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

CONTRACT LOG NO: [ ]

SUBJECT TO CONTRACT

DRAFT 1.2

August 2021

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This AGREEMENT is dated 2021

BETWEEN:

(1) NATIONAL GRID ELECTRICITY SYSTEM OPERATOR LIMITED, a company registered in England (company number 11014226) whose registered office is at 1-3 Strand, London, WC2N 5EH (the “Company” which expression shall include its permitted successors and/or assigns); and

(2) [ ], a company registered in [Scotland/England] under company number [ ], whose registered office is at [ ] (the “Generator” which expression shall include its permitted successors and/or assigns),

each a “Party” and together the “Parties”.

BACKGROUND:

(A) The Company issued an Invitation to Tender (“ITT”) for the Constraint Management Pathfinder service on [ ] 2021 for the provision of a constraint management service in relation to the B6 constraint boundary and the Generator has submitted a tender for the provision of such service from its Power Station.

(B) The Responsible TO owns, operates and maintains an intertrip scheme to which the Power Station is connected. The constraint management service involves the arming of that intertrip scheme by the Responsible TO on the instruction of the Company and may result in the tripping of the Generator’s generating units at the Power Station.

(C) The Parties have entered into this Agreement in accordance with the rules of the ITT.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, including in the recitals hereto, unless the subject matter or context otherwise requires or is inconsistent therewith, or unless expressly defined herein the definitions set out in Schedule 1 shall apply.

1.2 In this Agreement:

1.2.1 except where the context otherwise requires, references to a particular Clause, Paragraph, Appendix or Schedule shall be a reference to that Clause, Paragraph, Appendix or Schedule in or to this Agreement;

1.2.2 the table of contents and headings are inserted for convenience only and shall be ignored in construing this Agreement;

1.2.3 references to the words “include” or “including” are to be construed without limitation;
1.2.4 except where the context otherwise requires, any reference to an Act of Parliament or any Part or Section or other provision of, or Schedule to, an Act of Parliament shall be construed, at the particular time, as including a reference to any modification, extension or re-enactment thereof then in force and to all instruments, orders or regulations then in force and made under or deriving validity from the relevant Act of Parliament;

1.2.5 references to the masculine shall include the feminine and references in the singular shall include references in the plural and vice versa; and

1.2.6 except where the context otherwise requires, any reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organisation or other entity, in each case whether or not having separate legal personality.

2. COMMENCEMENT AND TERM

2.1 This Agreement shall come into effect on the Effective Date and without prejudice to earlier termination in accordance with Clause 7 (Termination), Clause 21 (Force Majeure) or Clause 23 (Anti-Bribery) shall continue in force and effect until the expiry of the Service Term.

2.2 [Not later than six (6) months prior to the expiry of the Service Term, the Parties shall meet in order to discuss whether to extend this Agreement for a further period of twelve (12) months.]

3. SERVICE OBLIGATIONS

3.1 Availability of Service

3.1.1 The Generator agrees to the Commercial Intertrip Scheme being Armed by the Responsible TO on the Company’s instruction at any time and from time to time during the Service Term when Active Power is being exported to the National Electricity Transmission System from the Power Station in accordance with and subject to the terms and conditions of this Agreement.

3.1.2 It is agreed by the Parties that the Commercial Intertrip Scheme shall be in addition to, and this Agreement shall not prejudice or affect, the operation of any System to Generator Operational Intertripping Scheme as provided for in the applicable Bilateral Agreement.

3.2 Instruction to Arm

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

For plant requiring a new connection, the Agreement will be conditional on the connection being completed.
to notify the Generator accordingly ("Arming Instruction") by telephone to the number set out in Schedule 3, Part 4, specifying:

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

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

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

3.3 Arming

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

3.4 Disarming

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

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

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

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

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

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

3.6 Payments

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

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

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

(a) reduction in Active Power Output of a Contracted Unit occurred otherwise than in accordance with a signal from the Commercial Intertrip Scheme to that Contracted Unit;

(b) reduction in Active Power Output of a Contracted Unit occurred outside of an Arming Period; or

(c) reduction in Active Power Output of a Contracted Unit occurred following a withdrawal availability in accordance with Clause 3.8.1 and before the Company is first notified of the restored availability of the Commercial Intertrip Scheme pursuant to Clause 3.8.2.

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

3.7 Grid Code

3.7.1 The provision by the Generator of the Constraint Management Service shall not relieve it of any of its obligations (where applicable) set out in the Grid Code.
In addition to the provisions of Clause 3.7.1, if during an Arming Period the Commercial Intertrip Scheme fails to operate in accordance with the terms of this Agreement for whatever reason, the Company may instruct the Generator to trip the relevant Contracted Units by issuing an Emergency Instruction in accordance with the provisions of the Grid Code provided that if the Company issues a Bid Offer Acceptance (or such an instruction is treated as a Bid Offer Acceptance), or the Generator receives any other payments in accordance with the provisions of the Grid Code and/or the CUSC and/or the BSC in respect of such Emergency Instruction, then the Generator shall pay to the Company the sum of any such payments received less any Tripping Payment which the Generator would have received if the Commercial Intertrip Scheme had operated in accordance with the terms of this Agreement (or where the Tripping Payment is greater than the sum of any other such payments received, the Company shall pay to the Generator the difference). Such payments shall be made in accordance with Clause 4 (Payment).

3.8 Unavailability of the Constraint Management Service

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

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

3.9 Damage to Plant and Apparatus

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

3.10 Allowed Interruption

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

The **Company** is entitled to:

(a) amend the description of the circuits listed in Schedule 3, Part 1 to reflect any changes to the **National Electricity Transmission System**; and

(b) add further circuits to the list of **Trip Conditions**.

