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1. **CONTRACT FRAMEWORK**

1.1 This document (these “Standard Contract Terms”) contains rules for the submission of CMIS Tenders and is binding on a Provider and the Company under the terms of the Framework Agreement. These Standard Contract Terms also contain the detailed service terms with respect to a CMIS Contract formed upon acceptance by the Company of a CMIS Tender in accordance with the CMIS Tender Procedure.

1.2 These Standard Contract Terms may be amended and re-issued by the Company from time to time and any such amendment and re-issue shall supersede this document with effect from the date specified, being not less than five (5) Business Days after the date of publication on the Company’s website and provided always that no change shall take effect during the term of any CMIS Contract.

1.3 The Company will send a copy of the amended Standard Contract Terms published as described in paragraph 1.2 to each Provider, provided always that a Provider shall remain bound by the Standard Contract Terms as so published, notwithstanding its failure to receive a copy.

2. **DEFINITIONS AND INTERPRETATION**

2.1 In these Standard Contract Terms, 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.

2.2 In these Standard Contract Terms:

2.2.1 except where the context otherwise requires, references to a particular Section, Paragraph, Appendix or Schedule shall be a reference to that section, paragraph, appendix or schedule in or to these Standard Contract Terms;

2.2.2 the table of contents and headings are inserted for convenience only and shall be ignored in construing these Standard Contract Terms;

2.2.3 references to the words “include” or “including” are to be construed without limitation;

2.2.4 references to a “Month” shall be construed as references to a calendar month;

2.2.5 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;

2.2.6 references to the masculine shall include the feminine and references in the singular shall include references in the plural and vice versa; and
2.2.7 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.

3. CMIS TENDERS

3.1 The Company will procure CMI Services through a Tender for CMIS Contracts in respect of each CMIS Year, provided always that the Company may (at its absolute discretion) elect not to run a Tender in respect of any CMIS Year if it considers that sufficient Providers have agreed to extend the terms of current CMIS Contracts in accordance with paragraph 3.2.

3.2 The Company may invite each Provider to extend the term of its CMIS Contract for the period of the next CMIS Year following the date of expiry of the CMIS Contract (“Extension Period”) on the basis that the same terms and conditions will otherwise apply by written notice to the Provider given not later than twenty-four (24) Months prior to the date of expiry of its CMIS Contract. If a Provider offers to extend the term of its CMIS Contract, the Company may by notice in writing to the Provider, accept the Provider’s offer and the CMIS Contract shall be amended accordingly, provided always that, if in relation to the relevant Contracted Unit there is a Related Contracted Unit, the relevant Provider has submitted a similar offer in respect of that Related Contracted Unit which the Company also accepts.

3.3 Unless a CMIS Contract is further extended under paragraph 3.2 for the subsequent CMIS Year, the CMIS Contract shall terminate automatically without notice on the expiry of the Extension Period.

3.4 As part of each Tender conducted in accordance with this Section 3, the Company shall issue a request for prequalification (“RFPQ”). Any Provider or third party meeting the eligibility requirements set out in the RFPQ and having entered into a Framework Agreement shall be entitled to participate in the Tender and to submit a CMIS Tender in accordance with the CMIS Tender Procedure issued by the Company.

3.5 Each CMIS Tender must be submitted by the deadline specified in the relevant CMIS Tender Procedure and, save as otherwise provided in the CMIS Tender Procedure, must specify:

3.5.1 the identity of the Provider;

3.5.2 the Arming Payment Rate; and

3.5.3 the Tripping Payment Rate Charge.

3.6 No costs or expenses incurred by Providers in the course of preparing and/or submitting any CMIS Tender shall be payable by the Company. Save to the extent published by the Company pursuant to paragraph 3.9, the contents of each CMIS Tender shall be treated as private and confidential. Providers must not divulge or release details of the CMIS Tender to any third party, other than on an “in confidence” basis to those parties having a legitimate need to know, or whom they need to consult for the purpose of preparing the CMIS Tender.
3.7 **CMIS Tenders** shall be assessed in accordance with the **CMIS Tender Assessment Principles** and the **Company** shall notify by email each **Provider** whose **CMIS Tender** has been accepted of its acceptance decision.

3.8 Acceptance by the **Company** of each **CMIS Tender** shall constitute formation of a **CMIS Contract** in relation to each applicable tendered **BM Unit**, which shall be personal to the **Provider** and may not be assigned or transferred otherwise than in accordance with Section 9 without the consent of the **Company** (not to be unreasonably withheld or delayed).

3.9 To assist **Providers** in the future tender process described in this Section 3, the **Company** may (at its discretion) publish on its website such information as it reasonably considers to be relevant and helpful in the preparation of **CMIS Tenders**, including:-

3.9.1 the identity of each tendered BM Unit;

3.9.2 the name of each **Provider** for each tendered BM Unit; and

3.9.3 the **Arming Payment Rates** and Tripping **Payment Rates Charge** for each tendered BM Unit.

