder, the Acquirer and the Acquirer's TopCo shall be jointly and severally liable in respect of each relevant TopCo Tranche (or portion thereof, as applicable), to pay to the credit of the DPA Counterparty Designated Account a Sale Gain Share Amount equivalent to thirty per cent. (30%) of the Threshold Excess Sale Proceeds, in all cases by the Sale Gain Share Due Date.
- (B) Where Paragraph 3.6(A) applies, the DPA Counterparty shall elect by notice to, and after consultation with, the Generator:
 - (i) to receive any Sale Gain Share Amount referred to in Paragraph 3.6(A), by way of a Series of Payments and/or a single lump sum payment made to the credit of the DPA Counterparty Designated Account; and
 - (ii) the relevant Sale Gain Share Due Date(s) by which the Generator shall make such payment(s).

- (C) The Sale Gain Share Amount shall be Discounted to Present Value as at the Sale Gain Share Calculation Date using the Post-Tax Real Discount Rate.
- (D) If any further consideration in respect of a Relevant Sale is received (which for these purposes shall include any further Distributions, or amounts in respect thereof, in respect of the Economic Interests which are the subject of the Relevant Sale and received by the Selling Shareholder as part of the consideration for the Relevant Sale), the Responsible TopCo and (if party to this DPA) the Selling Shareholder, the Acquirer and the Acquirer's TopCo shall be jointly and severally liable on each occasion after receipt of any such consideration to:
 - (i) recalculate the Sale IRR(s) set out in the Sale IRR Report or report of the independent expert pursuant to Paragraph 3.3(B) (*Preliminary Sale IRR Report*) to include such further consideration (as of the date of receipt of such further consideration but otherwise on the same basis as the original calculation); and
 - (ii) provide written details of the calculation to the DPA Counterparty,

no later than ten (10) Business Days after such receipt.
- (E) The provisions of Paragraph 3.6(A) shall apply mutatis mutandis in respect of such recalculated Sale IRR(s), and if as a result, and after deducting payments previously made thereunder, an amount or additional amount becomes payable pursuant thereto, the Responsible TopCo and (if party to this DPA) the Selling Shareholder, the Acquirer and the Acquirer's TopCo shall pay, and shall be jointly and severally liable to pay, the same to the credit of the DPA Counterparty Designated Account no later than ten (10) Business Days after the provision of the details referred to in Paragraph 3.6(D) above. For the avoidance of doubt, no payment or repayment shall be due or payable by the DPA Counterparty under or pursuant to this Paragraph 3.6(E).
- (F) If the DPA Counterparty considers that any of the Responsible TopCo, the Selling Shareholder, the Acquirer or the Acquirer's TopCo has not paid a Sale Gain Share Amount due from it under this Paragraph 3 into the DPA Counterparty Designated Account by the Sale Gain Share Due Date or the date provided for under Paragraph 3.6(C), as applicable, then:
 - (i) the DPA Counterparty shall notify the Responsible TopCo within one hundred and eighty (180) Business Days after the DPA Counterparty first becomes aware of the failure to make such payment; and
 - (ii) if the Responsible TopCo agrees that there has been a failure to make payment, or if an Expert so determines in accordance with the Expert Determination Procedure, then the Responsible TopCo and (if party to this DPA), the Selling Shareholder, the Acquirer and the Acquirer's TopCo shall forthwith make that payment to the credit of the DPA Counterparty Designated Account (together with Default Interest thereon from the due date for payment to the actual date of payment).

4. GAIN SHARE: SECURITY AND ENFORCEMENT

Security

- 4.1 If the Equity IRR exceeds the Equity IRR Threshold as at the Penultimate Project Gain Share Calculation Date, the Generator shall, no later than the date which falls twenty (20) Business Days following such date, transfer or deliver, or procure the transfer or delivery of, Acceptable

Collateral to the DPA Counterparty in an aggregate amount equal to the Gain Share Collateral Amount as security for the Secured Sums.

Provision of Collateral

- 4.2 All transfers or deliveries of any Acceptable Collateral pursuant to Paragraph 4.1 shall be made by or on behalf of the Generator and shall be given:
- (A) in the case of cash, by transfer in accordance with the instructions made by or on behalf of the DPA Counterparty, to the credit of the Reserve Account;
 - (B) in the case of a Letter of Credit, by a Qualifying Issuer issuing a Letter of Credit to the DPA Counterparty or its designee. Such transfer shall be deemed effective upon receipt by the DPA Counterparty or its designee from the Qualifying Issuer of the duly executed and issued Letter of Credit;
 - (C) in the case of a Gain Share Parent Company Guarantee, by the Guarantor duly executing a Gain Share Parent Company Guarantee in favour of the DPA Counterparty or its designee. Such transfer shall be deemed effective upon receipt by the DPA Counterparty or its designee from the Guarantor of the duly executed and delivered Gain Share Parent Company Guarantee; and
 - (D) in the case of a Gain Share Bond, by a Qualifying Bond Provider issuing a Gain Share Bond to the DPA Counterparty or its designee. Such transfer shall be deemed effective upon receipt by the DPA Counterparty or its designee from the Qualifying Bond Provider of the duly executed and issued Gain Share Bond.

Transfers and custody of collateral

4.3

- (A) The Generator shall procure that any Acceptable Collateral (or any renewal or replacement thereof) provided pursuant to Paragraph 4.1:
 - (i) shall be valid at least until the earlier of:
 - (a) the date which falls two (2) years after the Specified Expiry Date; and
 - (b) the date on which the Secured Sums have been fully paid by the Generator to the DPA Counterparty in accordance with Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*);
 - (ii) shall be accompanied by a notice from the Generator (a "**Letter of Credit Details Notice**", "**Parent Company Guarantee Details Notice**" and a "**Performance Bond Details Notice**", as applicable). A Letter of Credit Details Notice, Parent Company Guarantee Details Notice and Bond Details Notice shall specify:
 - (a) the identity and credit rating of the Qualifying Issuer, Guarantor or the Qualifying Bond Provider issuing the Letter of Credit, Gain Share Parent Company Guarantee or the Gain Share Bond, as applicable;
 - (b) the contact details for the Qualifying Issuer, Guarantor or the Qualifying Bond Provider (or their respective representatives or relationship managers); and

- (c) without prejudice to Paragraphs 4.1 and 4.3(A)(i), the period of time during which the Letter of Credit, Gain Share Parent Company Guarantee or Gain Share Bond will remain in effect and (in respect of a Letter of Credit or Gain Share Bond) the amount of credit to be provided which shall be no less than the Gain Share Collateral Amount.
- (B) At least ten (10) Business Days prior to the date of expiry or cancellation of a Letter of Credit, Gain Share Parent Company Guarantee or Gain Share Bond, as the case may be, the Generator shall renew or procure the renewal of such Letter of Credit, Gain Share Parent Company Guarantee or Gain Share Bond by transferring or delivering, or by procuring the transfer or delivery of, Acceptable Collateral in the amount of and in substitution and to be effective no later than the date of expiry or cancellation of the current Letter of Credit, Gain Share Parent Company Guarantee or Gain Share Bond provided that Acceptable Collateral is still required, pursuant to the provisions of this Paragraph 4, after the date of expiry or cancellation of the current Letter of Credit, Gain Share Parent Company Guarantee or Gain Share Bond.

Altering collateral

4.4

- (A) If, at any time, the Posted Collateral is not or ceases to be Acceptable Collateral and/or the Posted Collateral is less than the Gain Share Collateral Amount, the DPA Counterparty may give a notice to the Generator (a **"Collateral Correction Notice"**). A Collateral Correction Notice shall specify:
 - (i) the Posted Collateral which is not or has ceased to be Acceptable Collateral and the reason that prevents such collateral from constituting Acceptable Collateral; and/or
 - (ii) the amount by which the Posted Collateral is less than the Gain Share Collateral Amount (a **"Deficient Collateral Amount"**).
- (B) No later than five (5) Business Days after receipt of a Collateral Correction Notice, the Generator shall transfer or deliver, or procure the transfer or delivery of, Acceptable Collateral in an amount more than or equal to the Deficient Collateral Amount.
- (C) The Generator may, from time to time, and on giving the DPA Counterparty not less than ten (10) Business Days' notice, substitute any of the Posted Collateral with other Acceptable Collateral which shall not in any event be less than the Gain Share Collateral Amount in aggregate.

Letter of Credit Events, Bond Events and Guarantee Events

4.5

- (A) If, at any time:
 - (i) an Insolvency Event occurs in relation to a Qualifying Issuer;
 - (ii) a Letter of Credit ceases to be in full force and effect or a Qualifying Issuer's obligations under a Letter of Credit are or become wholly or partly invalid or unenforceable or a Qualifying Issuer fails to comply promptly with any of its obligations pursuant to a Letter of Credit;
 - (iii) a Letter of Credit will expire; or

(iv) a Qualifying Issuer of a Letter of Credit ceases to be a Qualifying Issuer,

(together, "**Letter of Credit Events**"), the Generator shall:

- (a) where a Letter of Credit Event set out in Paragraph 4.5(A)(i), (ii) or (iv) occurs, give notice to the DPA Counterparty and procure the replacement of such Letter of Credit with Acceptable Collateral no later than ten (10) Business Days after the date on which the relevant Letter of Credit Event occurs; or
- (b) where a Letter of Credit will expire, extend the term of the then current Letter of Credit (or replace it with another Letter of Credit) in each case with a validity period of not less than twelve (12) months, no later than ten (10) Business Days prior to the expiry of the then current Letter of Credit.

(B) If, at any time:

- (i) an Insolvency Event occurs in relation to the Guarantor;
- (ii) the Gain Share Parent Company Guarantee ceases to be in full force and effect or the Guarantor's obligations under the Gain Share Parent Company Guarantee are or become wholly or partly invalid or unenforceable or the Guarantor fails to comply promptly with any of its obligations pursuant to the Gain Share Parent Company Guarantee; or
- (iii) the Guarantor ceases to be a Qualifying Guarantor,

(together, "**Guarantee Events**"), the Generator shall give notice to the DPA Counterparty and procure the replacement of such Gain Share Parent Company Guarantee with Acceptable Collateral no later than ten (10) Business Days after the date on which the relevant Guarantee Event occurs.

(C) If, at any time:

- (i) an Insolvency Event occurs in relation to a Qualifying Bond Provider;
- (ii) a Gain Share Bond ceases to be in full force and effect or the Qualifying Bond Provider's obligations under the Gain Share Bond are or become wholly or partly invalid or unenforceable or the Qualifying Bond Provider fails to comply promptly with any of its obligations pursuant to the Gain Share Bond;
- (iii) a Gain Share Bond will expire; or
- (iv) a Qualifying Bond Provider ceases to be a Qualifying Bond Provider,

(together, "**Bond Events**"), the Generator shall:

- (a) where a Gain Share Bond Event set out in Paragraph 4.5(C)(i), (ii) or (iv) occurs, give notice to the DPA Counterparty and procure the replacement of such Gain Share Bond with Acceptable Collateral no later than ten (10) Business Days after the date on which the relevant Bond Event occurs; or
- (b) where a Gain Share Bond will expire, extend the term of the then current Gain Share Bond (or replace it with another Bond) in each case with a

validity period of not less than twelve (12) months, no later than ten (10) Business Days prior to the expiry of the then current Gain Share Bond.

- (D) If the Generator fails to procure replacement Acceptable Collateral in accordance with Paragraph 4.5(A), 4.5(B) or 4.5(C), the DPA Counterparty may demand payment pursuant to the Letter of Credit, Gain Share Parent Company Guarantee and/or Bond respectively and shall hold any cash paid pursuant to the Letter of Credit, Gain Share Parent Company Guarantee and/or Gain Share Bond in a Reserve Account until such time as the Posted Collateral is substituted in accordance with this Paragraph 4.5.