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

3.12 **Revisions to Arming Payment Rate**

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

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

4. **PAYMENT**

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

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

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

4.2 If the **Generator** disagrees with any dates times facts or calculations set out in the **Monthly Statement**, it may notify the **Company** in writing, with the evidence on which it relies in support of such disagreement, no later than the date falling ten (10) **Business Days** after receipt thereof, but in the absence of any such notification by such date, the **Monthly Statement** shall be final and binding on the **Parties** subject only to Clause 4.3. The **Parties** shall discuss and endeavour to
resolve the matter in good faith and any adjustments agreed shall be included in the Monthly Statement next following the date of resolution of the dispute. The dates, times, facts and calculations set out in the Monthly Statement shall be binding upon the Parties until such time as they are reversed or revised by agreement between the Parties or otherwise determined pursuant to Clause 15 (Dispute Resolution).

4.3 Where, having regard to any Settlement Run or to the results of any other monitoring by the Company of service delivery, the Company or the Generator discovers that some or all of any calculations and/or amounts falling due shown in any Monthly Statement are incorrect, then it shall promptly notify the other in writing whereupon the Company shall, subject to verification by the Company revise the Monthly Statement and re-issue the same to the Generator, and the provisions of Clause 4.2 shall apply mutatis mutandis to such revised Monthly Statement.

4.4 In the absence of fraud, neither the Company nor the Generator may invoke the provisions of Clause 4.3 with respect to the contents of any Monthly Statement after the period of twelve (12) months has elapsed following submission of that Monthly Statement in which the calculations and/or amounts in question were first stated, after which date such calculations and/or amounts shown in the last Monthly Statement issued by the Company shall be final and conclusive.

4.5 No later than the eighteenth (18th) Business Day of each month, the Company will issue a self-billing invoice (or credit note) reflecting the Monthly Statement issued pursuant to Clause 4.2, and no later than five (5) Business Days after such date of issue the Company shall pay to the Generator (or the Generator shall pay to the Company, as the case may be) the net amount shown as due from the Company to the Generator (or from the Generator to the Company, as the case may be) in that Monthly Statement.

4.6 If either Party (the “Defaulting Party”) fails to pay any amount properly due under this Agreement on the due date, then the Defaulting Party shall pay to the other Party interest on such overdue amount at the Base Rate plus three per cent (3%) from the date on which such payment was properly due to (but excluding) the date of actual payment. Any interest shall accrue from day to day.

4.7 If it is agreed or otherwise determined under Clause 4.2 that the Generator was entitled to a further payment from the Company, the Generator shall be entitled to interest at the Base Rate on the amount of such further payment from the date on which that sum would have been payable had it been included in the Monthly Statement for each Relevant Settlement Period until the date of payment.

4.8 If it is agreed or otherwise determined under Clause 4.2 that the Generator was not entitled to any payment it has received, the Company shall be entitled to interest at the Base Rate on the amount so paid from the date of payment until the date of repayment or the date when the Company makes a payment to the Generator which takes such payment into account.
4.9 Notwithstanding any other provision of this Agreement, the Parties shall not be limited in any way as to the evidence they may rely upon in any proceedings arising out of or in connection with payment for the Constraint Management Service under this Agreement and the Parties agree that in the event and to the extent that either Party succeeds in proving in any such proceedings that the Constraint Management Service was or was not provided, the successful Party shall be entitled to repayment of the sums already paid or payment of sums not paid as the case may be in respect of the Constraint Management Service.

4.10 Save as otherwise expressly provided in this Agreement, sums payable by one Party to the other pursuant to this Agreement whether by way of charges, interest or otherwise shall (except to the extent otherwise required by law) be paid in full, free and clear of and without deduction, set-off or deferment in respect of any disputes or claims whatsoever save for sums the subject of a final award or judgement (after exhaustion of all appeals if this opportunity is taken) or which by agreement between the Company and the Generator may be so deducted or set off.

4.11 All amounts specified hereunder shall be exclusive of any Value Added Tax or other similar tax and the Company shall pay to the Generator Value Added Tax at the rate for the time being and from time to time properly chargeable in respect of the making available and/or supply of the Constraint Management Service under this Agreement.

4.12 All payments by the Company to the Generator under this Agreement will be made by payment to the bank account details of which are notified to the Company by the Generator from time to time.

4.13 The submission of all Monthly Statements and facts and other evidence in support thereof and any questions in connection therewith from the Company to the Generator and vice versa in accordance with this Clause 4 must be made, in the absence of agreement to the contrary between the Parties, by 19.00 hours on the Business Day concerned.

4.14 The Generator hereby irrevocably consents to the operation of a self-billing system by the Company with regard to the payment for the Constraint Management Service and will at all times throughout the Term maintain such consent. The Generator hereby undertakes to do (at the Company’s cost) all acts and things reasonably necessary to enable the Company to comply with the regulations of HM Revenue & Customs as regards the self-billing of the Constraint Management Service.

4.15 The provisions of this Clause 4 shall survive termination of this Agreement.

5. LIMITATION OF LIABILITY

5.1 Subject to Clause 5.2, save where any provision of this Agreement provides for an indemnity, the Parties agree and acknowledge that neither Party (the “Party Liable”) nor any of its officers, employees or agents shall be liable to the other Party for loss arising from any breach of this Agreement other than for loss directly
resulting from such breach and which at the date of this Agreement was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:-

5.1.1 physical damage to the property of the other Party, its officers, employees or agents; and/or

5.1.2 the liability of such other Party to any other person for loss in respect of physical damage to the property of any person subject, for the avoidance of doubt, to the requirement that the amount of such liability claimed by such other party should be mitigated in accordance with general law,

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

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

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

5.3.1 any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill; or

5.3.2 any indirect or consequential loss; or

5.3.3 loss resulting from the liability of the other Party to any other person howsoever and whenever arising save as provided in Clause 5.1.2 and Clause 5.2.