3.10 By submitting a **CMIS Tender**, each **Provider** hereby warrants and undertakes to the **Company** that it has neither fixed nor adjusted its prices or any of them under or in accordance with any agreement or arrangement with any other person, and that it has neither communicated to a person (other than its professional advisers) the amount or approximate amount of the tendered **Arming Payment Rate** or **Tripping Payment Rates Charge**, other than in confidence with another **Provider** with a Related Generating Unit or in order to obtain quotations necessary for insurance purposes; nor entered into any agreement or arrangement with any other person to restrain that other person from tendering or to fix or adjust the prices or any of them to be submitted by that other person. Each **Provider** indemnifies the **Company** from and against any losses, liabilities, claims, expenses and demands which the **Company** might suffer as a result of the **Provider** being in breach of the warranty and undertaking set out in this paragraph.

3.11 If, in relation to a **Provider’s Contracted Unit**, another **User’s Generating Unit** (“Related Generating Unit”) is connected by the Responsible TO behind the same transmission Circuit Breaker as the **Contracted Unit** at any time after the deadline for submitting offers in a **CMIS Tender**, the **Company** may, subject to the prior written approval of the existing **Provider**, agree terms with the new **User** to provide the **CM Service** from its **Related Generating Unit** for the relevant CMIS Year or for that part of the relevant CMIS Year then remaining (as the case may be) on terms (including as to price) no more advantageous than those tendered by the existing **Provider** in respect of its **Contracted Unit**.

4. **SERVICE OBLIGATIONS**

4.1 Introduction

4.1.1 The provisions of this Section 4 shall apply with respect to a **Provider** who has submitted a **CMIS Tender** in accordance with Section 3, which has been accepted by the **Company** thereby forming a **CMIS Contract** for the relevant **BM Unit**. or a **new User** who has agreed terms with the **Company** in respect of a **Related Generating Unit** in accordance with paragraph 3.11.
4.2 Availability of Service

4.2.1 The Provider agrees to the Commercial Intertrip Scheme being Armed by the Responsible TO on the Company’s instruction in respect of its Contracted Units at any time and from time to time when Active Power is being exported to the National Electricity Transmission System from the Contracted Units in accordance with and subject to these Standard Contract Terms, save where the Contracted Units are subject to a Relevant Contract.

4.2.2 It is agreed by the Parties that the Commercial Intertrip Scheme shall be in addition to (and shall not prejudice the operation of) any System to Provider Operational Intertripping Scheme as provided for in the applicable Bilateral Agreement.

4.3 Instruction to Arm

4.3.1 Where the Company has a requirement (including for the purposes of testing) for Arming of the Commercial Intertrip Scheme, then subject always to paragraph 4.3.2, it will instruct the Responsible TO to Arm the Commercial Intertrip Scheme and to notify the Provider accordingly (“Arming Instruction”) by email or fax to the email address or fax number set out in the Framework Agreement, 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 and Related Contracted Units in respect of which the Commercial Intertrip Scheme will be Armed.

4.3.2 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 Provider (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;
(b) the Company has been notified by the Provider pursuant to paragraph 4.9 that the Contracted Unit is not available to the Commercial Intertrip Scheme; or
(c) the provisions of paragraph 4.9.3 apply.

† NGESO is working on an alternative to fax for notices; email is considered the most efficient option.
4.4 Arming

4.4.1 The Provider 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.

4.5 Disarming

4.5.1 The Company may instruct the Responsible TO to Disarm the Commercial Intertrip Scheme (“Disarming Instruction”) and to notify the Provider accordingly.

4.5.2 Notwithstanding the above, 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 (or otherwise has an Output of zero (0) MW);

(ii) that Contracted Unit is tripped otherwise than in accordance with a signal from the Commercial Intertrip Scheme; or

(iii) the provisions of paragraph 4.9.3 apply.

such Disarming to be deemed to be effective from the commencement of the Settlement Period in which such Desynchronisation, (or reduction of Output to zero (0) MW), 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 paragraph 4.9.2; or, where paragraph 4.9.3 applies, for the duration of the unavailability of the Related Contracted Unit.

4.6 Tripping

4.6.1 Following each Trip, and with respect to the relevant Contracted Units the Commercial Intertrip Scheme shall be deemed to be Disarmed pursuant to paragraph 4.6.2(i) or paragraph 4.6.2(ii) as appropriate until the end of the Balancing Mechanism Window.

4.6.2 Without prejudice to the Provider’s obligations under Grid Code OC7, upon each incidence of Tripping, the Provider 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.

4.6.3 A Provider shall, following a Trip of a Contracted Unit:

4.6.3.1 resubmit the MEL for that Contracted Unit to reflect an Output of 0MW in accordance with BC1 of the Grid Code; and

4.6.3.2 maintain the Output of that Contracted Unit at 0MW until notified by the Company that it may Resynchronise the Contracted Unit.
4.7 Payments

4.7.1 In consideration of the Provider complying with its obligations, and subject to any notification under paragraph 4.9.1 or paragraph 4.9.3, the Company shall pay to the Provider in accordance with Section 5 (Payment) an amount (the “Arming Payment”) calculated for each relevant Contracted Unit in accordance with Schedule 4.

4.7.2 In respect of each Trip of a Contracted Unit, the Company shall (subject to paragraph 4.7.3) pay to the Provider in accordance with Section 5 (Payment) an amount (the “Tripping Payment”) calculated by reference equal to the Tripping Payment RateCharge.

4.7.3 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 of availability in accordance with paragraph 4.9.1 and before the Company is first notified of the restored availability of the Commercial Intertrip Scheme pursuant to paragraph 4.9.2.

