ESO

Balancing Reserve Service Terms

Author: Markets
National Grid Electricity System Operator Limited
Faraday House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA
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**SCHEDULE 1 – DEFINED TERMS**

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1. Introduction

1.1. These BR Service Terms describe the requirements for provision of Balancing Reserve procured by NGESO under Auctions and the basis upon which NGESO shall make payments in respect thereof, and shall apply to each Service Provider and BR Unit the subject of a BR Contract (where, in accordance with the BR Procurement Rules, and for any BR Service Window, the Service Provider’s Sell Order for that BR Unit is accepted (or partially accepted) by NGESO so as to render that BR Unit a Contracted BR Unit and that BR Service Window a Contracted Service Window).

1.2. Each BR Contract so formed shall create a legally binding obligation on the Service Provider to provide from the relevant Contracted BR Unit, and for NGESO to pay for, Balancing Reserve to be delivered during the relevant Contracted Service Window upon the terms of these BR Service Terms.

1.3. A BR Contract shall relate to a single Contracted BR Unit and shall apply only to a single Contracted Service Window.

1.4. For the avoidance of doubt:

1.4.1. except as otherwise provided in these BR Service Terms, neither a Service Provider nor NGESO shall be under any obligation or commitment to respectively provide or pay for Balancing Reserve except pursuant to a BR Contract formed in respect of that Contracted BR Unit for a Contracted Service Window; and

1.4.2. Service Providers may continue to contribute towards NGESO’s requirement for Regulating Reserve on an optional basis by participating in the Balancing Mechanism outside of any BR Contract (including during periods where Balancing Reserve is or is deemed to be unavailable as described in these BR Service Terms).

1.5. Neither Party may terminate a BR Contract once formed except as provided or referred to in paragraph 17 or by agreement in writing between the Parties.

1.6. These BR Service Terms should be read alongside the BR Procurement Documentation of which they form a part.

2. Changes to these BR Service Terms

2.1. Subject always to paragraph 2.2, NGESO may update these BR Service Terms from time to time by publication of an updated version on its website, and each such updated version shall be effective from the date shown on its front cover provided always that any updated version shall not apply to any BR Contract extant at the date of publication except with the consent in writing of the relevant Service Provider.

2.2. To the extent required by the Electricity Balancing Regulations (and by reference to those provisions of the BR 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 Regulations), any variation to these BR Service Terms will be proposed and implemented in accordance with the applicable requirements in the Electricity Balancing Regulations.

3. Defined Terms

3.1. Unless the context otherwise requires, terms used in these BR Service Terms shall have the meanings given to each (if any) in:-

3.1.1. Schedule 1;

3.1.2. the prevailing BR Procurement Rules;

3.1.3. the prevailing Balancing Services Glossary of General Terms and Rules of Interpretation.

3.2. Where a term is defined in Schedule 1 and also in either or both of the documents referred to at paragraphs 3.1.2 and 3.1.3, the meaning given in Schedule 1 shall prevail unless the context otherwise requires.
3.3 For the purposes of paragraph 3.1, with respect to any BR Contract, “prevailing” shall mean the latest version of the applicable document which is in effect at the time of formation of that BR Contract.

4. Interpretation

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

5. Service Availability

5.1 With respect to any Contracted BR Unit, NGESO may utilise Balancing Reserve made available by the Service Provider during Contracted Service Windows by the issue of one or more Bid-Offer Acceptances in accordance with the Grid Code.

5.2 To facilitate the issue by NGESO of a Bid-Offer Acceptance in respect of a Contracted Service Window, and subject always to paragraph 5.9, the Service Provider shall, as soon as reasonably practicable but in any event by no later than Gate Closure for that Contracted Service Window, submit to NGESO in accordance with the Grid Code, in respect of the relevant Contracted BR Unit and so as to constitute a Mandatory Availability Declaration, BM Unit Data meeting the requirements (as applicable) of paragraphs 5.3 to 5.8 inclusive.

5.3 Where the BR Contract is for Positive Balancing Reserve from a Final Physical Notification of zero or above, then the BM Unit Data shall include, for the relevant Contracted Service Window:

5.3.1 a Final Physical Notification where (subject always to paragraph 5.3.2):

- MEL – FPN ≥ Contracted Capacity

5.3.2 for Contracted BR Units which are Power Park Modules powered by an Intermittent Power Source, reference to MEL in paragraph 5.3.1 shall be to Power Available;

5.3.3 Bid-Offer Data comprising Bid-Offer Pairs (1 to 5) with a MW range greater than or equal to Contracted Capacity; and

5.3.4 associated Dynamic Parameters which are consistent in all respects with the BR Service Parameters.

5.4 Where the BR Contract is for Positive Balancing Reserve from a negative Final Physical Notification towards zero but not through zero, then the BM Unit Data shall include, for the relevant Contracted Service Window:

5.4.1 a Final Physical Notification where:

- SIL – FPN ≥ Contracted Capacity

5.4.2 Bid-Offer Data comprising Bid-Offer Pairs (1 to 5) with a MW range greater than or equal to Contracted Capacity; and

5.4.3 associated Dynamic Parameters which are consistent in all respects with the BR Service Parameters.

5.5 Where the BR Contract is for Positive Balancing Reserve from a negative Final Physical Notification towards zero and through zero, then the BM Unit Data shall include, for the relevant Contracted Service Window:

5.5.1 a Final Physical Notification where:

- SEL and SIL equal zero, and
- MEL – FPN ≥ Contracted Capacity
- else
- SIL – FPN ≥ Contracted Capacity
5.5.2 **Bid-Offer Data** comprising **Bid-Offer Pairs** (1 to 5) with a MW range greater than or equal to **Contracted Capacity**; and

5.5.3 associated **Dynamic Parameters** which are consistent in all respects with the **BR Service Parameters**.