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

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

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

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

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

5.7.2 survive termination of this Agreement.

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

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

6. METERING

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

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

7. TERMINATION

Automatic Termination

7.1 This Agreement shall terminate automatically upon:

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

7.1.2 the revocation or withdrawal of the Generation Licence solely as a result of the Generator’s election or a material breach by the Generator of its obligations under such licence; or
7.1.3 termination of the applicable Bilateral Agreement solely as a result of the Generator's election or a material breach by the Generator of its obligations under such agreement; or

7.1.4 the Responsible TO connects another User's Generating Unit to the same circuit to which the Contracted Units are connected and that Generating Unit does not participate in the Commercial Intertrip Scheme,

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

Termination by the Generator

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

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

7.2.2 without prejudice to Clause 7.1, the Company shall commit any material breach (other than a breach under Clause 7.2.1) of this Agreement (or persistent breaches of this Agreement which taken as a whole are material), or shall commit a breach of any of the material obligations on its part to be observed under this Agreement, and the Generator shall have served written notice on the Company requiring it to remedy such default (if it is capable of remedy) within thirty (30) days or such longer period as may be reasonably necessary to remedy the default and the Company shall have failed to remedy such default to the reasonable satisfaction of the Generator within the specified period; or

7.2.3 in respect of the Company:-

(a) an order of the High Court is made or an effective resolution passed for its winding-up or dissolution; or

(b) a receiver (which expression shall include an administrative receiver within the meaning of Section 29 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking is appointed; or

(c) an administration order under Section 8 of the Insolvency Act 1986 is made or an administrator has been appointed (whether out of court or otherwise) or if a voluntary arrangement is proposed by the Company under Section 1 of that Act; or
(d) it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority); or

(e) any of the events referred to in (a) to (d) above has occurred and is continuing and the Company is unable to pay its debts within the meaning of Section 123 (1) or (2) of the Insolvency Act 1986 save that such section shall have effect as if for seven hundred and fifty pounds sterling (£750) there was inserted two hundred and fifty thousand pounds sterling (£250,000) (and the Company shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by it with recourse to all appropriate measures and procedures);

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

Termination by the Company

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

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

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

7.3.3 in respect of the Generator:-

(a) an order of the High Court is made or an effective resolution passed for its winding-up or dissolution; or

(b) a receiver (which expression shall include an administrative receiver within the
meaning of Section 29 Insolvency Act 1986) of the whole or any material part of its assets or undertaking is appointed; or

(c) an administration order under Section 8 of the Insolvency Act 1986 is made or an administrator has been appointed (whether out of court or otherwise) or if a voluntary arrangement is proposed by the Generator under Section 1 of that Act; or

(d) it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority); or

(e) any of the events referred to in (a) to (d) above has occurred and is continuing and the Generator is unable to pay its debts within the meaning of Section 123 (1) or (2) of the Insolvency Act 1986 save that such section shall have effect as if for seven hundred and fifty pounds sterling (£750) there was inserted two hundred and fifty thousand pounds sterling (£250,000) (and the Generator shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by it with recourse to all appropriate measures and procedures)

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

Other termination rights

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

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

8. ASSIGNMENT

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

8.1.1 the Generator may assign or charge its benefit under this Agreement in whole or in part by way of security;
8.1.2 upon the disposal of the whole of the Generator’s business or undertaking, the Generator may transfer its rights and obligations under this Agreement to the purchaser thereof provided that the transfer to the purchaser of all of its rights and obligations under the Connection and Use of System Code, all Bilateral Agreements (and associated Construction Agreements) and all Mandatory Services Agreements shall have taken place;

8.1.3 upon disposal of part of the Generator’s business or undertaking comprising Generator’s Equipment at one or more Connection Sites, the Generator may transfer its rights and obligations under this Agreement to the purchaser thereof provided that the transfer to the purchaser of all of its rights and obligations under those Bilateral Agreements (and associated Construction Agreements) and Mandatory Services Agreements relevant to the part of the business or undertaking to be transferred shall have taken place.

8.2 The Company shall not assign or transfer nor purport to assign or transfer the benefit or burden of this Agreement save to the holder of a Licence with responsibility for carrying out the Balancing Services Activity.

9. CONFIDENTIALITY AND ANNOUNCEMENTS

9.1 Subject to the exceptions provided in Clause 9.3, Clause 10 (Disclosure of Information) (and to the extent otherwise expressly permitted by this Agreement), neither Party shall, at any time, whether before or after the expiry or sooner termination of this Agreement, without the prior consent of the other Party in writing (such consent not to be unreasonably withheld or delayed), divulge or suffer or permit its officers, employees, agents or contractors to divulge to any person or permit use by any person (other than disclosure to or use by any of its or their respective officers or employees to the extent that such disclosure and use is required to enable such persons properly to carry out their duties in connection with this Agreement):

9.1.1 any of the contents of this Agreement;

9.1.2 any commercially confidential information relating to the negotiations concerning the entering into of this Agreement;

9.1.3 any commercially confidential information which may come to a Party’s knowledge in the course of such negotiations; or

9.1.4 any commercially confidential information concerning the operations, contracts, commercial or financial arrangements or affairs of the other Party.

9.2 Each Party undertakes to use information referred to in Clause 9.1 and disclosed to it by the other Party solely for the purposes of this Agreement and shall not use it for any other purpose or for the purposes of any third party.