4.7.4 For the purposes of the ABSVD Methodology 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 2.

4.7.5 If, following the operation of the Commercial Intertrip Scheme resulting in disconnection of a Contracted Unit, a Bid Offer Acceptance has not been issued by the Company instructing the Contracted Unit to 0MW with effect from the end of the Balancing Mechanism Window, the Company shall pay compensation calculated by reference to the Bid Prices and the PN prevailing for the Contracted Unit at the time of the Trip for the period commencing at the end of the Balancing Mechanism Window and ending at the earlier of: (i) the effective time of Bid Offer Acceptance issued by the Company in respect of the Contracted Unit and (ii) the time of resynchronisation of the Contracted Unit. The Company shall notify Elexon for the purposes of applying the ABSVD Methodology of any Settlement Periods in respect of which a compensation payment is due in accordance with this paragraph 4.7.5.

4.8 Grid Code

4.8.1 The provision by the Provider of the CMI Service shall not relieve it of any of its obligations (where applicable) set out in the Grid Code.
4.8.2 In addition to the provisions of paragraph 4.8.1, if during an Arming Period the Commercial Intertrip Scheme fails to operate in accordance with the terms of these Standard Contract Terms for whatever reason\(^2\), the Company may instruct the Provider 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 Provider 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 Provider shall pay to the Company the sum of any such payments received less any Tripping Payment which the Provider would have received if the Commercial Intertrip Scheme had operated in accordance with the terms of these Standard Contract Terms (or where the Tripping Payment is greater than the sum of any other such payments received, the Company shall pay to the Provider the difference). Such payments shall be made in accordance with Section 5 (Payment).

4.9 Unavailability of the CMI Service

4.9.1 If a Contracted Unit becomes unavailable for participation in the Commercial Intertrip Scheme for reasons relating to safety of the plant and/or personnel and/or technical reasons related to that Contracted Unit or by reason of the Contracted Unit having become the subject of a Relevant Contract, the Provider shall as soon as reasonably practicable notify the Company by facsimile or email in the form set out in Schedule 5. Such notification shall include a brief explanation thereof, the time of commencement of unavailability and the expected duration thereof.

4.9.2 The Provider shall as soon as reasonably practicable notify the Company by facsimile or email in the form set out in Schedule 5 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.

4.9.3 A Contracted Unit shall be treated as unavailable for the CMI Service if at any time a Related Contracted Unit is notified by the relevant Provider as unavailable for the CMI Service for reasons relating to safety of the plant and/or personnel and/or technical reasons concerning that Related Contracted Unit or by reason of the Related Contracted Unit having become the subject of a Relevant Contract. The Company shall notify the Provider when a Related Contracted Unit has become unavailable for the CMI Service and shall further notify the Provider when the availability of the Related Contracted Unit has been restored.

4.10 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

\(^2\) NB Failure to Trip in accordance with the Commercial Intertrip Scheme would not trigger any charge/rebate.
directly or indirectly by the occurrence (or failure to occur) of a Trip with respect to the Contracted Units in the manner contemplated by these Standard Contract Terms (whether Tripping or failure to Trip is caused by the other Party’s default or the malfunction of its Plant and Apparatus or otherwise).

4.11 Allowed Interruption

Any Tripping of any Contracted Units pursuant to these Standard Contract Terms 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.

4.12 Revisions to Arming Payment Rate

4.12.1 The Provider may, in respect of a Month or such other reference period as the Company may notify to the Provider in accordance with paragraph 4.12.2, revise the Arming Payment Rate applicable to a CMIS Contract to a level not exceeding the Arming Payment Rate specified in its Tender Submission, or agreed with the Company as provided in paragraph 3.11, by notice in writing to the Company given not earlier than the second Business Day in the preceding Month and not later than the eighth Business Day in the preceding Month. The Company shall acknowledge such notice in writing as soon as reasonably practicable following receipt.

4.12.2 The Company may from time to time and by not less than ten (10) Business Days notice in writing to the Provider, change the reference period and the notice periods specified in paragraph 4.12.1 as it in its absolute discretion sees fit.

4.12.3 In the absence of a valid notice under paragraph 4.12.1, the prevailing Arming Payment Rate shall apply in respect of a Month.

5. PAYMENT

5.1 As soon as reasonably practicable and no later than eight (8) Business Days following the end of each Month in which an Arming Instruction was issued to a Provider, the Company shall send to the Provider a statement (the “Monthly Statement”) setting out the amounts payable. The Company shall include in that statement:

5.1.1 its calculation of the Arming Payment and any Tripping Payment due to the Provider in respect of the previous Month;

5.1.2 if relevant, its calculation of the compensation payable in accordance with paragraph 4.7.5; and

5.1.3 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 Month.

5.2 If the Provider 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 paragraph 5.3. 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 Section 14 (Dispute Resolution).

5.3 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 Provider discovers that some or all of any calculations and/or amounts falling due shown in any Monthly Statement are incorrect, then it shall promptly notify the other in writing whereupon the Company shall, subject to verification by the Company revise the Monthly Statement and re-issue the same to the Provider, and the provisions of paragraph 5.2 shall apply mutatis mutandis to such revised Monthly Statement.