5.6 Where the **BR Contract** is for **Negative Balancing Reserve** from a **Final Physical Notification** (baseload) of zero or above zero but not through zero, then the **BM Unit Data** shall include, for relevant **Contracted Service Window**:-

5.6.1 a **Final Physical Notification** where:-

\[
FPN - SEL \geq \text{Contracted Capacity}
\]

5.6.2 **Bid-Offer Data** comprising **Bid-Offer Pairs** (-1 to -5) with a MW range greater than or equal to **Contracted Capacity**; and

5.6.3 associated **Dynamic Parameters** which are consistent in all respects with the **BR Service Parameters**.

5.7 Where the **BR Contract** is for **Negative Balancing Reserve** from a **Final Physical Notification** (baseload) of zero or above zero to a position less than zero, then the **BM Unit Data** shall include, for the relevant **Contracted Service Window**:-

5.7.1 a **Final Physical Notification** where:-

\[
\begin{align*}
\text{SEL and SIL equal zero, and} \\
FPN - MIL \geq \text{Contracted Capacity}
\end{align*}
\]

If FPN > 0 and SEL and SIL are not both 0 then FPN - SEL \geq \text{Contracted Capacity}

If FPN < 0 then FPN - MIL \geq \text{Contracted Capacity}

5.7.2 **Bid-Offer Data** comprising **Bid-Offer Pairs** (-1 to -5) with a MW range greater than or equal to **Contracted Capacity**; and

5.7.3 associated **Dynamic Parameters** which are consistent in all respects with the **BR Service Parameters**.

5.8 Where the **BR Contract** is for **Negative Balancing Reserve** from a negative **Final Physical Notification**, then the **BM Unit Data** shall include, for the relevant **Contracted Service Window**:-

5.8.1 a **Final Physical Notification** where:-

\[
FPN - MIL \geq \text{Contracted Capacity}
\]

5.8.2 **Bid-Offer Data** comprising **Bid-Offer Pairs** (-1 to -5) with a MW range greater than or equal to **Contracted Capacity**; and

5.8.3 associated **Dynamic Parameters** which are consistent in all respects with the **BR Service Parameters**.

5.9 Where the **Service Provider** becomes aware of changes in the technical capability of a **Contracted BR Unit** (which for the avoidance of doubt shall exclude the circumstances described in paragraph 5.12.2 insofar as already notified to **NGESO**) rendering it unable to deliver **Balancing Reserve** in a **Contracted Service Window** in accordance with its **BR Contract**, then it shall promptly indicate such unavailability, where applicable by withdrawing its **Mandatory Availability Declaration** (regardless of whether before or after **Gate Closure** for that **Contracted Service Window**), by way of an appropriate resubmission of its relevant **BM Unit Data** in accordance with the **Grid Code**.
5.10 Each withdrawal by the Service Provider of a Mandatory Availability Declaration pursuant to paragraph 5.9 shall, upon request by NGESO and as soon as reasonably practicable thereafter be followed by an explanation in reasonable detail of the reasons for such unavailability.

5.11 Where, in respect of any Contracted BR Unit and Contracted Service Window, the Service Provider shall have failed to submit (or shall have withdrawn pursuant to paragraph 5.9) a Mandatory Availability Declaration meeting the requirements (as applicable) of paragraphs 5.3 to 5.8 inclusive, then Balancing Reserve shall be deemed unavailable from that Contracted BR Unit for the entire affected Contracted Service Window, and paragraph 1.4.2 shall apply.

5.12 Without prejudice to paragraph 5.11, and with respect to any Contracted BR Unit and Contracted Service Window, Balancing Reserve shall be deemed unavailable for the entirety of that Contracted Service Window if, at any time during that Contracted Service Window:

5.12.1 the prevailing Dynamic Parameters (or any of them) submitted by the Service Provider are in any way inconsistent with the Dispatch Flexibility Rules; or

5.12.2 the Contracted BR Unit becomes incapable of delivering the full Contracted Capacity for the remainder of that Contracted Service Window; or

5.12.3 there is no, or ceases to be any, personnel employed by or contracted to the Service Provider present and tasked with responding to signals from Control Telephony or System Telephony relating to that Contracted BR Unit.

5.13 Without prejudice to paragraph 9.2:-

5.13.1 any failure to comply with paragraph 5.10; and/or

5.13.2 any indication of unavailability pursuant to paragraph 5.9 which is not solely due to the technical capability of the Contracted BR Unit; and/or

5.13.3 any indication that a Contracted BR Unit which is otherwise technically capable of delivering Balancing Reserve is or has become incapable of delivering the full Contracted Capacity for the remainder of a Contracted Service Window as described in paragraph 5.12.2; and/or

5.13.4 any persistent or repetitive failure to submit and/or withdraw Mandatory Availability Declarations pursuant to paragraphs 5.2 or 5.9; and/or

5.13.5 any deemed unavailability pursuant to paragraph 15,

may result in NGESO at its sole discretion determining pursuant to the BR Procurement Rules that the Service Provider may not participate in the Auctions with respect to the relevant BR Unit.

5.14 No costs or expenses incurred by Service Providers in the course of preparing and/or submitting Mandatory Availability Declarations shall be paid by NGESO.

5.15 Upon service of any valid Transfer Notice pursuant to paragraph 23, and in relation only to the relevant Transfer Period, the provisions of this paragraph 5 shall be varied as between NGESO and the Primary Service Provider in the manner set out in paragraph 23.13.