9.3 The restrictions imposed by Clause 9.1 shall not apply to the disclosure of any information:
9.3.1 which now or hereafter comes into the public domain otherwise than as a result of a breach of a confidentiality obligation or which either Party can show was in its written records prior to the date of disclosure of the same by the other Party, under this Agreement or which it receives from a third party independently entitled to disclose it;

9.3.2 which is required by law or pursuant to the rules of the Electricity Arbitration Association in England and Wales or pursuant to the rules or regulations of the Financial Services Authority to be disclosed to any person who is authorised by law or pursuant to the rules of the Electricity Arbitration Association in England and Wales or pursuant to the rules or regulations of the Financial Services Authority to receive the same;

9.3.3 which is required to be disclosed by the regulations of any recognised exchange upon which the share capital of the Party making the disclosure (or its parent undertaking) is or is proposed to be from time to time listed or dealt in, or is required to be disclosed by the Panel on Takeovers and Mergers;

9.3.4 to a court, arbitrator or administrative tribunal in the course of proceedings before it to which the disclosing Party is a party;

9.3.5 pursuant to any Licence of the Party concerned;

9.3.6 to any consultants, banks, financiers, insurers or professional advisers retained by the disclosing Party;

9.3.7 by the Generator to a third party who is a party to a power purchase agreement in respect of the electricity generated by the Power Station and with whom all (or some of) the risks and benefits arising from the Agreement will be shared provided such party is subject to confidentiality undertakings which are no less onerous than those to which the Generator is subject to under this Agreement;

9.3.8 by either Party to any parent, subsidiary or fellow subsidiary undertaking on a “need to know” basis only; or

9.3.9 required or expressly permitted to be disclosed under the terms of any agreement or arrangement to which both the Parties have agreed to be bound.

9.4 In this Clause 9, the words “parent undertaking”, “subsidiary undertaking” and “fellow subsidiary undertaking” shall have the meanings as provided in sections 1161 and 1162 of the Companies Act 2006.

9.5 Before either Party discloses any information in any of the circumstances described in Clauses 9.3.6 to 9.3.8 (other than to its authorised professional advisers), it shall notify the other Party of its intention to make such disclosure and (in the case where the disclosing Party is the Generator) procure the execution and delivery to that Party of an undertaking executed by the person to whom the disclosure is proposed to be made being in the same terms mutatis mutandis as the undertakings contained in this Clause 9.
9.6 No public announcement or statement regarding the signature, performance or termination of this Agreement shall be issued or made by either Party unless:

9.6.1 to the extent legally possible, before it is issued or made, both the Parties have been furnished with a copy of it and have approved it (such approval not to be unreasonably withheld or delayed); or

9.6.2 it is necessary to do so in order to comply with any applicable law or the regulations of any recognised stock exchange upon which the share capital of such Party is from time to time listed or dealt in.

9.7 With respect to the information referred to in Clause 9.1 both Parties shall ensure, to the extent reasonably practicable, that:-

9.7.1 such information is disseminated within their respective organisations on a “need to know” basis only;

9.7.2 employees, directors, agents, consultants and professional advisers who are in receipt of such information are made fully aware of the Party’s obligations of confidence in relation thereto; and

9.7.3 any copies of such information, whether in hard copy or computerised form, will clearly identify the information as confidential.

9.8 Notwithstanding any other provision of this Agreement, the provisions of this Clause 9 shall continue to bind a person after termination of this Agreement, in whole or in part, for whatever reason.

10. DISCLOSURE OF INFORMATION

10.1 The Generator hereby consents to the disclosure and use by the Company in such manner or form and at such times as it thinks fit of:

10.1.1 the tendered rates for calculating Arming Payments (as the same may be varied in accordance with Clause 3.12.1) and Tripping Payments for each Contracted Unit and any other information submitted by the Generator in its Tender Submission;

10.1.2 the periods for which Arming of the Commercial Intertrip Scheme in respect of the Contracted Units has been instructed;

10.1.3 the aggregate cost of Arming Payments and the aggregate amount of Tripping Payments made by the Company to the Generator and all other generators participating in the Constraint Management Service; and

10.1.4 any other data and other information relating to this Agreement and the provision of the Constraint Management Service for the purposes of any or all of the statements published from time to time pursuant to Standard Condition C16 of the Transmission Licence.
10.2 Where the Company intends disclosing and using any data or other information relating to this Agreement other than that specified in Clause 10.1 it shall first consult with the Generator regarding the form and scope of the intended disclosure documentation and, acting reasonably and in good faith, make such adjustments to the disclosure documentation as the Generator may reasonably request in order to protect its business interests.

11. **WAIVER**

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

12. **NOTICES**

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

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

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

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

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

13. **COUNTERPARTS**

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

14. VARIATIONS

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

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

15. DISPUTE RESOLUTION

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

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

16. JURISDICTION

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

16.2 Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any Proceedings in any such court as is referred to in this Clause 16 and any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that judgment in any proceedings brought in the courts of England and Wales shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction.
16.3 Each Party which is not incorporated in any part of Great Britain agrees that if it does not have, or shall cease to have, a place of business in Great Britain it will promptly appoint, and shall at all times maintain, a person in Great Britain to accept service of process on its behalf in any Proceedings in Great Britain.

