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1. Introduction

1.1 These **DM Auction Rules** describe the daily auction process by which **NGESO** will procure **Dynamic Moderation** from prospective **Service Providers** during one or more **EFA Blocks** in a **DM Service Day**. Only if a **DM Sell Order** for an **EFA Block** submitted pursuant to this process is accepted (or part accepted) by **NGESO** (or where the context otherwise requires) will the **DM Service Terms** apply with respect to the provision of and payment for **Dynamic Moderation** in relation to that **EFA Block** and the **Response Unit** in question.

1.2 These **DM Auction Rules** supplement, and should be read alongside, the **DM Participation Guidance Document**.

2. Changes to these DM Auction Rules

2.1 Subject always to paragraph 2.2, **NGESO** may update these **DM Auction Rules** from time to time by publication of an updated version on its website, and each such updated version shall be effective from the date shown on its front cover.

2.2 To the extent required by the **Electricity Balancing Regulation** (and by reference to those provisions of the **DM Procurement Documents** constituting terms and conditions approved by the **Authority** as the terms and conditions related to balancing pursuant to Article 18 of the **Electricity Balancing Regulation**), any variation to these **DM Auction Rules** will be proposed and implemented in accordance with the applicable requirements in the **Electricity Balancing Regulation**.

3. Defined Terms

3.1 Unless the context otherwise requires, any capitalised terms used in these **DM Auction Rules** shall have the meaning given to it (if any) in the prevailing **DM Service Glossary**.

3.2 Unless defined in the **DM Service Glossary** or the context otherwise requires, any capitalised terms used in these **DM Auction Rules** shall have the meaning given to it (if any) in the prevailing **Balancing Services Glossary of General Terms and Rules of Interpretation**, and the rules of interpretation set out in that document shall also apply.

3.3 For the purposes of paragraphs 3.1 and 3.2, with respect to any **DM Sell Order**, “prevailing” shall mean the latest version of the applicable document which is in effect at the time of submission of that **DM Sell Order**.

4. DM Procurement Documents

4.1 Together with these **DM Auction Rules**, the following documents (each as amended or updated from time to time) shall comprise the **DM Procurement Documents**: -

4.1.1 the **DM Testing Documents**;

4.1.2 the **DM Service Terms**;

4.1.3 the **DM Service Glossary**;

4.1.4 the **Balancing Services Glossary of General Terms and Rules of Interpretation**;

4.1.5 the **Common Flexibility Service Terms and Conditions** to the extent that any of its provisions are incorporated by any of the other **DM Procurement Documents** into such documents; and

4.1.6 such other document(s) as **NGESO** may designate from time to time as comprising a part of the **DM Procurement Documents**.

5. Registration

5.1 No entity may submit a **DM Sell Order** unless and until **NGESO** has confirmed in accordance with the **DM Participation Guidance Document** that it is a **Registered DM Participant**, and for such purpose (and unless otherwise specified by **NGESO** in the **DM Participation Guidance Document**) the required
information must be submitted by the date and in the manner specified in the DM Participation Guidance Document.

5.2 Where NGESO determines (acting reasonably) that any details provided, including confirmations and declarations given, by a Registered DM Participant pursuant to the DM Participation Guidance Document are no longer true and/or accurate, then NGESO may (but shall not be obliged to) de-register the relevant entity as a Registered DM Participant and/or Registered Service Provider (as the case may be). Such de-registration shall be notified by NGESO to the Registered DM Participant by email, whereupon no further DM Sell Orders may be submitted by that entity unless and until it is re-registered in accordance with the DM Participation Guidance Document.

5.3 Subject always to paragraph 5.6, a DM Sell Order may only be submitted by a Registered DM Participant in respect of Plant and Apparatus where:-

5.3.1 such Plant and Apparatus has been pre-qualified by NGESO as an Eligible Asset pursuant to the Testing Documents; and

5.3.2 such Eligible Asset has been allocated to a Response Unit with a Registered Quantity,
in each case, in accordance with the DM Participation Guidance Document.