6. Service Instruction

6.1 Service Providers shall be instructed to provide Balancing Reserve from a BR Contract in all or part of Contracted Service Windows by way of Bid-Offer Acceptances which may be issued by NGESO in accordance with the Grid Code.

6.2 For the avoidance of doubt, where NGESO requires provision of Balancing Reserve in all or part of a Contracted Service Window, it may issue a Bid-Offer Acceptance either prior to or during that Contracted Service Window, consistent with the BR Service Parameters.
6.3 Upon service of any valid Transfer Notice pursuant to paragraph 23, and in relation only to the relevant Transfer Period, the provisions of this paragraph 6 shall be varied as between NGESO and the Primary Service Provider in the manner set out in paragraph 23.13.

7. Service Delivery

7.1 The Service Provider shall, commencing on or before the expiry of the Response Time, begin ramping up so as to deliver from the Contracted BR Unit the instructed volume in accordance with the Bid-Offer Acceptance by no later than expiry of the applicable Ramping Period, and shall maintain that delivery volume for the duration of the period implied in the Bid-Offer Acceptance(s), provided that no such obligation shall arise in respect of any Bid-Offer Acceptance rejected by the Service Provider pursuant to Grid Code BC2.7.3.

7.2 For the avoidance of doubt, each Contracted BR Unit shall be capable of delivering the full Contracted Capacity for the duration of the Contracted Service Window.

7.3 In the event that, in respect of any Contracted Service Window:-

(a) the volume in MWh of Balancing Reserve provided by the Service Provider in accordance with one or a series of contiguous Bid-Offer Acceptance(s) issued in accordance with subparagraph 6 is less than ninety-five (95)% of the volume in MWh of energy instructed to be delivered in accordance with such Bid-Offer Acceptance(s); or

(b) a Bid-Offer Acceptance is rejected by the Service Provider (other than in accordance with Grid Code BC2.7.3(b) and whether for reasons of safety or otherwise),

then no BR Availability Payment shall fall due with respect to that Contracted Service Window.

7.4 Upon service of any valid Transfer Notice pursuant to paragraph 23, and in relation only to the relevant Transfer Period, the provisions of this paragraph 7 shall be varied as between NGESO and the Primary Service Provider in the manner set out in paragraph 23.13.

8. Dispatch Flexibility Rules

8.1 For the purposes of these BR Service Terms, the Dispatch Flexibility Rules are that each Contracted BR Unit shall be capable of being dispatched in accordance with paragraph 7.1 at any time during a Contracted Service Window:-

8.1.1 either from zero (0) MW Output or Demand or from any prevailing Stable Export Limit or Stable Import Limit or any other level of Output or Demand; and

8.1.2 for all or part of its Contracted Capacity and in one or multiple consecutive increments of one (1) MW; and

8.1.3 for a single or multiple consecutive periods each of not less than one (1) minute duration (representing a minimum activation period) which for these purposes shall exclude Ramping Periods.

9. BR Availability Payments

9.1 In respect of each BR Contract formed pursuant to the BR Procurement Rules, and subject always to paragraph 9.2, NGESO shall, in accordance with paragraph 11, pay to the Service Provider an amount (a “BR Availability Payment”) calculated in accordance with the formula in Schedule 1 and by reference to the applicable Market Clearing Price for each relevant Contracted Service Window.

9.2 No BR Availability Payment shall be made by NGESO to the Service Provider pursuant to this paragraph 9 in respect of any Contracted Service Window which is wholly or partly affected by a period or periods of unavailability or deemed unavailability pursuant to paragraphs 5 or 15.

9.3 With respect to any Transfer Period, and for the avoidance of doubt:

(a) for the purposes of this paragraph 9, the availability of Balancing Reserve pursuant to the relevant BR Contract shall be assessed by reference to the BR Units(s) registered to the Secondary Service Provider and not to the Primary Service Provider’s Contracted BR Unit; and
(b) all and any BR Availability Payments accruing due pursuant to this paragraph 9 shall be payable to the Primary Service Provider and nothing in these BR Service Terms shall create any liability or obligation on the part of NGESO to make any such payments to the Secondary Service Provider.

10. Energy Utilisation Payments

10.1 Payments to the Service Provider with respect to the provision of Balancing Reserve in Contracted Service Windows shall be made in respect of each Bid Offer Acceptance in accordance with the Balancing and Settlement Code.

10.2 With respect to any Transfer Period, and for the avoidance of doubt:-

(a) for the purposes of this paragraph 10, the provision of Balancing Reserve pursuant to the relevant BR Contract shall be assessed by reference to the BR Unit(s) registered to the Secondary Reserve Provider and not to the Primary Reserve Provider’s Contracted BR Unit; and

(b) all and any Energy Utilisation Payments made pursuant to Bid Offer Acceptances shall be made in accordance with the BSC to the Secondary Reserve Provider and not to the Primary Reserve Provider but subject thereto nothing in these BR Service Terms shall create any liability or obligation on the part of NGESO to make any such payments to the Secondary Reserve Provider.

11. Payment Procedure

11.1 In respect of each calendar month during which the Service Provider has been party to one or more BR Contracts, NGESO shall send to the Service Provider a Monthly Statement setting out, in respect of each such BR Contract, its calculation of:-

(a) the BR Availability Payments payable to the Service Provider pursuant to paragraph 8;

(b) any adjustments made to previous Monthly Statements; and

(c) the resulting net amount due to (or from, as the case may be) the Service Provider,

and in respect thereof the provisions of Schedule 2 shall apply.