5.4 In the absence of fraud, neither the Company nor the Provider may invoke the provisions of paragraph 5.3 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.

5.5 No later than the eighteenth (18th) Business Day of each month, the Company will issue a self-billing invoice (or credit note) to a Provider reflecting the Monthly Statement issued pursuant to paragraph 5.2, and no later than five (5) Business Days after such date of issue the Company shall pay to the Provider (or the Provider shall pay to the Company, as the case may be) the net amount shown as due from the Company to the Provider (or from the Provider to the Company, as the case may be) in that Monthly Statement.

5.6 If either Party (the “Defaulting Party”) fails to pay any amount properly due under these Standard Contract Terms 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.

5.7 If it is agreed or otherwise determined under paragraph 5.2 that the Provider was entitled to a further payment from the Company, the Provider 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.

5.8 If it is agreed or otherwise determined under paragraph 5.2 that a Provider 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 Provider which takes such payment into account.

5.9 Notwithstanding any other provision of these Standard Contract Terms, 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 CMI Service and the Parties agree that in the event and to the extent that either Party succeeds in proving in any such proceedings that the CMI 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 CMI Service.

5.10 Save as otherwise expressly provided in these Standard Contract Terms, sums payable by one Party to the other 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 Provider may be so deducted or set off.

5.11 All amounts payable in connection with a CMIS Contract shall be exclusive of any Value Added Tax or other similar tax and the Company shall pay to the Provider Value Added Tax at the rate for the time being and from time to time properly chargeable in respect of the making available and/or supply of the CMI Service.

5.12 All payments by the Company to the Provider will be made by payment to the bank account details of which are notified in writing to the Company by the Provider from time to time.

5.13 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 Provider and vice versa in accordance with this Section 5 must be made, in the absence of agreement to the contrary between the Parties, by 19.00 hours on the Business Day concerned.

5.14 Each Provider irrevocably consents to the operation of a self-billing system by the Company with regard to the payment for the CMI Service and will at all times throughout the term of any CMIS Contract maintain such consent. The Provider 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 CMI Service.

5.15 The provisions of this Section 5 shall survive termination of any CMIS Contract.

6. LIMITATION OF LIABILITY

6.1 Subject to paragraph 6.2, save where any provision of these Standard Contract Terms or any Framework 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 these Standard Contract Terms, any Framework Agreement or any CMIS Contract other than for loss directly resulting from such breach and which at the date of any Framework Agreement or the CMIS Contract concerned was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:-

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

6.1.2 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.

6.2 Nothing in these Standard Contract Terms, any Framework Agreement or any CMIS Contract shall exclude or limit the liability of the Party Liable for fraud or 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 fraud or death or personal injury resulting from the negligence of the Party Liable or any of its officers, employees or agents.

6.3 Subject to paragraph 6.2 and save where any provision of these Standard Contract Terms or any Framework 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:-

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

6.3.2 any indirect or consequential loss; or

6.3.3 loss resulting from the liability of the other Party to any other person howsoever and whenssoever arising save as provided in paragraph 6.1.2 and paragraph 6.2.

6.4 Each Party acknowledges and agrees that the other Party holds the benefit of paragraphs 6.1, 6.2 and 6.3 for itself and as trustee and agent for its officers, employees and agents.

6.5 The rights and remedies provided by these Standard Contract Terms or any Framework 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 these Standard Contract Terms or any Framework 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 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 these Standard Contract Terms, any Framework Agreement or any CMIS Contract and undertakes not to enforce any of the same except as expressly provided herein.

6.6 For the avoidance of doubt, the Parties acknowledge and agree that nothing in of these Standard Contract Terms 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.

6.7 Each of paragraphs 6.1, 6.2, 6.3 and 6.4 shall:-

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

6.7.2 survive termination of the Framework Agreement or CMIS Contract concerned.

6.8 For the avoidance of doubt, nothing in this Section 6 shall prevent or restrict either Party enforcing any obligation (including suing for a debt) owed to it under or pursuant to these Standard Contract Terms, any Framework Agreement or any CMIS Contract.

6.9 Each Party acknowledges and agrees that the provisions of this Section 6 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the date of submission of the relevant CMIS Tender.

7. METERING

7.1 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.

7.2 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.

8. TERMINATION

Automatic Termination

8.1 A CMIS Contract shall terminate automatically upon:-
8.1.1 the Provider ceasing to be a BSC Party solely as a result of the Provider's election or a material breach by the Provider of its obligations under such agreement; or

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

8.1.3 termination of the applicable Bilateral Agreement solely as a result of the Provider's election or a material breach by the Provider of its obligations under such agreement; or

8.1.4 the Responsible TO connecting another User's Related Generating Unit to the same circuit to which a Contracted Unit is connected if a new User in circumstances where that Generating Unit the existing Provider refuses its consent under paragraph 3.11 or the new User does not agree to participate in the Commercial Intertrip Scheme, under paragraph 3.11.

If the Provider cannot comply in all material respects with its obligations under these Standard Contract Terms or (in the case of paragraph 8.1.4) it is not possible for the Provider's Contracted Unit to trip in accordance with the Commercial Intertrip Scheme without causing the other new User's Related Generating Unit to trip.