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

17. GOVERNING LAW

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

18. SEVERANCE OF TERMS

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

19. ENTIRE AGREEMENT

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

20. RIGHTS OF THIRD PARTIES

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

21. FORCE MAJEURE

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

21.1.1 the **Generator** shall not be entitled to any **Arming Payment** to the extent that the **Power Station** is unavailable by reason of **Force Majeure**;

21.1.2 the **Parties** agree that they shall not be relieved from their obligations under this **Agreement** by reason of events or circumstances commencing prior to the last date specified in the **Tender** for **Tender Submissions** and continuing as at that date including restrictions introduced by any **Competent Authority** in relation to **Coronavirus** and the **Coronavirus Disease**; and

21.1.3 the **Parties** further agree that they shall be relieved from their obligations under this **Agreement** to the extent that they are unable to perform them by reason of any further restrictions or guidance introduced by any **Competent Authority** in relation to **Coronavirus** and the **Coronavirus Disease** on or after the date on which the **Generator** submitted its **Tender Submission**.

21.2 The **Party** affected by the **Force Majeure** shall give to the other **Party** immediately upon becoming aware of an event or circumstance of **Force Majeure**, a written communication describing the **Force Majeure** (including, without limitation, the nature of the occurrence and its expected duration) and the obligations which it is prevented from performing and shall continue to furnish regular reports with respect thereto to the other **Party** during the period of **Force Majeure**.

21.3 As soon as is reasonably practicable, following an event or circumstance of **Force Majeure**, the **Parties** shall discuss how best to continue their respective obligations as set out in this **Agreement**.

21.4 For the avoidance of doubt the non-performance of either **Party's** obligations pursuant to this **Agreement** arising prior to the event or circumstance of **Force Majeure**, shall not be excused as a result of the event or circumstance of **Force Majeure**.

21.5 Either **Party** shall have a right to terminate this **Agreement** if a **Party** has been prevented from performing its obligations due to an event of **Force Majeure** for a continuous period of two (2) calendar months.

22. **WARRANTIES AND INDEMNITY**

22.1 Each **Party** warrants and represents to the other that it has full power and authority to enter into this **Agreement** and perform its obligations hereunder.

22.2 The **Generator** hereby warrants and represents to the **Company** that:

22.2.1 the availability and delivery of the **Constraint Management Service** from the **Power Station** pursuant to and in accordance with this **Agreement** does not cause it to be in breach of, or to otherwise be non-compliant with, any **Legal Requirement** and/or any agreement with any person;
22.2.2 it will not do anything in connection with this Agreement that will cause it to be in breach of, or to otherwise be non-compliant with, any Legal Requirement and/or any agreement with any person; and

22.2.3 save where the Generator has sought and been granted written consent by the Company (such consent to be at the Company’s sole discretion), it is not a party to an agreement or arrangement with the Company or any DNO or electricity supplier or other person to provide any service from the Power Station which may impair the ability of the Generator to provide the Constraint Management Service and/or perform its obligations under this Agreement. The Generator repeats this warranty and representation on acknowledgement of each Arming Instruction.

22.3 In the event that any warranty or representation made under Clause 22.2 is breached, the Generator shall indemnify the Company against all and any losses, liabilities, claims, expenses that may be suffered or incurred by the Company as a direct result of that breach and all and any claims and demands which may be brought against the Company by any other person connected to or using the User System of a DNO or any other User System or the owner of operator of any User System or any other person whatever arising out of or resulting from such breach. Any legal costs and expenses reasonably incurred in the contesting of such claims, including the court costs and the reasonable fees of lawyers and other professional advisers, shall be treated as direct losses.

23. ANTI-BRIBERY

23.1 Each Party shall:

23.1.1 comply with all Anti-Bribery Laws;

23.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act if such activity, practice or conduct had been carried out in the UK;

23.1.3 have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including Adequate Procedures to ensure compliance with the Anti-Bribery Laws, and this Clause 23.1, and will enforce them where appropriate; and

23.1.4 procure and ensure that all of its Associated Persons and/or other persons who are performing services and/or providing goods in connection with this Agreement comply with this Clause 23.

23.2 Without prejudice to any other rights or remedies either Party may terminate this Agreement on written notice to the other Party specifying the date on which this Agreement will terminate in the event of a breach of Clause 23.1.

24. EMR

24.1 Notwithstanding any confidentiality obligations and any restriction on the use or disclosure of information set out in this Agreement, the Generator consents to the
**23**

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

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

24.3 Where for the purposes of this provision only:

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

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

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

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

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

**SIGNED on behalf of**

NATIONAL GRID ELECTRICITY SYSTEM

OPERATOR LIMITED

**SIGNED on behalf of**

[ ]
“the Act” the Electricity Act 1989;

“ABSVD Methodology” has the meaning given to it in the CUSC;

“Active Power” the product of voltage and the in-phase component of alternating current measured in units of Watts and standard multiples thereof i.e.

\[
\begin{align*}
1000 \text{ Watts} &= 1\text{kW} \\
1000 \text{ kW} &= 1\text{MW} \\
1000 \text{ MW} &= 1\text{GW} \\
1000 \text{ GW} &= 1\text{TW};
\end{align*}
\]

“Adequate Procedures” shall be determined in accordance with section 7(2) of the Bribery Act (and any guidance issued under section 8 of that Act);

“Agreement” this agreement (including the Schedules) as amended, extended, supplemented, novated or modified from time to time;

“Allowed Interruption” the meaning attributed to it in the CUSC;

“Anti-Bribery Laws” shall mean all applicable laws, statutes, regulations, and codes of mandatory application relating to anti-bribery and anti-corruption including but not limited to the Bribery Act;

“Apparatus” all equipment in which electrical conductors are used, supported or of which they may form a part;

“Arm” the switching in of the Commercial Intertrip Scheme in respect of the Contracted Units so as to allow signals to pass from the Commercial Intertrip Scheme to the relevant Circuit Breakers, and “Armed” and “Arming” shall be construed accordingly;