5.4 For the purposes of paragraph 5.3:-

5.4.1 Plant and Apparatus must be notified by the Registered DM Participant to NGESO for pre-qualification as an Eligible Asset; and

5.4.2 an Eligible Asset must be allocated by the Registered DM Participant to a Response Unit,
in each case by the respective date and time specified in the DM Participation Guidance Document.

5.5 Where NGESO determines (acting reasonably), having regard to declarations of unavailability notified by the Registered DM Participant pursuant to the DM Service Terms or otherwise, that any Eligible Asset is no longer capable of providing its Registered Quantity, then NGESO shall so notify the Registered DM Participant whereupon the Eligible Asset shall be ineligible for allocation to any Response Unit until such time as it is pre-qualified by NGESO once more in accordance with the Testing Documents.

5.6 NGESO may determine (at its sole discretion) that a Registered DM Participant may not submit a DM Sell Order with respect to any Response Unit if that Response Unit is comprised of one or more Eligible Assets whose location would mean delivery of Dynamic Moderation would compromise operational security.

5.7 It is a further pre-condition to participation in the DM procurement process that, in respect of each Response Unit and for the duration of each relevant EFA Block the subject of a DM Sell Order, the Service Provider shall have procured that for the purposes of the ABSVD Methodology Statement and by exercise (or not) of any opt-out conferred on it (or on the Lead Party of all relevant BM Units), all and any energy volumes associated with the delivery of Response pursuant to any DM Response Contract will be included within the Applicable Balancing Services Volume Data if the Response Unit is BM Participating, otherwise will not be so included.

6. DM Buy Orders

6.1 DM Buy Orders for any EFA Block may be submitted (and updated) by NGESO at any time prior to the Auction Closing Time (or later as provided in paragraph 6.4).

6.2 Each DM Buy Order shall be for a single DM Product and EFA Block, and for that EFA Block shall indicate NGESO’s requirement (in MW) for that DM Product (which for the avoidance of doubt may be zero (0) MW) and a Buy Order Price Limit.

6.3 DM Buy Orders shall not be visible to Registered DM Participants on the Designated Auction Platform until publication in the Daily Auction Report pursuant to paragraph 11.
6.4 A DM Buy Order shall not be capable of being changed by NGESO after the Auction Closing Time, save in exceptional circumstances where, in NGESO’s reasonable opinion and having regard to market activity, there is a need to protect the integrity of the Auctions.

7. DM Sell Orders

7.1 DM Sell Orders for any EFA Block may be submitted by Registered DM Participants at any time after the Auction Opening Time and before the Auction Closing Time.

7.2 DM Sell Orders received after the Auction Closing Time shall be considered null and void regardless of cause unless otherwise decided by NGESO at its sole discretion.

7.3 Each DM Sell Order shall relate to a single Response Unit and DM Product, and in relation to any Response Unit:-

7.3.1 a Registered DM Participant may not submit multiple DM Sell Orders for the same EFA Block and DM Product except as provided in paragraph 7.5, and furthermore may not submit a DM Sell Order for an EFA Block which is the subject of a sell order on the Designated Auction Platform for another Balancing Service product; and

7.3.2 subject always to paragraph 7.3.1, a Registered DM Participant may submit DM Sell Orders for different DM Products (i.e. DM-L and DM-H) in respect of the same EFA Block.

7.4 To be valid, each DM Sell Order will need to be fully completed and correct as at the relevant Auction Closing Time, and must include (in the correct format as specified from time to time by the Auction Administrator):-

7.4.1 the name of the Registered DM Participant and its unique “order ID” allocated to it by the Auction Administrator;

7.4.2 the Response Unit (by reference to its “portfolio name” allocated to it as either BMU ID or Non-BM Unit ID);

7.4.3 the applicable DM Product;

7.4.4 the applicable EFA Block or consecutive EFA Block(s) in the same DM Service Day over which it is defined;

7.4.5 a “block code” indicating whether the DM Sell Order is a Parent Block (C01) or a Child Block (C02) or a Loop Block (C88);

7.4.6 if a Loop Block, its Minimum Acceptance Ratio;

7.4.7 a price (in £/MW/h, where the applicable pound and pence figures shall each be an integer); and

7.4.8 the offered Contracted Quantity (in MW) for each applicable EFA Block, which shall be an integer not less than one (1) MW and shall not exceed any maximum limit which may be specified from time to time by NGESO, and which shall not in any event exceed the aggregate Registered Quantity of each component Eligible Asset.