Making a Posted Collateral Demand

4.6

- (A) The DPA Counterparty may make a demand under a Letter of Credit, Gain Share Parent Company Guarantee and/or Gain Share Bond procured by the Generator, or draw down on any cash amount in a Reserve Account (a **"Posted Collateral Demand"**) in the following circumstances:
 - (i) the Generator fails to pay the relevant Project Gain Share Amount by the Project Gain Share Payment Deadline; or
 - (ii) the Generator fails to renew or extend, or procure the renewal or extension of, a Letter of Credit, a Gain Share Parent Company Guarantee or a Gain Share Bond in accordance with Paragraph 4.5 by the transfer or delivery of substitute Acceptable Collateral.
- (B) If a Posted Collateral Demand has been made, the Generator shall transfer or deliver, or procure the transfer or delivery of, further Acceptable Collateral in an amount no less than the Gain Share Collateral Amount no later than two (2) Business Days after such demand.
- (C) Where the Generator fails to renew or extend, or procure the renewal or extension of, a Letter of Credit, Gain Share Parent Company Guarantee or a Gain Share Bond in accordance with Paragraph 4.5 by the transfer or delivery of substitute Acceptable Collateral:
 - (i) the DPA Counterparty shall have the right, but not the obligation, to set off the Gain Share Collateral Amount against any or all other amounts owing (whether or not matured, contingent or invoiced) by the DPA Counterparty to the Generator under the DPA. The right of set-off shall be without prejudice and in addition to any other right to which the DPA Counterparty is otherwise entitled; and
 - (ii) the TopCos shall jointly and severally ensure that no Distributions are thereafter made by the Generator, HoldCo, or any of the TopCos for so long as the Generator fails to renew or extend, or procure the renewal or extension of, a Letter of Credit, Gain Share Parent Company Guarantee or a Gain Share Bond in accordance with Paragraph 4.5 by the transfer or delivery of substitute Acceptable Collateral.

Return of collateral

4.7

- (A) If the Generator has transferred or delivered, or procured the transfer or delivery of, Acceptable Collateral to the DPA Counterparty pursuant to the foregoing provisions in this Paragraph 4, and the Gain Share Collateral Amount has been fully replaced or substituted with other Acceptable Collateral in accordance with this Paragraph 4, then, subject to Paragraph 4.6, the DPA Counterparty shall transfer the Posted Collateral back to the Generator no later than five (5) Business Days after the date on which the Generator replaces Acceptable Collateral in accordance with this Paragraph 4.
- (B) The DPA Counterparty shall transfer back the Posted Collateral:
 - (i) in the case of cash (together with any interest which has accrued on such cash held in a Reserve Account), by transfer in accordance with the instructions made by or on behalf of the Generator, to the credit of one (1) or more bank accounts in the United Kingdom specified by the Generator; and
 - (ii) in the case of a Letter of Credit, Gain Share Parent Company Guarantee or Gain Share Bond, as the case may be, by surrendering, or procuring the surrender of, the relevant Letter of Credit, Gain Share Parent Company Guarantee or Gain Share Bond.
- (C) Without prejudice to Paragraph 4.6, the DPA Counterparty shall return any Posted Collateral transferred or delivered by or on behalf of the Generator no later than five (5) Business Days after the date on which the Parties agree, or it is determined pursuant to the Expert Determination Procedure under this Schedule, that all payment obligations under this Schedule have been fully discharged.

Enforcement Mechanism for Project Gain Share Provisions

- 4.8 Where the DPA Counterparty and the Generator agree or it is determined that a payment due to the DPA Counterparty pursuant to Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*) has not been made by the Project Gain Share Due Date:
- (A) the TopCos shall be jointly and severally liable to pay the outstanding amount to the DPA Counterparty no later than five (5) Business Days after such agreement or determination (the "**Project Gain Share Payment Deadline**"); and
 - (B) if payment of the outstanding amount is not made by the Project Gain Share Payment Deadline then, at the DPA Counterparty's election:
 - (i) the DPA Counterparty may suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator under the DPA in any period during which the Generator is in breach of such payment obligation;
 - (ii) the TopCos shall jointly and severally ensure that no Distributions are thereafter made by the Generator, HoldCo, or any of the TopCos for so long as such payment is outstanding;
 - (iii) the DPA Counterparty shall be entitled to draw on all of the Acceptable Collateral given by the Generator to recover the relevant Secured Sums pursuant to Paragraph 4.6; and/or
 - (iv) the DPA Counterparty shall have the right, but not the obligation, to set off the relevant Project Gain Share Amount against any or all other amounts owing (whether or not matured, contingent or invoiced) by the DPA Counterparty to the Generator under the DPA. The right of set-off shall be without prejudice and in addition to any other right to which the DPA Counterparty is otherwise entitled.

Enforcement Mechanism for Sale Gain Share Provisions

- 4.9 Where the DPA Counterparty and the Responsible TopCo agree or it is determined that a payment due to the DPA Counterparty pursuant to Paragraph 3.6 (*Sale Gain Share with the DPA Counterparty*) has not been made by the Sale Gain Share Due Date or the date provided for under Paragraph 3.6(B) (*Sale Gain Share with the DPA Counterparty*), as applicable:
- (A) the Responsible TopCo(s) or (if party to this DPA) the Selling Shareholder, the Acquirer or the Acquirer's TopCo shall pay, or procure the payment of, the outstanding amount due to the DPA Counterparty no later than five (5) Business Days after such agreement or determination (the "**Sale Gain Share Payment Deadline**"); and
 - (B) if payment of the outstanding amount is not made by the Sale Gain Share Payment Deadline then, at the DPA Counterparty's election:
 - (i) the DPA Counterparty may suspend payment of any amounts which would otherwise be payable by the DPA Counterparty to the Generator under the DPA in any period during which the Generator is in breach of such payment obligation;
 - (ii) the TopCos shall jointly and severally ensure that no Distributions are thereafter made by the Generator, HoldCo or any of the TopCos for so long as such payment is outstanding; and/or
 - (iii) the DPA Counterparty shall have the right, but not the obligation, to set off the relevant Sale Gain Share Amount against any or all other amounts owing (whether or not matured, contingent or invoiced) by the DPA Counterparty to the Generator under the DPA. The right of set-off shall be without prejudice and in addition to any other right to which the DPA Counterparty is otherwise entitled.

Remedies in respect of failure to comply with Gain Share Rules and Protective Provisions

- 4.10 The DPA Counterparty's rights and remedies in respect of a failure by a Party to comply with the Gain Share Rules and/or the Protective Provisions, in each case as applicable to it, shall be limited to:
- (A) such failure being taken into consideration for the purposes of the definitions in Paragraph 2.1 (*Definitions*) of Part A (*Introduction*) of "**Deemed Available Cash Flow**", "**Divestment Proceeds**", and "**Investment Cost**", as appropriate, and the rights and remedies which arise in connection therewith as set out in Paragraphs 2 (*Gain Share: Project Gain Share Provisions*), 3 (*Gain Share: Sale Gain Share Provisions*) and 4 (*Gain Share: Security and Enforcement*);
 - (B) where such failure to comply is agreed or determined to take the form of an act or omission which is designed to or a main purpose of which is to:
 - (i) avoid the application of Paragraph 3 (*Gain Share: Sale Gain Share Provisions*) to a disposal of Economic Interests being a Relevant Sale, deeming such disposal to be a Relevant Sale (and, for the avoidance of doubt, for this purpose, a Relevant Sale shall include a deemed Relevant Sale); or
 - (ii) avoid a transferee of Economic Interests in HoldCo being a Tracked Person, deeming such transferee to be a Tracked Person (and, for the avoidance of doubt, for this purpose, a Tracked Person shall include a deemed Tracked Person); and
 - (C) equitable rights and remedies (including specific performance and injunctive relief),

and the DPA Counterparty shall have no other rights or remedies in respect of any such failure to comply.

Remedies in respect of failure to comply with the Gain Share provisions

4.11 The DPA Counterparty's rights and remedies in respect of a failure to make a payment due to the DPA Counterparty pursuant to Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*) by the Project Gain Share Payment Due Date or due to the DPA Counterparty pursuant to Paragraph 3.6 (*Sale Gain Share with the DPA Counterparty*) by the Sale Gain Share Payment Due Date shall be limited to:

- (A) in the case of Paragraph 2.4 (*Project Gain Share with the DPA Counterparty*), the rights and remedies set out in Paragraphs 4.6 (*Making a Posted Collateral Demand*) and 4.8 (*Enforcement Mechanism for Project Gain Share Provisions*), together with equitable rights and remedies (including specific performance and injunctive relief); and
- (B) in the case of Paragraph 3.4 (*Sale Gain Share with the DPA Counterparty*), the rights and remedies set out in Paragraph 4.9 (*Enforcement Mechanism for Sale Gain Share Provisions*), together with equitable rights and remedies (including specific performance and injunctive relief),

and the DPA Counterparty shall have no other rights or remedies in respect of any such failure.

Remedies in respect of failure to comply with the Contracting Policy

4.12 The DPA Counterparty's rights and remedies in respect of a failure by a Party to comply with the Contracting Policy (which shall include a failure of a Party to comply with Paragraph 2 (*Contracting Policy*) but which shall not include a failure by an Investor to comply with Paragraph 5.1(C) (*Unconditional Investor undertakings*)) shall be limited to:

- (A) the agreement or determination of any Related Party Discount Amount for the purposes of the agreement or determination of any Gain Share Amount;
- (B) the express rights and remedies of the DPA Counterparty set out in this Schedule arising out of the agreement or determination of any Related Party Discount Amounts and/or Discount Amounts and/or Daily Discount Amounts, as referred to in paragraph (A) above; and
- (C) equitable rights and remedies (including specific performance and injunctive relief),

and the DPA Counterparty shall have no other rights or remedies in respect of any such failure to comply.

Remedies in respect of security and enforcement

4.13 The DPA Counterparty's rights and remedies pursuant to this Paragraph 4 are cumulative and not exclusive of any rights or remedies provided by law.

5. GAIN SHARE: UNDERTAKINGS

Unconditional Investor undertakings

5.1 Each Investor undertakes to the DPA Counterparty as follows:

- (A) **Avoidance Events**

Without prejudice to any claim of the DPA Counterparty to a Gain Share Amount or additional Gain Share Amount attributable to any Avoidance Event or its consequences, it shall procure that none of the TopCos through which the Investor and/or its Associated persons hold an Economic Interest in HoldCo or any of its or their respective Tracked Persons enter into or facilitate or participate, whether directly or indirectly, in any Avoidance Event and, promptly on becoming aware of any Avoidance Event, it shall inform the DPA Counterparty and provide it with full details thereof in writing;

(B) Abusive arrangements

Without prejudice to any claim of the DPA Counterparty to a Gain Share Amount or additional Gain Share Amount attributable to any Abusive arrangement or its consequences, it shall procure that none of the TopCos through which the Investor and/or its Associated persons hold an Economic Interest in HoldCo or any of its or their respective Tracked Persons enter into or facilitate or participate, whether directly or indirectly, in any Abusive arrangements and, promptly on becoming aware of any Abusive arrangements, it shall inform the DPA Counterparty and provide it with full details thereof in writing. An arrangement is "**Abusive**" if it is an arrangement the entering into or carrying out of which cannot reasonably be regarded as a reasonable course of action in relation to the gain share provisions set out in Part B (*Gain Share*) (including the determination of the Gain Share Amounts due to the DPA Counterparty) having regard to all the circumstances including:

- (i) whether the substantive results of the arrangements are consistent with any principles on which those gain share provisions are based (whether express or implied);
- (ii) whether the means of achieving those results involves one (1) or more contrived or abnormal steps; and
- (iii) whether the arrangements are intended to exploit any shortcomings in those provisions.