“Arming Instruction” the meaning attributed to it in Clause 3.2.1;

“Arming Payment” the meaning attributed to it in Clause 3.6.1;

“Arming Payment Rate” the payment rate for the purposes of calculating the Arming Payment set out in Schedule 3, Part 3 as the
same may be revised from time to time in accordance with Clause 3.12.1;

“Arming Period” the meaning attributed to it in Clause 3.6.1;

“Associated Person” shall have the meaning ascribed to it in section 8 of the Bribery Act and shall include but is not limited to any employees, agents and/or subcontractors of the Generator or the Company as applicable in relation to the provision of the Constraint Management Service;

“Authority” the Director General of Electricity Supply appointed for the time being pursuant to section 1 of the Act or, after the coming into force pursuant to section 1 of the Utilities Act 2000, the Gas and Electricity Markets Authority established by that section;

“Balancing and Settlement Code (BSC)” the meaning attributed to it in the Transmission Licence;

“Balancing Mechanism” the meaning attributed to it in the Transmission Licence;

“Balancing Mechanism Window” In relation to a particular time, means the period from that time to the end of the Settlement Period for which Gate Closure has most recently occurred at that time and having a duration of between 1 and 1½ hours.;

“Balancing Services Activity” the meaning attributed to it in the Transmission Licence;

“Base Rate” means the Bank of England Official Rate from time to time provided that, if at any time the Bank of England Official Rate is a negative rate, then zero per cent (0%);

“Bid-Offer Acceptance” the meaning attributed to it in the Grid Code;

“Bilateral Agreement” the meaning attributed to it in the CUSC;

“BM Unit” the meaning attributed to it in the BSC, except for the purposes of this Agreement the reference to “a Party” in the BSC shall be a reference to the Generator;

“BM Unit Metered Volume” the meaning attributed to it in the BSC;

“Business Day” a week-day other than a Saturday on which banks are open for domestic business in the City of London;

“Circuit Breaker” a mechanical switching device, capable of making carrying and breaking currents under normal circuit
conditions and also of making, carrying for a specified time and breaking currents under specific abnormal circuit conditions, such as those of short circuit;

“Combined Cycle Gas Turbine Module” or “CCGT Unit”

a collection of Generating Units (registered as a CCGT Module under the Grid Code PC) comprising one or more Gas Turbine Units (or other gas based engine units) and one or more Steam Units where, in normal operation, the waste heat from the Gas Turbine Units is passed to the water/steam of the associated Steam Unit or Steam Units and where the component units within the CCGT Module are directly connected by steam or hot gas lines which enable those units to contribute to the efficiency of the combined cycle operation of the CCGT Module;

“Combined Cycle Gas Turbine Module” or “CCGT Unit”
a Generating Unit within a CCGT Module;

“Commercial Intertrip Scheme”
the intertrip scheme owned, operated and maintained by the Responsible TO which incorporates (inter alia) the Trip Conditions and which can issue a signal to Trip one or more of the Contracted Units;

“Competent Authority”
means the Authority or any local, national or supranational agency, authority, department, inspectorate, minister, official, court, tribunal or public or statutory person (whether autonomous or not) of the United Kingdom (or the government thereof) which have jurisdiction over the Company or the subject matter of this Agreement;

“Connection and Use of System Code” or “CUSC”
the Connection and Use of System Code designed by the Secretary of State as from time to time modified;

“Connection Site”
each location more particularly described in the relevant Bilateral Agreement at which the Generator’s Equipment and Transmission Connection Assets required to connect the Generator to the National Electricity Transmission System are situated or at which the Generator’s Equipment is connected to a User System;

“Constraint Management Service”
the performance by the Generator of its obligations contained in this Agreement in connection with the Commercial Intertrip Scheme;
“Construction Agreement” as defined in the CUSC;

“Contracted Unit” each of the BM Units at the Power Station specified in Schedule 2, together referred to as the Contracted Units;

“Coronavirus” has the meaning given to it in the Coronavirus Act 2020, as at the date hereof;

“Coronavirus Disease” has the meaning given to it in the Coronavirus Act 2020, as at the date hereof;

“CUSC Framework Agreement” the meaning attributed to it in the Transmission Licence;

“Customer” a person to whom electrical power is provided (whether or not he is the same person as the person who provides the electrical power) other than power to meet Station Demand of that person;

“Demand” the demand of MW and Mvar of Electricity;

“Desynchronisation” the act of taking a Generating Unit off a System to which it has been Synchronised by opening any connecting circuit breaker and “Desynchronised” shall be construed accordingly;

“Disarm” the switching out of the Commercial Intertrip Scheme in respect of the Contracted Units so as to prevent the applicable signals passing from the Commercial Intertrip Scheme to the relevant Circuit Breakers, and “Disarmed” and “Disarming” shall be construed accordingly;

“Disarming Instruction” the meaning attributed to it in Clause 3.4.1;

“Disconnect” permanent physical disconnection of the Generator’s Equipment at any given Connection Site and “Disconnection” shall be construed accordingly;

“Distribution Licence” a licence issued under section 6(1)(c) of the Act;

“Distribution Network Operator” a holder of a Distribution Licence who was the holder of, or is a successor to a company which was the holder of a Public Electricity Supply Licence, relating to distribution activities in Great Britain;

“Effective Date” 1 October 2023 or such earlier date as the Parties may agree;
“Electricity”  
Active Energy and Reactive Energy;  
the meaning attributed to it in the Grid Code;  

“Electricity Arbitration Association”  
the meaning attributed to it in the Grid Code;  

“Emergency Instruction”  
the meaning attributed to it in the Grid Code;  

“Energy” or “Active Energy”  
the electrical energy produced, flowing or supplied by an electric circuit during a time interval, being the integral with respect to time of the instantaneous power, measured in units of Watt-hours or standard multiples thereof i.e.  