7.5 For the avoidance of doubt, with respect to any single Response Unit, EFA Block and DM Product, a Registered DM Participant may submit multiple DM Sell Orders if having different “block codes”.

7.6 All DM Sell Orders which are Parent Blocks or Child Blocks shall comply with the following requirements:-

7.6.1 a Parent Block may have more than one (1) Child Block across multiple EFA Blocks but only one (1) Child Block per EFA Block;

7.6.2 a Parent Block shall not be Curtailable;

7.6.3 all Child Blocks shall be Curtailable;
7.6.4 All Child Blocks must be defined over a single EFA Block comprising:-

(a) any of the EFA Block(s) over which its Parent Block is defined; and/or

(b) the EFA Block immediately preceding the EFA Block (or the first EFA Block) over which its Parent Block is defined (if within the same EFA Day); and/or

(c) the EFA Block immediately succeeding the EFA Block (or the last EFA Block) over which its Parent is defined (if within the same EFA Day);

7.6.5 A Child Block and its Parent Block must relate to the same DM Product and Response Unit.

7.7 All DM Sell Orders which are Loop Blocks shall comply with the following requirements:-

7.7.1 A Loop Block shall comprise a Loop Family with just one (1) other Loop Block, each relating to a different DM Product;

7.7.2 Each Loop Block shall be Curtailable, defined by its Minimum Acceptance Ratio;

7.7.3 Loop Blocks of the same Loop Family must relate to the same Response Unit.

7.8 Where, in relation to any Response Unit, any DM Sell Order is submitted for an EFA Block and DM Product which is the subject of a valid DM Sell Order previously submitted for that Response Unit, then the earlier DM Sell Order shall be treated as cancelled.

7.9 Validation of DM Sell Orders will be undertaken automatically at the time of submission (before operation of the Auction algorithm), and without prejudice to paragraph 7.14 all submitted DM Sell Orders so validated remain valid unless and until:-

7.9.1 The DM Sell Order is cancelled by the Registered DM Participant that submitted it (including in the manner described in paragraph 7.8);

7.9.2 The Registered DM Participant modifies it (and, in such case, paragraph 7.8 shall apply); or

7.9.3 The DM Sell Order is either accepted (including part accepted) or rejected in accordance with the Market Clearing Rules (whereupon it expires).

7.10 Each Registered DM Participant is responsible for ensuring that the DM Sell Orders it submits are correct and valid.

7.11 Subject always to paragraph 7.11, upon becoming aware of any error in a DM Sell Order, the Registered DM Participant shall modify the DM Sell Order where possible otherwise shall notify NGESO immediately, provided that in such event there shall be no obligation on NGESO to take any steps to avoid or mitigate any potential losses to the Registered DM Participant.

7.12 After the Auction Closing Time, DM Sell Orders may not be modified or cancelled by the Registered DM Participant and are binding and irrevocable subject always to paragraph 7.14.

7.13 DM Sell Orders submitted by Registered DM Participants for each EFA Block and DM Product shall not be visible to other Registered DM Participants on the Designated Auction Platform until publication in the Daily Auction Report in the manner described in paragraph 10.

7.14 If, in the sole judgment of NGESO or the Auction Administrator, a Registered DM Participant has failed to submit a correct and valid DM Sell Order in accordance with this paragraph 7, NGESO or the Auction Administrator reserves the right to:-

7.14.1 Deem that DM Sell Order to be valid and correct; or

7.14.2 Cancel that DM Sell Order; and/or
7.14.3 take any other action as it deems appropriate in the circumstances including requesting the Registered DM Participant to resubmit and/or amend the DM Sell Order so that it is correct and valid.