12.1 The provision by the Service Provider of Balancing Reserve shall not relieve it of any of its obligations or affect such obligations (where applicable) set out in the Grid Code (including its obligations (if any) to provide Mode A Frequency Response when instructed by NGESO pursuant to the CUSC and/or the Grid Code) or to provide Demand control when instructed by NGESO pursuant to Grid Code OC6) or in the Distribution Code of its host Public Distribution System Operator.

12.2 Without limiting paragraph 12, each Service Provider that is or becomes a DRSC Liable User shall, for the duration of each Contracted Service Window, comply in all respects with the Demand Response Services Code as it refers to Demand Response Active Power Control.

13. Maintenance of Plant and Apparatus

13.1 The Service Provider shall maintain all Plant and Apparatus comprising each BR Unit to such a standard that the Service Provider can meet its obligations to provide Balancing Reserve in accordance with each BR Contract and these BR Service Terms.

14. Third Party Claims

14.1 The Service Provider undertakes to NGESO that the availability and delivery of Balancing Reserve from any Contracted BR Unit pursuant to and in accordance with each BR Contract and these BR Service Terms (including during any Transfer Period) will not at any time during any Contracted Service Window cause the Service Provider to be in breach of or to otherwise be non-compliant with any Connection Agreement and/or any agreement for the supply of electricity or related services to or from a Contracted BR Unit.
14.2 Notwithstanding paragraph 14, in the event that the Service Provider (or, during any Transfer Period, any Secondary Service Provider) makes available and/or delivers Balancing Reserve in accordance with these BR Service Terms in consequence of which NGESO suffers or incurs any loss in respect of a claim brought by any third party related to any actual or alleged breach or non-compliance by the Service Provider as described in sub-paragraph 14, then the Service Provider shall indemnify NGESO against all and any losses, liabilities, claims, expenses and demands suffered or incurred by NGESO in connection therewith. Such indemnity shall include any legal costs and expenses reasonably incurred in the contesting of such claims including the court costs and reasonable attorney’s fees and other professional advisors’ fees. The Parties agree and accept that, for the purposes of paragraph 20, all such legal costs and expenses expressed to be the subject of such indemnity shall be treated as direct losses.

14.3 In the event of any such claim referred to in paragraph 14.2 being made against NGESO, NGESO shall as soon as reasonably practicable give notice of the claim together with all relevant supporting documentation to the Service Provider. The Service Provider shall be entitled, upon written notice to NGESO and subject to NGESO receiving from the Service Provider such reasonable undertakings as NGESO shall reasonably require to protect NGESO against damage to its name and reputation, to assume at its own expense the sole conduct of all proceedings relating to such claim including the right to contest such claim in the name of NGESO. NGESO shall supply the Service Provider with all information, assistance and particulars reasonably required by the Service Provider in connection therewith. NGESO shall not accept, settle, pay or compromise any such claim without the prior written approval of the Service Provider (not to be unreasonably withheld or delayed). The Service Provider shall reimburse to NGESO all of its reasonable expenses incurred in connection with the provision of any such information, assistance or particulars in the contesting of any such claim.

15. Provision of Other Services

15.1 The Service Provider undertakes to NGESO that the availability and delivery of Balancing Reserve from any BR Unit pursuant to and in accordance with a BR Contract and these BR Service Terms will not at any time during any Contracted Service Window (including during any Transfer Period) be impaired or otherwise prejudiced by:-

15.1.1 any planned increase or reduction (as the case may be) in Output of that BR Unit which reduces the BR Capacity to less than the Contracted Capacity other than pursuant to a Bid-Offer Acceptance (which for the avoidance of doubt shall exclude for these purposes any unplanned outage of the BR Unit caused by a breakdown of Plant or Apparatus); and/or

15.1.2 the Service Provider’s (or, during any Transfer Period, any Secondary Service Provider’s) performance of any agreement with a third party (including another Service Provider) relating to that Contracted BR Unit, including the making available and/or delivery of services to that third party by the Service Provider (whether by way of increases or reductions in Generation or Demand or stipulated running profiles, participation in any other services (including where part of a trial service) or otherwise, and whether to assist in the management, operation or protection of a User System or otherwise).

15.2 Notwithstanding paragraph 15.1, in the event that the Service Provider (or, during any Transfer Period, any Secondary Service Provider) is unable to provide Balancing Reserve (to any extent, in all or any part) of any Contracted Service Window for any reason described in paragraph 15.1, then the Service Provider shall (or shall procure that the Secondary Service Provider shall) give a full explanation to NGESO in its notification of unavailability pursuant to paragraph 5.9, and the Contracted BR Unit shall be deemed unavailable for the entire affected Contracted Service Window and paragraph 5.11 shall apply.

15.3 Where paragraph 15.2 applies, upon request from NGESO (at its sole discretion) the Service Provider shall pay to NGESO (in accordance with Schedule 3) an amount equal to the aggregate Incremental Volume Cost Amount for each relevant Settlement Period by way of reimbursement of NGESO’s additional costs of alternative or replacement service provision resulting from the Service Provider’s inability to provide Balancing Reserve as referred to in paragraph 15.2.

15.4 Where, during any Contracted Service Window, a Service Provider is required under the terms of any agreement with NGESO to provide from any Contracted BR Unit any other Balancing Service (except with respect to Reactive Power), the Parties agree and acknowledge that, unless pursuant to the terms for provision of and payment for such other Balancing Services the relevant BR Unit is deemed unavailable to provide Balancing Reserve or except as may otherwise be specified by
NGESO in writing, the relevant Contracted BR Unit shall be deemed unavailable to provide such other Balancing Service, and availability of the Contracted BR Unit to provide Balancing Reserve pursuant to these BR Service Terms shall prevail.