(C) Contracting Policy

It shall comply, and shall procure compliance by each member of the HoldCo Group and each of the TopCos through which the Investor and/or its Associated persons hold an Economic Interest in HoldCo, with the Contracting Policy;

(D) Group structure

It shall comply, and shall procure compliance by the TopCo through which it and/or its Associated persons hold an Economic Interest in HoldCo, with the structure set out in the Investment Structure Chart;

(E) Accession and transfers

It shall comply, and shall procure that:

- (i) the TopCo through which it and/or its Associated persons hold an Economic Interest in HoldCo; and
- (ii) each of its or their respective Tracked Persons,

complies with the procedure set out in Paragraph 1 (*Changes to the Parties*) to the extent that such procedures apply to the relevant person(s); and

(F) Stapling

It shall not, and it shall procure that:

- (i) the TopCo through which it and/or its Associated persons hold an Economic Interest in HoldCo; and
- (ii) any of its or their respective Tracked Persons,

shall not effect or seek to effect a sale or transfer in respect of its Economic Interests in HoldCo unless a pro rata amount of all such Economic Interests is comprised within the sale or transfer. For this purpose:

- (a) shares or other securities or other equity, partnership or ownership interests shall be taken at their par value;
- (b) loans, loan capital and other debt instruments shall be taken at their principal amount plus accrued, unpaid interest; and
- (c) other Economic Interests shall be taken at the nearest equivalent to that in paragraphs (A) and (B) above.

Conditional Investor undertakings

5.2 Each Investor undertakes to the DPA Counterparty as follows for so long as it has, and/or any of its Tracked Persons and/or Associated persons have, an Economic Interest in HoldCo:

- (A) **Information:** it shall promptly provide the DPA Counterparty with reasonable details on the transfer of any Economic Interest in HoldCo by it or any of its Tracked Persons, including details of the seller, the Transferee, the Economic Interest transferred, the relevant Investor and TopCo with which the Transferee is or is to be Associated, any new Tracked Person(s) as a result of the transfer, the date of the agreement to transfer, the date of completion of the transfer and the consideration received, receivable or potentially receivable and, if applicable, details of the division of Economic Interests in HoldCo between it and the Transferee; and
- (B) **Audit:** it shall procure the timely provision to the DPA Counterparty of the Auditors' certificate referred to in Paragraph 2.1(D)(iv) (*Preliminary Equity IRR Report*) and shall provide the Auditors (or shall procure that the Auditors are provided) with all Information necessary for the purposes of their issuing the certificate with the required confirmations and certifications.

Related Party Transactions

5.3 Each Investor irrevocably, permanently and unconditionally waives in full (and each Investor shall procure that each member of its Group and each of its Tracked Persons which is a counterparty to any member of the HoldCo Group with respect to a Related Party Transaction, irrevocably, permanently and unconditionally waives in full) any and all of its rights, powers, interests or claims in respect of the relevant Related Party Transaction if and to the extent that it is agreed or determined pursuant to the Contracting Policy that such Related Party Transaction fails to comply with the Agreed Principles.

6. EQUITY IRR MODEL**Description of the Equity IRR Model**

6.1 The Equity IRR Model shall:

- (A) set out (including for each TopCo Tranche which, in turn, it shall identify), as applicable:
 - (i) the Investment Cost;
 - (ii) the Divestment Proceeds;
 - (iii) the costs of procuring Acceptable Collateral pursuant to this Schedule;
 - (iv) the Available Cash Flow and the Deemed Available Cash Flow;
 - (v) the Project Cash Flow;
 - (vi) the Equity IRR;
 - (vii) any Project Gain Share;
 - (viii) the Sale Cash Flow;
 - (ix) the Sale IRR;
 - (x) any Sale Gain Share; and
 - (xi) full details of any Distribution which has been made, and any proposed Distribution which is to be made, to HoldCo and by HoldCo to each TopCo.
- (B) be based on the management accounts of the Generator, each prepared in accordance with generally accepted accounting principles, and shall reconcile to such principles;
- (C) show how the Generator (notionally) distributes the Available Cash Flow and how HoldCo (notionally) distributes the Available Cash Flow to each TopCo Tranche;
- (D) store and identify any previous cash flows (including with respect to each TopCo Tranche) from any previous Equity IRR Model;
- (E) calculate the costs of procuring Acceptable Collateral pursuant to this Schedule (*Gain Share*);
- (F) carry out Nominal calculations for the purposes of the Equity IRR Threshold;
- (G) calculate and set out the Distribution required to achieve the Equity IRR Threshold (including for each TopCo Tranche) in the next succeeding Project Gain Share Calculation Period; and
- (H) reconcile figures to the latest then available audited financial statements of the Generator.

Revision of the Equity IRR Model

6.2

- (A) The Generator shall submit a revised draft of the Equity IRR Model to the DPA Counterparty:
 - (i) no later than 31 March in each year of the Term; and
 - (ii) if necessary to correct any issues of compatibility of the Equity IRR Model with supporting hardware or software (including the relevant operating programme) or to ensure that the Equity IRR Model remains compliant with this Schedule.

- (B) The Equity IRR Model shall not be revised save as set out in this Paragraph 6 or as otherwise expressly provided for in this Schedule.
- (C) Wherever it is required that the Equity IRR Model be revised by the Generator pursuant to Paragraph 6.2(A), the Generator shall prepare a revised draft of the Equity IRR Model (a **"Draft Revised Equity IRR Model"**) and provide a copy of the same to the DPA Counterparty, together with a covering paper identifying all of the assumptions, values, line items or rows which have been modified or any other changes that have been made and setting out the Generator's reasons for doing so, in each case in reasonable detail.
- (D) Any Draft Revised Equity IRR Model shall:
 - (i) be prepared at the cost and expense of the Generator (failing which, at the joint and several cost and expense of the TopCos);
 - (ii) be, to the extent reasonably practicable, in substantially the same form as the Equity IRR Model applicable immediately prior to the relevant revision;
 - (iii) be compatible with supporting hardware and software (including the operating programme on which the Equity IRR Model is based);
 - (iv) correct any errors identified in any previous version of the Equity IRR Model;
 - (v) be compliant with this Schedule and its requirements;
 - (vi) be prepared using the most up-to-date data available to the Generator at the time of preparation of such Draft Revised Equity IRR Model; and
 - (vii) in the case of each revision required under Paragraph 6.2(A), be accompanied by an Accountant's Report addressed to the DPA Counterparty, in form and content reasonably satisfactory to the DPA Counterparty.
- (E) Each Draft Revised Equity IRR Model shall be accompanied by a Directors' Certificate in relation to the information contained in, and enclosed with, the Draft Revised Equity IRR Model.
- (F) The DPA Counterparty may, by notice to the Generator on one occasion within sixty (60) Business Days, or such other period, if any, as is agreed in writing between the DPA Counterparty and the Generator (each acting reasonably), after receipt of a Draft Revised Equity IRR Model, request the Generator to provide the DPA Counterparty such Supporting Information in relation to that Draft Revised Equity IRR Model (a **"Draft Equity IRR Model Information Request"**) as the DPA Counterparty reasonably requires.
- (G) If the DPA Counterparty gives a Draft Equity IRR Model Information Request to the Generator, the Generator shall, within sixty (60) Business Days, or such other period, if any, as is agreed in writing between the DPA Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the DPA Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Draft Equity IRR Model Information Request.
- (H) The DPA Counterparty may after receipt of a Draft Revised Equity IRR Model or, if it has given a Draft Equity IRR Model Information Request to the Generator, after receipt of the further Supporting Information requested in the relevant Draft Equity IRR Model Information Request, notify the Generator that it does not agree with the matters which

are the subject of the Draft Revised Equity IRR Model and may give the Generator reasons in support.

- (I) Without prejudice to Paragraph 6.2(K), if the DPA Counterparty notifies the Generator that it does not agree with the matters which are the subject of a Draft Revised Equity IRR Model or related matters including Supporting Information, the Generator may submit an amended Draft Revised Equity IRR Model to the DPA Counterparty.
- (J) Without prejudice to the provisions of Paragraph 2.2 (*Disputes in relation to a Preliminary Equity IRR Report*) and Paragraph 3.2 (*Disputes in relation to a Preliminary Sale IRR Report*), the Draft Revised Equity IRR Model (once delivered and as amended, pursuant to Paragraph 6.2(I) if applicable) shall become the **"Equity IRR Model"** for the purposes of this Schedule.
- (K) Nothing in this Paragraph 6.2 (*Revision of the Equity IRR Model*) shall require the DPA Counterparty to specify that the DPA Counterparty approves the matters which are the subject of the Preliminary Equity IRR Report.

Custody of the Equity IRR Model

6.3

- (A) Whenever the Equity IRR Model is revised pursuant to this Paragraph 6, the Generator shall, as soon as reasonably practicable:
 - (i) arrange for the revised Equity IRR Model to be recorded electronically; and
 - (ii) deliver an electronic copy and a copy on an electronic storage device formatted ready for printing (in the case of a copy on an electronic storage device, to be delivered only in respect of the revision required under Paragraph 6.2(A)(i) (*Revision of the Equity IRR Model*)) of the revised Equity IRR Model to the DPA Counterparty.
- (B) Each of the Generator and the DPA Counterparty shall retain a copy of the Equity IRR Model, as revised from time to time. In the event of any discrepancy between the Equity IRR Model that is held by the DPA Counterparty and the copy held by the Generator, the copy held by the DPA Counterparty (in its original form as delivered to the DPA Counterparty) shall, in the absence of manifest error, prevail.
- (C) Each Party shall have the right to inspect and audit the Equity IRR Model at their own cost at all reasonable times.
- (D) Save as expressly provided in this Schedule, the costs of custody arrangements with the DPA Counterparty shall be met by the Generator.

Conflict involving the Equity IRR Model

6.4

- (A) In the event of any discrepancy between the Equity IRR Model and any provision of this Schedule, the provisions of this Schedule shall prevail.
- (B) Any changes to the Equity IRR Model not effected in accordance with this Schedule shall be of no effect for the purposes of this Schedule.

Part C – Representations, Warranties and Undertakings

1. REPRESENTATIONS AND WARRANTIES

Each of HoldCo, the TopCos, and the Investors represents and warrants (for itself) to the DPA Counterparty that, as at the Agreement Date (or, where relevant, the Accession Date), the following are true, accurate and not misleading:

(A) ***Status:***

It:

- (i) is a limited liability company, duly incorporated and validly existing under the laws of England (or, in the case of the Investors it is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation); and
- (ii) has the power to own its assets and carry on its business as contemplated by the Gain Share Transaction Documents to which it is a party.

(B) ***Power and authority:***

It has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Gain Share Transaction Documents to which it is a party and the transactions contemplated by the Gain Share Transaction Documents to which it is a party.

(C) ***Enforceability:***

The obligations expressed to be assumed by it pursuant to the Gain Share Transaction Documents to which it is a party are legal, valid, binding and enforceable subject only to the Legal Reservations.

(D) ***Non-conflict with other obligations:***

The entry into, delivery and performance by it of, and the transactions contemplated by the Gain Share Transaction Documents to which it is a party do not conflict with:

- (i) its constitutional documents;
- (ii) any Law or Directive applicable to it to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect;
- (iii) any authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order, confirmation or other approval of or from any Competent Authority required to enable it to perform and comply with its obligations under the Gain Share Transaction Documents to which it is a party, to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect; or
- (iv) any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect on its payment obligations under this Schedule.

(E) ***No requirement to deduct or withhold:***

It is not required by any Law or Directive applicable to it, as applied, interpreted or modified by the published practice of any relevant Competent Authority of any jurisdiction in which it is resident for tax purposes, to make any deduction or withholding for or on account of any tax from any payment to be made by it to another Party pursuant to the Gain Share Transaction Documents to which it is a party.

2. **CONTRACTING POLICY**

Each of the Generator, HoldCo and the TopCos undertakes to the DPA Counterparty to comply with the Contracting Policy, in each case to the extent applicable to it, it being acknowledged that the DPA Counterparty's rights and remedies in respect of any failure by any such Party to comply with the Contracting Policy are as referred to in Paragraph 4.12 (*Remedies in respect of failure to comply with the Contracting Policy*).

Part D – Miscellaneous

1. CHANGES TO THE PARTIES

Restrictions on Transfers

1.1 Save as expressly permitted by this Paragraph 1 or (in respect of the Generator) Condition 64.6 (*Permitted assignment by the Generator*) of the DPA or (in respect of the DPA Counterparty) Conditions 64.2 to 64.4 of the DPA, no Party may:

- (A) assign to any person all or any of its rights or benefits under this Schedule; or
- (B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any person all or any of its rights or benefits under this Schedule; or
- (C) transfer (whether by way of novation, subcontract, delegation or otherwise) to any person or enter into an arrangement whereby any person is to perform any or all of its obligations under this Schedule,

("Transfer") without the prior written consent of the other Parties.

General Principle

1.2 The Parties acknowledge and agree that:

- (A) shareholdings as between an Investor and/or the TopCo through which the Investor and/or its Associated persons hold an Economic Interest in HoldCo, and the Generator shall be arranged and maintained in accordance with the Investment Structure Chart, and Economic Interests in HoldCo must be held by or through a TopCo;
- (B) a Tracked Person must at all times either be a member of the same Group as, or otherwise have attributed to it, an Investor and a TopCo; and
- (C) transfers and issues of Economic Interests in HoldCo shall be structured and effected so as to comply with the requirements of this Paragraph 1.

Sale of Economic Interests in HoldCo by a TopCo

1.3

- (A) Notwithstanding Paragraph 1.1 (*Restrictions on Transfers*) but subject to Paragraphs 5.1(F) (*Unconditional Investor undertakings*) and 1.2 (*General Principle*) and paragraph 11 (*Stapling*) of Appendix 2 (*Gain Share Rules*) of this Schedule, a TopCo may transfer all or part of its Economic Interests in HoldCo provided that prior to, and as a condition of, such transfer the Transferor TopCo and the Investor which hold (and/or whose Associated persons hold) their Economic Interests in HoldCo through the Transferor TopCo shall jointly and severally procure that:
 - (i) if not already a Party as a TopCo, the Transferee TopCo shall execute and deliver a Deed of Accession and become a Party as a TopCo;
 - (ii) if a new Investor is to be introduced with respect to, and at the same time as, the Transferee TopCo, the Transferee Investor shall be a Mixed Company and shall execute and deliver a Deed of Accession and become a Party as an Investor;

- (iii) if not already Associated with an Investor, the Transferee TopCo shall become Associated with an Investor, provided that if Paragraph 1.3(A)(ii) applies, the Transferee TopCo shall be Associated with such Transferee Investor and notice shall be given to the DPA Counterparty accordingly; and
- (iv) the DPA Counterparty shall receive (in form and substance satisfactory to it, acting reasonably) all of the documents and other evidence listed in Appendix 1 (*Accession Conditions Precedent*) of this Schedule in relation to the Transferee TopCo and any Transferee Investor.

(B) Following:

- (i) completion of the transfer of all or part of the TopCo's Economic Interests in HoldCo;
- (ii) the satisfaction of all the conditions referred to in Paragraph 1.3(A); and
- (iii) the satisfaction or discharge in full of all obligations and liabilities of:
 - (a) the Transferor TopCo;
 - (b) if Paragraph 1.3(A)(ii) applies, the Investor referred to in paragraph (b) below (including in its capacity as a Responsible Investor);

in each case, outstanding under or pursuant to the Gain Share Transaction Documents as at the date of such completion in respect of the Economic Interests in HoldCo so transferred, the DPA Counterparty shall provide a release of:

- (a) the Transferor TopCo; and
- (b) if Paragraph 1.3(A)(ii) applies and the Investor Associated with the Transferor TopCo no longer has an Economic Interest in HoldCo, such Investor,

in each case from all its (or, as the case may be, their respective) obligations in respect of the Economic Interests in HoldCo so transferred.

Sale of Economic Interests in or above a TopCo

1.4

- (A) Notwithstanding Paragraph 1.1 (*Restrictions on Transfers*) but subject to Paragraphs 5.1(F) (*Unconditional Investor undertakings*) and 1.2 (*General Principle*), a holder of Economic Interests in HoldCo (other than those persons who satisfy the Threshold Test or any person to which Paragraph 1.3 (*Sale of Economic Interests in HoldCo by a TopCo*) applies) may transfer all or part of its Economic Interests in HoldCo provided that prior to and as a condition of such transfer the Investor and TopCo through which such person holds its (and/or its Associated persons hold their) Economic Interests in HoldCo shall jointly and severally procure that:
 - (i) if a new Investor is to be introduced with respect to, and at the same time as, the transferee, the Transferee Investor shall be a Mixed Company and shall execute and deliver a Deed of Accession and become a Party as an Investor;
 - (ii) if not already Associated with:

- (a) an Investor, the transferee shall become Associated with an Investor provided that, if Paragraph 1.4(A)(i) applies, the transferee shall be Associated with such Transferee Investor; and
 - (b) a TopCo, the transferee shall be Associated with a TopCo,
- and notice shall be given to the DPA Counterparty accordingly; and
- (iii) the DPA Counterparty shall receive (in form and substance satisfactory to it) all of the documents and other evidence listed in Appendix 1 (*Accession Conditions Precedent*) of this Schedule in relation to the Transferee Investor.
- (B) If Paragraph 1.4(A)(i) applies, following:
- (i) completion of the transfer of all or part of the transferor's Economic Interests in HoldCo;
 - (ii) the satisfaction of all the conditions referred to in Paragraph 1.4(A); and
 - (iii) the satisfaction or discharge in full of all obligations and liabilities of the Investor Associated with the transferor outstanding under or pursuant to the Gain Share Transaction Documents as at the date of such completion in respect of the Economic Interests in HoldCo so transferred,

the DPA Counterparty shall provide a release of such Investor from all its obligations in respect of the Economic Interests in HoldCo so transferred and which are now held by the Transferee Investor and/or persons Associated with the Transferee Investor.

Issues of new Economic Interests below TopCos

- 1.5 Subject to Paragraph 1.2 (*General Principle*), either of HoldCo or a TopCo (each, an "**Issuing Entity**") may issue new Economic Interests provided that prior to, and as a condition of, any such issue the Issuing Entity, the TopCo (if it is not the Issuing Entity) and Investor which hold their (and/or whose Associated persons hold their) Economic Interests in or through such Issuing Entity shall jointly and severally procure that:
- (A) if a new TopCo is to be introduced with respect to and at the same time as the issue of new Economic Interests, the Transferee TopCo shall be a Mixed Company and shall execute and deliver a Deed of Accession and become a Party as a TopCo;
 - (B) if a new Investor is to be introduced with respect to and at the same time as the issue of new Economic Interests, the Transferee Investor shall execute and deliver a Deed of Accession and become a Party as an Investor;
 - (C) if not already Associated with an Investor, the Transferee TopCo shall become Associated with an Investor, provided that if Paragraph 1.5(B) applies, the Transferee TopCo shall be Associated with such Transferee Investor and the DPA Counterparty shall be notified accordingly; and
 - (D) the DPA Counterparty shall receive (in form and substance satisfactory to it, acting reasonably) all of the documents and other evidence listed in Appendix 1 (*Accession Conditions Precedent*) of this Schedule in relation to any Transferee TopCo and Transferee Investor.

Issues of new Economic Interests in or above TopCos

- 1.6 Subject to Paragraph 1.2 (*General Principle*), any TopCo and any direct or indirect shareholder in a TopCo (other than those persons who satisfy the Threshold Test) may issue new Economic Interests provided that prior to and as a condition of any such issue the TopCo and Investor through which such shareholder holds its (and/or whose Associated persons hold their) Economic Interests shall jointly and severally procure that:
- (A) if a new Investor is to be introduced with respect to and at the same time as the issue of new Economic Interests, the Transferee Investor shall be a Mixed Company and shall execute and deliver a Deed of Accession and become a Party as an Investor;
 - (B) if not already Associated with an Investor and a TopCo, the person(s) to whom such new Economic Interests are issued shall become Associated with an Investor and a TopCo, provided that if Paragraph 1.6(A) applies, the person(s) to whom such new Economic Interests are issued shall be Associated with such Transferee Investor and the DPA Counterparty shall be notified accordingly; and
 - (C) the DPA Counterparty shall receive (in form and substance satisfactory to it, acting reasonably) all of the documents and other evidence listed in Appendix 1 (*Accession Conditions Precedent*) of this Schedule in relation to any Transferee Investor.

2. ACCESSION COSTS

- (A) Each Party shall bear all costs and expenses incurred by it in connection with the accession by any Party to this DPA, including all costs and expenses incurred in connection with the negotiation, preparation, execution, performance and carrying into effect of, and compliance with the terms of the Deed of Accession and this DPA.
- (B) Paragraph 2(A) is subject to any provision of any Gain Share Transaction Document to which that person is a Party which expressly provides for any Party to bear the costs and expenses of any other Party (or to pay or reimburse or indemnify any other Party in respect of such costs and expenses) in respect of which such costs and expenses shall comprise all out-of-pocket costs and expenses (including all legal and other advisory and consultants' fees) properly incurred by that Party in relation to the relevant matter.

3. PAYMENT DISRUPTION EVENT

Relief due to Payment Disruption Event

- 3.1 Subject to Paragraph 3.2 (*Conditions to Payment Disruption Event relief*), a Party affected by a Payment Disruption Event (a **"PDE Affected Party"**) shall be relieved from liability, and deemed not to be in breach of this Schedule, for:
- (A) any failure to pay (or delay in paying) to any other Party any sum due and payable pursuant to this Schedule (whether pursuant to an obligation to pay, an indemnity, a costs reimbursement provision or otherwise); and
 - (B) (in the case of the Generator) any failure to transfer, deliver, extend, renew or replace (or procure the replacement of) Acceptable Collateral in accordance with this Schedule, or any delay in doing so,
- (such obligations **"PDE Obligations"**) in each case if and to the extent that such failure is directly attributable to the occurrence and continuance of such Payment Disruption Event.

Conditions to Payment Disruption Event relief

- 3.2 The PDE Affected Party's relief from liability pursuant to Paragraph 3.1 (*Relief due to Payment Disruption Event*) is subject to and conditional upon:
- (A) the PDE Affected Party giving notice promptly to the other Parties of the nature and extent of the Payment Disruption Event causing its failure or delay in performance; and
 - (B) the PDE Affected Party using reasonable endeavours:
 - (i) to mitigate the effects of the Payment Disruption Event;
 - (ii) to carry out and perform its obligations under this Schedule in any way that is reasonably practicable; and
 - (iii) to pay the sum due and payable immediately upon cessation of the Payment Disruption Event.

4. NOTICES

Form of Notices

- 4.1 Any notice to be given pursuant to or in connection with this Schedule or any other Gain Share Transaction Document, shall be effective only if it is in writing and is in English. For the purposes of this Schedule, faxes are not permitted and, unless otherwise expressly stated, website publication is not permitted, but email and submission to the DPA Counterparty's electronic portal are permitted.

Notice Details

- 4.2 The address and (where such communication is expressly permitted by email) email address, and the department or officer (if any) for whose attention the notice is to be made, of each Party for any notice to be given under or in relation to this Schedule is:
- (A) set out in the relevant Deed of Accession, in the case of each Gain Share Acceding Party; and
 - (B) set out in Condition 65 of the DPA, in the case of the Generator and the DPA Counterparty.

General provisions as to Notices

- 4.3 Condition 65 of the DPA shall apply as if set out in full in this Schedule.