**Termination by the Provider**

8.2 The Provider may, by notice in writing to the Company, terminate a CMIS Contract in the event that:

8.2.1 the Company shall fail to pay (other than by inadvertent error in funds transmission which is discovered by the Provider, notified to the Company and corrected within five (5) Business Days following such notification) any sum properly due or owing from it in connection with a CMIS Contract 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 Provider of such non-payment; or

8.2.2 the Company shall commit any material breach (other than a breach under paragraph 8.2.1) of these Standard Contract Terms or persistent breaches of these Standard Contract Terms 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 these Standard Contract Terms, and the Provider 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 Provider within the specified period; or

8.2.3 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 Provider a guarantee of future performance by the Company of the CMIS Contract in such form and amount as the Provider may reasonably require.

Termination by the Company

8.3 The Company may, by notice in writing to the Provider, terminate a CMIS Contract in the event that:-

8.3.1 the Provider shall commit any material breach (other than a breach under paragraph 8.3.2) of these Standard Contract Terms, any Framework Agreement or any CMIS Contract (or persistent breaches of the same, 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 of these Standard Contract Terms, any Framework Agreement or any CMIS Contract, and the Company shall have served written notice on the Provider 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 Provider shall have failed to remedy such default to the reasonable satisfaction of the Company within the specified period; or

8.3.2 the Provider shall fail to pay (other than by inadvertent error in funds transmission which is discovered by the Company, notified to the Provider and corrected within five (5) Business Days following such notification) any sum properly due or owing from it pursuant to these Standard Contract Terms, any Framework Agreement or any CMIS Contract 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 Provider of written notice from the Company of such non-payment;

8.3.3 in respect of the Provider:-

(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 Provider 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 Provider 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 Provider 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 Provider of these Standard Contract Terms, any Framework Agreement or any CMIS Contract in such form and amount as the Company may reasonably require.

Other termination rights

8.4 The provisions of this Section 8 are additional to any other rights of termination expressly provided. Termination of any CMIS Contract under this Section 8 or any other provision of these Standard Contract Terms, any Framework Agreement or any CMIS Contract 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.
9. **ASSIGNMENT**

9.1 The **Provider** shall not assign or transfer nor purport to assign or transfer the benefit or burden of any **CMIS Contract** save in the following circumstances:

9.1.1 the Provider may assign or charge its benefit under a **CMIS Contract** in whole or in part by way of security;

9.1.2 upon the disposal of the whole of the Provider’s business or undertaking, the Provider may transfer its rights and obligations under any relevant **CMIS Contract** 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;

9.1.3 upon disposal of part of the Provider’s business or undertaking comprising Provider’s Equipment at one or more **Connection Sites**, the Provider may transfer its rights and obligations under any relevant **CMIS Contract** 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.

9.2 The **Company** shall not assign or transfer nor purport to assign or transfer the benefit or burden of any **CMIS Contract** save to the holder of a **Licence** with responsibility for carrying out the **Balancing Services Activity**.

10. **CONFIDENTIALITY AND ANNOUNCEMENTS**

10.1 Subject to the exceptions provided in paragraph 10.3, paragraph 11 (Disclosure of Information) (and to the extent otherwise expressly permitted by these Standard **Contract Terms**), neither **Party** shall, at any time, 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 any **CMIS Contract**):

10.1.1 any of the contents of a **CMIS Contract** or a **Framework Agreement**;

10.1.2 any commercially confidential information relating to the negotiations concerning the entering into of any **CMIS Contract** or **Framework Agreement**;

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

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

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10.2 Each Party undertakes to use information referred to in paragraph 10.1 and disclosed to it by the other Party solely for the purposes of performing a CMIS Contract and shall not use it for any other purpose or for the purposes of any third party.

10.3 The restrictions imposed by paragraph 10.1 shall not apply to the disclosure of any information:

10.3.1 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 or which it receives from a third party independently entitled to disclose it;

10.3.2 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;

10.3.3 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;

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

10.3.5 pursuant to any Licence of the Party concerned;

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

10.3.7 by the Provider 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 a CMIS Contract will be shared provided such party is subject to confidentiality undertakings which are no less onerous than those to which the Provider is subject to under these Standard Contract Terms;

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

10.3.9 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.

10.4 In this Section 10, 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.
10.5 Before either Party discloses any information in any of the circumstances described in paragraphs 10.3.6 to 10.3.8 (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 Provider) 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 Section 10.

10.6 No public announcement or statement regarding any CMIS Contract or the termination thereof shall be issued or made by either Party unless:

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

10.6.2 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.

10.7 With respect to the information referred to in paragraph 10.1 both Parties shall ensure, to the extent reasonably practicable, that:-

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

10.7.2 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

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

10.8 Notwithstanding any other provision of these Standard Contract Terms, the provisions of this Section 10 shall continue to bind a person after termination of any CMIS Contract for whatever reason.

11. DISCLOSURE OF INFORMATION

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

11.1.1 the tendered rates for calculating Arming Payments (as the same may be varied in accordance with paragraph 4.12.1) and Tripping Payments, the Arming Payment Rate and the Tripping Charge for each Contracted Unit and any other information submitted by the Provider in its Tender Submission;

11.1.2 the periods for which Arming of the Commercial Intertrip Scheme in respect of the Contracted Units has been instructed;
11.1.3 the aggregate cost of Arming Payments and the aggregate amount of Tripping Payments made by the Company to the Provider and all other Providers participating in the CMI Service; and

11.1.4 any other data and other information relating to any CMIS Contract and the provision of the CMI 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.