15.5 For the avoidance of doubt, paragraph 15.4 shall not affect the submission by a Service Provider of (1) bids and offers (and the issue of Bid-Offer Acceptances) under the Balancing Mechanism where not made pursuant to terms agreed with NGESO for provision of any other Balancing Service, and (2) a Sell Order for Positive Balancing Reserve and a Sell Order for Negative Balancing Reserve with respect to the same BR Unit and Contracted Service Window insofar as permitted by the BR Procurement Rules.

15.6 Without prejudice to the undertaking in paragraph 15.1, nothing in this paragraph 15 shall prevent or restrict any Contracted BR Unit from providing Balancing Reserve in any Contracted Service Window which overlaps to any extent with service provision under a contract to which the Service Provider is a party pursuant to the Capacity Market Rules.

16. Communications

16.1 Any communications required by these BR Service Terms to be given in writing shall unless otherwise provided in this paragraph 16 be made and deemed to have been received in accordance with paragraph 28 save as may be otherwise agreed by the Parties.

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

16.3 Unless otherwise expressly provided in these BR Service Terms, and subject always to paragraph 16.4, all communications between the Parties (or between NGESO and the Service Provider's Agent) pursuant to these BR Service Terms shall be given via EDL/EDT.

16.4 If, for whatever reason, EDL/EDT shall at any time become unavailable, then to that extent all declarations, instructions and other communications of whatever nature which concern the availability and utilisation of Balancing Reserve shall be given by Control Telephony or System Telephony or by such other means as may be agreed between the Parties.

17. Termination of BR Contracts

17.1 Either Party shall have the right to terminate a BR Contract in the circumstances set out in paragraph 8.1 of the prevailing Common Flexibility Service Terms and Conditions as if paragraphs 8.1 and 8.2 were set out in full herein.

17.2 Without prejudice to paragraph 17.1, and in addition to any other rights of termination available under the BR Procurement Documentation, NGESO may in its absolute discretion terminate a BR Contract in respect of an Contracted BR Unit with immediate effect by notice in writing to the Service Provider where the Service Provider is in material breach of a warranty or declaration given as part of the Registration and Pre-Qualification Procedure or under any of the BR Procurement Documentation.

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

18. Monitoring and Metering

18.1 The volume of Balancing Reserve delivered and the time of delivery of Balancing Reserve pursuant to Bid-Offer Acceptance(s) shall be monitored by NGESO from time to time.

18.2 The relationship between the Parties with respect to Energy Metering Equipment shall be regulated by Section L of the Balancing and Settlement Code.

18.3 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.

19. Force Majeure

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

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

21. Records and Audits

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

22. Assignment

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

23. Transfer of BR Contracts

23.1 At any time during the subsistence of a BR Contract, a Service Provider (“the Primary Service Provider”) may nominate another Registered BR Participant (“the Secondary Service Provider”) to discharge its obligations to NGESO with respect to the delivery of Balancing Reserve in Contracted Service Window(s) pursuant to that BR Contract.

23.2 The effect of any such nomination, once validated by NGESO pursuant to this paragraph 23, is that NGESO will monitor availability and submitted parameters, and treat delivery of Balancing Reserve from one or more BR Units registered to the Secondary Service Provider as if made and delivered by the Primary Service Provider from its BR Unit for the purposes of these BR Service Terms.

23.3 No nomination shall be valid unless:-

(a) both entities are Registered BR Participants;

(b) the Secondary Service Provider has Plant and Apparatus which is registered as a BR Unit pursuant to the BR Procurement Rules with sufficient BR Capacity reasonably expected to be available and proven capability to deliver Balancing Reserve to enable the BR Contract to be discharged during the applicable Contracted Service Window;

(c) the specified Transfer Period during which the nomination is to be effective is a period which comprises the entire Contracted Service Window created by a subsisting BR Contract to which the Primary Service Provider is a party; and

(d) the nomination is validly notified to NGESO pursuant to sub-paragraphs 23.4, 23.5 and 23.6 and the Transfer Notice validated by NGESO.

Transfer Notices

23.4 Each nomination shall be notified to NGESO by the Primary Service Provider by no later than ninety (90) minutes prior to commencement of the applicable Contracted Service Window, and each such nomination is referred to in these BR Service Terms as a “Transfer Notice”.

23.5 Unless otherwise stipulated in writing by NGESO from time to time, each Transfer Notice shall comprise the entirety of a Contracted Service Window, and shall specify:-

(a) the identity of the Primary Service Provider and Contracted BR Unit; and

(b) the identity of the Secondary Service Provider and its BR Unit which shall meet the requirements of paragraph 23.3(b).

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

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

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

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

23.10 A Transfer Notice shall be invalid if the Secondary Service Provider’s designated BR Unit is the subject of a BR Contract for the same Contracted Service Window, in which case NGESO shall so notify both whereupon the Transfer Notice shall be deemed withdrawn.

Cancellation Notice

23.11 A Transfer Notice may be cancelled by the Primary Service Provider (but not under any circumstances by the Secondary Service Provider) by no later than ninety (90) minutes prior to the start of the Contracted Service Window and by notification to NGESO in writing (“Cancellation Notice”) specifying the date and time from which the cancellation is to be effective.

Effect of Transfer Notice

23.12 For the duration of each Transfer Period (or any earlier period where the Transfer Period comes to an end pursuant to the foregoing provisions), and subject always to paragraph 23.13, NGESO consents to the Primary Service Provider’s obligation to deliver Balancing Reserve pursuant to the relevant BR Contract being discharged on its behalf by the Secondary Service Provider from its BR Unit(s).