5. SET-OFF

The DPA Counterparty may set off any matured obligation due by the Generator, HoldCo, a TopCo, (including in its capacity as a Responsible TopCo) or an Investor to the DPA Counterparty pursuant to the DPA against any matured obligation owed by the DPA Counterparty to such person (but not any other of those persons).

Appendix 1
Accession Conditions Precedent

1. Delivery to the DPA Counterparty by each of (as applicable) the Transferee TopCo, the and/or the Transferee Investor of the following:
 - (A) a copy of its constitutional documents, its certificate of incorporation and any certificate of incorporation on change of name;
 - (B) a copy of a resolution of its board or, if applicable, a committee of its board of directors:
 - (i) approving the terms of, and the transactions contemplated by the Gain Share Transaction Documents and any Deed of Accession to which it is a party and resolving that it execute, deliver and perform those documents;
 - (ii) authorising a specified person or persons to execute the Gain Share Transaction Documents and any Deed of Accession to which it is a party; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Gain Share Transaction Documents and any Deed of Accession to which it is a party;
 - (C) if applicable, a copy of a resolution of its board of directors establishing the committee referred to in paragraph (B) above;
 - (D) a specimen of the signature of each person authorised by the resolution referred to in paragraph (B) above in relation to the Gain Share Transaction Documents and any Deed of Accession to which it is a party;
 - (E) a legal opinion addressed to the DPA Counterparty from its legal advisers confirming that such person:
 - (i) is duly formed and validly existing under the laws of its jurisdiction of incorporation; and
 - (ii) has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of the Gain Share Transaction Documents and any Deed of Accession to which it is a party;
 - (F) a group structure chart in compliance with the Investment Structure Chart; and
 - (G) a Directors' Certificate for each Transferee TopCo, and/or Transferee Investor certifying that each copy document relating to it specified in this Appendix 1 is a correct, complete and true copy of the original and that the original is in full force and effect and has not been amended or superseded, in each case as at a date no earlier than the date of the Deed of Accession of such person,

in each case in form and content satisfactory to the DPA Counterparty, acting reasonably.
2. If applicable, Deed(s) of Accession executed by each of the relevant parties.
3. If applicable, delivery to the DPA Counterparty by the TopCo or, as the case may be, the Transferee TopCo of Acceptable Collateral.
4. In respect of a Transferee Investor, a Directors' Certificate setting out the division of Economic Interests between the existing Investor(s) and the Transferee Investor(s).

5. A Directors' Certificate for each Transferee TopCo and/or Transferee Investor (as applicable) addressed to each of the DPA Counterparty certifying that, as at the date of the relevant Deed of Accession, the representations and warranties set out in Paragraph 1 of Part C (*Representations and Warranties*) are true, accurate and not misleading with respect to it.
6. A copy of any other document, opinion or assurance which the DPA Counterparty considers to be necessary or desirable (if it has notified the relevant Parties accordingly) in connection with the entry into and performance of the transactions contemplated by any of the Gain Share Transaction Documents or for the validity and enforceability of any of the Gain Share Transaction Documents.

Appendix 2

Gain Share Rules

The following constitute the Gain Share Rules:

1. AVOIDANCE EVENT

The Generator, HoldCo, the TopCos, the Investors and any Tracked Persons shall not undertake an Avoidance Event or enter into any Abusive arrangements.

2. SINGLE PURPOSE

- (A) The Generator shall be a Single Purpose Company.
- (B) HoldCo shall be solely an investment holding company which takes decisions in respect of the investments it holds and performs its obligations and responsibilities under the Gain Share Transaction Documents and the Finance Documents to which it is a party.
- (C) HoldCo shall hold shares only in the Generator.
- (D) HoldCo shall not dispose of any shares in the Generator.
- (E) Each TopCo shall be solely an investment holding company holding shares only in HoldCo and performing its obligations and responsibilities under the Gain Share Transaction Documents and the Finance Documents to which it is a party.

3. BUSINESS AND LIABILITIES

- (A) HoldCo shall not carry on any business, own any assets or incur any liabilities except for those necessary for the purposes set out in paragraphs 2(B) and 2(C) above.
- (B) Each TopCo shall not carry on any business, own any assets or incur any liabilities except for those necessary for the purposes set out in paragraph 2(E) above.

4. STATUS

Each of the Generator, HoldCo and each TopCo shall maintain its respective status as a private limited liability company incorporated under the laws of England.

5. CENTRE OF MAIN INTERESTS

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) as it has effect in the law of the United Kingdom (the "**UK Insolvency Regulation**") each of the Generator, HoldCo and each TopCo shall ensure that its respective centre of main interests (as that term is used in Article 3(1) of the UK Insolvency Regulation) is situated in England and it has no "establishment" (as that term is used in Article 2(10) of the UK Insolvency Regulation) in any other jurisdiction.

6. TAX RESIDENCY

Each of the Generator, HoldCo and each TopCo shall not cease to be resident for tax purposes in England or establish or maintain any place of business or permanent establishment outside England.

7. NO LOANS OR CREDIT

Each of the Generator, HoldCo and each TopCo shall not be a creditor in respect of any Financial Indebtedness incurred by any person (other than (i) in the ordinary course of trading; (ii) any Financial Indebtedness under and in accordance with a Finance Document for the purposes of the Project; and (iii) Financial Indebtedness for the purposes of the Project advanced to an entity in which the Generator, HoldCo or each TopCo (as applicable) has a direct or indirect shareholding).

8. NO GUARANTEES OR INDEMNITIES

Each of the Generator, HoldCo and each TopCo shall not incur or grant or allow to remain outstanding any guarantee or indemnity in respect of any obligation or liability of any person (other than (i) a guarantee or indemnity the provision of which is reasonably required in relation to the Project; and (ii) any guarantee or indemnity provided under, and in accordance with, a Finance Document for the purposes of the Project).

9. NEGATIVE PLEDGE

Each of the Generator, HoldCo and each TopCo shall not create or permit to subsist any Security Interest on, over or affecting the whole or any part of its respective undertakings or assets as security for the Financial Indebtedness of any other person (other than (i) a Security Interest granted by such person reasonably required in relation to the Project; and (ii) any Security Interest provided under, and in accordance with, a Finance Document for the purposes of the Project).

10. NO GRANT OF ECONOMIC INTERESTS

Each of the Generator, HoldCo and each TopCo shall not issue, raise or grant any Economic Interests except as necessary for the funding of Project costs.

11. STAPLING

No TopCo shall, and each TopCo shall procure that none of its Tracked Persons shall, effect or seek to effect a sale or transfer in respect of its Economic Interests in HoldCo unless a pro rata amount of all such Economic Interests is comprised within such sale or transfer, and for this purpose:

- (A) shares or other securities or other equity, partnership or other ownership interests shall be taken at their par value;
- (B) loans, loan capital and other debt instruments shall be taken at their principal amount plus accrued, unpaid interest; and
- (C) other Economic Interests shall be taken at the nearest equivalent to that in paragraph (A) or (B) above.

12. FUNDING

All Economic Interests issued, raised or granted for the funding of Project costs shall be routed through the following corporate structure, namely between (i) a TopCo and HoldCo; and (ii) HoldCo and the Generator.

13. COMPLIANCE WITH LAWS AND DIRECTIVES

Each of the Generator, HoldCo and each TopCo shall comply with all Laws and Directives to which it is a party or may be subject or by which it is bound if failure to do so would have or

would reasonably be expected to have a material adverse effect on its ability to perform or comply with its obligations under Paragraphs 2 (*Gain Share: Project Gain Share Provisions*), 3 (*Gain Share: Sale Gain Share Provisions*) and 4 (*Gain Share: Security and Enforcement*) or any of them.

14. **GROUP STRUCTURE**

Each of the Generator, HoldCo and each TopCo shall conform to the Investment Structure Chart.

Appendix 3 Valuation Procedure

1. APPOINTMENT OF VALUER

- (A) Unless otherwise agreed in writing by the DPA Counterparty (including, for example, where it is agreed that the relevant Economic Interest is not a Qualifying Economic Interest), for the purposes of determining whether an Economic Interest in any person is a Qualifying Economic Interest, the Responsible Investor shall, as soon as reasonably practicable following completion of a potential Relevant Sale, notify the DPA Counterparty of the person the Responsible Investor proposes shall be a Valuer to undertake the valuation in accordance with this Appendix 3.
- (B) The DPA Counterparty may object to the person proposed by the Responsible Investor pursuant to paragraph 1(A) above on the basis that the proposed Valuer is:
 - (i) not a bank or accounting firm of good repute with demonstrable expertise in the valuation of businesses such as that of the person which is the subject of the potential sale of Economic Interests (in this Appendix 3, the "**Subject Entity**"), the relevant Investor Group or the Generator;
 - (ii) not regulated by an appropriate regulator in the UK; or
 - (iii) not sufficiently independent of the Subject Entity and the relevant Investor Group, for reasons such as:
 - (a) the Selling Shareholder, the Subject Entity, the relevant Investor or a member of the relevant Investor Group exercises control over, or is controlled by, that entity;
 - (b) it acts as the auditor of the Selling Shareholder, the Subject Entity or the relevant Investor; or
 - (c) the Selling Shareholder, the Subject Entity, the relevant Investor or a member of the relevant Investor Group has an existing business relationship with that entity which is likely to affect the entity's ability to exercise independent judgment.
- (C) If the DPA Counterparty, in accordance with paragraph 1(B) above, objects to the person proposed by the Responsible Investor pursuant to paragraph 1(A) above within fifteen (15) Business Days of the notice referred to in paragraph 1(A) above, either the Responsible Investor or the DPA Counterparty may request that the President from time to time of the Institute of Chartered Accountants in England and Wales appoints the Valuer, having regard to the criteria set out in paragraph 1(B) above, and such appointment shall be binding on the parties to the valuation.
- (D) The Responsible Investor shall request that the Valuer:
 - (i) determines the Valuation Percentage within forty (40) Business Days (or such other period, if any, as the Responsible Investor and the DPA Counterparty may agree in writing) after its appointment in accordance with this Appendix 3;
 - (ii) makes its assessment as at the date of the relevant sale of Economic Interests in HoldCo; and

- (iii) notifies that Responsible Investor and the DPA Counterparty in writing of its final reasoned determination (which shall include an explanation of the rationale for the selected valuation metric and of the underlying assumptions used).

2. **INFORMATION**

- (A) The relevant Investor shall procure that the Valuer is given all reasonable access to such of the accounting records, business plans, budgets and other information of or relating to the Selling Shareholder and the Subject Entity as are relevant to the Valuer's determination of the Valuation Percentage in accordance with this Appendix 3.
- (B) The relevant Investor shall procure that the Selling Shareholder and the Subject Entity shall promptly provide all reasonable assistance required by the Valuer in order to make its determination.

3. **VALUATION PERCENTAGE**

- (A) The "**Valuation Percentage**" means the percentage of the value of the Subject Entity that is derived from the business of the Generator calculated in accordance with this paragraph 3 or as otherwise agreed in writing between the DPA Counterparty and the Responsible Investor.
- (B) The Valuer shall determine the Valuation Percentage as:
 - (i) the fair market value of the Subject Entity derived from the business of the Generator divided by
 - (ii) the fair market value of the Subject Entity,

as determined in accordance with generally accepted valuation principles and procedures for businesses of a similar size and in a similar business sector to that of the person which is the subject of the Relevant Sale.
- (C) The determination of the Valuation Percentage by the Valuer shall be a single percentage figure, and not a range, quoted as a percentage.

4. **ACTING AS EXPERT**

The Valuer shall act as expert and not as arbitrator and shall act within the scope of its appointment, and otherwise exercise its discretion as it sees fit, and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).