7.15 The decision of NGESO or the Auction Administrator as to whether or not a DM Sell Order is correct and valid shall be final, and the Registered DM Participant may be notified of such decision without prior consultation or explanation.

8. Market Clearing Rules

8.1 After the Auction Closing Time, and for each EFA Block and DM Product, the Auction algorithm will optimise the matching of all valid DM Sell Orders to the DM Buy Order through the acceptance (or partial acceptance) of DM Sell Orders, to determine a Market Clearing Price for that EFA Block and DM Product, all as more particularly described or referred to in this paragraph 8 and in the DM Participation Guidance Document.

8.2 For a given EFA Block and DM Product, the Auction algorithm will accept (or partially accept) DM Sell Orders in accordance with the following rules:

8.2.1 DM Sell Orders for a single EFA Block and DM Product will be accepted in ascending price order wherever possible subject always to the other provisions of this paragraph 8 and overall welfare maximisation;

8.2.2 where a DM Sell Order is not Curtailable:

(a) if in the money, it can be either fully rejected (paradoxically rejected) or fully accepted;

(b) if at the money, it can be either fully rejected, fully accepted or

(c) if out of the money, it can only be fully rejected;

8.2.3 where a DM Sell Order is a Parent or Child Block:

(a) a Child Block at the money can be partly accepted;

(b) a Child Block cannot be accepted if its Parent Block is rejected; and

(c) a Parent Block out of the money can be accepted if its Child Block(s) once accepted provides sufficient surplus to compensate;

8.2.4 where a DM Sell Order is a Loop Block:

(a) that Loop Block cannot be accepted if the other Loop Block in its Loop Family is rejected;

(b) any partial acceptance will be for a ratio at or above the highest Minimum Acceptance Ratio of the two Loop Blocks (if different), rounded down to the nearest MW;

(c) a Loop Block out of the money can be accepted if the other Loop Block in its Loop Family once accepted provides sufficient surplus to compensate;

8.2.5 for any single Response Unit and EFA Day, the Auction algorithm may allow linking of a DM Sell Order to that for another Balancing Services product on the Designated Auction Platform provided they relate to different EFA Blocks in that EFA Day, and in any such case that DM Sell Order may accordingly be rejected notwithstanding it is in the money or accepted notwithstanding it is out of the money; and

8.2.6 for the purposes of this paragraph 8.2, in relation to any DM Sell Order:

(a) in the money means the average of the rounded Market Clearing Prices over the relevant hours and weighted by the corresponding accepted volume is higher than the price limit of that DM Sell Order;
(b) **at the money** means the average of the rounded Market Clearing Prices over the relevant hours and weighted by the corresponding accepted volume is equal to the price limit of that DM Sell Order;

(c) **out of the money** means the average of the rounded Market Clearing Prices over the relevant hours and weighted by the corresponding accepted volume is less than the price limit of that DM Sell Order;

(d) **paradoxically rejected** means, due to DM Sell Order acceptance constraints (where not Curtailable), that DM Sell Order can be rejected even if its price limit is less than the Market Clearing Price; and;

(e) **surplus** in relation to a DM Sell Order means the sum over the relevant EFA Block(s) over which the DM Sell Order is defined, of the difference between the Market Clearing Price less the price limit of that DM Sell Order, multiplied by the accepted volume of that DM Sell Order;

(f) a requirement for a sufficient compensatory surplus to allow acceptance of a Parent Block **out of the money** shall mean that the surplus of the relevant Child Block(s) exceeds the difference between the price limit of the Parent Block less the Market Clearing Price, multiplied by the accepted volume of that Parent Block; and

(g) a requirement for a sufficient compensatory surplus to allow acceptance of a Loop Block **out of the money** shall mean that the sum of the surplus of both Loop Blocks in the Loop Family is greater than or equal to zero (0).