11.2 Where the Company intends disclosing and using any data or other information relating to any CMIS Contract other than that specified in paragraph 11.1 it shall first consult with the Provider 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 Provider may reasonably request in order to protect its business interests.

12. WAIVER

No delay by or omission of any Party in exercising any right, power, privilege or remedy in respect of a CMIS Contract 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.

13. NOTICES

13.1 Any notice or other communication ("Notice") to be given by one Party to the other Party under, or in connection with the matters contemplated by, these Standard Contract Terms, any Framework Agreement or any CMIS Contract 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 or email, and sent to the address or facsimile number or email address of such other Party given in the Framework Agreement for the purpose and marked for the attention of the person so given including any person required to be copied or to such other address or facsimile number or email address and/or marked for such other person’s attention as such other Party may from time to time specify by notice given in accordance with this Section 13 to the Party giving the relevant notice or other communication to it.

13.2 A Notice shall be deemed to have been received:

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

13.2.2 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

13.2.3 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; or
13.2.4 in the case of email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

14. DISPUTE RESOLUTION

14.1 Save where expressly stated to the contrary in these Standard Contract Terms and subject to any contrary provision of the Act or any Licence or the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act, any Licence or otherwise howsoever, any dispute or difference of whatever nature howsoever arising under out of or in connection with a CMIS Contract or a Framework Agreement between the Parties is referred to arbitration pursuant to the rules of the Electricity Arbitration Association in force from time to time.

14.2 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.

15. JURISDICTION

15.1 Subject and without prejudice to Section 16 and to paragraph 15.4, 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 any CMIS Contract and that accordingly any suit, action or proceeding (together in this Section 15 referred to as “Proceedings”) arising out of or in connection with the Framework Agreement or any CMIS Contract may be brought to such courts.

15.2 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 Section 15 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.

15.3 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.

15.4 For the avoidance of doubt nothing contained in the foregoing provisions of this Section 15 shall be taken as permitting a party to commence Proceedings in the courts where these Standard Contract Terms otherwise provide for Proceedings to be referred to arbitration.
16. **GOVERNING LAW**

These Standard Terms and Conditions, any Framework Agreement and any CMIS Contract shall be governed by and construed in all respects in accordance with the laws of England and Wales.

17. **SEVERANCE OF TERMS**

If any provision of these Standard Contract Terms, any Framework Agreement or any CMIS Contract 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 these Standard Contract Terms, any Framework Agreement or any CMIS Contract which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

18. **ENTIRE AGREEMENT**

These Standard Contract Terms, the Framework Agreement and any CMIS Contract contain or expressly refer to the entire agreement between the Parties with respect to the subject matter hereof, and expressly exclude any warranty, condition or other undertaking implied at law or by custom, and supersede 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 these Standard Contract Terms or the Framework Agreement upon which it has relied in entering into any CMIS Contract. 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 any CMIS Contract, unless such warranty or misrepresentation was made or given fraudulently.

19. **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 any Framework Agreement or any CMIS Contract, save as expressly provided in these Standard Contract Terms.

20. **FORCE MAJEURE**

20.1 In so far as either Party is prevented from performing any of its obligations under the Framework Agreement or any CMIS Contract 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:

20.1.1 the Provider shall not be entitled to any Arming Payment to the extent that the Power Station is unavailable by reason of Force Majeure;
20.1.2 the Parties agree that they shall not be relieved from their obligations under the Framework Agreement or any CMIS Contract 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

20.1.3 the Parties further agree that they shall be relieved from their obligations under the Framework Agreement or any CMIS Contract 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 Provider submitted its Tender Submission.

20.2 The Party affected by the Force Majeure shall notify the other Party in writing immediately upon becoming aware of an event or circumstance of Force Majeure, an explanation of the Force Majeure event (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.

20.3 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 under the Framework Agreement or any CMIS Contract.

20.4 For the avoidance of doubt the non-performance of either Party’s obligations under the Framework Agreement or any CMIS Contract 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.

20.5 Either Party shall have a right to terminate any CMIS Contract if a Party has been prevented from performing its obligations due to an event of Force Majeure for a continuous period of three (3) calendar months.

21. CHANGE IN LAW

21.1 If a Relevant Change in Law occurs that:

21.1.1 requires a change in the Provider’s policies or practices in operating the Contracted Units for the purposes of the CMI Service; or

21.1.2 materially increases or decreases the Provider’s costs of performing a CMIS Contract,

either Party may by not less than ten (10) Business Days notice to the other require the other Party to meet and the Parties shall in good faith seek to agree any changes in operating practice and/or any changes which should be made to the relevant CMIS Contract as are necessary to achieve (insofar as possible) the same balance of benefits, liabilities, risk and reward between the Parties in respect of the subject matter of the CMIS Contract as applied immediately prior to the Relevant Change in Law.
Neither Party shall be liable to the other Party for a failure to perform any obligation under a CMIS Contract which becomes prohibited or otherwise impossible to perform by reason of a Change in Law.