Appendix 4

Protective Provisions

The Protective Provisions are that:

1. **Single purpose**
 - (A) the Generator shall be a Single Purpose Company;
 - (B) HoldCo shall be solely an investment holding company which takes decisions in respect of the investments it holds and performs its obligations and responsibilities under the Gain Share Transaction Documents to which it is a party;
 - (C) HoldCo shall hold shares only in the Generator; and
 - (D) HoldCo shall not dispose of any shares in the Generator;
2. **Business and liabilities:** HoldCo shall not carry on any business, own any assets or incur any liabilities except for those necessary for the purposes set out in paragraphs 1(B) and 1(C) above;
3. **Corporate structure (HoldCo):** HoldCo shall be the sole legal and beneficial owner of the entire share capital in the Generator;
4. **Corporate structure (Generator):** the Generator shall not be a shareholder in, or member of, any body corporate;
5. **Status:** each of the Generator and HoldCo shall maintain its status as a private limited liability company incorporated under the laws of England;
6. **Centre of main interests:** for the purposes of the UK Insolvency Regulation, the centre of main interests (as that term is used in Article 3(1) of the UK Insolvency Regulation) of each of the Generator and HoldCo shall be situated in England and it has no "establishment" (as that term is used in Article 2(10) of the UK Insolvency Regulation) in any other jurisdiction;
7. **No guarantees or indemnities:** each of HoldCo and the Generator shall not incur or grant or allow to remain outstanding any guarantee or indemnity in respect of any obligation or liability of any person (other than (i) a guarantee or indemnity the provision of which is reasonably required in relation to the Project; and (ii) any guarantee or indemnity provided under, and in accordance with, a Finance Document for the purposes of the Project);
8. **Negative pledge:** each of HoldCo and the Generator shall not create or permit to subsist any Security Interest on, over or affecting the whole or any part of its undertaking or assets as security for the Financial Indebtedness of any other person (other than (i) a Security Interest granted by such person reasonably required in relation to the Project; and (ii) any Security Interest provided under, and in accordance with, a Finance Document for the purposes of the Project);
9. **Compliance with Laws and Directives:** the Generator shall comply with all Laws and Directives to which it is a party or may be subject or by which it is bound if failure to do so would have or would reasonably be expected to have a Material Adverse Effect;
10. **Shares:** each of the Generator, HoldCo and TopCo shall ensure that its shares are fully paid.

Appendix 5 Contracting Policy

1. INTRODUCTION

The provisions of this Contracting Policy are without prejudice and are subject to the terms of the DPA.

2. DEFINITIONS

Unless a contrary intention appears, in this Contracting Policy:

"Agreed Principles" means:

(A) in relation to any Related Party Transaction, that:

(i) the Related Party Transaction:

- (a) will not be structured or operated in a manner that is designed, or a main purpose of which is, to leak value from the Generator to a Shareholder Group or any member thereof; and
- (b) will not leak value from the Generator to a Shareholder Group or any member thereof;

(ii) the Related Party Transaction:

- (a) and its terms are considered by the Generator, acting in accordance with the Reasonable and Prudent Standard, to be required for the Project and in the best interests of the Generator in connection with the Project; and
- (b) is charged for at Cost, and these factors are formally minuted by the directors of the Generator accordingly;

(iii) either:

- (a) the terms of the Related Party Transaction are documented in all material respects at an appropriate level of detail for an intra-group contract of the relevant size and cover all material terms that a contract with a third party supplier would include, except for terms relating to liability and dispute resolution, and provided that the pricing and other commercial terms of the Related Party Transaction will be appropriate for an intra-group arrangement charged for at Cost; or
- (b) the terms of the Related Party Transaction are not materially less favourable to the Generator (either individually or in the aggregate) than those which would be negotiated and agreed between parties acting at arm's length and having regard, where appropriate, to contract terms negotiated and agreed in the low carbon electricity generation industry in the United Kingdom, North America and/or EU Member States;

(B) in relation to any Third Party Transaction, that:

- (i) the terms of the Third Party Transaction are not materially less favourable to the Generator (either individually or in the aggregate) than those which would be negotiated and agreed between parties acting at arm's length and having regard, where appropriate, to contract terms negotiated and agreed in the low carbon

electricity generation industry in the United Kingdom, North America and/or EU Member States;

- (ii) the terms of the Third Party Transaction do not lack a main business or commercial purpose and do not involve contrived, abnormal, arbitrary or commercially unnecessary steps;
- (iii) without limitation to the generality of paragraph (B)(ii) of this definition, the terms of the Third Party Transaction shall permit the Generator to terminate such Third Party Transaction for convenience on reasonable notice and the consequences for such termination shall be limited to the costs reasonably incurred by the counterparty to such Third Party Transaction to the effective date of termination of the Third Party Transaction and the costs reasonably incurred by such counterparty to the Third Party Transaction in demobilising following the effective date of termination of the Third Party Transaction, in each case, for the avoidance of doubt, excluding any amounts in respect of loss of profits, loss of opportunity, indirect loss or consequential loss of or incurred or suffered by the counterparty to such Third Party.

"Control" means:

- (A) the power (whether acting alone or Acting in Concert (as defined in the City Code on Takeovers and Mergers), whether directly or indirectly and whether by the ownership of share capital, the possession of voting rights, contract or otherwise) to appoint and/or remove all or such of the members of the board of directors or other governing body of that person as are able to cast the majority of the votes capable of being cast by the members of that board or body on all, or substantially all, matters, or otherwise to control or have the power to control the policies and affairs of that person (and for the purposes of determining whether the power to appoint or remove directors exists, the provisions of section 1159 of, and schedule 6 to, the Companies Act 2006 (as amended) shall apply); and/or
- (B) the power (whether acting alone or Acting in Concert (as defined in the City Code on Takeovers and Mergers), whether directly or indirectly and whether by the ownership of share capital, the possession of voting rights, contract or otherwise) to direct the voting in respect of more than 50 per cent. (50%) of the total voting rights exercisable at general meetings of that person on all, or substantially all, matters,

and **"Controlled"** shall be construed accordingly;

"Cost" means costs and expenditure directly and reasonably incurred by the counterparty to a Related Party Transaction which is not a member of the HoldCo Group with respect to the relevant Related Party Transaction together with:

- (A) a contribution to the reasonable overhead of the relevant counterparty to the extent that the same is properly attributable to such Related Party Transaction; and
- (B) if required by such counterparty, a reasonable margin in relation to such Related Party Transaction to compensate for the transaction structure, capital employed and the risks and liabilities that the counterparty is required to accept under such Related Party Transaction,

but in each case shall not include any Inappropriate Cost;

"Discount Amount" has the meaning given to that term in paragraph 3.3(C)(ii) (*Audit*) of this (*Contracting Policy*);

"Inappropriate Cost" means costs which are inappropriate and/or not justifiable as being in the best interests of the Project and shall include, without limitation:

- (A) costs which are in excess of the arm's length or market value of the applicable consideration provided by the counterparty which is not a member of the HoldCo Group, including (but not limited to) disproportionate fees or costs;
- (B) costs incurred pursuant to wasteful, unnecessary or extravagant outlays (including entertainment and hospitality);
- (C) extraordinary compensation payments (but not, for the avoidance of doubt, bonuses paid in the ordinary course of employment);
- (D) political subscriptions and donations;
- (E) break costs which exceed actual termination costs;
- (F) costs associated with termination periods which exceed actual termination costs and/or;
- (G) special, punitive or multiple damages;

"Related Party Transaction" means any agreement or arrangement entered into between (i) any member of the HoldCo Group; and (ii) any member of any Shareholder Group (and whether or not including other persons to that agreement or arrangement);

"Services Expert" means an expert appointed under paragraph 3.2 (*Determination*) of this Appendix 5 (*Contracting Policy*);

"Shareholder Groups" means each Investor Group and each Ultimate Investor Group and **"Shareholder Group"** shall mean any or a particular one of them as the context requires or permits;

"Third Party Transaction" means any agreement or arrangement entered into by any member of the HoldCo Group which is not a Related Party Transaction; and

"Transaction" means any Related Party Transaction and/or any Third Party Transaction.

3. TRANSACTIONS

Transactions

3.1

- (A) Prior to submitting any Preliminary Equity IRR Report or Sale Equity IRR Report, the Generator shall review each of the Transactions entered into, or having effect, during the relevant Project Gain Share Calculation Period (in the case of a Preliminary Equity IRR Report) or prior to the relevant Transfer (in the case of a Sale Equity IRR Report) and shall consider whether the Agreed Principles have applied in relation to all Transactions throughout their term or whether the Transaction does not comply with the Agreed Principles.
- (B) If at any time the Agreed Principles have not been applied in respect of any Transaction, appropriate adjustments shall be made to the IRR calculations in the relevant IRR Report, as required by Paragraph 3 or Paragraph 4 (as applicable).

- (C) The Generator shall, within a reasonable period of a request by the DPA Counterparty, provide to the DPA Counterparty copies of any Transactions (or, if already provided, as amended since the last time provided).
- (D) For the purposes of this Contracting Policy, the Generator shall make available to the DPA Counterparty copies of any Transactions by uploading the relevant information to a virtual data room or equivalent storage facility which the Generator shall, at its own cost and expense, establish, maintain and administer in accordance with the Reasonable and Prudent Standard throughout the period for which this Contracting Policy applies and to which throughout such period the DPA Counterparty and its Representatives shall have unrestricted access (and for this purpose, and without prejudice to the generality of the foregoing, the Generator shall promptly provide users with any required user ID, passwords and other log-in details). Upon reasonable request of the DPA Counterparty and at the Generator's own cost and expense, the Generator shall allow the DPA Counterparty's external professional advisers (acting on a legally privileged basis and/or with a duty of confidentiality to the Generator, to the Generator's reasonable satisfaction) to inspect hard copies of the information and documents referred to in this paragraph 3.1(D) at the Generator's offices or other location chosen by the Generator (acting reasonably).
- (E) If the Generator has made or shall make available to the DPA Counterparty any information or document whether through a virtual data room or equivalent storage facility or otherwise howsoever, the act of making that information or document available (whether for the purposes of due diligence, the cost discovery and verification process or otherwise) shall neither be construed as an agreement, acceptance or approval by the DPA Counterparty of such information or document or of its terms or of any liabilities, costs or expenses disclosed thereby nor as prohibiting or restricting the right of the DPA Counterparty to make further enquiry as to, or to challenge, the same.
- (F) It is acknowledged that any task order or work order (or equivalent) which is issued pursuant to a Transaction which is in the form of a framework agreement will not constitute an amendment to the relevant Transaction.

Determination

3.2

- (A) Subject to paragraph (B) below, if the DPA Counterparty does not consider, acting reasonably, that the Agreed Principles have been applied in relation to a Transaction or the Transaction does not comply with the Agreed Principles, it shall be entitled to request, by written notice to the Generator, that a Services Expert be appointed to review the terms of the Transaction to determine whether the Agreed Principles have been applied in relation thereto or the Transaction does not comply with the Agreed Principles.
- (B) The Services Expert shall be an independent expert appointed by agreement between the Generator and the DPA Counterparty or, failing agreement as to such appointment within ten (10) Business Days of receipt by the Generator of a notice referred to in paragraph (A) above, within a further ten (10) Business Days of such receipt (or such longer period, if any, as the Generator and the DPA Counterparty may agree) by the President for the time being of the Law Society of England and Wales on the application of either the Generator or the DPA Counterparty, and the Services Expert's terms of appointment shall oblige the Services Expert to keep confidential the terms of the relevant Transaction and any further information provided.