23.13 The Parties further acknowledge and agree that, for the duration of each Transfer Period:-

(a) paragraph 5 (Service Availability) shall be varied as follows:

BM Unit Data shall be submitted by the Secondary Service Provider with respect to the BR Unit(s) designated by it pursuant to paragraph 23.5, and the Secondary Service Provider shall observe and perform all obligations of the Primary Service Provider contained therein as if references to Service Provider and Contracted BR Unit were to the Secondary Service Provider and such Contracted BR Unit(s);

(b) paragraph 6 (Service Instruction) shall be varied as follows:

all and any Bid-Offer Acceptances shall be issued by NGESO to the Secondary Service Provider, and the Secondary Service Provider shall observe and perform all obligations of the Primary Service Provider contained therein as if references to Service Provider and Contracted BR Unit were to the Secondary Service Provider and the BR Unit(s) designated by it pursuant to paragraph 23.5; and

(c) paragraph 7 (Service Delivery) shall be varied as follows:-

the Secondary Service Provider shall observe and perform all obligations of the Service Provider contained therein as if references to the Service Provider and the Contracted BR Unit were to the Secondary Service Provider and the BR Unit(s) designated by it pursuant to sub-paragraph 23.5.

23.14 For the avoidance of doubt, where a Service Provider wishes to discharge its obligations to NGESO with respect to the delivery of Balancing Reserve pursuant to a BR Contract using an alternative BR Unit which it has registered with NGESO under the BR Procurement Rules, it may serve a Transfer Notice pursuant to this paragraph 23. With respect to each such Transfer Notice validated by NGESO, for the purposes of these BR Service Terms NGESO will monitor availability and submitted parameters, and treat delivery of Balancing Reserve from that alternative BR Unit, as if made and delivered by the Service Provider from its original BR Unit, and all references in this paragraph 23 to Secondary Service Provider shall be construed as meaning the Service Provider where the context admits.
23.15 All Transfer Notices and Cancellation Notices and other notifications related thereto between the Parties referred to in this paragraph 23 shall be made using the method of communication specified from time to time by NGESO.

24. Confidentiality

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

25. Intellectual Property Rights

25.1 The provisions of paragraph 14 of the prevailing Common Flexibility Service Terms and Conditions shall apply to all intellectual property rights owned by or licensed to either Party as if set out in full herein.

26. Data Protection

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

27. Modern Slavery, Anti-bribery and Living Wage

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

27.2 Any breach of this paragraph 27 by the Service Provider shall be deemed a material breach of all and any relevant BR Contracts for the purposes of paragraph 14.1.

28. Notices

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

28.2 For the purposes of paragraph 28.1, the relevant contact details and addresses of each Party shall be those notified from time to time by that Party to the other pursuant to the Registration and Pre-Qualification Procedure.

29. Dispute Resolution

29.1 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 BR Service Terms as if set out in full herein, save that:-

29.1.1 no Party shall have any right to refer any dispute to an Expert for determination except where the dispute is stated in these BR Service Terms to be referable to an Expert for determination or otherwise agreed in writing by the Parties to be so referable;

29.1.2 nothing in this paragraph 29.1 shall prevent the Parties from agreeing to resolve any dispute or difference through the courts in which case paragraph 30.2 shall apply; and

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

30. Governing Law and Jurisdiction

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

30.2 Subject always to paragraph 29.1, NGESO and each Registered BR 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 BR Service Terms or their enforceability and waives any objection
to proceedings being brought in such courts or on the grounds that proceedings have been brought in an inconvenient forum.

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

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

33  No Agency or Partnership
33.1  The provisions of paragraph 21 of the prevailing Common Flexibility Service Terms and Conditions shall apply as if set out in full herein.

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

35  Entire Agreement
35.1  The provisions of paragraph 23 of the prevailing Common Flexibility Service Terms and Conditions shall apply as if set out in full herein.

36  EMR
36.1  Notwithstanding any confidentiality obligations and any restriction on the use or disclosure of information set out in the BR Procurement Documentation, the Services Provider consents to NGESO and each of its subsidiaries using all and any information or data supplied to or acquired by it in any year under or in connection with any Balancing Services Contract for the purpose of carrying out its EMR Functions.

36.2  For the purposes of this paragraph 36 only:

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

36.2.2  “Capacity Market Rules" means the rules created pursuant to section 34 of the Energy Act 2013 as modified from time to time in accordance with The Electricity Capacity Regulations 2014;

36.2.3  “EMR Functions" has the meaning given to “EMR functions” in Chapter 5 of Part 2 of the Energy Act 2013; and