8.3 Each DM Sell Order for an EFA Block accepted (or part accepted) in accordance with the market clearing process described in this paragraph 8 in relation to a DM Product shall form a DM Response Contract for that Response Unit, EFA Block and DM Product as more particularly provided in paragraph 11.

9. **Warranties and Undertakings**

9.1 Without prejudice to its other obligations under and/or pursuant to the DM Procurement Documents and any DM Response Contract and subject to clauses 11.1 and 11.3 of the prevailing Common Flexibility Service Terms and Conditions which shall apply as if set out in full herein:-

9.1.1 NGESO and each Registered DM Participant warrants and undertakes to the other in the manner set out in paragraph 6.1 of the prevailing Common Flexibility Service Terms and Conditions as if set out in full herein; and

9.1.2 on each occasion it submits a DM Sell Order, the Registered DM Participant warrants and undertakes to NGESO in the manner set out in paragraph 6.2 of the prevailing Common Flexibility Service Terms and Conditions as if set out in full herein.

9.2 Without prejudice to any other right or remedy, NGESO and the Registered DM Participant shall each be entitled to claim damages from the other for any breach of the warranties and undertakings or any of them set out or referred to in this paragraph 9 subject to clauses 11.1 and 11.3 of the prevailing Common Flexibility Service Terms and Conditions which shall apply as if set out in full herein.

9.3 Each Registered DM Participant indemnifies NGESO from and against any losses, liabilities, claims, expenses and demands which NGESO might suffer as a result of the Registered DM Participant being in breach of the warranties and undertakings or any of them set out or referred to in paragraph 9.1.2.

10. **Daily Auction Reports**

10.1 By such time following the Auction Results Time as may be specified in the DM Participation Guidance Document, NGESO shall publish (and may subsequently revise) the Daily Auction Report.

10.2 Each Daily Auction Report may (at NGESO’s sole discretion) include in relation to each DM Product and EFA Block:-
10.2.1 for each DM Sell Order, the information contained in paragraph 7.4, together with the location of each relevant Eligible Asset (whether or not the subject of an accepted DM Sell Order);

10.2.2 the DM Buy Order requirement;

10.2.3 the Market Clearing Price;

10.2.4 the Auction Clearing Quantity; and

10.2.5 in relation to each accepted DM Sell Order, the quantity of the DM Product the subject of a DM Response Contract.

11. Formation of DM Response Contracts

11.1 The Auction Administrator shall publish the outcome of each Auction by no later than the Auction Results Time and such information shall also be published by NGESO in the timeline and manner set out in the DM Participation Guidance Document. Insofar as NGESO’s publication confirms the acceptance (or partial acceptance where applicable) of a DM Sell Order, a DM Response Contract will be formed automatically and simultaneously with such publication and for the purposes of paragraph 11.2 shall be treated as awarded to the relevant Registered DM Participant.

11.2 Each Registered DM Participant awarded a DM Response Contract pursuant to paragraph 11.1 shall provide the relevant DM Product from the applicable Response Unit during the applicable EFA Block pursuant to and in accordance with the DM Service Terms.

11.3 For the avoidance of doubt, for any Registered DM Participant with a Response Unit the subject of one or more accepted (or part accepted) DM Sell Orders in a DM Service Day, there shall be a separate DM Response Contract formed in respect of that Response Unit for each EFA Block and DM Product.

11.4 Each DM Response Contract shall be personal to NGESO and the Registered DM Participant and neither Party shall assign, transfer, mortgage, charge, sub-contract or deal in any other manner with any or all of its rights and obligations under a DM Response Contract except as permitted by the DM Service Terms or in accordance with paragraph 21 of the prevailing Common Flexibility Service Terms and Conditions as if such provision was set out in full herein.