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\begin{align*}
1000 \text{ Wh} &= 1\text{kWh} \
1000 \text{ kWh} &= 1\text{MWh} \
1000 \text{ MWh} &= 1\text{GWh} \
1000 \text{ GWh} &= 1\text{TWh}
\end{align*}
\]

“Energy Metering Equipment”  
the meaning attributed to the phrase “Metering Equipment” in the Balancing and Settlement Code;  

“Externally Interconnected System Operator”  
the meaning attributed to it in the Grid Code;  

“Force Majeure”  
for the purposes of Clause 21 in relation to either Party to this Agreement any event or circumstance which is beyond the reasonable control of such Party (not being, without limitation an event or circumstance caused by the negligence or lack of care and attention of that Party or its officers or employees, agents, contractors, and subcontractors or a failure to maintain such Plant in accordance with Good Industry Practice) but subject thereto including act of God, epidemic or pandemic, strike, lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, governmental restraint, Act of Parliament, other legislation, bye law and Directive (not being any order, regulation or direction under Section 32, 33, 34 and 35 of the Act) provided always that lack of funds shall not be
interpreted as a cause beyond the reasonable control of that Party;

“Gas Turbine Unit” a Generating Unit driven by a gas turbine, (for instance by an aero-engine);

“Gate Closure” means, in relation to a Settlement Period, the spot time 1 hour before the spot time at the start of that Settlement Period;

“Generating Unit” unless otherwise provided in this Agreement, any Apparatus which produces electricity including for the avoidance of doubt a CCGT Unit;

“Generation Licence” the licence granted to the Generator pursuant to section 6(1)(a) of the Act;

“Generator’s Equipment” the Plant and Apparatus owned by the Generator (ascertained in the absence of agreement to the contrary by reference to the principles of ownership set out in CUSC) which:

(i) is connected to Transmission Connection Assets forming part of any particular Connection Site to which the Generator wishes so to connect; or

(ii) is connected to a User System to which the Generator wishes so to connect;

“Good Industry Practice” the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;

“Grid Code” the Grid Code drawn up pursuant to the Transmission Licence as from time to time revised in accordance with the Transmission Licence (and references in this Agreement to any specific provision or part of the Grid Code shall be construed as references to such provision or part as from time to time amended);

“Grid Code CC” the Connection Conditions of Grid Code;

“Grid Code OC” the Operating Codes of the Grid Code;

“Grid Code PC” the Planning Code of the Grid Code;
“Grid Supply Point” a point of supply from the National Electricity Transmission System to Network Operators or Non-Embedded Customers;

“Interruption Payment” the meaning attributed to it in the CUSC;

“Legal Requirement” has the meaning given to it in the BSC;

“Licence” any one or more as appropriate of the Licences granted pursuant to section 6 of the Act;

“Local TO” means the owner of that part of the NETS to which the Contracted Units are connected;

“Mandatory Services Agreement” the meaning attributed to it in the CUSC;

“National Electricity Transmission System” or “NETS” has the meaning attributed to it in the CUSC;

“Network Operator” a person with a User System directly connected to the National Electricity Transmission System to which Customers and/or Power Stations (not forming part of a User System) are connected, acting in its capacity as operator of the User System, but shall not include a person acting in the capacity of Externally Interconnected System Operator;

“Non-Embedded Customer” a Customer except for a Network Operator acting in its capacity as such receiving electricity direct from the National Electricity Transmission System irrespective of from whom it is supplied;

“Operational Metering Equipment” meters, instrument transformers (both voltage and current), transducers metering protection equipment including alarms circuitry and their associated outstations as may be necessary for the purposes of the Grid Code CC 6.5.6 and the corresponding provision of the relevant Distribution Code;

“Output” the actual Active Power or Reactive Power output achieved by a BM Unit;

“Party” each person for the time being and from time to time a party of this Agreement and any successor(s) in title to, or permitted assign(s) of, such person and “Parties” shall be construed accordingly;

“Party Liable” the meaning attributed to it in Clause 5.1;
“Plant” fixed and movable items used in the generation and/or supply and/or transmission of electricity other than Apparatus;

“Physical Notification” the meaning attributed to it in the Grid Code;

“Power Station” an installation comprising one or more Generating Units (even where separately sited) owned or controlled by the same Generator which may reasonably be considered as being managed as one Power Station, for the purposes of this Agreement being the Generator’s Power Station;

“Proceedings” the meaning attributed to it in Clause 16.1;

“Public Electricity Supply Licence” a licence issued under section 6(1)(c) of the Act prior to the coming into force of section 30 of the Utilities Act 2000;

“Reactive Energy” the integral with respect to time of Reactive Power;

“Reactive Power” the product of voltage and current and the sine of the phase angle between them measured in units of voltamperes reactive and standard multiples thereof i.e.,

$$1000 \text{ Var} = 1\text{kvar}$$

$$1000 \text{ kVar} = 1\text{Mvar}$$

“Remote Transmission Assets” any Plant and Apparatus or meters owned by the Company which (a) are embedded in a User System and which are not directly connected by Plant and/or Apparatus owned by the Company to a sub-station owned by the Company and (b) are by agreement between the Company and such User under the direction and control of such User;

“Responsible TO” SP Transmission Plc, being the owner and operator of the Commercial Intertrip Scheme;

“Secretary of State” the meaning attributed to it in the Act;