36.2.4  “EMR Document" means The Energy Act 2013, The Electricity Capacity Regulations 2014, the Capacity Market Rules, The Contracts for Difference (Allocation) Regulations 2014, The Contracts for Difference (Electricity Supplier Obligation) Regulations 2014, The Contracts for Difference (Definition of Eligible Generator) Regulations 2014, The Electricity Market Reform (General) Regulations 2014, the AF Rules and any other regulations or instruments made under Chapter 2 (contracts for difference), Chapter 3 (capacity market) or Chapter 4 (investment contracts) of Part 2 of the Energy Act 2013 which are in force from time to time.
<table>
<thead>
<tr>
<th>Defined Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;BR Capacity&quot;</td>
<td>The maximum amount (in MW) of Balancing Reserve available at the relevant time from a Contracted BR Unit representing its ‘footroom’ or ‘headroom’ being defined as the difference between its prevailing (1) MEL or MIL, or SEL or SIL (as the case may be) and (2) its Final Physical Notification, or, in the case of a Power Park Module powered by an Intermittent Power Source, where ‘headroom’ being defined as the difference between its the prevailing (1) Power Available and (2) its Final Physical Notification;</td>
</tr>
<tr>
<td>&quot;BR Service Parameters&quot;</td>
<td>each of the following: (1) a Response Time not exceeding two (2) minutes; and (2) Run-Up Rates and Run-Down Rates which are sufficient to enable delivery of the Contracted Capacity by no later than ten (10) minutes after issue of the Bid-Offer Acceptance (which for the avoidance of doubt includes the Response Time);</td>
</tr>
<tr>
<td>&quot;Cancellation Notice&quot;</td>
<td>as defined in paragraph 23 of these BR Service Terms;</td>
</tr>
<tr>
<td>&quot;Contracted Capacity&quot;</td>
<td>in respect of any Contracted BR Unit and Contracted Service Windows, such part of the Offered Capacity which a Service Provider has agreed to provide in accordance with a BR Contract;</td>
</tr>
<tr>
<td>&quot;Dispatch Flexibility Rules&quot;</td>
<td>as defined in paragraph 8 of these BR Service Terms;</td>
</tr>
<tr>
<td>&quot;DRSC Liable User&quot;</td>
<td>any Service Provider whose BR Contract renders it a Demand Response Provider by virtue of the relevant BR Unit comprising a source of controllable Demand;</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>“Incremental Volume Cost”</td>
<td>for a <strong>Settlement Period</strong>, the amount calculated as the higher of:</td>
</tr>
<tr>
<td></td>
<td>(1) (A multiplied by B) minus C</td>
</tr>
<tr>
<td></td>
<td>and</td>
</tr>
<tr>
<td></td>
<td>(2) zero</td>
</tr>
<tr>
<td>Where:</td>
<td></td>
</tr>
<tr>
<td>A is the highest accepted <strong>Offer Price</strong> in the <strong>Balancing Mechanism</strong> in that <strong>Settlement Period</strong> (ignoring any system-tagged <strong>Bid-Offer Acceptance</strong> and any <strong>Bid-Offer Acceptance</strong> issued in error), or (if higher) any price for that <strong>Settlement Period</strong> agreed by NGESO and its counterparty pursuant to a grid trade under a Grid Trade Master Agreement;</td>
<td></td>
</tr>
<tr>
<td>B is the <strong>Contracted Capacity</strong>;</td>
<td></td>
</tr>
<tr>
<td>C is the settlement value calculated for that <strong>Settlement Period</strong> pursuant to Schedule 2 to these <strong>BR Service Terms</strong> which would otherwise have been payable to the <strong>Service Provider</strong> but for the operation of paragraph 15.2 and Schedule 2 to these <strong>BR Service Terms</strong>;</td>
<td></td>
</tr>
<tr>
<td>“Intermittent Power Source”</td>
<td>as defined in the <strong>Grid Code</strong>;</td>
</tr>
<tr>
<td>“Mandatory Availability Declaration”</td>
<td>a declaration or redeclaration of <strong>BM Unit Data</strong> with respect to a <strong>Contracted Service Window</strong> made under and in accordance with the <strong>BR Service Terms</strong>;</td>
</tr>
<tr>
<td>“Metering Equipment”</td>
<td>as defined in the <strong>BSC</strong>;</td>
</tr>
<tr>
<td>“Monthly Statement”</td>
<td>as defined in Schedule 3 to these <strong>BR Service Terms</strong>;</td>
</tr>
<tr>
<td>“Power Available”</td>
<td>as defined in the <strong>Grid Code</strong>;</td>
</tr>
<tr>
<td>“Power Park Module”</td>
<td>as defined in the <strong>Grid Code</strong>;</td>
</tr>
<tr>
<td>“Primary Service Provider”</td>
<td>as defined in paragraph 23 of the <strong>BR Service Terms</strong>;</td>
</tr>
<tr>
<td>“Ramping Period”</td>
<td><strong>Ramp-Up Period</strong> or <strong>Ramp-Down Period</strong> (as the case may be);</td>
</tr>
<tr>
<td>“Ramp-Down Period”</td>
<td>the instructed MW divided by the average <strong>Run-Down Rate</strong>;</td>
</tr>
<tr>
<td>“Ramp-Up Period”</td>
<td>the instructed MW divided by the average <strong>Run-Up Rate</strong>;</td>
</tr>
<tr>
<td>“Response Time”</td>
<td>the maximum period of time from issue of a <strong>Bid-Offer Acceptance</strong> to commencement of ramping;</td>
</tr>
<tr>
<td>“Run-Down Rate”</td>
<td>as defined in <strong>Grid Code BC1</strong>;</td>
</tr>
<tr>
<td>“Run-Up Rate”</td>
<td>as defined in <strong>Grid Code BC1</strong>;</td>
</tr>
<tr>
<td>“Secondary Service Provider”</td>
<td>as defined in paragraph 23 of the <strong>BR Service Terms</strong>;</td>
</tr>
<tr>
<td>“Transfer Notice”</td>
<td>as defined in paragraph 23 of the <strong>BR Service Terms</strong>;</td>
</tr>
<tr>
<td>“Transfer Period”</td>
<td>the period described as such in a Transfer Notice as may be shortened upon the cancellation or withdrawal of that Transfer Notice or otherwise in accordance with paragraph 23 of the BR Service Terms.</td>
</tr>
</tbody>
</table>
Schedule 2 – BR Availability Payments

Calculation of Settlement Value

A settlement value shall be calculated for Balancing Reserve for each BR Unit and with respect to each Contracted Service Window as follows:

\[
\text{Round}\left(\left(C_{\text{Contracted Capacity}} \times C_{\text{Market Clearing Price}} \times 0.5 \times AF\right), 2\right)
\]