22. **WARRANTIES AND INDEMNITY**

22.1 Each Provider warrants and represents to the Company on each occasion on which a CMIS Contract comes into existence, that:

22.1.1 the availability and delivery of the CMI Service from the Power Station pursuant to and in accordance with the CMIS Contract 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;

22.1.2 it will not do anything in connection with the CMIS Contract 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

22.1.3 save where the Provider 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 Provider to provide the CMI Service and/or perform its obligations under the CMIS Contract.

and the Provider repeats this warranty and representation on each Arming Instruction.

22.2 In the event that any warranty or representation made under paragraph 22.1 is breached, the relevant Provider 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 the relevant Framework Agreement its own policies and procedures, including Adequate Procedures to
ensure compliance with the Anti-Bribery Laws, and this paragraph 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 the Framework
Agreement comply with this Section 23.

23.2 Without prejudice to any other rights or remedies either Party may terminate the
Framework Agreement and any subsisting CMIS Contract on written notice to the
other Party specifying the date on which the CMIS Contract will terminate in the
event of a breach of paragraph 23.1.

24. EMR

24.1 Notwithstanding any confidentiality obligations and any restriction on the use or
disclosure of information set out in these Standard Contract Terms, the Provider
consents to the Company and each of its subsidiaries using all and any information
or data supplied to or acquired by it in any year under or in connection with any
CMIS Contract for the purpose of carrying out its EMR Functions.

24.2 The provisions relating to the resolution of disputes set out in these Standard
Contract Terms 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
SCHEDULE 1
DEFINITIONS

“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.

- 1000 Watts = 1kW
- 1000 kW = 1MW
- 1000 MW = 1GW
- 1000 GW = 1TW;

“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);

“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 a Contracted Unit 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 Paragraph 4.3.1;

“Arming Payment” the meaning attributed to it in Paragraph 4.7.1;

“Arming Payment Rate” the payment rate specified in a CMIS Tender for the purposes of calculating the Arming Payment as the same may be revised from time to time in accordance with Paragraph 4.12.1;

“Arming Period” the meaning attributed to it in Paragraph 4.7.1 the period in respect of which the Commercial Intertrip Scheme is
Armed by the Company in relation to a Contracted Unit;

“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 Provider or the Company as applicable in relation to the provision of the CMI Service;

“Authority” the Gas and Electricity Markets Authority established by section 1 of the Utilities Act 2000;

“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-Offe 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 these Standard Contract Terms the reference to “a Party” in the BSC shall be a reference to the Provider;

“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;

“Business Hours” means 9.00am to 5.00pm on a Business Day;

“Change in Law” means the occurrence of any of the following events after the date of a CMIS Contract:
(a) the coming into effect of any Law or Directive that is not in effect as at the date of the relevant CMIS Contract;
(b) the repeal, replacement or amendment of any Law or Directive; or
(c) a change in the interpretation by any Competent Authority of any Law or Directive;

“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;

“CMIS Contract” each contract made between the Company and a Provider for the provision of the CMI Service during a CMIS Year, formed upon acceptance by the Company of a CMIS Tender, or upon agreement between the Company and a User with a Related Generating Unit in accordance with paragraph 3.11;

“CMIS Tender” a tender submitted by a Provider to the Company for the provision from a Contracted Unit of the CMI Service in the form set out in the CMIS Tender Procedure;

“CMIS Tender Assessment Principles” the tender assessment principles published by the Company for the purposes of the CMI Service from time to time;

“CMIS Tender Procedure” the documentation published from time to time by the Company setting out the procedure to be followed for the procurement of CMIS Contracts;

“CMIS Year” each period of twelve (12) Months commencing at [ ] hours on [date] and ending at [ ] hours on the following [date];

“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;

“Company” — National Grid Electricity System Operator Limited, a company registered with number 11014226 and whose registered office is situated at 1-3 Strand, London, WC2N 5EH, which expression shall include its permitted successors and/or assigns;

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

“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 Provider’s Equipment and Transmission Connection Assets required to connect the Provider to the National Electricity Transmission System are situated or at which the Provider’s Equipment is connected to a User System;

“Constraint Management Intertrip Service” or “CMI Service” — the performance by the Provider of its obligations under a CMIS Contract;

“Construction Agreement” — as defined in the CUSC;

“Contracted Unit” — in relation to a Provider, its BM Unit specified in the Framework Agreement;

“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;
“CUSIC 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 paragraph 4.5.1;

“Disconnect” permanent physical disconnection of the Provider’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;

“Electricity” Active Energy and Reactive Energy;

“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.

\[
1000 \text{ Wh} = 1\text{kWh}
\]
$1000 \text{kWh} = 1 \text{MWh}$

$1000 \text{MWh} = 1 \text{GWh}$

$1000 \text{GWh} = 1 \text{TWh}$

“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 Section 20 and in relation to either Party, 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;

“Framework Agreement” an agreement titled CMIS Framework Agreement entered into between the Company and a Provider giving contractual effect to these Standard Terms and Conditions;

“Frequency Response” the meaning attributed to it in the CUSC;

“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” any Apparatus which produces electricity including for the avoidance of doubt a CCGT Unit;

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

“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 these Standard Contract Terms 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;

“Law or Directive” (a) any law (including the common law);

(b) any statute, statutory instrument, regulation, instruction, direction, rule or requirement of any Competent Authority;