- (C) Within twenty (20) Business Days of its appointment (or such longer period, if any, as the Generator and the DPA Counterparty may agree), the Services Expert shall state in writing whether, in its opinion, the Agreed Principles have been and/or are being applied in relation to the Transaction specified in the notice given pursuant to paragraph (A) above and whether the Transaction complies with the Agreed Principles. If the Services Expert determines that the Agreed Principles have not been and/or are not being applied in relation to the Transaction and/or the Transaction does not comply with the Agreed Principles in any respect, the Services Expert shall also state in writing the nature and extent of such non-compliance.
- (D) In so stating its opinion the Services Expert shall be deemed to act as an expert and not as an arbitrator and, save in the case of fraud or manifest error, its determination shall be final and binding on all concerned.
- (E) The Generator shall provide to the Services Expert sufficiently detailed information to enable the Services Expert to understand the application (or otherwise) of the Agreed Principles to the relevant Transaction. The Services Expert shall be entitled, acting reasonably having regard to its terms of reference, to appoint other professional advisers (including, but without limitation, accountants) in order to assist with the review of the relevant Transaction.
- (F) The terms of reference of the Services Expert shall provide that the Services Expert (and any professional adviser appointed by the Services Expert) shall enter into such confidentiality arrangements as the Generator (acting reasonably) may require and shall otherwise be on such terms (if any) as agreed between the Generator and the DPA Counterparty.
- (G) If the Services Expert states that the Agreed Principles have not been and/or are not being applied in relation to the Transaction specified in the notice given pursuant to paragraph (A) above and/or that the Transaction does not comply with the Agreed Principles (or, in the case of paragraph (A)(iii)(a) of the definition of "Agreed Principles", does not comply with the Agreed Principles other than in any immaterial respect), the DPA Counterparty shall have a right to request an audit in accordance with paragraph 3.3 (*Audit*).
- (H) If the Services Expert determines that:
 - (i) the Agreed Principles have not been and/or are not being applied in relation to the reviewed Transaction and/or that the reviewed Transaction does not comply with the Agreed Principles, the Generator shall bear the costs of the Services Expert (including the costs of any professional adviser appointed by the Services Expert) and, if required by the DPA Counterparty pursuant to paragraph (G) above, the Auditor; and
 - (ii) the Agreed Principles have been and are being applied in relation to the reviewed Transaction and that the reviewed Transaction complies with the Agreed Principles, the DPA Counterparty shall bear the costs of the Services Expert (including the costs of any professional adviser appointed by the Services Expert).

3.3 **Audit**

- (A) In accordance with a determination by the Services Expert under paragraph 3.2(G) (*Determination*), the DPA Counterparty may by notice to the Generator require that a Transaction is audited in accordance with this paragraph 3.3. An Auditor shall be appointed by agreement between the Generator and the DPA Counterparty within ten

(10) Business Days of receipt by the Generator of such notice or, failing agreement, within a further ten (10) Business Days of such receipt (or such longer period, if any, as the Generator and the DPA Counterparty may agree) by the President for the time being of the Institute of Chartered Accountants in England and Wales on the application of either the Generator or the DPA Counterparty.

(B) The Generator shall provide to the Auditor sufficiently detailed information to enable the Auditor to:

- (i) understand the application (or otherwise) of the Agreed Principles to the relevant Transaction;
- (ii) understand the charging basis underlying the cost of the relevant Transaction; and
- (iii) give its opinion and prepare and deliver its report referred to in paragraph 3.3(C).

(C) The terms of reference of the Auditor shall provide that the Auditor shall:

- (i) enter into such confidentiality arrangements as the Generator (acting reasonably) may require;
- (ii) give its opinion as to the amount of money (if any) which would put the Generator into the position that it would have been in if the Agreed Principles had been applied in relation to the relevant Transaction and such Transaction had at all times complied with the Agreed Principles (the "**Discount Amount**"); and
- (iii) report in writing accordingly to the Generator and the DPA Counterparty,

and shall otherwise be on such terms (if any) as agreed between the Generator and the DPA Counterparty.

Miscellaneous

3.4

- (A) No Services Expert or Auditor appointed pursuant to paragraph 3.2 (*Determination*) or paragraph 3.3 (*Audit*) shall have the power to require disclosure of documents or information other than as provided for in this Appendix 5 (*Contracting Policy*) and each Services Expert or Auditor shall provide written reasons in support of any determination or opinion pursuant to this paragraph 3.
- (B) The DPA Counterparty shall not be entitled pursuant to this Appendix 5 (*Contracting Policy*) to access any documents or information, or working papers of, any Services Expert or Auditor appointed pursuant to paragraph 3.2 (*Determination*) or paragraph 3.3 (*Audit*).

Appendix 6
Form of Deed of Accession

To: [Each party to the DPA]

From: [Company]

Dated: [●]

Dear Sirs,

Agreement dated [●] between [●] as DPA Counterparty and the Generator named therein (the "**DPA**")

1. We refer to the DPA. This is a Deed of Accession. Terms defined in the DPA have the same meaning in this Deed of Accession unless given a different meaning in this Deed of Accession.
2. With effect on and from the date of this Deed of Accession (the "**Accession Date**"), [Company] agrees to become [a TopCo] / [an Investor] and to be bound by the terms of the Gain Share Schedule of the DPA as [a TopCo] / [an Investor] and undertakes to each other Party that it will, with effect from the Accession Date, assume, perform and comply with each of the obligations of [a TopCo] / [an Investor] under the Gain Share Schedule as if it had been a party to the DPA and bound by the Gain Share Schedule in that capacity at its date of execution.
3. [Company] represents and warrants on the Accession Date to the DPA Counterparty in the terms set out in Paragraph 1 of Part C (*Representations and Warranties*) of the Gain Share Schedule.
4. [Company's] administrative details for the purposes of the DPA are as follows:
 Address:
 Attention:
 Email:
 [Agent for Service]: [insert details if the Company is not UK incorporated]
5. [Company] acknowledges that it has received a copy of the DPA together with all other information which it requires in connection with the DPA.
6. This Deed of Accession and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with English law.
7. This Deed of Accession may be executed in any number of counterparts and by the parties to it on separate counterparts, but shall not be effective until each party has executed at least one counterpart. Each counterpart shall constitute an original but all of the counterparts together shall constitute one and the same instrument.
8. Whilst the Company agrees to become [a TopCo] / [an Investor] and to be bound by the terms of the Gain Share Schedule of the DPA as [a TopCo] / [an Investor], the only terms of the DPA which are enforceable by, or apply to, the Company are those set out in the Gain Share Schedule.

This Deed of Accession is entered into by deed.

[Company]

EXECUTED and delivered as a)
 DEED by [●] LIMITED)
 acting by its [director] / [duly)
 appointed attorney])

.....
 [Director] / [Attorney]

in the presence of:

Witness's signature:

Name (print):

Address:

.....

.....

Occupation:

.....

[Each Party to the DPA]

EXECUTED and delivered as a)
 DEED by [●] LIMITED)
 acting by its [director] / [duly)
 appointed attorney])

.....
 [Director] / [Attorney]

in the presence of:

Witness's signature:

Name (print):

Address:

.....

.....

Occupation:

.....

Appendix 7
Form of Gain Share Parent Company Guarantee

THIS GUARANTEE is made on [●] 202[●]

BETWEEN:

- (1) [●] LIMITED whose registered office is at [●] (the "Guarantor"); and
- (2) LOW CARBON CONTRACTS COMPANY LTD 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the "DPA Counterparty").

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 In this deed:

"Obligations" has the meaning given to it in clause 2.1(A) (*Guarantee and Indemnity*);

1.2 In this deed, unless a contrary indication appears:

- (A) a reference to any person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's successors and permitted assignees or transferees;
- (B) a reference to (or any specified provision of) any agreement, deed or other document is to be construed as a reference to that agreement, deed or other document (or that provision) as it may be from time to time, amended, varied, supplemented, restated or novated;
- (C) the headings in this deed are inserted for convenience only and are to be ignored in construing it;
- (D) words importing the plural shall include the singular and vice versa; and
- (E) words and expressions defined in the DPA shall bear the same meanings when used in this deed.

2. GUARANTEE AND INDEMNITY

2.1 The Guarantor irrevocably and unconditionally:

- (A) guarantees to the DPA Counterparty the punctual performance by the Generator of its obligations under Paragraph 2.4 of the Gain Share Schedule (the "Obligations");
- (B) undertakes that whenever the Generator does not pay any amount comprised in the Obligations when due, the Guarantor will immediately on demand pay that amount as if it were the principal obligor; and
- (C) agrees with the DPA Counterparty that if, for any reason (including unenforceability or illegality of any of the Obligations), any amount claimed hereunder is not recoverable on the basis of a guarantee, it will, as an independent and primary obligation, indemnify the DPA Counterparty on demand against any cost, loss or liability it incurs as a result of the Generator not paying any amount which would, but for such reason, have been payable by it on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay hereunder if the amount claimed had been recoverable on the basis of a guarantee.

- 2.2 The Guarantor will pay interest to the DPA Counterparty on all amounts due from it under this deed from the date the DPA Counterparty demands payment from the Guarantor until payment of such amounts (both before and after any judgment) [at *specify rate*] on the basis that such interest shall be compounded monthly].

3. **CONTINUING GUARANTEE**

- 3.1 The obligations of the Guarantor under this deed:

- (A) are a continuing guarantee and will extend to the ultimate balance of the Obligations regardless of any intermediate payment or discharge in whole or part;
- (B) are to be in addition to and are not in any way prejudiced by and shall not merge with any other guarantee or security which the DPA Counterparty may now or in the future hold.

- 3.2 If, notwithstanding clause 3.1 above the obligations of the Guarantor under this deed cease to be continuing obligations, the Guarantor will remain liable in relation to all Obligations as at the date of discontinuation (whether demanded or not) and whether or not the Generator is then in default in relation to the Obligations.

4. **DPA COUNTERPARTY PROTECTIONS**

- 4.1 The obligations of the Guarantor under this deed shall not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of those obligations (and whether or not known to the Guarantor or the DPA Counterparty) including:

- (A) any time, consent or waiver given to, or composition made with, the Generator or any other person;
- (B) any amendment to or replacement of, the DPA or any other agreement, instrument or security (however fundamental);
- (C) the taking, variation, compromise, renewal, release of or refusal or neglect to perfect or enforce any rights, remedies or securities against the Generator or any other person;
- (D) any incapacity, lack of power, authority or legal personality of or dissolution or change in the members or status of the Generator or any other person; or
- (E) any purported obligation of the Generator or any other person to the DPA Counterparty (or any security for that obligation) becoming wholly or in part void, invalid, illegal or unenforceable for any reason;
- (F) any insolvency or similar proceedings.

- 4.2 The Guarantor waives any right it may have of first requiring the DPA Counterparty to proceed against or enforce any rights or security or claim payment from any person before claiming from it under this deed.

5. **NO COMPETITION**

Until all the Obligations have been irrevocably paid and discharged in full and unless the DPA Counterparty otherwise directs, the Guarantor will not exercise any rights which it may have by reason of performance by it of its obligations under Paragraph 2.4 of the Gain Share Schedule or by reason of any amount being payable, or liability arising under this deed:

- (A) to be indemnified by the Generator;

- (B) to claim any contribution from any other guarantor of the Obligations;
- (C) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the DPA Counterparty under the DPA or of any other guarantee or security taken pursuant to, or in connection with, the DPA;
- (D) to bring legal or other proceedings for an order requiring the Generator to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under this deed;
- (E) to exercise any right of set-off against the Generator; and/or
- (F) to claim or prove as a creditor of the Generator in competition with the DPA Counterparty.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution (to the extent necessary to enable all amounts which may be or become payable to the DPA Counterparty by the Generator under or in connection with Paragraph 2.4 of the Gain Share Schedule to be repaid in full) on trust for the DPA Counterparty and shall promptly pay or transfer the same to the DPA Counterparty or as the DPA Counterparty may direct.

6. **PAYMENTS**

6.1 All payments to be made by the Guarantor under this deed are to be made to the DPA Counterparty:

- (A) in immediately available cleared funds in the same currency in which the sums comprised in the Obligations are agreed to be paid in the Gain Share Schedule to the account the DPA Counterparty specifies for this purpose; and
- (B) in full without set-off or counterclaim and not subject to any condition and free and clear of and without deduction or withholding for or on account of any taxes or any other purpose. If any deduction or withholding from any payment is required by law then the Guarantor will promptly pay to the DPA Counterparty an additional amount being the amount required to procure that the aggregate net amount received by the DPA Counterparty will equal the full amount which would have been received by it had no deduction or withholding been made.