Where

\(AF = 0\) if unavailable or deemed unavailable in accordance with these BR Service Terms, otherwise 1
Schedule 3 – Payment Provisions

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

2. On the eighth (8th) Business Day of each calendar month NGESO shall send to the Service Provider a statement (the “Monthly Statement”) setting out, for each BR Contract, details of the following (to the extent applicable) in respect of the preceding calendar month, together with such other information as may be required to be provided under the these BR Service Terms:
   a. the aggregate number of hours of service provision with respect to both availability and utilisation (as applicable);
   b. details of events of default or service failures, and any consequential amounts withheld by or payable to NGESO with respect thereof;
   c. the amounts payable by or to NGESO as a result; and
   d. in relation to all BR Contracts, the total net amount falling due to or from the Service Provider.

3. If the Service Provider disagrees with the content of any Monthly Statement, it may notify NGESO in writing, with evidence upon which it relies in support of such disagreement, no later than the date falling ten (10) Business Days after receipt thereof, but in the absence of any such notification by such date the Monthly Statement shall be final and binding on the Parties subject only to paragraph 4.

4. Where a disagreement is notified by the Service Provider pursuant to paragraph 2, the Parties shall discuss and endeavour to resolve the same in good faith, and any revisions to a Monthly Statement agreed as a result thereof shall be reflected in a revised Monthly Statement, which shall promptly be issued by NGESO. In the absence of agreement, the Monthly Statement shall be binding upon the Parties until such time as otherwise agreed in writing between the Parties or as may otherwise be determined by an Expert following a referral by either Party to an Expert for determination, and which in each case shall be reflected in a revised Monthly Statement which shall promptly be issued by NGESO.

5. Where, having regard to any Settlement Run or to the results of any other monitoring by NGESO of service delivery, NGESO or the Service Provider discovers that some or all of any calculations and/or amounts falling due shown in any Monthly Statement are incorrect, then it shall promptly notify the other in writing whereupon NGESO shall, at its discretion, revise the Monthly Statement and re-issue the same to the Balancing Service Provider, and the provisions of paragraphs 2 and 3 shall apply mutatis mutandis to such revised Monthly Statement.

6. In the absence of fraud, neither NGESO nor the Balancing Service Provider may invoke the provisions of paragraph 4, with respect to the contents of any Monthly Statement (including any revised Monthly Statement) after the period of twelve (12) months has elapsed following submission of the original Monthly Statement in which the calculations and/or amounts in question were first stated, after which date such calculations and/or amounts shown in the last Monthly Statement (including any revised Monthly Statement) issued by NGESO shall be final and conclusive.

7. No later than the eighteenth (18th) Business Day of each month, NGESO will issue a self-billing invoice (or credit note) in accordance with paragraph 11 reflecting the Monthly Statement issued pursuant to paragraph 1 (as may have been revised pursuant to the foregoing provisions), and no later than five (5) Business Days after such date of issue NGESO shall pay to the Service Provider (or the Service Provider shall pay to NGESO, as the case may be) the net amount shown as due from NGESO to the Service Provider (or from the Service Provider to NGESO, as the case may be) in that Monthly Statement (or revised Monthly Statement).

8. All payments shall be made in pounds sterling by direct bank transfer or equivalent transfer of immediately available funds to the other Party’s bank account, details of which shall be as notified by each Party to the other from time to time in accordance with these BR Service Terms.
9. If by virtue of the foregoing provisions, it is determined or agreed that:
   a. the Service Provider was entitled to a further payment from NGESO, then the Service Provider shall be entitled to interest at the Base Rate on the amount of such further payment from the due date until the date of actual payment; or
   b. the Service Provider was not entitled to any payment it has received, then NGESO shall be entitled to interest at the Base Rate on such amount from the date of payment by NGESO until the date of repayment by the Service Provider (or, as the case may be, until the date when NGESO makes a payment to the Service Provider pursuant to paragraph 6 against which such amount is offset).

10. All amounts specified falling due and payable pursuant to these BR Service Terms shall be exclusive of any Value Added Tax or other similar tax and NGESO shall pay to the Service Provider Value Added Tax at the rate for the time being and from time to time properly chargeable in respect of the making available and/or provision of Balancing Reserve under these BR Service Terms.

11. Sums payable by one Party to the other pursuant this Schedule 3 whether by way of charges, interest or otherwise, shall (except to the extent permitted by these BR Service Terms or otherwise required by Law) be paid in full, free and clear of and without deduction, set-off or deferment in respect of any disputes or claims whatsoever provided that either Party shall be entitled to set off any payment due and payable by the other Party under this Schedule 3 against any payment it makes to that Party under this Schedule 3.

12. For so long as the Service Provider is a Registered BR Participant, the Service Provider agrees that NGESO shall maintain a self-billing system whereby each Monthly Statement shall constitute a self-billing invoice for VAT purposes. Accordingly, NGESO and the Balancing Service Provider shall enter into a self-billing agreement in accordance with VAT legislation and published guidance from HM Revenue and Customs from time to time, and agree to comply with all relevant requirements in relation to self-billing, and for such purpose the Service Provider hereby warrants and undertakes to NGESO that:
   a. it is registered for VAT and will inform NGESO forthwith if its ceases to be so registered or changes its VAT registration number;
   b. it will account to HM Revenue and Customs for the VAT paid by NGESO pursuant to paragraph 9; and
   c. it will not issue its own VAT invoices for provision of Balancing Reserve.

13. The provisions of this Schedule 3 shall survive the termination of any BR Contract.