(c) any condition or other requirement of any Licence or other required authorisation, licence, consent, permit or approval (or of any exemption from the requirement to have the same); and

any provision of any Industry Document;

“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 Ancillary Service” the meaning attributed to it in the CUSC;

“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 CC6.5.6 and the corresponding provision of the relevant Distribution Code;

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

“Party” the Company or a Provider and “Parties” shall be construed accordingly;

“Party Liable” the meaning attributed to it in paragraph 6.1;

“Plant” fixed and movable items used in the generation and/or supply and/or transmission of electricity other than Apparatus;

“Physical Notification or PN” 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 Provider which may reasonably be considered as being managed as one Power Station;

“Proceedings” the meaning attributed to it in paragraph 15.1;

“Provider” the counterparty to a Framework Agreement with the Company;

“Provider’s Equipment” the Plant and Apparatus owned by the Provider (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 Provider wishes so to connect; or

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

“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.,

\[
1000 \text{ Var} = 1 \text{kvar}
\]

\[
1000 \text{ kVar} = 1 \text{Mvar}
\]

“Related Contracted Unit” in respect of a Contracted Unit, means another Contracted Unit connected behind the same transmission Circuit Breaker;

“Related Generating Unit” has the meaning given to that term in paragraph 3.11;

“Relevant Contract” in relation to a Provider and its Contracted Unit, any contractual commitment to provide a Reserve or a Response service other than the Mandatory Ancillary Service of Frequency Response to the Company and such other services as the Company may from time to time notify to all Providers;

“Relevant Change in Law” means a Change in Law that:

a) was not, acting in accordance with Good Industry Practice, reasonably foreseeable by
the Provider as at the date of the relevant CMIS Contract; and

b) affects the provision of the CMI Service or other similar services but not one which affects the operation of the Provider's Contracted Units in general;

“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;

“Resynchronise” the act of Synchronising a Generating Unit with a System by closure of the Circuit Breaker;

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

“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;

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

“Tender” means the procurement process for the provision of the CMI Service undertaken pursuant to a CMIS Tender Procedure;

“Tender Submission” a submission made in response to a CMIS Tender Procedure;

“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 in relation to a Contracted Unit, as specified in Schedule 3, subject to revision in accordance with paragraph 1.2;

“Tripping Charge” the fixed charge for a Trip specified for a Contracted Unit in a CMIS Tender;

“Tripping Payment” the meaning attributed to it in Paragraph 4.7.2;

“Tripping Payment Rate” the payment rate specified for a Contracted Unit in a CMIS Tender for the purposes of calculating the Tripping Payment;

“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;

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.
Where:

\[ SE_{ij} = \int_{t_0}^{t_1} E_{ij}(t) \, dt \]

between \( t_0 \) and \( t_1 \)

Where:

- \( SE_{ij} \) is as defined in the ABSVD Methodology Statement.
- \( E_{ij}(t) \) is the required energy from the CMI 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):

\[ E_{ij}(t) = \left( FPN_{ij}(t) + \sum qABO_{ij}^{la}(t) \right) - QM_{ij}(t) \]

Where:

- \( FPN_{ij}(t) \) has the meaning attributed to it in the Balancing and Settlement Code;
- \( \sum qABO_{ij}^{la}(t) \) has the meaning attributed to it in the Balancing and Settlement Code;
- \( QM_{ij}(t) \) is the BM Unit Metered Volume (as defined in the Balancing and Settlement Code) at spot time \( t \);
- \( t_0 \) is the time at which the Trip occurs;
- \( t_1 \) is the time at the end of the Balancing Mechanism Window.
SCHEDULE 3 TRIP CONDITIONS

<table>
<thead>
<tr>
<th>FAULTED CIRCUITS</th>
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<td>To be completed at the point of contract signature.</td>
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SCHEDULE 4 ARMING PAYMENT

The Arming Payment (AP\textsubscript{m}) to be made by the Company to the Provider under paragraph 4.7.1 for the aggregate duration of all Arming Periods in Month m, shall be calculated in accordance with the following formula:

\[ AP\textsubscript{m} = \sum_{j} (APR_{ju} \times MV_{ju}) \]

Where:

\( \sum_{m} \) is the summation for all Settlement Periods in Month m;

APR\textsubscript{ju} is the Arming Payment Rate (expressed in £/MWh) applicable in Settlement Period \( j \), for Contracted Unit \( u \); and

MV\textsubscript{ju} is the BM Unit Metered Volume (expressed in MWh) applicable in Settlement Period \( j \), for Contracted Unit \( u \).
### SCHEDULE 5 FORMS

#### Availability / Unavailability of Commercial Intertrip Scheme

(paragraph 4.9)

<table>
<thead>
<tr>
<th>From: Shift Group Leader, Power Station</th>
<th>Fax No.</th>
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<tr>
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<tr>
<td>To: Grid Operator, NGESO</td>
<td>Fax No.</td>
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<td>[Back up Fax No. ]</td>
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<td>[Email ]</td>
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[The Commercial Intertrip Scheme at [ ] Power Station [in respect of the following Contracted Units [will be]/[is] *[available]/[unavailable]*.]

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<th>Time (Hrs/Min)</th>
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<th>To:</th>
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Reason for unavailability

Signed by

Name

Time

Date

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

Acknowledged by the Company

Signed by

Name

Time
Date

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