6.2 Until all Obligations have been irrevocably satisfied in full, the DPA Counterparty may place and keep any money received or recovered from the Guarantor in relation to the Obligations in a suspense account. Amounts deposited in such account shall accrue interest at the DPA Counterparty's usual rate for deposits of a similar nature from time to time and interest accrued shall be credited to that account.

7. **CUMULATIVE POWERS AND AVOIDANCE OF PAYMENTS**

7.1 The powers which this deed confers on the DPA Counterparty are cumulative, without prejudice to its powers under the general law, and may be exercised as often as the DPA Counterparty thinks appropriate.

7.2 Any settlement or discharge between the DPA Counterparty and the Generator and/or the Guarantor shall be conditional upon no security or payment to the DPA Counterparty by the Generator or the Guarantor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the DPA Counterparty's other rights under this deed) the DPA

Counterparty shall be entitled to recover from the Guarantor the value which the DPA Counterparty has placed upon such security or the amount of any such payment as if such settlement or discharge had not occurred.

8. **SET-OFF**

8.1 The DPA Counterparty may at any time after it has made a demand on the Guarantor under this deed (without notice to the Guarantor) set-off any other obligations (whether or not then due for performance) owed by the DPA Counterparty to the Guarantor in or towards satisfaction of the Obligations (and any other amounts due under this deed).

8.2 If the relevant obligation or liability is unliquidated or unascertained the DPA Counterparty may set off the amount it estimates (in good faith) will be the final amount of such obligation or liability once it becomes liquidated or ascertained.

9. **MISCELLANEOUS**

9.1 The Guarantor will pay to the DPA Counterparty on demand the amount of all costs and expenses (including legal fees and any taxes thereon) incurred by the DPA Counterparty in connection with the negotiation, execution or enforcement of this deed.

9.2 No failure or delay by the DPA Counterparty in exercising any right under this deed shall operate as a waiver of that right nor shall any single or partial exercise of any right preclude any other or further exercise of that or any other right.

9.3 If any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

9.4 The DPA Counterparty may at any time assign or otherwise transfer all or any part of its rights under this deed.

9.5 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this deed and no person other than the parties to this deed or any permitted assignee of the DPA Counterparty shall have any rights under it, nor shall it be enforceable by virtue of that Act by any person other than the parties to it.

9.6 This deed may be executed in counterpart and both counterparts taken together shall be deemed to constitute one and the same deed.

9.7 Any notice, demand or other communication to be served under this deed must be in writing and must be made by letter or by facsimile transmission to the party to be served at its address or facsimile number shown on the signature page of this deed.

10. **GOVERNING LAW AND SUBMISSION TO JURISDICTION**

(A) This deed and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this deed or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

(B) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) (a "**Dispute**").

(C) The parties to this deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

- 10.2 [Without prejudice to any other permitted mode of service, the Guarantor agrees that service of any claim form, notice or other document for the purpose of any proceedings in such courts shall be duly served upon it if delivered or sent by special delivery post to [●] (marked for the attention of [●]) or such other address in England or Wales as the Guarantor may notify from time to time to the DPA Counterparty.]

IN WITNESS whereof the Parties have executed and delivered this Guarantee as a deed on the date first above written.

The Guarantor

Executed as a deed by)
 [●] acting by [*insert name of director*]:)
)
)

Signature of director

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

DPA Counterparty

Executed as a deed by)
LOW CARBON CONTRACTS COMPANY)
LTD acting by [*insert name of director*]:)
)

Signature of director

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

Appendix 8
Form of Preliminary Equity IRR Report

To: [●] (the **"DPA Counterparty"**)

[Address]

From: [●] (**"The Generator"**)

[Address]

Dated: [●]

DPA GAIN SHARE SCHEDULE – PRELIMINARY EQUITY IRR REPORT

Dear Sirs,

1. We refer to the Gain Share Schedule of the DPA relating to [Project] dated [●] between, among others, you as the DPA Counterparty and us as the Generator (the **"Schedule"**). Terms and expressions defined in or incorporated into the Schedule have the same meaning when used in this report.
2. This is the Preliminary Equity IRR Report relating to the Project Gain Share Calculation Period (the **"Subject Project Gain Share Calculation Period"**) ending on the Project Gain Share Calculation Date falling on [●] (the **"Subject Project Gain Share Calculation Date"**).
3. We refer to Paragraph 2.1(C) (*Preliminary Equity IRR Report*) of the Schedule.
4. The Available Cash Flow in respect of the Subject Project Gain Share Calculation Period is [●]. [This amount has been calculated as follows [●] / [Details of the calculation of this amount are set out in Annex [●] to this report].
5. [Details as of the Subject Project Gain Share Calculation Date of the amount[s] retained by the Generator referred to in paragraph (A)(i) of the definition of "Available Cash Flow" and the calculation thereof are set out [below] / [in Annex [●] to this report]. The reasons for the making of such retentions are as follows [●].]
6. We hereby confirm that there has been no failure to perform or comply with any of the Gain Share Rules of the Schedule [other than [●]]²³. [This failure has given rise to a Deemed Available Cash Flow of [●]. Details of the calculation of the Deemed Available Cash Flow are set out [below] / [in Annex [●] to this report].]
7. We hereby confirm that there has been no failure to perform or comply with the Contracting Policy [other than [●]]²⁴. [The Related Party Discount Amount is [●]. Details of the calculation of the Related Party Discount Amount are set out [below] / [in Annex [●] to this report].]
8. Details of all Project Cash Flows and Real Project Cash Flows for the Subject Project Gain Share Calculation Period (including dates of receipt or payment and forecast dates of receipt or payment) are set out in Annex [●] to this report.
9. Annex [●] to this report sets out the Equity IRR (and its calculation) as at the Subject Project Gain Share Calculation Date in respect of the Subject Project Gain Share Calculation Period

²³ Note to Reader: full details of the failure and its consequences to be provided.

²⁴ Note to Reader: full details of the failure and its consequences to be provided.

(taking into account the information referred to in paragraph 8 above) and confirms whether, and the extent to which, each such Equity IRR is less than, equal to, or exceeds the Equity IRR Threshold.

10. Set out in Annex [●] to this report are details of the administrative costs and expenses of the Generator incurred since the Project Gain Share Calculation Date immediately preceding the Subject Project Gain Share Calculation Date and those administrative costs and expenses that the Generator forecasts that it will incur.
11. [We set out [below] / [in Annex [●] to this report] details of the Distributions we propose to make to HoldCo and details of the Distributions HoldCo proposes to make to each of the TopCos and (where relevant) the Project Gain Share Amount to be paid to the DPA Counterparty consequent upon the Project Cash Flows in relation to the Subject Project Gain Share Calculation Period (including the amount and calculation thereof). The Generator's estimate of the Project Gain Share Due Date is [●].]²⁵
12. Accompanying this report are copies of the documents referred to in Paragraphs 2.1(D)(i), 2.1(D)(ii), 2.1(D)(iii)[, 2.1(D)(iv)] [and 2.1(D)(v)]²⁶ (*Preliminary Equity IRR Report*) of the Schedule.

Yours faithfully,

.....
Duly authorised for and on behalf of
[●] (the Generator)

²⁵ Note to Reader: to be deleted as appropriate to show that there is no plausible circumstance as referred to in Paragraph 2.1(D)(iii) (*Preliminary Equity IRR Report*).

²⁶ Note to Reader: to be deleted as appropriate.

[ANNEXES TO THE PRELIMINARY EQUITY IRR REPORT]

Appendix 9 Form of Gain Share Bond

Low Carbon Contracts Company Ltd, a company incorporated under the laws of England and Wales whose registered office is 10 South Colonnade, London, England, E14 4PU and whose company number is 08818711 (the "**Beneficiary**")

202[●]

Dear Sirs

Our Performance Bond (Ref)

1. We, *[the Qualifying Bond Provider]*, have been informed that *[the Generator]* (Company number [●])(the "**Principal**") has entered into an agreement with the Beneficiary dated [●] (the "**Contract**").
2. We, *[the Qualifying Bond Provider]*, have been informed that it is a term of the Contract that the Principal obtains a performance bond in this form (the "**Bond**"). Capitalised terms in this Bond shall have the meaning ascribed to them in the Contract unless otherwise defined in this Bond.
3. At the request of the Principal and in consideration of £10.00 (ten pounds), receipt of which is acknowledged, we, *[the Qualifying Bond Provider]*, hereby irrevocably and unconditionally undertake, as primary obligor, to pay you the Beneficiary any sum or sums not exceeding in aggregate a maximum amount of £[●] (the "**Guaranteed Amount**") within five (5) days of receipt by us of your demand in writing and your written statement stating:

(A) that the Principal is in breach of his obligation(s) under the Contract and confirming the respect in which the Principal is in breach and the amount of the demand,

without us being entitled and/or obliged to make any enquiry either of you or the Principal, without the need for you to take legal action against or to obtain the consent of the Principal, notwithstanding any objection by the Principal or any third party, without any further proof or conditions and without any withholding or deduction of any kind whether by way of right of set-off, counterclaim or otherwise.
4. Your written demand or demands shall be conclusive evidence of our liability to pay you and of the amount of the sum or sums which we are liable to pay to you. Our obligation to make payment under this Bond shall be a primary, independent, irrevocable and absolute obligation and we shall not be entitled to delay or withhold payment for any reason. Our obligations under this Bond shall not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate us from our obligations hereunder in whole or in part.
5. This Bond shall become effective no later than the fourteenth (14th) anniversary of the first to occur of the Start Date and the last day of the Target Commissioning Window²⁷ and shall be valid until [●] (the "**Expiration Date**") but this will not affect or discharge our obligation to make payment of any demand or demands made in accordance with this Bond which are received on or before the Expiration Date.

²⁷

Note to Reader: this effective date for the performance bond applies to any DPA with a fifteen (15) year Term.

6. This Bond shall be returned to us immediately after the later to occur of:
 - (A) the Expiration Date; and
 - (B) the final resolution of all demands under this Bond.
7. This Bond shall not be abrogated or affected by any other bond, guarantee or indemnity which you may hold in connection with the Contract or by any extensions of time granted under the Contract or other indulgence, waiver or forbearance under the Contract or this Bond or by any variations or alterations to the Contract made, conceded, given or agreed with or without our knowledge or consent.
8. Our obligation to make payment under this Bond shall not be affected by any act, omission, matter or thing (including, without limitation, the amalgamation, reconstruction, liquidation, receivership, administration, administrative receivership or dissolution of the Principal) which but for this paragraph might operate to release or otherwise exonerate us from our obligations hereunder in whole or in part, including, without limitation, (and whether or not known to us or to you):
 - (A) the taking, variation, compromise, renewal or release or neglect to perfect or enforce any rights, remedies or securities (including, without limitation, any bond, guarantee or security) against the Principal or any other person; and
 - (B) any legal limitation disability or incapacity relating to the Principal or any other person.
9. If at any time one (1) or more of the provisions of this Bond is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Bond.
10. This Bond and the benefit conferred to it may be assigned by the Beneficiary without our consent, to any party at any time and references to the Beneficiary shall include its assignees. This Bond and the benefit conferred by it may not be assigned by us. The Beneficiary shall give written notice to us within 14 days of any assignment pursuant to this clause.
11. This Bond (and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Bond) shall be governed by and construed according to the laws of England.
12. The parties submit to the exclusive jurisdiction of the courts of England as regards any claim or matter arising in relation to this Bond.

Signed as a deed by)
)
 duly authorised for and on behalf of)
 [*Qualifying Bond Provider*])

In the presence of:

Signature of witness:

Name of witness:

Address of witness:

Occupation of witness:

.....