12. Confidentiality

12.1 Subject always to paragraphs 12.2 and 12.3, the provisions of paragraph 13 of the prevailing Common Flexibility Service Terms and Conditions shall apply to all and any information provided by NGESO or any Registered DM Participant to the other (whether orally or in writing) pursuant to or in connection with these DM Auction Rules as if set out in full herein.

12.2 Each Registered DM Participant agrees to the publication by NGESO of the information contained in the Daily Auction Reports, including in a non-anonymised form, insofar as relating directly or indirectly to the Registered DM Participant and the relevant Response Unit.

12.3 Without limiting paragraph 12.2, each Registered DM Participant also agrees to the disclosure by NGESO to the relevant Public Distribution System Operator of information related to any DM Sell Order (whether or not accepted) insofar as relevant to the management and operation of its Distribution System, including without limitation location of each Eligible Asset allocated to the relevant Response Unit and its MPAN and technology type, DM Product Type and the Contracted Quantity.

13. Exceptional Circumstances

13.1 If an exceptional situation arises, in particular if a system or the information needed to operate an Auction is unavailable or if an incident prevents an Auction from being held in normal circumstances, then NGESO may take any or all of the following measures (at its sole discretion):

13.1.1 modify any or all of the Auction Opening Time, Auction Closing Time or Auction Results Time;
13.1.2 authorise Registered DM Participants to submit new DM Sell Orders or modify existing DM Sell Orders;

13.1.3 authorise Registered DM Participants to submit DM Sell Orders otherwise than in accordance with paragraph 7;

13.1.4 cancel the Auction for any one or more DM Service Days; and/or

13.1.5 take such other actions or steps as it reasonably considers to be necessary.

14. Use of Designated Auction Platform

14.1 Insofar as made available as part of the Auctions, each Registered DM Participant agrees to use the Designated Auction Platform (including all and any associated hardware and software IT and telecommunications equipment and transmission media):

14.1.1 in compliance with all applicable Law;

14.1.2 in compliance with all and any technical specifications provided from time to time by or on behalf of NGESO or the Auction Administrator; and

14.1.3 solely for the purpose of formation of DM Response Contracts (and any other contracts for Balancing Services from time to time procured by NGESO on the Designated Auction Platform), and any other use is strictly prohibited.

15. Accuracy of Information

15.1 All and any information provided by NGESO to Registered DM Participants for the purposes of these DM Auction Rules including in each Daily Auction Report is provided in good faith, but no representation or warranty is given by NGESO (or any of its employees, officers, agents or advisers) as to the accuracy or completeness of such information.

16. Intellectual Property

16.1 NGESO and each Registered DM Participant retain ownership of the documents, data and information of any kind (including all intellectual property rights in them) that are provided to the other pursuant to these DM Auction Rules.

16.2 Each Registered DM Participant undertakes to NGESO that it will at all times when participating in an Auction, hold all and any authorisations and/or property rights and/or licences for all of the configurations, interfaces, firmware and software needed by it for it to participate in the applicable Auction through the Designated Auction Platform.

16.3 Each Registered DM Participant shall comply (and use reasonable endeavours to ensure that its staff and other representatives comply) with all applicable user licences and terms of use of which the Registered DM Participant is aware governing use by the Registered DM Participant of the systems or software applications comprised in the Designated Auction Platform.

16.4 Each Registered DM Participant indemnifies and keeps indemnified NGESO from and against any claims from a third party relating to an infringement of that third party's intellectual property rights or other property rights arising out of use by the Registered DM Participant of the Designated Auction Platform in breach of any user licence or terms of use referred to in paragraph 16.3 of which it is aware.

16.5 NGESO shall procure such third-party intellectual property authorisations as may be necessary to enable the Registered DM Participant to use the Designated Auction Platform for the purposes of each Auction.

16.6 NGESO shall indemnify and keep indemnified the Registered DM Participant from and against any claims from a third party if and to the extent that the use of the Designated Auction Platform by such Registered DM Participant for the purposes of a DM Sell Order infringes a third party's intellectual property rights or other property rights.
16.7 In respect of the indemnities given in paragraphs 16.4 and 16.6 the indemnified party shall:

16.7.1 notify the indemnifying party as soon as possible of any claim the subject of the indemnity (in this paragraph 16, “IPR Claim”);

16.7.2 give the indemnifying party control of the IPR Claim;

16.7.3 make no admissions in respect of an IPR Claim without prior written consent of the indemnifying party; and

16.7.4 provide such support in respect of the IPR Claim as the indemnifying party may reasonably require at the cost of the indemnifying party.

17. Viruses

17.1 Each Registered DM Participant shall, prior to uploading any information to the Designated Auction Platform or otherwise interfacing with it, use up to date versions of anti-virus software available from an industry accepted anti-virus software vendor to check for and delete from its systems viruses, trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programmes or similar computer code designed adversely to affect the operation of any computer software or hardware (in this paragraph 17, “Malicious Software”).

17.2 If, notwithstanding the provisions of paragraph 17.1, Malicious Software is found on the Designated Auction Platform, the Registered DM Participant shall provide reasonable co-operation to NGESO to assist in reducing the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency to the Designated Auction Platform, provide reasonable assistance to assist NGESO to mitigate any losses and restore the Designated Auction Platform to its original operating efficiency.

18. Costs

18.1 For the avoidance of doubt, each Registered DM Participant shall remain responsible for all costs and expenses incurred by it in connection with these DM Auction Rules and participation in Auctions including all costs of preparing and submitting DM Sell Orders.

19. Site Export and Import Limits

19.1 Each Registered DM Participant shall, prior to submitting a DM Sell Order, ensure sufficient export and/or import capacity at the premises at which each relevant Eligible Asset is situated (including where applicable Transmission Entry Capacity (and, if relevant, the STTEC)) so as to enable it to provide Dynamic Moderation during each and every applicable EFA Block in accordance with its obligations under the DM Response Contract which may be formed in relation thereto and in conformance with its obligations owed to the owner of the relevant part of the National Electricity Transmission System or the relevant Distribution System or such other network (as applicable).

20. Notices

20.1 Save to the extent the manner of communication between NGESO and Registered DM Participants is stipulated in the DM Participation Guidance Document, paragraph 17 of the prevailing Common Flexibility Service Terms and Conditions shall apply as if set out in full herein to any notice required to be submitted under these DM Auction Rules by either NGESO or the Registered DM Participant to the other.

20.2 For the purposes of paragraph 20.1, the relevant contact details and addresses of each Party shall be those notified from time to time by that Party to the other pursuant to the Registration Procedure.

21. Dispute Resolution

21.1 The provisions of paragraph 18 of the prevailing Common Flexibility Service Terms and Conditions shall apply in relation to any dispute or difference of whatever nature however arising under, out of, or in connection with these DM Auction Rules as if set out in full herein, save that:-
21.1.1 no Party shall have any right to refer any dispute to an Expert for determination except where the dispute is stated in these DM Auction Rules to be referable to an Expert for determination or otherwise agreed in writing by the Parties to be so referable;

21.1.2 nothing in this paragraph 21 shall prevent the Parties from agreeing to resolve any dispute or difference through the courts in which case paragraph 22.2 shall apply; and

21.1.3 where any dispute is referred to arbitration, the Electricity Arbitration Association arbitration rules shall apply unless otherwise agreed in writing by the Parties (and paragraph 18 of the prevailing Common Flexibility Service Terms and Conditions shall be read and construed accordingly).

22. Governing Law and Jurisdiction

22.1 Any claim, dispute or matter (whether contractual or non-contractual) arising under or in connection with these DM Auction Rules or their enforceability shall be governed by and construed in accordance with the laws of England and Wales.

22.2 Subject always to paragraph 21, NGESO and each Registered DM Participant submits to the exclusive jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with these DM Auction Rules or their enforceability and waives any objection to proceedings being brought in such courts or on the grounds that proceedings have been brought in an inconvenient forum.