“Service Term” the period between 00:00 hours on the Effective Date and 24:00 hours on 30 September 2024;

“Settlement Period” a period of 30 minutes ending on the hour or half hour in each hour during a day;

“Settlement Run” has the meaning attributed to it in the BSC;
“Stability Trip” a Trip whereby the Active Power Output of the Contracted Units is reduced to zero instantaneously upon receipt of an appropriate signal, typically within 150 ms;

“Station Demand” the meaning attributed to it in the CUSC;

“Steam Unit” a Generating Unit whose primes mover converts the heat-energy in steam to mechanical energy;

“System” any User System or the National Electricity Transmission System as the case may be;

“System to Generator Operational Intertripping Scheme” the meaning attributed to it in the Grid Code;

“Tender” means the procurement process for the provision of the Constraint Management Service undertaken pursuant to the ITT;

“Tender Submission” a submission made in response to the ITT;

“Transmission Connection Assets” the meaning attributed to it in the CUSC;

“Transmission Licence” the licence granted to the Company under section 6(1)(b) of the Act;

“Trip” the tripping of any one or more of the Circuit Breakers at any Contracted Units in accordance with a signal from the Commercial Intertrip Scheme (and not otherwise) during any Arming Period, and “Tripped” and “Tripping” shall be construed accordingly;

“Trip Conditions” the circuits for which the Commercial Intertrip Scheme can be Armed which as at the Effective Date are listed in Schedule 3, Part 1, but which may be amended pursuant to Clause 3.11;

“Tripping Payment” the meaning attributed to it in Clause 3.6.2;

“Tripping Payment Rate” the payment rate for the purposes of calculating the Tripping Payment set out in Schedule 3, Part 3;

“User” a person who is party to the CUSC Framework Agreement other than the Company; and

“User System” any System owned or operated by a User comprising:-
Generating Units; and/or

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

and Plant and/or Apparatus connecting:

the System as described above; or

Non-Embedded Customers equipment;

to the National Electricity Transmission System or to the relevant other User System, as the case may be. The User System includes any Remote Transmission Assets operated by such User or other person and any Plant and/or Apparatus and meters owned or operated by the User or other person in connection with the distribution of electricity but does not include any part of the National Electricity Transmission System.
SCHEDULE 2: POWER STATION
SCHEDULE 3
COMMERCIAL INTERTRIP

Part 1: DATA

CONTRACTED UNITS

TRIP CONDITIONS

<table>
<thead>
<tr>
<th>FAULTED CIRCUITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>To be completed at the point of contract signature.</td>
</tr>
</tbody>
</table>
PART 2 - FORMULAE

\[ SE_{ij} = \int_{0}^{t} E_{ij}(t) dt \]

between t₀ and t₁

Where:

- \( SE_{ij} \) is as defined in the ABSVD Methodology Statement.
- \( E_{ij}(t) \) is the required energy from the Constraint Management Service s at time t from the start of Settlement Period j. The required energy is determined with reference to Figure 1 (included for illustrative purposes only):

\[
FPN_{ij}(t) + \sum_{n} qABO_{ij}^{bn}(t)
\]

\[
QM_{ij}(t)
\]

\[
FQN_{ij}(t) + \sum_{n} qABO_{ij}^{bn}(t)
\]

\[
QM_{ij}(t)
\]

\[
E_{ij}(t) = FPN_{ij}(t) + \sum_{n} qABO_{ij}^{bn}(t) - QM_{ij}(t)
\]

\( FPN_{ij}(t) \) has the meaning attributed to it in the Balancing and Settlement Code;

\( \sum_{n} qABO_{ij}^{bn}(t) \) has the meaning attributed to it in the Balancing and Settlement Code;

\( QM_{ij}(t) \) is the BM Unit Metered Volume (as defined in the Balancing and Settlement Code) at spot time t;

\( t₀ \) is the time at which the Trip occurs;

\( t₁ \) is the time at the end of the Balancing Mechanism Window.
### PART 3 - PRICES

#### PAYMENT RATES

<table>
<thead>
<tr>
<th>TYPE OF PAYMENT</th>
<th>APPLICABLE RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARMING</td>
<td>£ [ ]</td>
</tr>
<tr>
<td>(per Contracted Unit per Settlement Period)</td>
<td></td>
</tr>
<tr>
<td>TRIPPING</td>
<td>£ [ ]</td>
</tr>
<tr>
<td>(per Contracted Unit per Trip)</td>
<td></td>
</tr>
</tbody>
</table>
PART 4 - NOTIFICATION

TELEPHONE CONTACT NUMBERS

The Company: 0118 936 3275

Generator: Direct line using Control Telephony System or [CONTACT NUMBER]
Availability / Unavailability of Commercial Intertrip Scheme

(Clause 3.8)

From: Shift Group Leader, [Power Station] [Fax No. [Fax No.]]
To: Grid Operator, NGESO [Fax No. [Fax No.]] [Back up Fax No. [Fax No.]]

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

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

Reason for unavailability

Signed by
Name
Time
Date

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

Acknowledged by the Company

Signed by
Name
Time
<table>
<thead>
<tr>
<th>Date</th>
<th></th>
</tr>
</thead>
</table>

Being authorised on behalf of the **Company** to acknowledge this declaration.
SCHEDULE 4
NOTICES

The Company’s address for service of Notice:
National Grid Electricity System Operator Limited
Markets
Faraday House
Warwick Technology Park
Gallows Hill
Warwick CV34 6DA

For the attention of the Company Secretary
Facsimile Number: 01926 655630

Copy of the Contracts and Settlements Manager
Facsimile Number: 01926 656613

The Generator’s address for service of Notice: